

**Chehalis River Basin Flood Authority
Lewis County Courthouse
351 NW North St.
Chehalis WA, 98532**

**April 15 and 16, 2010 - 1:30 P.M.
Meeting Notes**

Board Members Present: Ron Schillinger, Mayor of Montesano; Mark White, Chehalis Tribe; Ron Averill, Lewis County Commissioner; Edna Fund, City of Centralia; Andre Fowler, Town of Bucoda; Karen Valenzuela, Thurston County Commissioner; Dolores Lee, Town of Pe Ell; Jim Cook, City of Aberdeen; Chad Taylor, City of Chehalis; Terry Willis, Grays Harbor County Commissioner; Brandon Atoch, Mayor of Oakville

Others Present: Please see sign in sheets

Handouts/Materials Used:

- Agenda
- Meeting Notes from March 18, 2010
- Letter from Pomona Grange #3 supporting Flood Control Measures
- Ongoing Efforts
- Flood District Memo
- Draft Memorandum of Agreement between Grays Harbor County, the Chehalis River Basin Flood Authority and the Chehalis Basin Partnership
- Public Meetings Memo
- April Financials
- EESC Phase 2B Status Report
- ESA Adolfsen Progress Report #20
- Memo from Commissioner Averill re: Rejection of Project Management Plan
- Memo from Chad Taylor re: Project Management Plan
- Memo from Chad Taylor re: Legislative Language for Flood Authority

1. Call to Order

Chairman Willis called the meeting to order at 1:31 P.M.

2. Introductions

Introductions were made by all attending.

3. Approval of Agenda

Chairman Willis asked if there were any changes or corrections to the agenda. Mr. Taylor asked to include discussion on the Capital Budget, the 3374 and 3375 portion. Mr. Mackey stated there would be discussion on this item later in the agenda. The agenda was approved.

4. Approval of Meeting Notes from March 18, 2010

A motion was made by Mayor Schillinger to approve the meeting notes. The motion was seconded and the meeting notes were approved without objection.

5. Public Comment

Commissioner Bill Schulte asked the Flood Authority to send the governor a message asking her to veto the portion of the bill that funds the Flood Authority. That seems like a drastic measure but the strings attached to that bill would require this body to rename itself because it will have no authority. We are not supplicants; we are partners. We are here as full participants in this process and Olympia needs to be reminded of that. There are things we would like to have done and we do not need to ask permission first; we only have to go through the process. This bill is unacceptable as it requires pre-approval from several state and federal agencies before you begin a study. Taxes will be required to pay for the Corps' project for the freeway and that is unacceptable. Please send a message to the governor telling her that this measure is unacceptable.

6. Reports

a. Chairman's Report

The legislators have completed their session and there is new appropriation language which Commissioner Schulte just spoke about. There will be more discussion on that later in the meeting.

Chairman Willis will include on the next workshop agenda a budget discussion to look at the parameters of the new legislation and what it means to a budget that has already been developed.

During the course of the month, several resolutions were passed within Lewis County and forwarded to Chairman Willis. They can be made available to anyone who wishes to read them.

Mr. Taylor stated there were letters of support or resolutions from the cities of Centralia and Chehalis, the Ports of Chehalis and Centralia, the Airport Board and others agreeing with Mr. Taylor's opinion that the Corps project needs to be changed drastically to include water retention as the main component and levees as a secondary component.

Commissioner Averill stated a letter was also received from the Pomona Grange stating their support. That letter was included in the member's packets.

Ms. Lee stated the Town of Pe Ell also passed a resolution on April 6 supporting water retention.

b. Member Reports

Commissioner Averill stated he met with Trout Unlimited and discussed water retention. Trout Unlimited stated they would be talking with Thurston and Grays Harbor Counties because there are other potential water retention or other types of eco system restoration projects that may help the remainder of the Basin and Trout Unlimited has offered to work on solutions with us.

c. Correspondence

Chairman Willis asked if there was correspondence other than what has already been mentioned.

Commissioner Averill asked if Resolution 10-025, the OFM Agreement, had been sent out. Ms. Anderson stated it is on the website. Commissioner Averill explained that this is an agreement between Lewis County as the fiscal agent and Office of Financial Management (OFM) which distributes the funds that were approved under HB 3374 and 3375. OFM asked that we re-do this because of procedural changes at OFM.

Commissioner Valenzuela asked if Chairman Willis had received correspondence from Colonel Wright, Department of the Army. Chairman Willis stated she had received the letter which clarifies and confirms the Flood Authority's role as a local stakeholder in the Chehalis Basin GI and to the addition of flood risk management to the study as a second equal purpose.

Commissioner Averill stated Colonel Wright's letter was predominately a response to the meeting held regarding the Project Management Plan where questions were raised about sponsorship.

Chairman Willis read the letter as it had not been sent to the Flood Authority Board. Ms. Fund asked what the letter means exactly. Mr. Goss stated he would explain it under the GI item on the agenda.

d. Facilitator's Report

Mr. Mackey stated his report would be included in the agenda items.

e. State Team Report

Mr. John Donahue stated the State's participation in projects is focused on the safety and protection of citizens in the Basin and to work with the Flood Authority and all agencies for that purpose. There are no plans by the State to raise the freeway as part of the Twin Cities project or outside of that project.

Mr. Donahue is available to brief local groups about the projects the State is involved in and to help facilitate meetings with staff of the Corps of Engineers.

On Monday, April 19 a group will be looking at Section 206 which is a continuing funding program for eco system restoration. It is for remediating issues with smaller tributaries and Mr. Donahue has been working with Chehalis and Centralia. He asked Mr. Kahle Jennings to brief the Flood Authority on this meeting.

Mr. Jennings stated the meeting would be held at the Centralia City Hall at 9:00 A.M. for a discussion and follow up with a visit to the upper watershed of China Creek. This program is limited to the size of small watersheds that it can address and Mr. Jennings believes China Creek will fit. This will be an educational opportunity to learn from the Corps about this program and whether China Creek applies and what the conditions and limits are.

After lunch that day the same team will go to Chehalis and conduct a similar visit at the Coal Creek and Dillenbaugh Creeks and other areas.

Mr. Jennings would like to meet with the Corps at another time to delve into what this program offers. At this time there is not enough information.

Commissioner Averill stated the Salzer Creek might also be considered. These types of projects have funding if the projects qualify and they can be done more quickly than through the WRDA bill process.

Mr. Schillinger asked if Montesano could participate in this meeting. Silvia Creek runs alongside the city and flows into the Wynoochee and therefore this type of program would be of interest to Montesano. Mr. Jennings stated anyone is welcome.

Chairman Willis stated Cosmopolis has a project that may fit into these categories and would appreciate the information.

f. Corps of Engineers Report

i. Twin Cities Project

Mr. Goss thanked Mr. Jennings and Mr. MacReynold for organizing the Monday meeting. If there are jurisdictions that are interested and cannot attend the meeting, Mr. Goss can put them in touch with someone who can come out and speak about the programs.

Other issues besides the Twin Cities program will be looked at, as well as concerns that might be seen in the field.

September is still the target date for a public forum for the Twin Cities updated design.

ii. Basin-Wide General Investigation

Mr. Goss reported that the PMP has been completed. The PMP as it is now is without project condition which is the Twin Cities built and in place. There is an option to add a second without project condition to the PMP that would not have the Twin Cities project in place. If that is a direction that the Corps can take, some direction would be needed to do so. If that were to go forward, the cost for the second without project condition would be cost shared as well as the rest of it.

Chairman Willis stated this is a shift from what the Flood Authority has been discussing. She asked what the cost would be for the study for these options. If both studies are done, one will be incorrect.

Mr. Goss stated the Corps would move forward with the preferred alternative which will require additional time and money. If the Corps gets the approval to move forward it can have information about how it will affect the schedule and the funds and a decision can be made based on that information.

Chairman Willis asked if Mr. Goss could give at least an estimate as to the cost on the first part.

Mr. Goss stated currently the PMP with the feasibility study and 35% design (included in the PMP, assuming the design of the water retention structures would go through at 35%) we are at approximately \$20 million.

Chairman Willis asked if it costs \$20 million to study it that way, will there be an equal cost for the second option. Mr. Goss stated it would not be doubled. With 35% design of the dams completed it would be \$6-7 million. Coming up with measures, alternatives and design of eco system features would bring it up to about \$13 million.

Commissioner Averill stated if the Corps is including project design as part of the dollar figure, is that not at a different ratio than the GI study, which is 50/50.

