



**MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
TUESDAY AND WEDNESDAY MEETING
LINN COUNTY COURTHOUSE – ROOM 200
AUGUST 14 AND 15, 2018**

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, August 14, 2018.

Those present at various times for the matters as indicated below were: Gene Karandy, County Attorney for Linn County; Jodi Gollehon; Deputy County Attorney for Linn County; Kevan McCulloch, Deputy County Attorney for Linn County; Michelle Hawkins, Linn County Treasurer; Robert Wheeldon, Linn County Planning and Building Director; Alyssa Boles, Senior Planner, Linn County Planning and Building Department; Darrin Lane, Linn County Roadmaster; Tom Casey, Chief Deputy Surveyor, Linn County Surveyor's Office; Steve Druckenmiller, Linn County Clerk; David Hickey, Applicant; Mark Hoyt, Attorney for the Applicant; Stephanie Newton; Rich Kellum; Alan Kwan 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; John K. Lindsey, Vice-Chairman and Will Tucker were present, as well as, Ralph Wyatt, Linn County Administrative Officer and Marsha Meyer, Recorder for the Board of Commissioners.

4. Approval of Agenda.

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

5. Reports of Staff and Committees: There were no reports of staff and committees to come before the Board.

6. County Attorney – Gene Karandy, County Attorney for Linn County.

A. 2nd Reading of Ordinance 2018-252 amending the Linn County Surveyor’s Code, codified at Linn County Code Chapter No. 320.

Mr. Karandy asked, if the Board preferred, he would do a reading of the title and not the full ordinance. The Board agreed and Mr. Karandy read the title into the record.

B. Ordinance 2018-252 amending the Linn County Surveyor’s Code, Codified at Linn County Code Chapter No. 320.

Mr. Karandy stated that, if the Board approved the Ordinance today, Tuesday, August 14, 2018, it would go into effect January 1, 2019 but only if approved by the electors of Linn County.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Ordinance 2018-252. The vote was called. The motion passed unanimously.

C. Resolution & Order 2018-253 calling an election on the question of whether to make the Linn County Surveyor an appointed position and referring Ordinance No. 2018-252.

Mr. Karandy stated that this item was the follow-up to Ordinance 2018-252 that the Board just approved. He stated that it would initiate the process to put the question on the ballot and approve the SEL 805 with caption, summary and ballot title. The SEL 805 would need to be filed with the Clerk’s Office immediately and this Resolution & Order would delegate the authority to Commissioner Nyquist, Chairman, to sign.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Order 2018-253. The vote was called. The motion passed unanimously.

7. Treasurer’s Office – Michelle Hawkins, Linn County Treasurer.

Ms. Hawkins provided additional information regarding the following Orders:

A. Order 2018-261 accepting an expenditure of a certain grant within the Health Fund, \$15,000.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Order 2018-261. The vote was called. The motion passed unanimously.

B. Order 2018-270 approving a transfer of certain appropriations within the General Fund, \$33,096.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Order 2018-270. The vote was called. The motion passed unanimously.

C. Order 2018-275 approving a transfer of certain appropriations within the Health Fund, \$75,960.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Order 2018-275. The vote was called. The motion passed unanimously.

8. Planning Department – Robert Wheeldon, Linn County Planning and Building Director.

Mr. Wheeldon stated that this resolution was in regard to a matter the Board reviewed last Tuesday and Thursday, August 7 and 9, 2018 of the vesting rights application by Mr. David Hickey. He stated that the Board directed staff to prepare a Resolution & Order to grant the vesting right to Mr. Hickey and this matter was before the Board for their approval.

A. Resolution & Order 2018-233 approving an appeal and overturning the Planning and Building Director's decision to deny a vesting right for David Hickey on property identified as T12S, R01W, Section 21 tax lots 105, 112 and 113.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Order 2018-233.

Commissioner Nyquist stated that this document reflected the vote and the approval of this matter at the last Thursday, August 9, 2018 Board meeting.

