



**MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
TUESDAY MEETING
FAIR & EXPO CENTER, CONFERENCE ROOMS 1 & 2
3700 KNOX BUTTE RD, NE, ALBANY
MARCH 14, 2023**

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, March 14, 2023.

Those present at various times for the matters as indicated below were: Steve Wills, Linn County Planning and Building Director; Alyssa Boles, Planning Manager, Linn County Planning and Building Department; Wayne Mink, Linn County Roadmaster; Ric Lentz, Emergency Management, Linn County Sheriff's Office; Emerson Marsh, Emergency Management Recovery Coordinator, Linn County Sheriff's Office; Gene Karandy, County Attorney for Linn County; Kevan McCulloch, Deputy County Attorney for Linn County; Michele Eldridge, City Administrator, City of Harrisburg; Elaine Howard, Elaine Howard Consulting, LLC; Alan Sorem, Special Counsel for City of Millersburg; Matt Straite, Community Development Director, City of Millersburg; Kevin Kreitman, City Manager, City of Millersburg; John Bridges, Representative for Willamette Valley Lands; Paul Kuehne; a large number of audience members in attendance for the Public Hearing; Alex Paul, Linn County Communications Officer and Joanna Mann, Reporter for Democrat-Herald.

1, 2, 3. At 9:30 a.m. Chair Nyquist called the meeting to order. The flag salute and roll call followed. Commissioners Roger Nyquist, Chair; Will Tucker, Vice-Chair and Commissioner Sherrie Sprenger were present, as well as, Darrin Lane, Linn County Administrative Officer and Marsha Meyer, Recorder for the Board of Commissioners.

4. Approval of Agenda.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve the agenda. The vote was called. The motion passed unanimously.

5. Approval of the March 7, 2023 Commissioners' Meeting Minutes.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve the March 7, 2023 Commissioners' Meeting Minutes. The vote was called. The motion passed unanimously.

6. Reports of Staff and Committees:

A. Planning Update – Steve Wills, Linn County Planning and Building Director.

Mr. Wills provided the Board with a Planning and Building Update for February, 2023. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

1. Resolution & Order 2023-090 updating the Construction Excise Tax Rate set by the Greater Albany Public School Board.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-090 with the increase of \$1.26 per square foot for residential and \$.63 per square foot for commercial.

Commissioner Sprenger stated that the first paragraph of the Resolution & Order authorized the Linn County Planning and Building Department to implement the rates set by the Greater Albany Public School Board.

The vote was called. The motion passed 2-0 with Commissioner Nyquist abstaining as he is a Board member on the Greater Albany Public School Board.

2. Resolution & Order 2023-095 appointing a member on the Linn County Planning Commission.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-095.

Commissioner Nyquist noted that he was happy to have Mellissa Barnard appointed on the Planning Commission.

The vote was called. The motion passed unanimously.

7. Road Department – Wayne Mink, Linn County Roadmaster.

A. Resolution & Order 2023-070 delegating authority to Wayne E. Mink, Roadmaster for the purchase of oil rock to be produced and stockpiled by Knife River for the Peoria Road Surface Treatment Project.

Action Taken Below.

B. Resolution & Order 2023-071 delegating authority to Wayne E. Mink, Roadmaster for the supply the supply of oil rock to be delivered and stockpiled by Knife River to the Belts Drive stockpile location.

Action Taken Below.

C. Resolution & Order 2023-072 delegating authority to Wayne E. Mink, Roadmaster for the supply of oil rock to be delivered and stockpiled by Riverbend to the Irish Bend Loop stockpile location.

Action Taken Below.

D. Resolution & Order 2023-073 delegating authority to Wayne E. Mink, Roadmaster for the supply of oil rock to be delivered and stockpiled by Knife River to the Saddle Butte and Oak Plain Drive stockpile location.

Action Taken Below.

E. Resolution & Order 2023-074 delegating authority to Wayne E. Mink, Roadmaster for the supply of oil rock to be delivered and stockpiled by Riverbend to the Truelove Pit stockpile location.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Orders 2023-070, 071, 072, 073, 074. The vote was called. The motion passed unanimously.

F. Resolution & Order 2023-080 approving a Supplemental Project Agreement for the Muddy Creek. Bowers Drive, Bridge Project between the State of Oregon Department of Transportation (ODOT) and Linn County.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-080. The vote was called. The motion passed unanimously.

G. Resolution & Order 2023-088 delegating authority to the Roadmaster to execute a Purchase of Supplies Contract with Sierra Santa Fe Corporation.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-088. The vote was called. The motion passed unanimously.

H. Resolution & Order 2023-091 delegating authority to Wayne E. Mink, Roadmaster to purchase traffic control supplies from Traffic Safety Supply Company.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-091. The vote was called. The motion passed unanimously.

8. Correspondence: Commissioner Nyquist noted that the Board signed a Declaration for a State of Emergency late last week which was required to be sent to the Governor's Office by Friday, March 10, 2023.

