MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
TUESDAY AND THURSDAY MEETING
LINN COUNTY COURTHOUSE – ROOM 200
AUGUST 7 AND 9, 2018

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, August 7, 2018.

Those present at various times for the matters as indicated below were: Martha Lyon, Executive Director, Community Services Consortium; Robert Wheeldon, Planning and Building Director; Alyssa Boles, Senior Planner, Linn County Planning and Building Department; Rich Kellum; Alan Kwan; David Hickey; Mark Hoyt; Stephanie Newton and Alex Paul, Reporter for the *Democrat-Herald.*

1, 2, 3. At 9:30 a.m. Chairman Nyquist called the meeting to order. The flag salute and roll call followed. Commissioners Roger Nyquist, Chairman and John K. Lindsey, Vice-Chairman were present, as well as, Ralph Wyatt, Linn County Administrative Officer and Heather Gravelle, Recorder for the Board of Commissioners. Commissioner Will Tucker attended the meeting via phone conference at 9:40 a.m.

4. Approval of Agenda.

Action – Commissioner Lindsey moved to approve the agenda. The vote was called. The motion passed by consensus.

5. Approval of the July 24, 2018 and July 31, 2018 Commissioners' Meeting Minutes.

Action – Commissioner Lindsey moved to approve the July 24, 2018 and July 31, 2018 Commissioners' Meeting Minutes. The vote was called. The motion passed by consensus.

6. Reports of Staff and Committees: There were no reports of Staff and Committees.

7. CSC Update – Martha Lyon, Executive Director, Community Services Consortium.

Ms. Lyon provided the Board with a handout which is on file in the Linn County Clerk's office in the Commissioners' Staff file. She provided updates on the following items: Emergency Food Box Program; Emergency Meal/Shelter Program; Kids backpack Program; Housing Programs and the Gleaning Program.

Commissioner Tucker entered the Board meeting at 9:40 a.m. via phone conference.

Next, Ms. Lyon provided the Board an update on the SNAP Program explaining that Linn County was currently part of the "Time-limit exempt counties," otherwise known as waiver counties – this means the areas of the state which are waived from the SNAP time limit. However, the waiver will expire in Linn County in April of 2019. Discussion followed. The Board thanked Ms. Lyon for her great work in the community and for her report.

8. Public Hearing – VR18-0001: An appeal of the Planning and Building Director's decision to deny a vesting right to David Hickey that would authorize the development of three home sites on three parcels. The parcels were created through PD06-0203, which was the result of Measure 37 Claim (M37-145-05) approved for David and Gay Hickey Family, LLC – Alyssa Boles, Senior Planner, Linn County Planning and Building Department.

Commissioner Nyquist read, into the record, the process for the Public Hearing and then called upon Alyssa Boles to provide the Board further information on the matter.

Ms. Boles provided the Board with background information and referred to the Staff Report she had submitted to the Board which is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Ms. Boles shared that the incorrect hearing date had been advertised, it was noticed as Thursday, August 9, 2018 rather than Tuesday, August 7, 2018. Ms. Boles explained that the Board could choose to hear the matter today and leave the record open until Thursday, or, not hear it today and continue it to Thursday. The Board stated they would begin the public hearing today, Tuesday, August 7, 2018 since the applicant and his attorney were present and would continue it to Thursday, August 9, 2018 and leave the record open.

Commissioner Nyquist opened the Public Hearing at 10:05 a.m.

Commissioner Nyquist asked the Board if they had any exparte communication regarding this matter and they all indicated that they did not have any exparte communication. Commissioner Nyquist stated that he was one of the decision makers on this Measure 37 case regarding the property years ago and that he would be able to hear this case in a fair and unbiased manner. Commissioner Lindsey concurred and stated the same.

Next, Commissioner Nyquist noted, for the record, that the Public Hearing had been dutifully advertised. Commissioner Nyquist stated that there was one person signed up to speak and called upon him.

Mark Hoyt, Attorney representing Applicant David Hickey.