Mr. Goss stated for the purposes of the phases, feasibility study in the GI, which we call the GI funds, go through 35% design. Once we finish 35% then we are authorized for construction and we receive the Construction General (CG) funds and that is where the 65/35 cost share would be incurred. The Twin Cities project is still using the GI funds to finish up the design and the CG funds will be available after the design goes through.

Mr. White asked if it is standard to do both studies with and without the levees. Mr. Goss stated it is typical to do one without project condition.

Mr. White asked why he is asking to do two. Mr. Goss stated there is a lot of interest from the local stakeholders on doing a without project condition without the Twin Cities in place and the Colonel made the decision that the Corps could pursue that if that is how the local stakeholders and non federal sponsor want to proceed.

Mr. White asked if the local stakeholders are responsible for the cost share. Mr. Goss stated he needs an answer from the non federal sponsor, which is Grays Harbor County. He is unsure of how the funding details would work out. The study will add years and dollars.

Ms. Fund asked Mr. Goss to clarify the completion of the design study and its timeline.

Mr. Goss stated there is a 35% design update for the Twin Cities project and the Corps would like to have an update in September, 2010.

Ms. Fund asked if there was a timeline change from 2013 to 2016 for the Twin Cities project.

Mr. Goss stated there are some variables in the construction start date. The design needs to be completed and when we get to construction there is a project partnership agreement that the non federal sponsor would need to agree to and sign. That still needs to be worked out in the Project Partnership Agreement (PPA). To get federal funding the construction depends on the WRDA bill, which could be every two years or up to five years or greater. There are variables involving agreement to the PPA between the Corps and the Federal government and between the local budgets.

Mr. White asked for Mr. Goss' recommendation for doing or not doing the second study. Mr. Goss stated because of local interest the Corps would like to address everyone's concerns. He does not have a recommendation but the Colonel stated the Corps could offer that option.

Mr. David Plotz, Lewis County PUD, asked if there are two project conditions would one be prioritized over the other. Mr. Goss stated the Corps would try to do them concurrently. In the end there will be a preferred alternative and therefore he does not see prioritizing one over the other.

Mr. Plotz asked about prioritization because if there are two without projects the data gathering or information analysis might be overlapping to the point that a decision could be made regarding economic analysis on one. If that analysis shows that it is close but beneficial, and then you go with the without option with the Twin Cities project already being in place, you know that is going to fail so why go down that path, or failing in terms of the economic analysis. Mr. Plotz suggested prioritization would move things along faster.

Mr. Goss stated as part of the without project conditions the Corps will be looking at benefits without and what is out there and both have to be completed without project conditions. Perhaps that could be a subject of a work session.

Commissioner Averill understood that we were going to provide the budget that got submitted by the legislature to the Governor. There is a piece of legislation which requires from the effective date of the act and prior to any expenditure of new studies that the Flood Authority must submit a new study

proposal to the basin-wide General Investigation project manager of the Corps for review. Based on Corps review of the proposal the Flood Authority must develop a scope of work. This is on the way to the Governor and asked if the Corps can do that.

Mr. Goss stated this is the first he has heard of this legislation. If the Corps is not funded to do something he cannot do it. Commissioner Averill stated the Corps has been funded almost \$1 million in federal appropriations for the GI study. Mr. Goss stated he would need to get back to the Flood Authority since he has not heard of this until today.

Chairman Willis asked that when the Flood Authority discusses budget issues Mr. Goss could have some explanations for this. In the meantime if Mr. Goss can send something ahead of time it would be helpful for the Flood Authority to review it.

Chairman Willis asked about the 35% design of the Corps project and the Corps' analysis of whether there are overruns.

Mr. Goss asked if Chairman Willis is referring to the 902 limit that is the authorization, which is 20% but there are adjustments for inflation, etc. The 902 limit has not been exceeded and we will be updating that and in September there will be revised numbers.

The Chair asked if that is exceeded in the next review, how would the new proposal be affected: would that project start over if it exceeds the 20%?

Mr. Goss stated for the Twin Cities the Corps is authorized and there is a 902 limit. For the feasibility stage he would need to see what that is but typically for authorization you do not exceed the authorized amount. We look at the 902 limit and if it appears that we are going to exceed it we draft a document that informs that we may be going over that limit and request additional funding. Mr. Goss will try to find out how it would work on the GI at this point.

Chairman Willis asked what Mr. Goss needs from the Flood Authority for this new proposal. Mr. Goss stated the local sponsor would need to state they want to proceed with the second without project condition for the Chehalis Basin PMP.

Mr. Goss wished to address Ms. Funds' question regarding Colonel Wright's letter. This is a formality stating that we are adding a second and equal project. It also states there is one non federal sponsor and that is how we are proceeding with this. If there are changes to that there will be implications as far as scheduling.

Commissioner Averill stated that up until now the Corps has been telling us that we don't have a choice, that there could only be one non federal sponsor. Now it appears this is for convenience.

Mr. Goss stated if there were two non federal sponsors and two projects and everything was split 50/50 that could go through as a standard project. If there are two purposes and the monetary split is not 50/50 it would be considered deviated and we could not do it through the Seattle district. It would need to go to Headquarters and there will be a six month or greater delay to get it approved.

g. Lewis County PUD Report

Mr. David Plotz was filling in for Mr. Muller today and stated he will most likely be more involved with the Flood Authority from now on.

The EES update is included in the member packets. EES is on schedule, working with the Corps to obtain more information. Their target for this project is five months beginning in March and they must stay on schedule with the Corps, getting information from them. Information has been received from Earth Economics regarding the fixed cost impact from the environmental studies and they have been working to ensure that the benefit cost model takes the analysis to the 50 year life span which is in line with the Corps' requirements. We would like these analyses to be used by the Corps to save time and money.

With regard to the engineering portion, the analysis is moving forward. A letter was received in 2009 regarding gauge information and that has been reviewed and the report is being drafted, making sure that the information satisfies the requirements of that letter. More information has been pulled from the Doty gauge and they have stopped using the Grand Mound information. That information is being analyzed. They looked at some of the flows and need additional analysis there.

OLD BUSINESS

7. Ongoing Efforts/Ripe and Ready Projects Update

Mr. Mackey referred to the paper in the packet. There have not been a lot of changes and some things have been put on hold because of the budget.

Regarding the early warning program, ESA Adolfson is working with West Consultants to scope out the design for the early warning program and that will be taken to the BAC in May and to the Flood Authority for review at its May meeting.

The Ongoing Efforts paper reflects budget issues. The new budget is complicated and confusing but the governor has not signed it and until she does or does not the Flood Authority does not have something it can count on. Mr. Mackey reminded the Authority that this is a re-appropriation and it is an appropriation for a biennium that is half over. The money they are giving back to us has to account for all the expenses from July 1, 2009 to current and also all the contracts that have been paid to date or will be paid in the future. Those numbers have to be taken out of the money that is re-appropriated before you have any idea of how much you have left to spend in the last few months. Mr. Mackey will put that information together and bring it back to the Authority at its next work session for discussion.

Commissioner Averill asked if Mr. Mackey would share with the Authority what is included in the budget.

Mr. Mackey explained that the budget is broken into several parts and it states there is \$1.64 million that is re-appropriated for the state agencies to continue with the Twin Cities project. This is what John Donahue and the State is working with and it is not part of what the Authority will be dealing with directly.

There is an appropriation for proceeding with the development of the governance agreements and those are to be executed by July 1, 2011. There is an appropriation solely for certain kinds of measures which if you decide to do them you can only spend the money on those things, such as the Corps Twin Cities project with retention structures and non structural measures (the Coordinated Study). You can

spend money to determine ecosystem services which has a date of 2010. You can continue the GI and you can study the effects of possible retention structures and flood control measures on fish; however there are some caveats. They want an independent review of the geotechnical and hydrological studies on Phase II prior to October 2010. If you proceed with the fish studies they are asking that you consult with WDFW, Confederated Tribes and Lewis County PUD to develop a scope of work and select a qualified expert to do that. There is also a proviso for the early warning system.

Mr. Mackey stated there were several versions of this budget and the legislative body was adamant about how this was written. There is a lot of support from the governor's office and other places.

Mr. Mackey would like to show the Authority how much money is left in each category and the Authority can have a discussion about how to spend the money.

Ms. Fund asked what the governor can do with this budget, whether she can change or delete anything.

Mr. Mackey stated she can veto the entire budget and he believed she could veto full sections; she does have up to 20 days to sign it before it goes into law.

Discussion followed. If the Flood Authority had the opportunity to comment to the governor about the budget now would be the time to do it before the twenty day period ends or she signs.

