



**MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
LINN COUNTY COURTHOUSE – ROOM 200
TUESDAY, MAY 14, 2024**

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, May 14, 2024.

Those present at various times for the matters as indicated below were: Andy Franklin, Captain Support Services Division, Linn County Sheriff's Office; Steve Wills, Linn County Planning and Building Director, Alyssa Boles, Planning Manager; Linn County Planning and Building Department; Wayne Mink, Linn County Roadmaster; Gene Karandy, County Attorney for Linn County; Michelle Hawkins, Linn County Treasurer; Kevan McCulloch, Deputy County Attorney for Linn County; Tre Kennedy, Attorney at Law; 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.

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 April 30, 2024 and May 7, 2024 Commissioners' Meeting Minutes.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve the April 30, 2024 and May 7, 2024 Commissioners' Meeting Minutes. The vote was called. The motion passed unanimously.

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 2024-152 approving a Services Contract for laundry services between Linn County and Heaths Laundry.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2024-152. The vote was called. The motion passed unanimously.

7. Reports of Staff and Committees:

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

Mr. Wills provided the Board with a Planning and Building Update for the month of April, 2024. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Mr. Wills indicated that there would be a Planning Commission meeting held for PD24-0004 on Tuesday, May 14, 2024 at 7:00 p.m. at the Old Armory Building, as well as, a Public Hearing for PD24-0038 on Tuesday, May 28, 2024 at 10:00 a.m. in the Commissioners' Board Room 200.

Mr. Wills indicated that there were 13 new code enforcement cases and 20 closed cases for the month of April; In the previous year, there were 24 new code enforcement cases and 11 closed cases. Commissioner Nyquist asked what that meant for the department and Mr. Wills indicated, it meant that code enforcement was doing a good job getting cases closed.

Mr. Wills noted that last month the department received two Fire Hardening Grant applications and there was one check issued; one of the applications wasn't related to the wildfires and didn't qualify for a reimbursement.

Mr. Will shared with the Board that May was National Preservation Month and Julia Fox, Assistant Planner, prepared a history of Linn County's story map which could be found on the Linn County Planning and Building website.

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

A. Resolution 2024-166 approving the use of County roads, North River Drive (County Road Number 0035 and Quartzville Road (County Road Numbers 0932 and 0912) by Best in the West Events for a "Best in the West Triathlon Festival".

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution 2024-166. The vote was called. The motion passed unanimously.

B. Resolution & Order 2024-169 approving an Amendment to the Memorandum of Agreement for the North River Drive (County Road No. 0035) improvements between the Federal Highway Administration and Linn County and delegating authority to Roger Nyquist, Chairman.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2024-169. The vote was called. The motion passed unanimously.

9. County Attorney's Office – Gene Karandy, County Attorney for Linn County.

A. 1st Reading of Ordinance 2024-164 adopting the Linn County Electronically Amplified Sound Code Chapter No. 585.

Mr. Karandy indicated that this Ordinance was drafted per the Board's request and was reviewed and approved by Michelle Duncan, Linn County Sheriff. He stated that the proposed Ordinance would regulate electronically amplified sound in rural areas and violation of this Ordinance would result in a Class A violation. Mr. Karandy stated that two readings of the proposed Ordinance were required prior to adoption; this was the first reading and the second was scheduled for Tuesday, May 28, 2024. Commissioner Sprenger asked how the Ordinance would be measured and enforced. Mr. Karandy indicated that the definition in the Ordinance explained what electronically amplified sound was and, in order to measure it, the sound had to be clearly detected by a reasonable person's unaided hearing faculties. Commissioner Tucker stated that he contacted Jessica Meyer, Linn County Justice of the Peace Judge, and she was confident that the Ordinance would give her the ability to intervene if necessary. Mr. Karandy then proposed reading Ordinance 2024-164 into the record by title only and the Board agreed. He then read the title only.

10. Consideration of reopening the record for written comments on the Code Text change approved in December, 2023 relating to new large Confined Animal Feeding Operations (CAFO) which may be sited in Linn County.

Commissioner Nyquist indicated that the Oregon Legislature created a local option for a Code Text Amendment in regard to Confined Animal Feeding Operations (CAFO). There was a specific CAFO operation in Scio that required a land-use sign off and, at that time, the Board asked constituents to pursue their arguments with the Oregon Legislature. They were successful and the outcome resulted in the Board making a Code Text Amendment to set back the distance between Confined Animal Feeding Operations (CAFO) and nearby residents. The following week it was brought to the Board's attention that the Code Text Amendment also included cattle and in order for the Board to exclude cattle in the Code Text change it would require reopening the record to allow constituents the opportunity to express whether or not cattle should be

included in the Code Text change. Commissioner Nyquist indicated that the other option was to approve the Code Text change as the Board passed it in December, 2023.

Commissioner Nyquist called upon Alyssa Boles, Planning Manager, for background information on the matter.