The vote was called. The motion passed unanimously.

9. Road Department – Darrin Lane, Linn County Roadmaster.

A. Resolution 2018-251 approving the use of County roads by the ABC House for a walking and running half marathon (The Runaway Pumpkin Half Marathon).

The Roadmaster recommended approval. He stated that this was the fourth or fifth year and the organizers have done a good job; his department works closely with them to make sure it is carried out in a safe manner. The organizers have asked the Road Department to help with the signage and Mr. Lane stated that they would most likely accommodate them.

Commissioner Lindsey stated that the event was on Saturday, September 29, 2018 from 9:00 a.m. to 4:00 p.m. and asked if Commissioner Nyquist was participating. Commissioner Tucker stated that he was planning on participating. Commissioner Lindsey stated that he did not think he was up to it. Commissioner Lindsey stated that if all three Commissioners participated and bet against each other for charity he would spot Commissioner Tucker two miles. Commissioner Nyquist stated that would give him six weeks to lay off the maple bars and stated that he would participate in the half-marathon. He stated that if all three of them participated he would not want to talk to them and have to declare it; and, stated that the winner would receive a dozen maple bars from the two losers and, in addition, those unsuccessful will make a \$100 contribution to the ABC House in the name of the winner.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution 2018-251. The vote was called. The motion passed unanimously.

Commissioner Nyquist asked the Board if there was a consensus regarding the Board's participation in the half-marathon. Commissioner Tucker stated that he was accepting Commissioner Lindsey's offer to spot him two miles and would take the bet. Commissioner Lindsey also agreed to take Commissioner Nyquist's bet. Commissioner Nyquist stated that he would spot Commissioner Lindsey 20 minutes and Commissioner Tucker 40 minutes.

Commissioner Nyquist stated, in all seriousness regarding the raising of funds by ABC House, was commendable; they move the mark incrementally when they host an event such as this.

10. Executive Session – Pursuant to ORS 192.660(2)(h). *(This matter was moved to the end of the Agenda).*

Commissioner Nyquist stated that it was not anticipated that the Board would make any decisions in Executive Session nor would there be any action by the Board once they adjourned the Executive Session and return to the regular meeting.

Commissioner Nyquist recessed the regular Board meeting at 10:06 a.m.

By unanimous consent, the Board closed the Executive Session.

Commissioner Nyquist reconvened the regular Board meeting at 10:26 a.m.

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

12. Special Orders:

A. Personnel Action Forms were read into the record for: Janet Schuh (General Services); Monica Gabaldon (Mental Health); Brianna Housworth, Regina Lobdell and Cameron Taber (Parks & Recreation); Breanna Oxford (Planning and Building) and Mitchell Keenon, Kristopher Philpot and Andrew Potts (Road Department).

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.

B. Resolution & Order 2018-273 approving a First-Time Youth Wage Grant Agreement between Linn County and Glenn Miller Seed, Inc.

Action Taken Below.

C. Resolution & Order 2018-274 approving a First-Time Youth Wage Grant Agreement between Linn County and Duane Sherfy Enterprises.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Orders 2018-273 and 274. The vote was called. The motion passed unanimously.

13. Unfinished Business and General Orders:

A. Calendar Update – The Commissioners updated their calendars. Commissioner Nyquist stated that he would be out of the office on Thursday, August 16, 2018.

B. Discussion regarding the naming of a tax administrator for the Transient Lodging Tax.

Commissioner Nyquist stated that the Board had to name a tax administrator. There are three different places that this could be assigned to: 1) the Board of Commissioners could administer the tax; 2) the Treasurer's Office; and, 3) possibly, the Clerk's Office. Commissioner Nyquist stated that he didn't care who collected the tax; his understanding of how this would work, when they set out to fund Fair/Expo, was to be the least onerous on lodging operators as possible and the money would actually go to promote and support tourism through the Fair/Expo and then they would build County staff or add a government position to do this.