Mr. Hoyt provided the Board with background information regarding the matter. He stated that this was a vesting rights case; the reason for the denial was not because the Hickey's didn't make sufficient investment on the property, or satisfy a condition, it was because they were unable to provide a state approval. An approval could not be obtained by the state because all Measure 37 cases were dismissed when Measure 49 passed. He further explained that the Linn County Code requires that the Planning Director have state approval.

Mr. Hoyt explained that the Hickey's had done everything that they were asked to do:

1. Obtain septic permits;
2. Complete the subdivision partition plat process;
3. All conditions satisfied within two years;
4. Division of the land was completed and the septic installed by March, 2008;
5. Road access permits acquired;
6. A standard covenant executed;
7. Limited the approval to the Hickey's;
8. Completion of the Measure 37 process, and;
9. Subject to any court jurisdiction or court decisions that may be modified.

Mr. Hoyt reiterated that all the conditions that were set forth had been satisfied by the Hickey's.

Commissioner Nyquist stated that Measure 37 was imperfect and one of the things that it did not specifically require was state approval. He asked Mr. Hoyt if it was Measure 49 that clearly required state approval. Mr. Hoyt replied no, it was the Linn County Code. He explained that one of the provisions requires that the Planning Director, in order to have a complete application, receive a Measure 37 waiver issued by the state approving the same property by the same applicant. Discussion followed.

Commissioner Nyquist asked if there was anyone else wishing to speak in support of the matter and no one did. He asked if there was anyone else wishing to speak in opposition and no one did.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to accept the Staff Report into the record. The vote was called. The motion passed unanimously.

Commissioner Nyquist Recessed the Public Hearing to Thursday, August 9, 2018 at 10:00 a.m.

9. Correspondence: Commissioner Nyquist shared that he was submitting two items for the record: an editorial in the Monday, August 6, 2018 *Democrat-Herald* titled "Oregon must fix its pot oversupply problem" and a statement from the U.S. District Attorney, Billy J. Williams, on the release of the High Intensity Drug Trafficking Area (HIDTA) Marijuana Insight Report, dated Thursday, August 2, 2018. The editorial and Mr. Williams' statement are on file in the Linn County Clerk's Office in the Commissioners' Staff File.

10. Special Orders:

A. Personnel Action Forms were read into the record for: Diana Gleason (Law Library); Pamela Dubois, Kiersten Glaeser, Casey Hough, Victoria Lathos and Meredith Ray (Mental Health); Trevor Parker and Jose Rodroguez (Juvenile Detention) and Michael Daniels and Ray Knight Jr. (Parks & Recreation).

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to accept the Personnel Action Forms as read into the record. The vote was called. The motion passed unanimously.

11. Unfinished Business and General Orders:

A. Calendar Update: The Commissioners updated their calendars and Commissioner Nyquist noted that he would be attending three public information meetings being held by the U.S. Army Corps. of Engineers to provide an overview of alternatives for temperature control, fish collection and transport, construction, and staging areas at Detroit Dam and Lake for the Detroit Downstream Passage Project. The meetings will be held on Tuesday, August 7th from 5:30-7:30 p.m. at the Stayton Community Center; Wednesday, August 22nd from 5:30-7:30 p.m. at the Gates Fire Hall and Thursday, August 23rd from 5:30-7:30 p.m. at the Oregon Department of Fish and Wildlife Commission Room.

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

13. Announcements: There were no announcements.

14. Business from the Public (3 minute limit per speaker): Audrey Raschein, 3084 Yellowstone Plane NE, Albany, provided the Board with a handout which is on file in the Linn County Clerk's Office in the Commissioners' Staff File. Ms. Raschein explained that she and her husband own a farm in both Linn and Marion Counties and that recently a mass gathering permit was applied for in Marion County for an event on Exclusive Farm Use (EFU) land to allow 30,000 attendees. She added that if the event would have been approved, it would have been detrimental to their farming operation and the liability insurance alone would have cost them $8,400.

