



**MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
LINN COUNTY COURTHOUSE – ROOM 200
TUESDAY, APRIL 30, 2024**

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, April 30, 2024.

Those present at various times for the matters as indicated below were: Andy Franklin, Captain Support Services Division, Linn County Sheriff's Office; Wayne Mink, Linn County Roadmaster; Steve Wills, Linn County Planning and Building Director; Alyssa Boles, Linn County Planning Manager; Bill Palmer, Linn County Accounting Officer; Andy Stevens, Linn County Assessor; Matthew Pitcher, Chief Appraiser, Linn County Tax and Assessment Office; Phil Van Leuven, Deputy County Attorney for Linn County; Troy Jones; Gamael Nassar, Executive Director of Habitat for Humanity; Erick Staley, Geologist, Fulcrum GeoResources, LLC; Jon Sikel, Willamette Valley Excavating, LLC; Brad Reynoso, Willamette Valley Excavating, LLC; Kris Jeremiah, President, Aggregate Resource Industries, LLC; other audience members for the public hearing; Alex Paul, Linn County Communications Officer and Shayla Escudero, 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 Courtney Leland, Recorder for the Board of Commissioners.

(Commissioner Nyquist was excused for the first part of the meeting).

4. Approval of Agenda.

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

5. Approval of the April 23, 2024 Commissioners' Meeting Minutes.

Action – Commissioner Sprenger moved to approve the April 23, 2024 Commissioners' Meeting Minutes. The vote was called. The motion passed.

6. Sheriff's Office – Michelle Duncan, Linn County Sheriff.

Andy Franklin, Captain Support Services Division, Linn County Sheriff's Office, presented the following item on behalf of the Sheriff.

A. Resolution & Order 2024-125 approving a License Agreement for radio site services between Silke Communications Solutions, Inc., and Linn County and delegating authority to execute originals.

Action – Commissioner Sprenger moved to approve Resolution & Order 2024-125. The vote was called. The motion passed.

(Commissioner Nyquist entered the meeting).

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

A. Bid Award – Seven Mile Lane Left Turn Lane Paving Project.

Mr. Mink indicated that there were seven bids received and the apparent low bidder, at the time of the bid opening, was Roy Houck Construction, LLC, Salem, Oregon. However, this bid was deemed non-responsive due to the fact that the bidder was not prequalified with Linn County nor registered on the County's Plan-holder Registration as required by provided bidding instructions. Mr. Mink indicated that the next lowest bid was submitted by RiverBend Construction, Inc., Eugene, Oregon in the amount of \$232,338.50 and he recommended the Board select them for the project.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to accept the Roadmaster's Report.

Commissioner Nyquist asked if Mr. Mink had contacted the County Attorney in regard to disqualifying a bidder. Commissioner Tucker indicated that the requirements gave Mr. Mink clear direction. Darrin Lane, Linn County Administrative Officer, indicated that, in the past, the Linn County Road Department had contacted the County Attorney when there were unclear technical issues, however, the reasons for disqualifying a bidder in this instance were clear. Mr. Mink indicated that the Linn County Road Department renewed their Local Agency Certification with the State of Oregon which was very specific to the rules for the certification process.

The vote was called. The motion passed unanimously.

8. Planning and Building Department – Steve Wills, Linn County Planning and Building Director.

Alyssa Boles, Linn County Planning Manager, presented the following items.

A. Resolution & Order 2024-148 approving an Applications by Talon Henness for a Plan Map Amendment and Zoning Map Amendment affecting 1.00-acre of land.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2024-148. The vote was called. The motion passed unanimously.

B. Ordinance 2024-149 amending the Linn County Comprehensive Plan and Zoning Map.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Ordinance 2024-149. The vote was called. The motion passed unanimously.

9. Accounting Office – Bill Palmer, Linn County Accounting Officer.

A. Resolution & Order 2024-153 approving an Oregon Department of Revenue Assessment and Taxation Grant document.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2024-153. The vote was called. The motion passed unanimously.

10. Correspondence: There was no correspondence to come before the Board.

11. 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 2024-151 adopting the Immunity from Liability for use of trails or structures in Public Easements or Unimproved Rights of Way provided in ORS 105.668 as amended by Senate Bill 1576 (2024).

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution 2024-151. The vote was called. The motion passed unanimously.

C. Resolution & Order 2024-158 approving an Agreement regarding Seventh Street Medical Properties between Samaritan Albany General Hospital and Linn County.

Darrin Lane, Linn County Administrative Officer, indicated that Samaritan Health Services held an existing lease on the building that would limit any final sale; this Agreement, should the County determine to finalize the sale, would allow Samaritan Health Services to surrender their lease to Linn County.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2024-158. The vote was called. The motion passed unanimously.