Commissioner Tucker stated that he had started the conversation with the County Attorney about preparing a Memorandum of Understanding (MOU) with each city. He stated that he

would need to talk with the City of Albany's City Manager to get the MOU officially started but had already talked with Ray Towry, City Manager, City of Sweet Home and Gary Marks, City Manager, City of Lebanon and they both have agreed that they would assist Linn County in the collection of the taxes that are inside of their cities. The lodging facilities would continue to report their taxes to the cities and the cities would collect the portion that belongs to the County. Commissioner Tucker stated that neither city had agreed to do collections for non-payment or collections for any problem the County may have with collecting the taxes from anyone. The cities would simply identify to the County who had not paid their portion of the Linn County tax and/or suggest when there is a new hotel in town. Commissioner Nyquist confirmed that Commissioner Tucker did believe that the cities of Sweet Home and Lebanon had agreed to the basic concept and Commissioner Tucker stated "yes". Commissioner Nyquist stated that it was not that simple for the areas outside of Albany, Lebanon and Sweet Home. Discussion followed.

Commissioner Nyquist asked what would be the Board's pleasure regarding this matter. The Board then recognized Jodi Gollehon, Deputy County Attorney for Linn County. Ms. Gollehon asked whether or not the cities had talked with Commissioner Tucker about the cost and Commissioner Tucker stated that it would be five percent for the cities of Sweet Home and Lebanon and he had not heard a percentage amount from the City of Albany; however, Rich Kellum, City of Albany Council Member, thought three percent was a reasonable figure. Commissioner Tucker stated that he still needed to talk with Peter Troedsson, City Manager for the City of Albany, to confirm that. Discussion continued.

Commissioner Nyquist suggested, with it getting close to the time limit, the Board consider making the Board of Commissioners' Office the tax administrator. When they figure what it looks like, where they are and how much work was actually involved, then the Board could re-access whether or not the Commissioners' Office would be the permanent place. Discussion continued.

Ms. Gollehon stated that she would prepare a Resolution & Order appointing the Board of Commissioners as the tax administrator; if they decide to contract it out, they wouldn't need to do another Resolution & Order. They would still need to have MOU's prepared for the cities. By consensus, the Board agreed.

C. Update of the Detroit Dam Fish Passage. *(This discussion was added during the Board meeting).*

Commissioner Lindsey noted, for the record, that he and Commissioner Nyquist would both be attending an U.S. Army of Corps. of Engineers meeting regarding the Detroit Dam Fish Passage on Thursday, August 23, 2018. Commissioner Nyquist stated that he did attend a meeting in Stayton and believed that Erik Petersen, Willamette Valley Project Operations

Manager, U.S. Army Corp. of Engineers, and his staff were genuinely listening and the second round of conversations was a result of the input they received from the first round of conversations. He stated that they were tasked with a very difficult proposition and did not fault any of them, given the constrictions, and they were working this pretty hard. However, the perception is that the Corp. had entered into a settlement agreement with environmentalist groups without the input of the stakeholders. Staff denies that happened but it's not consistent with the message that seems to be out there.

Commissioner Nyquist stated it was his understanding that the Mayor of Salem, Chuck Bennett, had said that the City of Salem was going to litigate this matter and Marion County was going to join the litigation should it happen. Commissioner Nyquist stated that he would talk to Mayor Bennett this week and report back to the Board.

Commissioner Lindsey stated that it came to his attention, due to Marion County Commissioner, Sam Brentano's testimony regarding this matter, that when the Board was presented with this; they still did not have answers to the previous construction projects and that the Corp. of Engineers was doing what they were being told to do; it was other federal agencies that had entered into the negotiated settlement with the environmental organizations. The problem was the Corp. of Engineers was getting involved in non-scientifically based policy. Inevitably, Marion County, City of Jefferson and the City of Stayton would enter into litigation at some point and would directly affect, financially, two of the communities located within Linn County. Commissioner Lindsey asked that Linn County keep an open mind in joining them on behalf of those cities if they go through with the litigation and support Marion County in this matter. Commissioner Tucker asked that it be acknowledged that it was not the Corp. driving this. Discussion followed.