Ms. Raschein stated that Linn County needed to review their current mass gathering review process in order to protect the farming practices that occur on EFU land. She explained that a "for profit" company should not be allowed to come into an EFU zone if it would force a significant change in, or significantly increase the cost of, accepted farm practices on surrounding lands devoted to farm use. Ms. Raschein asked the Board to hold off granting any more mass gathering permits until they had reviewed the current Linn County Code related to commercial activity in conjunction with farm use.

The Board thanked Ms. Raschein for attending the Board meeting and for providing her input.

15. Adjournment. There being no other business to come before the Board; by unanimous consent, the Board of Commissioners meeting was adjourned at 10:35 a.m. to Thursday, August 9, 2018.

Minutes of the Linn County Board of Commissioners adjourned meeting, August 7, 2018 continued to August 9, 2018:

Those present at various times for the matters as indicated below were: Robert Wheeldon, Planning and Building Director; Alyssa Boles, Senior Planner, Linn County Planning and Building Department; Rich Kellum; Alan Kwan; David Hickey; Mark Hoyt and Alex Paul, Reporter for the *Democrat-Herald*.

16, 17. At 10:00 a.m. Chairman Nyquist called the meeting to order and roll call followed. Commissioners Roger Nyquist, Chairman and John K. Lindsey, Vice-Chairman were present, as well as, Heather Gravelle, Recorder for the Board of Commissioners. Ralph Wyatt, Linn County Administrative Officer, was out of the office. Commissioner Will Tucker attended the meeting via phone conference at 10:04 a.m.

18. Public Hearing – VR18-0001: *(Continued from Tuesday, August 7, 2018)* An appeal of the Planning and Building Director's decision to deny a vesting right to David Hickey that would authorize the development of three home sites on three parcels. The parcels were created through PD06-0203, which was the result of Measure 37 Claim (M37-145-05) approved for David and Gay Hickey Family, LLC – Alyssa Boles, Senior Planner, Linn County Planning and Building Department.

Commissioner Nyquist noted that they were continuing the Public Hearing from the Tuesday, August 7, 2018 Board meeting. He noted that no one had signed up to speak on the sign in sheet, either in support or opposition and asked if there was anyone wishing to speak on the matter and no one did. Commissioner Nyquist noted that no one had submitted anything in writing for the record.

Commissioner Tucker entered the Board meeting at 10:04 a.m. via phone conference.

Action – Commissioner Lindsey moved and Commissioner Tucker seconded the motion to close the record on the matter and to close the Public Hearing. The vote was called. The motion passed unanimously.

Commissioner Lindsey commented that the case as presented to the Board was more than adequate to prove the Measure 37 vesting rights.

Action – Commissioner Lindsey moved and Commissioner Tucker seconded the motion to approve VR18-0001: An appeal of the Planning and Building Director's decision to deny a vesting right to David Hickey that would authorize the development of three home sites on three parcels. The parcels were created through PD06-0203, which was the result of Measure 37 Claim (M37-145-05) approved for David and Gay Hickey Family, LLC.

Commissioner Tucker noted that he was good with the motion and added that the state had not commented on this issue and he would have expected to hear from them.

Commissioner Nyquist commented that Measure 37 was less than perfectly written; there should have been a mechanism to compensate people for the loss of value on their properties. He added that Mr. Hickey was a long time Linn County resident, who had been an upstanding citizen, paid his property taxes and through no fault of his own had substantial takings by the state. Commissioner Nyquist apologized to Mr. Hickey that he had to come before the Board on the matter and stated that they were doing their best today to correct it for him.

The vote was called. The motion passed unanimously.

The Board requested that staff prepare the necessary documents consistent with their decision as soon as possible; preferably, by the next Board meeting.

19. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 10:18 a.m. by unanimous consent.

The next regular public meeting of the Board of Commissioners is scheduled for Tuesday and Wednesday, August 14 and 15, 2018.

[redacted] Recorder
For Board of Commissioners
Heather Gravelle

LINN COUNTY BOARD OF COMMISSIONERS

ABSENT
Roger Nyquist, Chairman

[redacted]

John K. Lindsey, Commissioner

[redacted]

William C. Tucker, Commissioner

Date 8-21-2018