12. Unfinished Business and General Orders:

A. Calendar Update: Commissioner Tucker indicated that he would be out of the Country for next week's Board meeting.

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

14. Announcements: There was no announcements.

15. Business from the Public (3-minute limit per speaker): Troy Jones, 22335 Gap Rd, Harrisburg, OR 97446.

Mr. Jones reinstated his opposition to the Muddy Creek Energy Park and asked the Board for their current position on the project. Commissioner Nyquist indicated that their role in decision making was still unclear but, if the decision did come before the Board, they would be required to make a decision based on the criteria. Commissioner Sprenger indicated that she didn't initially state her position to the project because it was unclear of whether or not the Board would be part of the decision-making process. She indicated that she tried to do everything she could in order to determine if it was a decision that would come before the Board and she didn't see a path where it would so that's when she became comfortable expressing her opposition to the project. Commissioner Tucker thanked Mr. Jones and encouraged him to keep the lines of communication open.

Gamael Nassar, 532 South Main St., Lebanon OR, 97335.

Mr. Nassar introduced himself as the new Executive Director of Habitat for Humanity and invited the Board to schedule a tour for insight on some of their upcoming projects.

Commissioner Nyquist recessed the regular Board meeting at 9:54 a.m.

Commissioner Nyquist reconvened the regular Board meeting at 10:02 a.m.

16. Public Hearing – PD24-0027: Concurrent Applications by Willamette Valley Excavating LLC for a Comprehensive Plan Text Amendment to include a proposed expansion of an existing aggregate quarry in the Linn County aggregate inventory as a significant aggregate resource site, totaling 60.97 acres – Alyssa Boles, Linn County Planning Manager.

Commissioner Nyquist called upon Ms. Boles to review the Staff Report with the Board. A copy of the report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Ms. Boles indicated that the properties total 60.97 acres in size and contain an existing 19.99-acre quarry site on tax lot 1400 operated by Willamette Valley Excavating, LLC. The subject properties are identified on Linn County Assessor maps as T10S, R03W, Section 9, Tax Lots 700 and 1400, is zoned Farm Forest and, is located at the northeast intersection of Highway 99E and Interstate 5, approximately, 2.21 miles west of the city limits of Jefferson. Ms. Boles stated that the Applicant sought approval of mining the entire 60.97-acre area to modify and expand the extraction area from the pre-existing 19.90 acres on only Tax Lot 1400 to include 30.50 acres on both Tax Lots 1400 and 700 to the north. She indicated that the Comprehensive Plan currently identifies the mining area as a significant site not protected by Goal 5 and not approved per mining pursuant to an Economic, Social, Environmental, and Energy (ESEE) analysis; before expansion of the mining area can be authorized on the property, the County must first include the proposed total 60.97-acre mining aggregate resource site in the County's aggregate inventory (ORS 215.298).

Ms. Boles stated that there were two agency comments; one comment from the Linn County Sheriff's Office and one from the Linn County Road Department; neither agency had any concerns regarding the proposed application. All property owners within 1,000 feet were notified and one written comment was received. She indicated that one additional comment was received on Monday, April 29, 2024 from the Applicant requesting modifications to the operating permit conditions.

Ms. Boles noted that the Planning Commission held a hearing on Tuesday, April 9, 2024 and recommended that the Board approve the application with some modifications to the permit conditions, especially, with the operating permit for mining; the Planning Commission recommended a 50-foot setback from all property lines, as well as, hours of operation to be between 6:30 a.m. and 5:00 p.m. Monday through Friday, and 7:00 a.m. to 12 p.m. on Saturdays with no operating on federal holidays. Ms. Boles also indicated that the Planning Commission recommended all blasting shall be limited Monday through Friday, between the hours of 10:00 a.m. and 4:00 p.m. and written notice shall be sent via registered mail ten days prior to blasting with no more than six large blasts per year.

Commissioner Nyquist asked if the Board had any exparte communication or conflict of interests to declare; there were none.

Alan Sorem, Attorney, 250 Church St, SE, Salem, OR – Attorney for the Applicant.

Mr. Sorem introduced the Representatives for the Applicant as follows: Jon Sikel, Willamette Valley Excavating LLC; Brad Reynoso, Willamette Valley Excavating LLC, Erick Staley, Geologist, Fulcrum GeoResources, LLC and Kris Jeremiah, President, Aggregate Resource Industries, Inc. (ARI). Mr. Sorem indicated that, after the Applicant consulted with (ARI), they recommended clarification to some of the operating conditions recommended by the Planning Commission. Mr. Sorem stated that one of the conditions of approval required a notice to surrounding neighbors be sent via registered mail at least ten days prior to blasting and shall indicate the date and estimated time of the scheduled blast. The Applicant reviewed these conditions with (ARI) and they recommended clarifying that the notice should include a reasonable window for blasting; weather conditions can either exacerbate or mitigate the dust and noise impacts of a blast so allowing a window would allow (ARI) to best mitigate the expected noise and dust impacts. Additionally, the Oregon State Fire Marshall has adopted the National Fire Protection Association (NFPA) standards into state law; incorporating this express codification of law would ensure all parties can comply with the applicable standard for the duration of the permit.

Erick Staley, Geologist, Fulcrum GeoResources, LLC, 17600 Pacific Hwy, Marylhurst, OR 97036 – Support.