Commissioner Nyquist stated, in regard to the litigation, that he would ask Mayor Bennet and the lead litigator if they needed help and would get back to the Board with their response. After two conversations with the Mayor, they do not have another plan and do not have any other source of water; between the two communities it would be drinking water for about 100,000 people.

Commissioner Lindsey asked that Commissioner Nyquist continue to stay in contact with Mayor Bennett regarding this matter and Commissioner Tucker agreed. Discussion continued.

14. New Business:

A. Resolution & Order 2018-283 appointing members to a committee to prepare an Explanatory Statement for the Linn County Second Amendment Preservation Ordinance. *(This item was added during the Board meeting).*

Commissioner Nyquist asked Steve Druckenmiller, Linn County Clerk, if he had anything to comment and he deferred to Gene Karandy, County Attorney for Linn County.

Mr. Karandy stated that the Board had before them the Second Amendment Preservation Ordinance initiative petition and it was certified last week that there was enough signatures to place on the November, 2018 ballot. Under Linn County Code Chapter 250 the chief petitioners could choose to have an Explanatory Statement for the State's Voter's Pamphlet and, in order to do that, the Linn County Code, at LCC 253.050, sets up a process and, in this case, sets up a streamlined shorter term process given the late date of the filing before the election. This allows the chief petitioners of the proponent of the measure to appoint two members to the committee; requires the Board to appoint two opponents of the measure to the committee; then, those four members appoint five members to the committee to draft an Explanatory Statement which they would then file with the Linn County Clerk by due August 30, 2018.

Commissioner Tucker stated that they are all Linn County citizens and Commissioner Lindsey asked if they were all registered voters. Commissioner Nyquist asked Mr. Druckenmiller, based on the Linn County Code, if he recommended approval and Mr. Druckenmiller responded "absolutely".

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Order 2018-283. The vote was called. The motion passed unanimously.

15. Announcements: There were 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.

Commissioner Nyquist stated that the Board was in an Executive Session (See Item No. 10) and no action was taken in the Executive Session nor was there any action contemplated to be taken at this time.

17. Adjournment: There being no other business to come before the Board; by unanimous consent, the Board of Commissioners meeting was adjourned at 9:00 a.m. to Wednesday, August 15, 2018.

Minutes of the Linn County Board of Commissioners adjourned meeting, Tuesday, August 14, 2018 continued to Wednesday, August 15, 2018:

Those present at various times for the matters as indicated below were: Todd Noble, Linn County Health Services Administrator; Dr. William Muth, Linn County Health Officer; Rick Partipilo, Linn County Environmental Health Program Manager; Jim Yon, Linn County Sheriff; Dr. Eby; Alan Kwan and Alex Paul, Reporter for the Democrat-Herald.

18, 19. At 9:00 a.m. Chairman Nyquist called the meeting to order and roll call followed. Commissioners Roger Nyquist, Chairman; John K. Lindsey, Vice-Chairman and Will Tucker were present, as well as, Ralph Wyatt, Linn County Administrative Officer and Marsha Meyer, Recorder for the Board of Commissioners.

20. Board of Health – Todd Noble, Linn County Health Services Administrator.

A. Communicable Disease and Vital Statistics Reports – Dr. William Muth, Linn County Health Officer.

Dr. Muth provided the Board with an overview of the Communicable Disease and Vital Statistics Reports for July, 2018. Copies of the reports are on file in the Linn County Clerk's Office in the Commissioners' Staff file.

B. Environmental Health Monthly Activity Report – Rick Partipilo, Linn County Environmental Health Program Manager.

Mr. Partipilo provided the Board with an overview of the Environmental Health Monthly Activity Report for July, 2018. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff file.