Ms. Boles indicated that, if the Board determined not to reopen the record, there would be an Ordinance that required Board approval during a regularly scheduled Board meeting. If the Board determined to reopen the record, a 21-day Public Notice would be sent out to anyone who participated in the original proceedings and a Public Hearing would be scheduled; the Board would then determine if they accept written or oral testimony for the matter. Discussion followed.

Commissioner Sprenger asked what the Board's responsibility was in regard to Senate Bill 85 and Mr. McCulloch indicated that there was a lot of uncertainty with Senate Bill 85 because he hadn't seen the Department of Agriculture issue any OAR's or interpretation to fill in any gaps. Commissioner Sprenger clarified that the Administrative Rule process for Senate Bill 85 hadn't been completed by the State of Oregon yet. Mr. McCulloch indicated, that was correct and he wasn't sure if the State of Oregon would be pursuing any administrative rules for the bill; the County could be breaking new ground by adopting local regulations. Commissioner Tucker indicated that, at the time this matter was voted on, he thought it only pertained to poultry, so after the fact, when it was clarified that his interpretation was incorrect, he apologized to the public and expressed the importance for the Board to get it right. He then asked, if the record was reopened, who could participate in testimony and Mr. McCulloch indicated, anyone of interest. Commissioner Tucker stated that he wasn't sure which of the two processes would best suit the situation; the Board could adopt the findings from the public meeting that was already held in regard to poultry and then, categorize each livestock species into individual categories that would allow for individual rules depending on which type of CAFO operation you had. The Board could also reopen the record and direct Staff to research other relevant factors in the matter such as the wind, water and air quality; there was only international research done in regard to CAFO's and the results of the research only related to poultry. Commissioner Tucker indicated that he would rather complete what they had already done and admit that it was flawed because he still agreed with the setback that they had determined for poultry. He then asked Mr. McCulloch which of the two options he would recommend. Discussion followed.

Darrin Lane, Linn County Administrative Officer, asked Mr. McCulloch, if the Board did decide to approve what was already determined, could they then later amend the setback without reopening the record. Mr. McCulloch indicated that the proposal approved in December, 2023 pertained to a specific distance. Commissioner Nyquist indicated that the Board needed to be careful on which decision they made because they were already in tumultuous waters. He indicated that it could be a poor precedence to set if the Board determined to change a decision solely based on a change of heart. Commissioner Tucker indicated that he wasn't changing his position, he just misunderstood the material and thought it only related to poultry. Commissioner Nyquist stated that there was nothing in the record that indicated whether or not the setback should apply to cattle or swine so in order to make that determination they needed to

reopen the record. He indicated that the Board followed their process but that didn't mean constituents didn't have valid information to contribute and they deserve the Board's courtesy to their personal impacts in this matter; it's whatever process best suits that. Discussion followed.

Commissioner Sprenger indicated that she was no longer willing to support the decision the Board approved in regard to the Code Text Amendment and that the record needed to be reopened for two reasons; the first being that the Administrative Rule process wasn't complete for Senate Bill 85 and she would like to see where the State of Oregon was because that could mitigate or negate conditions. She stated that the other reason revolved around her lack of confidence in the original process; she felt good about it at the time but now needs a more robust conversation from stakeholders who have experience in this area. Commissioner Tucker indicated that it could take the State of Oregon a lengthy amount of time to complete the Administrative Rule for Senate Bill 85. He indicated that reopening the record might open a whole bunch of other concerns that could require multiple hearings in order to make a determination.

Action - Commissioner Tucker moved to determine consensus and close PD23-0670; adopt the changes, then immediately direct Staff to work on adopting new Code Amendments to clarify CAFO operation regulations that reflect the OAR's from Senate Bill 85.

Commissioner Nyquist proposed the Board reopen the record for a period of time and request comments related to cattle and swine CAFO operations to determine whether or they should be included in the Code Text Amendment. Discussion followed.

Commissioner Sprenger indicated that the State of Oregon's Administrative Rule process for Senate Bill 85 was nearing completion, however, acknowledging that there was a mistake made in this matter was just simply good governance; the record should be reopened in order to hear the impacts people could face surrounding the matter.

Commissioner Tucker withdrew his motion for consensus.

Ms. Boles explained to the Board that if they made a motion to reopen the record, they would need to direct Staff to schedule the first Public Hearing which would require a 21-day notice be sent out to anyone who participated in the original proceedings, as well as, the agencies that were notified; At that time, the Board would set the criteria for submitting comments and then another public hearing would be held for deliberation and decision making. Discussion followed.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to re-open the record and direct Staff to schedule a Public Hearing.

Commissioner Sprenger asked Mr. Lane for his input on the Board's decision and Mr. Lane indicated that it was a complex issue but through discussion he felt the Board had determined the best course of action.

The vote was called. The motion passed unanimously.

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

12. 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 2024-142 approving an Intergovernmental Agreement for the Linn County Transient Lodging Tax between the City of Albany and Linn County.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2024-142. The vote was called. The motion passed unanimously.

13. Unfinished Business and General Orders:

A. Calendar Update: The Commissioners updated their calendars.

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

15. Announcements: There was no announcements.

16. 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.

17. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 10:29 a.m. by unanimous consent.


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

6-4-2024