Mr. Taylor stated the language in the budget proposal sets up the Flood Authority for failure. Completing a fish study under this law cannot be done. He read the statement regarding the peer review requirements and it was Mr. Taylor's opinion that if every agency listed moved immediately after the peer review then the fish study would not begin until November, 2010 and it would need to be completed by July 1, 2011. A complete fish study requires the course of an entire year, all four seasons. This legislative language requires all studies are approved by the Corps and takes the Flood Authority's decision-making power away.

The legislation requires that we spend money to estimate how much money will be paid by local tax payers for the maintenance of the Corps' levee plan to protect I-5. Are people in south Thurston County or Grays Harbor County going to pay for property taxes to maintain the Corps I-5 plan and if not we should not let this legislation be implemented.

Mr. Taylor made a motion to disband the Flood Authority if this legislation goes into effect because it will take our decision making away and we would no longer serve a purpose. Mr. Schillinger seconded the motion.

Chairman Willis called for discussion.

Mr. Mackey stated that Mr. Johnson learned that the governor can veto sub-sections.

Commissioner Averill reminded the members that there is an interlocal agreement with all the members and it sets the terms for disbanding the Flood Authority and he believed it required more than a month's notice to disband. Commissioner Averill stated an important issue is whether there will be any money with which to operate. If we do not get the appropriation the Flood Authority is unable to go any further than with the remaining money, which is about \$140,000. He suggested we may need to get a

ruling from OFM if the Authority has access to that since the budget bill dates back to 2009. We may need to ask OFM if we can access the funds to pay off the contracts already under way.

We need to see what is going on with this particular bill; by the passing of the bill we may need to go into a recess because we will be unable to operate. We need to have some issues determined before we take this step that is being proposed. He is sympathetic to the proposal. The legislature has put obligations on the Corps and he is not sure the Corps can do that.

Chairman Willis stated the bill does provide for the formation of a district other than the Flood Authority, and that is one of the goals that the Flood Authority has been working towards all along. The early warning system was another program that the legislatures seemed to want to keep in place. As the bill is worded, it does limit the Flood Authority to do a lot of things. Chairman Willis stated her goal now is to take what we have left and see what we can move forward with, including forming the flood district, if that is the choice of the Board.

Mr. Mackey stated it is only new studies that have to go back to the Corps. Is the fish study a new study or a continuation? There are nuances that he would like to have a chance to put it right in front of the Flood Authority so they can be debated.

Ms. Fund stated there are a lot of unknowns: how much is left and how much can be used for what. The intensive analysis that needs to be done has not been done to make a good decision.

Chairman Willis stated the Flood Authority can be disbanded at any time according to its bylaws.

Mr. Mackey read from the interlocal agreement which states each basin government may opt out of the agreement by written notification to the lead agency with 90 days prior notice provided that no joint debt has been incurred by the Basin government.

Ms. Lee asked if more information could be obtained and possibly holding another meeting and writing a letter to the governor before the 20 day period expires.

Chairman Willis stated the Flood Authority can call a special meeting at any time by following the public notification process.

Mr. Cook stated this issue was brought to the Flood Authority with no prior warning or knowledge and he was disappointed that there was no representation from the Governor's office.

Chairman Willis stated Antonio Ginatta got married during the session and is on a brief honeymoon. He has been in contact with the Chair via telephone, but he is out of state and unable to attend the meeting today.

Mr. Cook stated we are under the gun and it appears that it must be all or nothing. A language change would be extremely difficult. The Flood Authority, the Corps and all the jurisdictions have done all they can to try to make this work and this is just another stumbling block. We have managed to maneuver around the others and he would not like to give up and say it cannot be done. With a cooperative effort things can be accomplished. If we run it down to the last dime, so be it.

Commissioner Valenzuela stated she agreed with Mr. Cook. There is a lot of discussion to go through before we can mitigate flooding the best we know how. We have heard from citizens from all parts of the Basin regarding retention and we are nowhere near agreement. We need to stay around this table and figure this out.

Mr. Taylor stated he agrees that we need to press forward but he disagrees that we need to stay around the table. We should be on a path that leads us to the formation of a flood district. The decisions that need to be made need to have the level of attention that a flood district can give to them. We do a disservice to the taxpayers by going through the bureaucracy and not accomplishing anything. This legislation will tie our hands.

Chairman Willis asked for other comments.

Mr. Plotz stated the PUD feels that peer review ties the Flood Authority's hands and makes it more difficult for timely completion of new studies, if not impossible. From that perspective, the PUD feels this legislation was put into place to impede rather than to facilitate the work for water retention studies.

Ms. Fund stated we need to see if we can work this budget before the governor signs it. We need to know what dollars are left and where they will be allocated.

Chairman Willis asked Mr. Mackey when he might be able to get those figures to the Authority. Mr. Mackey did not believe he could get an official answer because OFM will not do anything until the budget is signed. The Flood Authority needs the in depth discussion to understand what the alternatives are and that probably cannot be scheduled until the work session in May.

Chairman Willis asked if we can schedule a special meeting to discuss this. Mr. Mackey stated yes.

Mr. Taylor stated the dollars we have or don't have are a concern but it is more of what we have to do in order to use the money.

Mr. Michael Golden, Lewis County Prosecuting Attorney, stated there are three issues. The first is the ability of the Authority to disband. The 90-day requirement is for any one entity to provide notice to withdraw. This body can disband by action now or at any meeting. Lewis County as lead agency would then be responsible for resolving the final business arrangements. As to special meetings, you can call special meetings and need to give 24 hours notice. Lewis County has some special provisions that relate to land use and would have to post a special notice because land issues are at stake. On the veto issue, the AG office advises the governor. Mr. Golden has a call into the governor's office regarding vetoing sections and he is waiting for an answer. The governor cannot change language.

Mr. Cook stated one of the Authority's mandates was to create a flood district or a flood zone district. We need a flood district because no one community can come up with a solution that will address the issues on a basin-wide scale. If the Flood Authority stays together to accomplish these things, we may have the time to get across that we need basin-wide solutions. Everyone must be at the table to make informed decisions and to disband at this time would be counterproductive.

Mr. Schillinger stated we are here because we were invited by the State and it funded the operation. They need a say in how the money is used; however, when your hands are tied why continue. There

may be some room left to talk but a message needs to get back to the governor and perhaps we should table the motion.

Ms. Fund stated if we disband today we can no longer move towards a flood district formation, and asked if we could get it done by June 30.

Chairman Willis stated the deadline is June 30, 2011. If a vote was taken today about disbanding the Authority there will be no mechanism to do anything past this point. Lewis County, as fiscal agent, would have some responsibilities they would need to fulfill if that were the case.

Ms. Lee asked if the Flood Authority does not form a flood zone doesn't the BOCC have the right to do that? Chairman Willis stated the issue is the money and where it would go. The Flood Authority is authorized to spend the money, not the BOCC.

Mr. Golden stated in response to the responsibility of the County Commissioners: Lewis County already has a flood control zone district in place which was done by the action of the County Commission. Each of the other two counties represented at the Flood Authority could put a flood control district in place between now and June. Interlocal agreements could be drafted between the three to seek recognition with OFM to be the local authorized governmental group. You can also form a multi county district. Lewis County is willing to share the documents for forming a flood control zone district with anyone who would like them.

Ms. Lee stated the Flood Authority has not really accomplished a lot and the people are getting tired of the process we are going through and not seeing results. She agreed with Mr. Taylor that if our hands are tied and we can't do anything it makes sense to disband this group and let it move on through the commissioners, who can do something.

Ms. Julie Powe agrees that the new budget would tie the hands of the Flood Authority. If the Flood Authority does not make an attempt to change the budget and then decide to form a flood district, you are tying the hands of the flood district. You are making a decision for your own interests but also decisions for the district that follows you.

Chairman Willis stated that is a good point. If a flood district was formed tomorrow does this action automatically follow through so the district inherits all of these issues?

Mr. Glenn Carter recalled the language of the statute stating that money is provided solely for the Chehalis Basin Flood Authority. The \$1.64 million is for state agency costs, and the \$1.2 million is provided solely for the Chehalis Basin Flood Authority to develop governance agreements. There is \$2 million for re-appropriation provided solely for certain studies. It does not say it is limited to the Flood Authority; it does not speak to the actual flood control zone districts and from the effective date of this act and prior to the expenditure on any new studies the Flood Authority must submit any new study proposal to the basin-wide GI project manager. It does not mention the flood control zone districts.