Mr. Staley indicated that the site was located on Hail Butte surrounded by sand and gravel deposits; the quarry is located on the southwest corner of Hail Butte. He stated that there was a volcanic deposit which was about 37 million years old and tilting slightly to the east. He used a display of the Mine Plan to show the Board that the operation would comply with the applicable setback standards and the conditions of the stormwater permit. Discussion followed.

Kris Jeremiah, President, Aggregate Resource Industries, Inc., 4080 Commercial Ave, Springfield, OR 97478 – Support.

Mr. Jeremiah indicated that the State of Oregon adopted the National Fire Protection Plan which oversees the regulatory standards for blasting vibrations, peak air pressure or noise impacts to surrounding homes or inhabitable structures; the two main impacts in this matter are vibration and noise. He indicated that energy dissipates over distance so all of their design practices are established ahead of time to mitigate any impact on the adjacent home-owners or inhabitable structures.

Mr. Sorem stated, that concluded the Applicant's presentation.

Commissioner Nyquist asked if there was anyone else in support of the application wishing to speak; there was no one wishing to speak.

Commissioner Nyquist then asked, if there was anyone in opposition wishing to speak; there was no one wishing to speak.

Commissioner Nyquist called upon the Representative of the Applicant for any rebuttal.

Mr. Staley indicated that the expanded site was approximately 60.97 acres and the expansion area was 30.08 acres; he indicated that not all of the property in the proposed expansion area was minable. Discussion followed.

Commissioner Tucker asked how long Willamette Valley Excavation, LLC had operated the site. Brad Reynoso, Willamette Valley Excavation, LLC, indicated that they purchased the property from Merrill Mitchell in 2022, who had owned the site since 2008. He indicated that there was another rock quarry in Philomath, OR where they would import material from and sell it at this quarry site. Mr. Reynoso clarified that the extraction depended on the project itself; he estimated that they would produce around 200,000-400,000 tons per year and, currently, there are 4.5 million tons. He estimated it would take between 10 and 20 years to fully extract the site. Commissioner Nyquist asked what the rock would be used for and where it would go and Mr. Reynoso indicated, primarily, to build roads or parking lots for the City of Albany because they require quarry rock under all their roads; the closest quarry is currently in Corvallis, OR.

Commissioner Nyquist stated that, currently, the existing quarry sits there in a way that isn't an eye sore to the people driving by or living near it and there was value in the aesthetic nature of the quarry which wasn't part of the criteria in this matter. Mr. Sorem indicated that there would be 100 feet of elevation which served as a vegetative buffer above the ground so the view from the road wouldn't be affected at all. Commissioner Nyquist asked if there was a high point to the elevation and Mr. Sorem noted that because it was going to be mined as a side cut into the existing side of the mountain it provided a natural wall; there will be no visual impact of the mining floor from the road. Commissioner Nyquist asked if there was a way to make the setback 75 feet for the surrounding neighbors and Mr. Staley indicated that the Applicant requested the Planning Commission consider a 50-foot setback since there are no neighbors to the east.

Commissioner Nyquist closed the Public Hearing.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to accept into the record the following documents: Staff Report dated Tuesday, April 23, 2024 and an updated Memorandum dated Monday, April 29, 2024. The vote was called. The motion passed unanimously.

Ms. Boles indicated that the Board was able to make a decision about the Planning Commission's recommendations for modifications to the permit conditions, as well as, discussing the Applicant's proposed modifications from the Memorandum dated, April 29, 2024.

Commissioner Sprenger asked if there was any written or oral testimony in opposition of this application and Ms. Boles indicated that there was one written comment received in regard to blasting and that was addressed at the Planning Commission meeting.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve the Applicant’s modification of operation for Land Use Application No. PD-24-0027; Blasting shall be limited to Monday through Friday, between the hours of 10:00 a.m. to 4:00 p.m. Written notice of blasting shall be provided to the residents of properties within 1,500-feet of the ARO mining area boundary and others who request notification. Notice letters shall be sent registered mail at least ten days prior to blasting and the notice of blasting may identify a range of dates and times that blasting may occur within a five-day period, as well as, the limits specified in the National Fire Protection Association 495 (NFPA), Explosive Materials Code as adopted by the Oregon State Fire Marshall under ORS 476.030 and OAR 837-012-1340.

Commissioner Nyquist asked if those conditions changed based on the law and Commissioner Tucker indicated that was correct.

The vote was called. The motion passed unanimously.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve PD-24-0027 with the modified conditions. The vote was called. The motion passed unanimously.

Commissioner Tucker indicated that there isn’t a lot of road construction but it’s a good source of rock for the City of Albany and the City of Millersburg.

17. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 10:51 a.m. by unanimous consent.

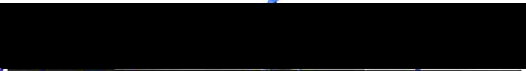
The next regular public meeting of the Board of Commissioners is scheduled at 9:30 a.m. Tuesday, May 7, 2024.

 Recorder
For Board of Commissioners
Courtney Leland

LINN COUNTY BOARD OF COMMISSIONERS



Roger Nyquist, Chair



William C. Tucker, Vice-Chair



Sherrie Sprenger, Commissioner

Date 5-14-2024