9. Special Orders:

A. Personnel Action Forms.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to accept the Personnel Action Forms list as Exhibit 1. The vote was called. The motion passed unanimously.

B. Resolution & Order 2023-038 declaring a State of Emergency due to homelessness in Linn County.

Commissioner Sprenger asked Ric Lentz, Emergency Services Lieutenant, Linn County Sheriff's Office, to state what the purpose was for the declaration. Mr. Lentz stated that it was for Linn County to get into the Governor's Order for homelessness.

Commissioner Nyquist stated that he wanted to make it clear that the County was not going to pursue a turn-key hotel operation converting a hotel into housing for the homeless. He was not confident that the money for the grant program would make a significant difference. Discussion followed.

Commissioner Tucker stated that the declaration would put Linn County on the Governor's radar; we have a higher rate of homelessness than Multnomah County and it's frustrating that the Governor's money was being directed to the metro area and some of that money should come to Linn County.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-038. The vote was called. The motion passed unanimously.

C. Resolution & Order 2023-063 participation in funding activities of the Oregon Office for Community Dispute Resolution 2023-2025.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-063. The vote was called. The motion passed unanimously.

D. Resolution & Order 2023-077 approving an Intergovernmental Agreement with Linn, Marion, Polk and Yamhill Counties establishing the Mid-Willamette Jobs Council.

Both Commissioner Tucker and Darrin Lane, Linn County Administrative Officer, provided background information regarding this item.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-077. The vote was called. The motion passed unanimously.

E. Resolution & Order 2023-092 approving a substantial amendment to the Harrisburg Urban Renewal Plan.

Mr. Lane provided background information regarding this matter.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-092.

Commissioner Tucker recognized Michele Eldridge, City Administrator, City of Harrisburg. Ms. Eldridge stated that she was there to answer any questions the Board had regarding this matter. She also introduced Elaine Howard, Elaine Howard Consulting, LLC., who worked with the City on preparing the amendment.

The vote was called. The motion passed unanimously.

F. Resolution & Order 2023-103 approving Opioid Litigation Settlements Participation Agreements with Teva, Allergan, CVS, Walgreens and Walmart and delegating authority to execute the participation forms.

Gene Karandy, County Attorney for Linn County, provide background information regarding this matter. He stated that it was for the County to participate in a national settlement and delegating him to sign on behalf of the Board to participate.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-103. The vote was called. The motion passed unanimously.

G. Resolution & Order 2023-104 approving the donation of a surplus 2002 Chevy Passenger Van to Albany Helping Hands.

Mr. Lane provided background information for this item. The van is 21-years old and would be used for non-emergency medical care. Commissioner Sprenger asked if the County was turning over the title and would have no ownership of the van and Mr. Lane stated that she was correct.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-104. The vote was called. The motion passed unanimously.

10. Unfinished Business and General Orders:

A. Calendar Update: The Commissioners updated their calendars.

11. New Business: There was no new business to come before the Board.

12. Announcements: Commissioner Sprenger announced that she would not be attending next week's Board meeting on Tuesday, March 21, 2023.

13. Business from the Public (3-minute limit per speaker): There was no one present from the public wishing to use this forum neither in person or telephonically.

Commissioner Nyquist recessed the regular Board meeting at 9:57 a.m.

Commissioner Nyquist reconvened the regular Board meeting at 10:03 a.m.

14. Public Hearing – *(Continued from Tuesday, January 24, 2023 and Tuesday, March 7, 2023)* Deliberation and Decision – PLN-2022-00807: concurrent applications by the City of Millersburg for a Comprehensive Plan (Plan) Map Amendment and Zoning Map Amendment. The amendments are proposed as part of an Urban Growth Boundary (UGB) amendment approved by Millersburg to add and remove properties within the Millersburg UGB. The total area to be added to the UGB is 162.89 acres. The total area to be removed from the UGB is 167.46 acres. The amendments would change the Plan designation and Zoning Map designation on five properties – Alyssa Boles, Planning Manager, Linn County Planning and Building Department.

Commissioner Nyquist stated that, for housekeeping purposes, if there was a motion to enter documents into the record.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to accept into the record the following documents:

- **Comments from any party during reopened record period with Staff memo dated March 13, 2023 including 23 attached comments; and,**
- **Applicant final rebuttal with Staff Memo dated March 13, 2023**

The vote was called. The motion passed unanimously.

Commissioner Nyquist asked if the Board had any exparte communication or conflict of interests to declare.

Commissioner Sprenger declared what she thought could be considered exparte communication. She stated that she had communication with her dentist but it was not about material facts but rather in regard to general information about the upcoming hearing. After receiving additional testimony that came in from Stephanie Glaser Haggerty, she realized that was her dentist's wife.

Commissioner Tucker stated that he had nothing to declare and Commissioner Nyquist restated that he owns property outside of the notice zone on the other side of the river in Benton County.