The problem with any kind of legislation is that often those who are drafting it do not take into account the possibilities that might exist. In this case, the specific provision that deals with the flood control zone district is only mentioned by implication in subsection (2). The way it is written, it applies and limits the Flood Authority. In the event that there was a disbanding of the Flood Authority and the

counties formed their own flood control zone districts, on its face it is not clear that these limitations would apply.

Mr. Golden stated if the limitations do not apply to the successor entity then neither would the funding. There is an update on the veto issue as the governor's office understands it and we would expect her to act: If the bill is a policy bill then a veto must be section by section. This is not a policy bill; it is a budget bill which is treated differently. If you have a budget bill and each subsection has an appropriation in it then each subsection can be addressed separately. In this instance, each subsection has an appropriation and the governor could address each subsection separately. She could not change them but she could veto them. In response to a question by Chairman Willis, Mr. Golden stated the governor could not veto the lettered sections; only the entire subsections that are numbered 1 through 5.

There was no other discussion and Chairman Willis stated there was a motion and a second and also a motion and a second to table the first motion. The Chair asked Mr. Schillinger to explain his motion to table.

Mr. Schillinger stated he believed the Board needed more information regarding the budget issues brought up by Mr. Mackey and that more time was needed to make a decision to disband the Authority.

Mr. Cook asked if it would be possible to contact the governor's office and recommend that she veto the entire bill. That would leave the Authority with no funding but the remainder would still be in place and asked what that money could be used for.

Chairman Willis suggested the Flood Authority hold a meeting to discuss just the impacts of this particular legislation and do it quickly even though we will not have all the numbers from OFM yet.

Commissioner Valenzuela stated a motion to table is not debatable and we should not discuss it. She supports the motion to table, and at any time an action can be removed from the table, so tabling a motion is a good way to stop the discussion for now until we want to take it up at a later date.

Chairman Willis asked if there was an objection to tabling this motion. Mr. Taylor, Commissioner Averill and Ms. Lee all had objections but did not want to stall the process. The motion was tabled.

Chairman Willis asked for discussion about holding another meeting. It was decided to recess today's meeting and reconvene at 10:00 A.M. on Friday, April 16 at the Lewis County Courthouse.

8. Flood District Formation

Mr. Mackey stated the Flood Authority asked the BAC to serve as a selection committee and make a recommendation following the RFQ that was sent out to find a firm that was qualified to help form a flood district. A memo in the packet describes what those qualifications are and other requirements. The BAC and ESA Adolphson received one respondent, FCS Group, and they are very qualified to do the job. We have asked FCS Group to prepare a scope of work, a budget schedule and a contract to present to you at the meeting on May 20.

9. General Investigation Agreement

The workshop discussion was regarding what is required in the PMP, knowing that you would only be going through the feasibility stage. There was discussion about the GI, what it was about, and the type of agreement that Grays Harbor County has with the Chehalis Basin Partnership and the Authority. It

was decided a simple agreement was needed and that Grays Harbor would listen to and get input from both of these entities prior to moving ahead with planning issues with the Corps.

ESA drafted an interlocal agreement to meet that request. Mr. Easton distributed that agreement. This document mentions the membership of the Chehalis Basin Partnership and the Flood Authority and that there are broad interests represented in both groups, and therefore, Grays Harbor will consult with both those groups on issues associated with the feasibility study for the Chehalis Basin ecosystem restoration and flood management program prior to making any decisions. In turn those two groups would provide timely feedback. If a different governance structure is formed a new memorandum of understanding would be established.

No decision on this agreement needs to be made at this meeting.

Chairman Willis stated this agreement will be taken back to the jurisdictions and any comments can be brought back to the next meeting for approval.

10. Public Meetings Report

Mr. Mackey briefed the group on the three public meetings held early in April in Rochester, Montesano and Chehalis. Rochester and Montesano had about 40 people attend and about 75 people attended the meeting in Chehalis.

A full detailed report will be provided at the May meeting, and all comments will be included in an appendix to the Plan and if there are issues that need to be incorporated they will be incorporated appropriately.

Chairman Willis thanked the Board members who participated in the meetings and also the agencies and staff members. The representation was very helpful in having questions answered by the public.

Commissioner Averill stated he attended the meetings in Montesano and Chehalis and there were no comments received on the PMP. A lot of comments were received about projects. He did not know if any changes would be made to the Plan as a result of public comment.

Mr. Easton stated there will be an appendix added to the Plan that lists all the comments that were received and the responses as they relate to the plan. We have not done that yet so it is unknown at this time if there will be a change to the contents of the Plan. That should be completed by the May meeting.

Commissioner Averill stated we will need to know if there are any recommended changes prior to adoption since the intent is to have a Flood Hazard Management Plan that is a model until a flood district is formed and then it will become its plan. Other jurisdictions might adopt the model plan and the plan has no authority until the jurisdictions adopt it.

Mr. Schillinger stated Montesano submitted some projects that need to be added to Table 9-1.

Ms. Fund stated she would have liked to have seen copies of the particular pieces that talk about the plan itself. Some people were there to complain about the issues that they have experienced, and Ms. Fund understands that, but the purpose of the meetings was to receive comments on the Plan.

Although the Plan is available on the website, many people do not have that access and Ms. Fund felt we dropped the ball.

Ms. Fund has worked with Mr. Mackey to make copies available at the Timberland Libraries. She also heard complaints that the document is too large to print.

Chairman Willis stated there were a lot of those complaints heard in Rochester. She stated at one time Grays Harbor County did a rural survey about who did not have internet access and 30% of the population still does not have access. Copies of the Plan were made after the Rochester meeting and there were some requests for those.

Commissioner Valenzuela stated Mayor Schillinger hosted a great meeting with wonderful food.

NEW BUSINESS

11. Expenditure Review

Mr. Bob Johnson reviewed the expenditure review report ending 4/12/10. The total amount expended on the first page matches the total amount on the second page which was a question at the last meeting. Another question was asked about keeping track on a year-to-year basis consistent with the State's fiscal year. This has not been done in the past and it was not required by OFM as part of our contract. They gave us \$2.5 million and allocated funds in certain line items; there is no requirement for us to keep track of those. The only way we can do that is by counting money that comes across our desk. The County Auditor and OFM is responsible for that, and we have no way to do it and it would be costly to set up.

Commissioner Averill stated that under the GI we would speak to the project management plan itself and not just the interlocal agreement. He asked if it was intended to not talk about the PMP because there is an impending date whether or not the Flood Authority must agree to sign this document.

Chairman Willis asked Ms. Napier to speak to this.

Ms. Napier stated the date for comments to be submitted was April 14. No comments were received on the new content but there were objections raised by Lewis County that were discussed today, in particular the objection relates to the without projects conditions. What she believed she heard from the Flood Authority was that you would like the Corps to look into the cost and time of what two without project conditions reports would do to the PMP and the GI study. Based on that, Ms. Napier stated we are not moving forward on the PMP until that answer is brought to this group with a recommendation back to the local sponsor. The reason why the PMP would not advance any further is that it is described in the PMP and therefore the Corps would need to know whether or not that needs to be described as a task, budget and timeline in the PMP.

Commissioner Averill stated there are additional items which he distributed. Most of the things that have been tackled in the Committee have been corrections to data and spelling, etc. There is one issue that he has raised repeatedly and still has not had an adequate response to and that is the issue of the PMP itself stating specifically what the designation and duties are of Grays Harbor County as the non federal sponsor of the project. Commissioner Averill has pointed out in the past that Grays Harbor County as the non federal sponsor is still representing all of the government jurisdictions in the Basin for which this plan is being established. We need the interlocal agreement but the wording in the

document itself should make it clear that Grays Harbor County is coordinating the efforts of all the jurisdictions and needs jurisdictional approval before GHC makes a decision.

Another concern is we started the plan in 2000 doing the ecosystem restoration on which a considerable amount of work has been done and yet it appears that we have a PMP that will require us to start all over again and do 50% ecosystem restoration and 50% flood management. We went to Congress and got the funding for flood hazard management and it was not our intent for that money to be used for anything but flood hazard management studies. We tied to the existing basin project for ecosystem restoration because we were told by the Corps it would go more quickly. In that process it was never our understanding that we would go back and restudy ecosystem restoration. We need to recognize that what we really intended to do was an amendment to the existing PMP that added the issue of flood hazard mitigation to it with some parsing of projects and prioritization of projects, none of which are talked about in this particular study. It has been stated that water retention is a huge interest and we expect it will be the only solution that will provide basin-wide protection and we recognize the studies need to be completed. Commissioner Averill appreciates the offer to take the without project condition of the Twin Cities out of this project because our concern is if we make the assumption the Twin Cities project is done then any further study of water retention is doomed to failure because you have the levees at the 100 year flood and it would be difficult to show a cost benefit ratio. This is why we want the study to look at what it would be with the two of them working together.