Mr. Partipilo stated that animal bites, which were mentioned in Dr. Muth's report, had doubled from other years and the only other thing he mentioned was that he expected revenues would come in as projected.

Commissioner Nyquist stated that someday, should Mr. Partipilo no longer be with Linn County, who would take over the outdoor assembly process. Mr. Partipilo stated that a few years ago he had several conversations with Robert Wheeldon, Linn County Planning and Building Director, who had been involved with the outdoor assembly permits from day one as it is an exception to the land use process if the permit goes pass the time limit. Mr. Partipilo stated that the Planning and Building Director, in several counties, had the role as the reviewing official and sends the notices to the neighbors and is engaged in the process. Mr. Wheeldon had mentioned to Mr. Partipilo that he was expecting him to recommend,

once he was no longer with Linn County, that the outdoor assembly process go to Mr. Wheeldon.

A lengthy discussion followed regarding the application piece of transportation and Commissioner Nyquist stated that it seemed to him that, in the way of efficiency, it made sense to have the outdoor assembly process go to the Road Department; the outdoor assembly permit has to get through the transportation approval process. He stated that he thought Darrin Lane, Linn County Roadmaster, had the connections and background in moving people and would do a great job. Mr. Partipilo currently has an application that was not complete and, instead of Mr. Partipilo spending any more time, it could be moved to Mr. Lane. There was also discussion about the 2019 Willamette County Music Festival's (WCMF) application.

Commissioner Nyquist proposed to the board that the departments that have a component of the application process get together and form a work group to talk about the process and which department, moving forward, should review these applications.

Jim Yon, Linn County Sheriff, entered the Board meeting at 9:42 a.m. Commissioner Nyquist informed the Sheriff of the Board's discussion of whose desk the outdoor assembly permits should go to and confirmed with the Sheriff that his ceiling for maximum attendance of the WCMF events was 25,000 and that anything larger than that would not be approved by the Sheriff. The Sheriff confirmed that that was correct and that he had informed the organizers of this. Discussion continued.

1. Resolution 2018-266 reappointing a member to the Linn County Solid Waste Advisory Committee.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution 2018-266. The vote was called. The motion passed unanimously.

C. Resolution & Order 2018-265 approving an Intergovernmental Agreement between the Mid-Valley Behavioral Care Network (MVBCN) and Linn County.

Mr. Noble provided additional information regarding this matter. Commissioner Nyquist asked Mr. Noble questions about the MVBCN.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Order 2018-265. The vote was called. The motion passed unanimously.

Next, Mr. Noble stated, for the record, that a few weeks ago the Board had pulled Resolution & Order 2018-244 (an Amendment No. 5 to an Agreement between Protocall Services, Inc. and Linn County and delegating authority to execute originals) from the Tuesday, July 31, 2018 agenda and asked Mr. Noble for more information regarding this agreement. Since then, Mr. Noble stated that he has decided to not move forward with this Resolution & Order.

21. Special Orders: There were no special orders to come before the Board.

22. Unfinished Business and General Orders: There was no unfinished business and general orders to come before the Board.

23. New Business: Commissioner Lindsey stated that he had received a copy of a report regarding the initial assessment of cannabis production, distribution and consumption in Oregon for 2018. He stated that the report was completed by Oregon-Idaho High Intensity Drug Trafficking Area. He stated that Linn County was listed as one of the larger illicit producers within the State of Oregon. Sheriff Jim Yon indicated that he had also received the same report.

24. Announcement: Commissioner Nyquist stated he would be attending a business organization meeting on Tuesday, August 21, 2018 from 9:00 a.m. to 10:30 a.m. and, therefore, would not be at the Board meeting on that day.

25. Business from Public (3 minute limit per speaker): There was no one present from the public wishing to use this forum.

26. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 9:51 a.m. by unanimous consent.