Next, Commissioner Nyquist thanked everyone for participating and for their comments, input and suggestions. He stated that the Board had taken every step to be sure that

everyone had an opportunity to participate in the process. Commissioner Nyquist stated that he had looked at every document submitted and had read every page. Commissioner Nyquist then asked what the pleasure of the Board would be.

Commissioner Sprenger stated that she had noticed in the process as she went through the paperwork, that the Board's decision was in regard to land use and not regarding a particular business coming into the area. In the petition of 1,200 people there were comments from different countries, one was in a different language, Honolulu, Portland, Bangkok and that petitions of people giving testimony needed to be from people within the community.

Commissioner Tucker stated that Commissioner Sprenger was correct. The land use before the Board was not regarding a specific business coming in but about the land use; companies change and may or may not come. He stated that the decision was a zoning map amendment and whether it met the County Code to move one piece of property out of and one piece of property into the UGB. The Board needed to stay focused on the decision criteria. Commissioner Tucker gave additional comments.

Commissioner Nyquist stated that he supported the City of Millersburg's goal of utilization of their UGB and the benefits but he was concerned about the state of the City of Millersburg and Dever Connor communities going forward; it had been different than a lot of places within the County. Commissioner Nyquist stated that they get along and the recognition of the City and rural area working together had been unique and a lot of positive things had happened. He hoped this application would not change that going forward and that they would all continue to enjoy what they have.

Commissioner Nyquist stated that part of what created all the interest with this application was the expectation of Dever Conner that Millersburg would not move west of the railroad tracks. He stated that the farmland in Dever Conner was special. In Linn County, only 60 percent zoned EFU was being farmed. He stated that he agreed with the comments that this was amongst the best soil in our region as it is near the Willamette and Santiam rivers and would still be using those water basins.

Commissioner Nyquist stated that what he liked the least was the premise that they were going to take retaining ponds that were the Willamette Industries and, without doing any evaluation on the soil and the EFU would be in the County's jurisdiction. He stated that whatever went into the soil would go into the water; what is in that water?

Commissioner Nyquist stated that the application needed to comply with all the applicable criteria and a denial would be if it didn't comply with one or two. Commissioner Nyquist then quoted Linn County Code 921.874(A)(7). He stated that he couldn't say that the application complied with that. He stated that if he followed the criteria, the application didn't meet any of it starting with 921.874(A)(7). Without that, there would be a debate about compatibility. Commissioner Nyquist stated that, for him, he didn't get to that due to the retaining ponds and what would happen to the water. Commissioner Tucker commented that the ponds were not included in the swap. They were in the UGB but not part of the swap. Commissioner Nyquist stated that they were adjacent to the area and the issue with the water. Commissioner Tucker replied that the

flow of those waters was not part of the discussion; for him, it was not enough to kick it out. He then stated that both properties in that piece and the property to go in to the UGB was downstream from the ponds. Commissioner Nyquist stated that the County Code didn't say "doesn't or may or may not" it says "will not". Commissioner Sprenger asked if Staff could address that issue.

Alyssa Boles, Linn County Planning Manager, clarified her understanding of the flow of the water and the ponds.

Commissioner Sprenger provided additional thoughts. We can disagree but that doesn't mean either side was bad they just think differently. It was a big decision and everyone deserved the opportunity for the Board to hear what they had to say. She stated that she looked long and hard at the facts and noted that this was the first Planning Commission case that she had seen a unanimous vote in opposition which caused her to pause and look at everything. Commissioner Sprenger stated that she was concerned about what she didn't know on that property and whether the ponds were directly part of the swap but it was a significant factor. She stated that she shared some of Commissioner Nyquist's views on the soil issue and that, if you looked at everything, it didn't say it had to be like-for-like. Commissioner Sprenger stated that, looking at the Planning Commission's unanimous vote in opposition, the local folks had concerns and so did she in regard to the criteria in 921.874(A)(7). She didn't think the application had met that criteria.

Commissioner Tucker stated that his motion would be around approving the application. He stated that taking a piece permitted to be developed and one that was not developable and making it developable he agreed it was not the same piece of property. The ponds were there but the owner of the property was happy to take it and not develop it. The other piece, yes. He stated that (7) was a surprise and that his motion would be to approve the application.

Action – Commissioner Nyquist moved and Commissioner Sprenger seconded the motion to deny the application as presented and first and foremost Linn County Code 921.874(A)(7) and the language "will not". The vote was called. The motion passed 2-1 with Commissioner Tucker being opposed.

15. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 10:32 a.m. by unanimous consent.

The next regular public meeting of the Board of Commissioners is scheduled at 9:30 a.m. on Tuesday, March 21, 2023.

MINUTES OF THE MEETING OF THE
LINN COUNTY BOARD OF COMMISSIONERS
TUESDAY, MARCH 14, 2023


9

 Recorder
For Board of Commissioners
Marsha Meyer

LINN COUNTY BOARD OF COMMISSIONERS


Roger Nyquist, Chair


William C. Tucker, Vice-Chair


Sherrie Sprenger, Commissioner

Date 3-21-2023