Another problem and one that the Partnership addressed is that it is too little, too much, too late. We are not looking at things that we as jurisdictions wanted to look at and it will cost too much money and we won't see anything for 7 to 12 years.

Chairman Willis stated she was under the impression that the PMP was vetted through the workshops and each paragraph was gone through and had been addressed.

Commissioner Averill stated he made these comments at the workshops and they were recorded in the minutes but they are not reflected in the PMP.

Mr. Goss stated that for the PMP without project conditions and if you want to go ahead with the second one, the Corps will do without project condition with the Twin Cities in place and we will do without project conditions without Twin Cities. We will not do it just exclusively with Twin Cities not in place.

Commissioner Schulte stated that the Chehalis Basin Partnership met last time and reached consensus not to support the PMP in its current form because it takes too long and it costs too much.

Ms. Napier stated that question was not asked; it was going to be asked this month. She recalls that it was brought up but a consensus was not asked for because the working group was going to meet that afternoon.

Ms. Napier addressed Commissioner Averill's questions. The duties and responsibilities of Grays Harbor County are not spelled out in the PMP. We feel we will serve a role as coordinator and while that it is not spelled out in the PMP that is our intention.

Commissioner Averill stated if that is the intention it needs to be specifically and accurately spelled out early in the document.

Ms. Napier spoke to the eight studies that have been produced. Those are part of the work that was done as part of the Watershed Management Plan development; they were not studies produced by the Corps but things that were used as match.

Commissioner Averill asked if the Corps produced nothing.

Ms. Napier stated the Corps has begun to produce the without projects conditions report but that is not fully funded so their work has been limited. We recognize when we entered into an agreement with them that we would probably have more money in the beginning and they would catch up. She wanted to ensure the understanding that there is in-kind services there that the Partnership has not had matched by the Corps.

Chairman Willis asked if that is the \$1 million match that we have been talking about over the last couple of years. Ms. Napier stated yes.

Commissioner Averill stated the Corps has made it clear that that money can only be used on ecosystem restoration. He asked Mr. Goss if that was correct.

Mr. Goss stated that until the new PMP is signed, that is correct. If that work was done for ecosystem restoration that the credit would go towards in-kind credit for ecosystem restoration.

Mr. Plotz stated the PUD shares Commissioner Averill's frustration on the points he brought up. The 12 years in the studies is too long. The cost is too high and those are very important issues. In this economic environment we cannot look at a study that costs \$12-18 million. As far as the timeline, some citizens already feel one year is too long and this will take up to 12 years.

The assumption that the Twin Cities levee project was already completed has changed and the second option is something to consider. If there is a portion of the funds that could be appropriated to do the water retention studies from the PUD's position, that would be looked upon favorably, but overall the PMP is flawed from the points that Commissioner Averill brought up.

Chairman Willis asked Ms. Napier what is next in the process.

Ms. Napier stated there is another option: to do two without projects conditions, one includes the levee project and one excludes it. She understands that the Corps was asked to look into the cost and timeline for that and that this group would like that information brought back to it. Knowing that, it means that the Chehalis Basin Partnership will not be looking into this further until it has the same information. Because of the meeting schedule, that will occur in May. The Corps will not send the PMP forward for Corps approval and if they are not moving forward, neither is Grays Harbor.

12. Confirm Next Meeting and Board-Requested Topics

The next regularly scheduled meeting will be on May 20 at 1:30. There will be a morning work session at the Veterans Museum. Today's meeting will be recessed until 10:00 AM Friday, April 16.

Ms. Fund asked for clarification on Friday's meeting, understanding that there will be data that explains the funding and what will be put into the enabling budget.

Chairman Willis requested that the board members analyze the budget themselves. Staff will bring information also, and she asked Mr. Mackey what the meeting will entail.

Mr. Mackey stated he would have a table that shows the numbers presented to OFM regarding what was expended from June 1. He will have a budget that will lay out current sections and estimates of what each one of those would cost, taking away the money already spent or committed giving an idea of what is left in each of those categories. He will try to look at some of the provisions and talk about what those mean in terms of timing and implications.

Ms. Fund asked if the Corps could respond to where they have responsibility within the legislation and whether or not it is reasonable.

Mr. Mackey stated a question is whether or not the PMP needs to be signed in order for the Corps to be able to spend the time with their engineers if there are new studies coming forth, which is Section 3, part B. He suggested he and Mr. Goss meet after today's meeting to discuss that.

Ms. Lee asked for a copy of the bill. Mr. Mackey stated the bill has been reformatted by Mr. Swartout to make it easier to read and copies are available for all the board members.

13. Recess

The meeting recessed at 4:06 P.M.

1. Call to Order

Chairman Willis reconvened the meeting at 10:03 A.M. on Friday, April 16, 2010.

2. Introductions

Self-introductions were made by all attending.

3. Approval of the Agenda

Chairman Willis stated there was an agenda for today's meeting and asked for the approval of the agenda. Mr. White asked to add an item. He stated he had copies of the meeting notes from the Chehalis Basin Partnership and wished to correct Commissioner Schulte regarding his statement on Thursday. Mr. White asked if the meeting notes could be distributed to the board members.

Chairman Willis stated the meeting notes would be made available to the members and put this issue on the agenda after item 5.

There were no objections to the agenda and it was approved with the addition.

4. Presentation of Information

Chairman Willis asked Mr. Mackey to present his work on the items discussed yesterday and questions and discussion would follow.

Mr. Mackey stated he spent time on the phone with Keith Phillips from the governor's office. Mr. Phillips was unable to attend today's meeting as he was meeting with Representatives DeBolt and Alexander regarding the possible veto of the budget bill. Mr. Phillips thought if the governor wanted to veto anything it would need to be full sections. The governor's office is very supportive of trying to get all of these things done and many of the things put forward in the bill were not from her office.

Mr. Mackey distributed a handout that showed what was presented to OFM and to the legislature. We do not know exactly how OFM is doing their accounting and therefore the numbers are estimates but they are close enough to explain the magnitude and categories in which the funding falls.

The Flood Authority is getting a re-appropriation of funds and from that re-appropriation you must first account for what you have expended in the first of a two-year biennium, as well as the money that is left under contract which by law any re-appropriation has to fund. Mr. Mackey explained the handout. The only thing different from this handout from what was dealt with in the budget process is LiDAR, which included approximately \$170,000 but the current budget does not fund LiDAR.

The second handout showed the sections of the budget, what money is in the budget, and what has been expended and contracted (from the previous handout). Some estimates were included should the Flood Authority decides it wants to fund everything in this budget, and it shows the amount you do not have to cover those things. That will lead you to the decisions you need to make.

The handout showed budgeted amounts, expended/contracted amounts and estimated costs for the various studies and the differences left over. The budget states you need \$2.1 million for all of the studies and if you wanted to complete all the studies, you would need \$4.9 million more. Deducting what is already going to the Corps you are \$655,000 short.

One of your decisions today will be to determine which of those studies do you not fund. It does not appear that you are interested in pursuing the Coordinated Study which has \$500,000 allotted, and Ecosystem Services still has not provided a final contract but there is an estimated cost of \$200,000 for that. If you take those two things off, there will be enough money to fund the other studies included in the budget.

This is only an example of the decisions you will need to make to have enough money to fund the projects or studies you want.

Chairman Willis stated the legislation actually requires the Flood Authority to do some of these things, such as the peer review.

Mr. Mackey stated it is in Section 3 of the handout where the Flood Authority has some discretion.

The Provisions handout is a copy of the budget in a modified form which shows the numbers of the sections and subsections. The first provision is for flood district formation.

Commissioner Averill stated the RCW for flood control districts allows a tax. It cannot exceed more than fifty cents per thousand on property and it is not divisible. The tax is assessed for everyone in the district at the same amount. When a project is built and fees are needed to fund the project then those fees can be stipulated that those who receive the most benefit pay more than those who receive the least benefit. While this might be a good exercise, it should be enacted after the flood district is formed rather than before a flood district formation.

Mr. Mackey stated that the Flood Authority would set up an organization and a way to get it started, but Commissioner Averill is correct in that many of those things would occur after the formation as projects are identified. All of that is anticipated in the scope of work that we are negotiating with FCS.

Mr. Mackey identified the stipulations as they relate to Phase 2A, Phase 2B and Phase 3. He discussed Phase 2A first. This involves working with Ecology to select qualified experts, and peer review, as to whether or not the work is feasible and if there is a fatal flaw.

Phase 2B continues under the existing contract and is not subject to any peer review under this legislation.

Commissioner Averill stated Phase 2A is done and has been paid for so why does it require peer review? Mr. Mackey stated that is how the legislation reads.

Commissioner Averill stated one requirement of 2B is to answer some questions that Ecology raised and were asked by the Tribe to look at. Mr. Mackey stated that would be undertaken under 2B as we go forward.

Phase 3, the fisheries and environmental phase, states that the Flood Authority will consult with WDFW, the Chehalis Tribe and the PUD to develop a scope of work, select experts to do the work and can be done concurrently with the peer review of Phase 2A. The other requirement is to work with the Corps of Engineers to make the project eligible for state match. The Corps stated it can turn its review in one month or less.

Those are the provisions and Mr. Mackey's interpretation of how they impact the Flood Authority. He has discussed these with the governor's office and there is concurrence there.

Mr. Mackey stated that after speaking to Mr. Phillips there is a clear intent of the governor and the legislature to have the Flood Authority continue to study dams and conduct fish studies. The governor's office supports getting this done in a timely manner.

Mr. Mackey went on to say that at the public meeting at the Veterans Museum, Dr. Hendrickson of One Voice stated there are several ways to look at water retention besides the two dams that are being looked at. There are smaller retention structures, series of baffles on tributaries, and all of that can be studied and included into the general investigation.

The formation of the flood district is a high priority of the legislature and the governor and Mr. Mackey stated it will offer a permanent form of governance and a way to finance projects today and in the future. The early warning system will help many people in the Basin.

Mr. Mackey asked that before a decision is made, each board member should consult with his or her jurisdiction. Mr. Mackey believes this project is well worth the time and effort and encouraged the board members to take their deliberations seriously.

Ms. Fund asked, regarding Phase 3(b), if the Corps could guarantee that they could do the review in one month.

Mr. Mackey stated he spoke with John Donahue whether the Corps is willing to do this and he stated the Corps is willing to turn it around.

Mr. Donahue stated he spoke with Mr. Goss after he had a chance to review the language. Mr. Goss did reaffirm that the Corps does reviews rather quickly, however an issue that is not mentioned in the legislation is that they would have to restrict reviews to when the study being proposed is at the proper phase in the GI. This would cause some issue with respect to the kinds of studies that are proposed in the legislation because they are proposing specific measures and the GI won't be at that point during the period covered by the budget.

Mr. Donahue had spoken with the governor's office this morning and there is enough leeway in the language to allow that they will take whatever input is available from the Corps at the time it is submitted, along with any other input, to help ensure that the study would eventually be available for in-kind credit.

Commissioner Averill read the language in the bill that states that the study ensures to the fullest extent possible that the study will be eligible for federal in-kind credit. Based on what Mr. Donahue just said, Commissioner Averill did not know how they do that. If it is not in the comparable stage of the GI plan, how is he going to guarantee that it will qualify for in-kind credit?

Mr. Donahue stated he won't be able to, but what Mr. Donahue has been asked to present to the Flood Authority is the interpretation from the Governor's office is that we will work with you to make sure to the fullest extent possible that it is eligible for in-kind funding.

Commissioner Averill believes that meets the intent of the legislation that we don't have to have a guarantee that it will be in kind and that we can go ahead despite the fact that the Corps is unwilling to make that commitment.

Mr. Donahue stated that is the interpretation he was given this morning.

Chairman Willis stated she is basing a lot of the information on the wording "to the fullest extent possible".

Mr. Mackey stated he had the same response from Mr. Phillips last night.

Mr. Taylor requested a recess. Chairman Willis stated the meeting would reconvene in ten minutes.

Chairman Willis reconvened the meeting at 10:50 A.M.

5. Discussion and Action by Flood Authority

Chairman Willis asked if there was discussion.

Commissioner Averill stated as he looked at the wording of the legislation there is some speculation on the restrictive stipulations about how the Flood Authority can spend the money. He questioned whether that can actually occur or not occur. There is a way to address that and he proposed that this body authorizes the Chair to write a letter asking the governor to strike sub section 3 from the legislation on the basis that it ties the hands of this body being able to complete the studies in an expeditious fashion, particularly the restrictions with the Corps who has not demonstrated that they can make a decision within one month. By doing this we would still retain the money for the Twin Cities project, the money that provides for the formation of the flood zone district and the money that provides for the early warning system. Commissioner Averill stated this was a motion to ask the governor to strike Section 3. Mr. Taylor seconded the motion.

Chairman Willis opened discussion on this motion.

Mr. Taylor asked if there was a way to keep Section 3 but strike just the sub-sections, (b) and (c). If those are stricken, it would serve us better to keep the money in Section 3.

Mr. Mackey asked Mr. Phillips that question and he was told the governor can only strike a full sub-section, which would be 3. Mr. Mackey stated both he and Mr. Donahue had those assurances from Mr. Phillips about the Corps and Mr. Phillips is willing to put that in writing.

Mr. Taylor stated during the recess he learned that the governor could strike (b) and (c). Mr. Mackey had received an e-mail from Mr. Phillips this morning stating that only full sections could be stricken but he was still checking on it.

Commissioner Schulte stated he came from a meeting with Mr. Phillips and Representative DeBolt this morning and they can strike (b) and (c) but they are reluctant to do it in case there is a challenge. If you ask for it, they will consider it.

Commissioner Averill revised his motion to ask the governor to strike sub- sub-sections (b) and (c). Mr. Taylor seconded that with an amendment that if that is not done then we disband the Flood Authority.

Ms. Lee seconded the amendment motion.

Chairman Willis opened discussion on the amendment motion.

Mr. White asked why we would not want to have a peer review. It has to happen.

Commissioner Averill stated this body has been actively working with DOE, WDFW, and the Tribe. There has been no attempt to do something without taking into consideration the agencies that are most involved in approving whether we will or will not be able to do something. We have already provided for that peer review and part of what is being asked here is re-plowing a field that has already been plowed.

Ms. Hempleman, DOE, stated DOE is not part of the Authority. On the BAC Ms. Hempleman is an invited ex-officio member, not a voting member. She brought up the fact that there had not been a review on the 2A study with the BAC.

Commissioner Averill cited two examples where DOE has been involved in the peer review process. One was in a meeting at the Museum where there were several members of the DOE, WDFW and the Tribe and we discussed the biological study and what should be included in that. It was a three hour meeting and resulted in a list of what should be looked at.

Secondly, the question was asked during Phase 2A whether DOE had had an opportunity to look at the results of that project and we have a letter from DOE that may not meet the requirements that Ms. Hempleman is talking about but DOE stated it did review the project and there were no fatal flaws.

Ms. Hempleman stated that was correct; that was on the geological study.

Commissioner Averill stated the peer review is taking place; he is not trying to cut anyone out and this seems redundant.

Chairman Willis asked if the peer review mentioned in the legislation for up to \$50,000 would be broader than what has already occurred.

Ms. Hempleman stated she does not know how to interpret the legislation. Her take is that part of the two-way study was reviewed and Shannon and Wilson did work with the DOE dam safety department during the study and it was reviewed at the Tribe's request. There was the fish and aquatics study that was part of the two-way study that was mostly scoping by title but there were quite a few conclusions stated. Some comments she received from WDFW and DOE were sent on to the Flood Authority because they would affect the capacity that was being looked at for cost benefit in Phase 2B.

Commissioner Averill is not against the peer review. What he objects to is the wording in the legislation that the peer review must be submitted to OFM before funds are allotted for the fish study, which will be another slowing down of the process.

Chairman Willis stated if we take that out there is nothing stopping the Flood Authority from actually doing the peer review. We still have the money to do it but we would not be obligated by the language.

Mr. Dave Muller, PUD, stated in the Phase 2A there are two things done: the geotechnical work and the scoping work for the fisheries and environmental work. The fisheries and environmental work was preliminary, scoping out studies that would be done. We had planned on doing more of that in Phase 2B but the decision of the Flood Authority was to defer it until there was enough funding to do it all. The next step, if there is funding for the fisheries, is to sit down with all the agencies to determine what studies should be done. The geotechnical work was reviewed by DOE and Shannon and Wilson coordinated some of the work with the geotechnical people at DOE and the result was the letter concurring with Shannon and Wilson's preliminary report. Based upon the level of work provided so far, no fatal flaws were found and DOE concurred with that.

The other letter received from DOE regarding the size of the reservoir and stream flow was included in Phase 2B and that is the first thing being looked at. There will be a meeting with DOE and WDFW to go over the question raised by that. It is premature to do a peer review at this point. What information is available has had peer review from the agencies and we would like to proceed without building a couple more layers of delay.

Ms. Fund stated she is one member of a seven-member council and she is not comfortable voting on disbanding the Flood Authority without talking with the rest of the council.

Chairman Willis asked if there needs to be some action by the Commissioners of the Counties before the Authority can be disbanded.

Commissioner Averill stated the Authority is not a municipal corporation but a group of people from municipal corporations who are bound by an interlocal agreement. Each of us represents our jurisdiction and one reason there is such a long approval process is because we bring the issue to the body to introduce it, we each have a month to get approval from the jurisdiction so that at the next meeting it can be approved. We may need to consult with our jurisdictions in order to make this decision.

Ms. Lee stated there is a 20-day timeline with the governor's office in which to act. She is not sure if it would be necessary to take this issue back to the council because she is their representative. If a letter is going to be written to the governor she is not sure the caucus process is necessary.

Ms. Fund is in full support of sending a letter to the governor; she is reluctant to support the part of the amendment that states we will disband if the governor cannot fulfill our request.

Mr. Taylor stated we were supposed to be working towards the creation of a flood district and we have not made a lot of progress. When a budget puts more hoops for this group to go through he has no confidence that we will get where we need to go. If this language remains in there we are doomed to fail. If it stays in there, let's create a flood zone and work on projects to protect our citizens.

Mr. White cannot agree to remove the peer review. It has been stated that DOE has done peer review but attending meetings is not peer review. We have gotten feedback from the work we have done from DOE and he would rather have that feedback now than five years from now when we are ready to build the dams and then Ecology steps up with issues. Mr. White does not see disbanding the Authority as an option; if a jurisdiction does not like it, our rules allow it to step out.

Mr. Schillinger stated he is against taking out (b) and (c) from the standpoint that we are receiving money. When Montesano enters into a contract to pay someone we put deliverables in there and stipulations about how the work is supposed to progress, with timelines, etc. He believes that with all the effort that was put into this budget there were a lot of concerns voiced. If these are the conditions, he does not believe they are that onerous and that they are not tying our hands.

Commissioner Averill stated we have been discussing the motion and not the amendment to the motion.

Mr. Taylor stated when projects are done, hoops must be jumped through and they must be reviewed and to put more restrictions on top of a process that already contains too many is unnecessary.

Ms. Fowler stated it has been common practice to have peer review in the past and so why change that practice now.

Chairman Willis stated the sections for the peer review can still be done even if the language is removed.

Mr. White asked why we would remove the language if we are still going to do it. Commissioner Averill stated the language states dates and timelines. If these criteria are followed, the biological study could not start until June, 2011.

Chairman Willis stated the budget ends in 2011. If the peer reviews take too much time we would not be able to get to the fisheries study in time.

Commissioner Schulte introduced Mr. Bob Schroeter and stated he may have some valuable comments.

Mr. Schroeter, local attorney and Chairman of the Lewis County Democratic Party, stated the perspective he is seeing has been supportive of the language that was sent through the House successfully and was modified at the Senate. The modification is beyond what he expected. That language was proposed by a Senate staff person, not by a legislator. With respect to (b) and (c) there is no commitment that if you decide to make a motion to disband if there is not a veto, and therefore there is a veto expected if you make that motion, he did not take that from this morning's meeting. The governor is looking at this section and this section is not consistent with where the governor's office has been on this issue. It is not consistent with the House version and it is not constructive of where we are going. We have been spinning wheels on this and if he were to write a bill to hamstring efforts to effectively look at comprehensive water retention, this is the bill he would go for. The governor's office indicated if there is an action taken by the Authority to either support the governor's veto of either or both of those subsections, it would give impetus to the governor taking such action. If you were to make a motion that the governor's office and OFM would utilize and interpret the language in such a way not to hamstring the Authority that is something the governor's office would look on favorably.

Mr. Cook stated that by deleting either of these sub-sections it would open the door for potential litigation. He asked if Mr. Schroeter agreed with that.

Mr. Schroeter asked who would be the aggrieved party. More to the point, there is conflicting authority as to whether the governor could line item these two sub-sections. That is something the governor's staff is looking into right now.

Mr. Muller states that the legislation reads that the peer review of the hydrologic and geotechnical work would be completed by October. If we wait until October to start the fisheries work there is no possible way to get it done. This is at minimum a year-long project and it cannot be completed by next June.

Chairman Willis stated taking the language out allows us to do a peer review and the fisheries in the same motion.

Commissioner Averill stated that is his interpretation as well. He also stated he would be willing to make a friendly amendment but the Chair says that is something we cannot entertain.

Mr. Taylor withdrew his amendment to Commissioner Averill's motion with the idea that if the changes do not come back that are acceptable to his council he will bring it up again.

Commissioner Averill agreed with Mr. Taylor. If things go sideways we will want to reconsider. He wished to alter his original motion to include either veto or ask the governor to stipulate the interpretation that it would not restrict the process of the studies that we want to work on. Mr. Taylor seconded the motion.

Chairman Willis asked if Ms. Lee, who seconded Mr. Taylor's motion, concurred with the withdrawal. Ms. Lee stated she concurred.

The Chair asked if there was any more discussion to the original motion which was to write a letter to the governor asking for the striking of the lettered items under sub-section 3 and if they cannot be vetoed for legal reasons, can there be an interpretation about what they mean exactly.

Ms. Fund asked if we could call the governor's office to tell them this letter is coming in case things are moving more quickly than the letter can.

Chairman Willis stated we can make those phone calls on behalf of the Board to make sure that information gets there immediately. It also does not preclude you as individual members representing your constituents to make those phone calls or write letters on your behalf.

Commissioner Averill understands the concerns that Mr. White has with the Tribe. It is not Commissioner Averill's intent by striking the peer review to not do the peer review. It is credible and a consideration that the Tribe should expect; he is opposing the timelines that are given for the peer reviews. The peer review should absolutely take place.

Ms. Fowler asked if it was possible to let the governor know about the time restraints that we will be unable to follow through with.

Chairman Willis stated that will be brought up in the letter.

Mr. Cook stated a rule of this body is to reach a consensus. We have conflicting expert testimony about what is going on. It appears we are split on this issue and the chances of coming to consensus are slim.

Chairman Willis stated she would ask for a vote when the discussion is over to see if we can reach consensus. We will not go quickly to a 60% vote because we work better when we work together and this is an important issue and there is no reason not to come to agreement.

Mr. Rene Remund, representing One Voice, asked the Authority to consider, if you send this letter as proposed and should the governor either veto the two sections or interpret them in the way that Mr. Schroeter has indicated she would like to do, this body does not lose authority. If the sections are stricken, you maintain the right in all of your contracts to make the kinds of peer review requirements that you wish to have. You lose nothing by going along with what the governor would like to see; which is rapid progress in determining what is available for flood control on the Chehalis River. Voting for this letter increases your authority in the long run and does nothing to decrease your authority.

Chairman Willis reiterated that if the governor strikes these sections, the Flood Authority will still have the money, and we will still have the authority to determine which studies get done, including the peer review within those studies. Given the budget information this morning, we will need to make decisions about which studies go forward and which ones do not. This will not stop us from going forward but we will need to be selective about which studies or projects to continue. If we elect to support peer review, that will be in the actions that we take at a later date.

Ms. Julie Powe stated there is a time frame and it is important to get accurate studies. The biggest hold up is the peer reviews, which should be done, but to get an accurate fish study extra time is needed. If we don't request the restrictions be removed we will either have an inaccurate fish study or have to do it over again.

There were no other comments and Chairman Willis called for a vote. The motion was to write a letter to the governor asking for the lettered items (b) and (c) from sub-section 3 be vetoed or her interpretation of what the language means.

Four of the board members disagreed with this action. Chairman Willis asked for the reason for the disagreement.

Mr. White stated peer review cannot be stricken. While he is not in favor of dams, he is willing to continue the study until the data shows otherwise. We need to look at it one step at a time to see if there are flaws and that cannot be done unless there is a peer review. We will have to work hard to meet the deadlines but we can meet the deadlines.

Chairman Willis asked if Mr. White believed the peer review and fish study could be done simultaneously. The money goes away in the middle of the summer.

Mr. White stated Commissioner Averill pointed out that the hydrology and geology of Phase 2A was already peer reviewed. That only took about two weeks. The legislature wants us to conduct peer reviews and he does not see a problem with that. This language makes us do it.

Mr. Cook stated all the agencies and the governor's office have been working expeditiously when a major concern has come up. Other than the peer review, what part of the language is not acceptable? The peer review has been done all along and to put it in writing should not be a problem.

Commissioner Averill asked Mr. Cook if he was speaking of just the peer review or the Corps study. If he is speaking of the Corps study there are many issues of concern.

Mr. Cook stated in his opinion the Corps of Engineers has done its best to accommodate us and be a presence at our meetings. Perhaps reassurance from the governor's office regarding the Corps completing its review quickly would be a good idea. Mr. Cook agrees with Mr. White that the peer review should be done.

Commissioner Averill stated this language was not in the governor's original bill. The House and the Senate both had a version and the language on the sub-sections was put in by the capital budget committee staff. It had been challenged in session and the last version did not have this language in it. After executive session on Monday the language was back in. Commissioner Averill's biggest concern is the Corps of Engineers having to approve a study before we can start anything. The motion he made is to "either strike or provide assurance that" and if the governor can provide assurance that these things won't hinder us then we will consider it.

Mr. Golden stated it appears that there is consensus that the peer review is not the problem. He heard a motion to authorize the Chair to write a letter indicating concerns with sections (b) and (c) and the concern is with timelines which PUD states cannot be met. It would be consistent with the motion for the Chair to indicate in the letter that the Flood Authority will perform the peer reviews. The concern and the reason for the request of the veto of (b) and (c) is because the timelines are problematic and are so restrictive as to prevent the work from being done if that is ultimately the vote here.

Chairman Willis stated she would not want the fish studies to be harmed in any way because of a timeline that we cannot meet. Her concern is that the peer review would take so long that the fish study would be shortened or sabotaged by the timeline.

Mr. White believes a letter should be written to the Corps of Engineers stating that they have 30 days to do this. It will take us 30 days to take the issue to our jurisdictions. If we have not heard back from them in 30 days we go without them. He has confidence that the Corps will respond.

Commissioner Averill stated the Corps told us in 2007 that they would bring us 35% design in January 2009. In January 2009 the 35% design was pushed to September 2010. Now there is evidence that there will be another delay. His confidence is further undermined by the fact that in April 2008 we started talking about the Project Management Plan and we did not get a first draft until late February 2010.

He continued to say that the governor has indicated she can provide us assurances that we are not stuck by this particular provision. The problem is with the legislation and the Corps cannot do anything about State legislation.

Chairman Willis stated the legislation says it is not a matter of moving on if the Corps does not respond because the peer review has to be submitted to OFM before funds are allotted for the fish study. That is tying our hands and not allowing us to move forward.

Mr. Glenn Carter stated one of the issues with the Corps is the question of whether the Corps has the authority to address these issues. The Corps might have that authority provided the PMP is approved and provided it is at the stage of the PMP which would take it out of the timeline that we are talking

about. The Flood Authority has previously stipulated to various conditions and deliverables as to how Phase 2A was done by the PUD. We can do that with peer review with respect to this contract.

Mr. Jay Gordon stated this group has the language, get the answer from the Corps and if they can't do anything we can protest to the governor as a group. The study must be done properly from beginning to end and if it doesn't work for fish, for the river or for floods it will not work. He believes this groups' unity is important and if as a group you want to see progress on the fish study you have a lot of power to ask for it and he believes the public will be behind you.

Chairman Willis asked if the Board would consider writing a different letter that does not strike the two items but has a stronger message about what the Authority wants to do. The restraints in the language could be explained to the governor and ask for her interpretation of how lenient this can be and how much we can move forward if time schedules are not adhered to.

Mr. White stated it will be very different if the Corps comes to us and says they cannot do it, that they need funding or they cannot do it for so many years. Right now, Mr. White is not hearing that. At this point nothing needs to be stricken; we need clarification on what some of these things mean and find out if the Corps can do it: do they have the resources, are they allowed to do it, and how long are we going to give all the agencies to review this and get back to us. We need in writing from the Corps that they will have it back to us in 30 days.

Chairman Willis stated the governor will make a decision on this. We need to bring to the governor's attention that the Flood Authority is skeptical that these things can get done and should they not be able to get done our next step is set back. If that is the case then it is virtually in her power to strike or not strike and back us up and get us more help.

Commissioner Averill stated he believes it is very important that we let the governor know that we have real concerns with this language in terms of timelines and the ability of some of the designated agencies being able to do what is prescribed. We want assurances from the governor's office of exactly what her interpretation of the legislation is and how much maneuver room we have to get around the legislation as written.

Chairman Willis asked if that was a motion.

Commissioner Averill made this amendment to the motion on the floor. The difference is we are not asking the governor to veto (b) and (c), we are asking that the governor acknowledge that we are concerned about timelines and the ability of agencies to meet these criteria and we would like her assurances that these won't slow down the process that is required to continue with the project at hand.

Chairman Willis wanted to add "and to meet the timelines that are actually written in the legislation".

Mr. White seconded the motion.

Mr. Taylor stated if the concern of the Tribe is peer review, would it be easier to have the language taken out but put the onus on the Authority to make sure the peer review is done. Mr. Taylor believes peer review is important but he does not want a requirement mandated by someone else to slow down

our projects. He would support a motion that would state our projects would be peer reviewed on our own timeline.

Mr. Cook stated the time left in the 20 day timeline is getting shorter.

Mr. White stated it was proven last night and this morning that we can get some things done pretty quickly. Can we ask John Donahue to meet with the Corps within the next couple of days and get in writing that it can provide a peer review in 30 days?

Mr. Muller stated the Corps has proven it cannot make a decision in a timely manner. We presented a proposal to start with Phase 2B in November and waited for four months because the Corps couldn't decide if we could get matching funds. The Corps has been studying flood control in Chehalis for 70 years and we have nothing.

Ms. Fund stated when she read 3(b) she was also concerned about the Corps' track record. The governor's office can look at that and try to finesse it but once it is law it is very difficult to maneuver and make any changes until the next legislative session. If we don't do anything about this one she is fearful that we will be stuck.

Mr. Remund asked the Authority to consider what was said this morning. The governor's position is not in support of (b) and (c). The governor's position is finding a way to work around that. The Tribe's representative stated he would prefer that these requirements and timelines be imposed but the Tribe is opposed to the proposal of dams on the Chehalis River. The rest of the jurisdictions are the ones that get the water from Lewis County when the floods occur. You, as a body, are saying you would rather give up your authority to make these decisions and have them made by someone else or the timelines controlled by someone else. The majority of you can set the requirements. There is no impediment to you asking for the removal of (b) and (c). You remain in control if you do that and you are consistent with what the governor would like to do. To support (b) and (c) you are supporting an unnamed staffer in the Senate.

The request on behalf of One Voice is that you maintain the authority which the governor worked to give you. Do not abdicate that authority.

Commissioner Schulte supported the Authority's position. He believes asking the governor for support and clarification on these bills on how to work around some of the restrictions is at hand. There is not a consensus with the group and he asked to call for the vote. He strongly urged that a letter be sent to the governor asking for her continued support.

Mr. Gordon supported Commissioner Schulte's statement. He stated on Friday a lobbyist went to every staffer that he knew who knew how to read sections and found it is permissible to veto a sub-section of a sub-section but it has not been done before and you might get a "no". Unity as a group is more important than putting the governor in a position to do something that has never been done before.

Commissioner Averill stated the original motion was an "either/or". Either take it out or explain it. Chairman Willis stated there was another motion to write a strongly worded letter that reiterates that same action.

Chairman Willis asked if there were any other statements or questions. There were none.

The Chair called for the question which was: Write a letter discussing the sections that we have concerns with and explain to the governor what the stumbling blocks are for our moving forward and urging her to either give us reassurances or to veto the sub-sections. She asked if there was disagreement.

There was no disagreement and the motion passed. The Chair stated that was the amendment to the original motion and the motion as amended was basically the same: we will write a letter to the governor asking her to consider our concerns about these subsections. There was no dissention.

Chairman Willis instructed staff to write the letter within the next couple of days. Phone calls to the governor's office were encouraged.

The Chair stated there was the item added to the agenda regarding the Chehalis Basin Partnership. She asked if discussion was still requested. Mr. White stated meeting notes were provided to the Authority earlier.

Commissioner Schulte stated Mr. White provided draft minutes that have not been approved by the Basin Partnership and they are not correct.

There was no other discussion.

6. Adjourn

Adjournment was at 12:10 P.M.