



**MINUTES OF THE REGULAR SESSION OF THE  
LINN COUNTY BOARD OF COMMISSIONERS  
TUESDAY MEETING  
LINN COUNTY COURTHOUSE – ROOM 200  
FEBRUARY 12, 2019**

**The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, February 12, 2019.**

Those present at various times for the matters as indicated below were: Micah Smith, Lieutenant Support Division, Linn County Sheriff's Office; Paul Timm, Linn County Undersheriff; Mark Volmert, Linn County Special/Rural Transportation Coordinator; Chuck Knoll, Engineer, Linn County Road Department; Rachel Adamec, Office Specialist/Property Management, Linn County General Services; Robert Wheeldon, Linn County Planning and Building Director; Alyssa Boles, Senior Planner, Linn County Planning and Building Department; Alyssa Schrems, Assistant Planner, Linn County Planning and Building Department; Stephanie Newton; Rich Kellum, Councilman, City of Albany; 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 to approve a modified agenda.**

Commissioner Tucker stated that Linn County Sheriff Jim Yon, had asked that Item 7-A be stricken from the Agenda as it was not ready to come before the Board. Commissioner Nyquist also stated that he understood that Rich Kellum, Councilman, City of Albany wanted to address the Board and, due to the timing, he asked that Agenda Item No. 18 be moved between Agenda Item Nos. 11 and 12.

**Commissioner Lindsey seconded the motion to approve the modified agenda. The vote was called. The motion passed unanimously.**

5. Approval of the February 5, 2019 Commissioners' Meeting Minutes.

**Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve the February 5, 2019 Commissioners' Meeting Minutes. The vote was called. The motion passed unanimously.**

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

7. Sheriff's Office – Micah Smith, Lieutenant Support Division, Linn County Sheriff's Office.

A. Order 2018-376 accepting an expenditure of a certain grant within the General Grants Fund, \$77,000. *This item was stricken from the Board's agenda at the time of the Board meeting.*

Lieutenant Smith indicated that the following two items were amended to "clean-up" and provided clarification of the two job classifications.

B. Resolution & Order 2019-035 amending a classification for Sergeant-Corrections Division (Range 18-Management/Exempt (SO)).

**Action Taken Below.**

C. Resolution & Order 2019-036 amending a classification for Sergeant-Criminal Patrol Division (Range 18-Management/Exempt (SO)).

**Action - Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Orders 2019-035 and 036. The vote was called and the motion passed unanimously.**

8. Special Transportation – Mark Volmert, Linn County Special/Rural Transportation Coordinator.

Mr. Volmert presented the recommendations for the following items. Copies of his recommendations are on file in the Linn County Clerk's Office in the Commissioners Staff File.

Mr. Volmert stated that there were three items before the Board and two items were for allocations that every year are consistent with the Board's Human Services Public

Transportation Quarterly Plan which has its highest priority as long as they remain viable, efficient, cost effective and a good value to the tax payers.

A. Special Transportation Fund (STF) Allocations.

Mr. Volmert stated that this was a 30-year old program with the cigarette tax and DMV's off-road vehicle fees and general fund fees. The Governor indicated that she was not going to place the \$10 million dollars of General Fund from these fees in her recommended budget which translated into about 35 percent (or \$100,000) in addition to the 17 percent that was received last year in reductions. ODOT directed to allocate funds with the previously published amount to make adjustments depending on what happened in the legislature assembly and to prioritize programs in a general non-binding way if those funds were not received.

Mr. Volmert stated that applications were received by the Transportation Advisory Committee (TAC) and made recommendations. He stated that it was made "crystal clear - crystal clear" to the 11 programs that the allocations were dependent on the published amounts and if they didn't receive those amounts, there would be a second go-around in terms of what those cost would be.

Recommendations – Mr. Volmert stated that the recommendations were the same as last year with two exceptions: 1) more money to the Linn-Benton Loop consistent with what had happened in Benton County separate from the 5310 items; and, 2) moved \$70,000 from the Developmental Disability Medicaid match program that allocates monies matched at about \$150,000 in Medicaid for third-party and long-distance rides provided to people in residential vocational programs serving intellectual and developmental disabilities. He provided additional information.

Mr. Volmert stated the recommendation was to fund the programs as was done last year and wait to see what happens during the budget process.

**Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to accept the recommendations of the Linn County Transportation Advisory Committee (TAC) to allocate the monies for non-binding formula with the big caveat of the legislature. The vote was called. The motion passed unanimously.**

B. Section 5310 Allocations.

Mr. Volmert stated, in regard to the Section 5310 monies, that this pot of money was secure. The Federal Transportation Administration goes to the urbanized area of Albany. ODOT takes about \$25 million dollars of its Federal Highway Funds and transfers it to public transportation. It funds some operations for the Lebanon Express

operated by the Linn Shuttle between Lebanon and LBCC but mostly for vehicles and preventative maintenance, particularly, for programs serving Linn County residents with developmental disabilities.

Mr. Volmert stated that the allocation for the next biennium was the same for the County allocation; up six percent for the urbanized area funds. Again, TAC reviewed the applications and made their recommendation. He stated that the recommended allocations were similar and had been "flat" funded for the last four years. The recommendation was to take; again, \$60,000 out of that pot used for mobility management for the long list of planning projects now completed and put the \$60,000 in the STIF program for preventative maintenance and for the two vehicles for the Sweet Home Senior Center, Linn Shuttle and Sweet Home Dial-A-Bus.

**Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to accept the recommendations from TAC for the 5310 funds. The vote was called. The motion passed unanimously.**

Mr. Volmert added that for a number of years the City of Albany, Linn County and Albany Metro Planning Organization (AMPO) have funded the Linn-Benton Loop in a larger sum than Benton County, Corvallis MPO and the City of Corvallis. He stated that they were now equal except for this program and the entities were funding over and above Benton County. Mr. Volmert stated that the TAC said this would be the last biennium and that Benton County and the City of Corvallis needed to step up to the plate and fund on an equal basis as the ridership is higher out of Benton County. TAC recommended they fund a little bit more this time but it is a heads-up to Benton County. Discussion followed.

C. STIF Sub-Allocation Method.

Mr. Volmert stated that 90 percent of the STIF monies come by formula to counties and districts allocations. He continued with a breakdown of the formula.

The TAC recommended doing what had been done for the last 15 years, which is to look at a wide-variety of things such as gaps in service, capacity, capability, high priority, cost effectiveness, interest by the local communities and value to the tax payers. You don't just look at where the money is collected but at a variety of things. Mr. Volmert referred the Board to Item No. 6 of his summary. Lengthy discussion followed.

**Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve the methodology as presented by TAC for the allocation of monies. The vote was called. The motion passed unanimously.**

The Board asked Mr. Volmert to thank TAC for taking on an expanded area of responsibility.

9. Road Department – Chuck Knoll, Linn County Engineer.

A. Resolution & Order 2019-026 approving a Contract Amendment (Change Order No. 2) for the Foster Dam Road Public Access Improvement Project between North Santiam Paving Company and Linn County.

Mr. Knoll stated that this item was 100 percent funded and there was no economic impact to Linn County.

**Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Order 2019-026. The vote was called. The motion passed unanimously.**

10. General Services – Rachel Adamec, Office Specialist/Property Management.

A. Sealed Bid – Account No. 304192.

Ms. Adamec presented the Board with one sealed bid for Account No. 304192.

She then opened the sealed bid and announced there was a check in the amount of \$1,500 and another check for \$150 from Steven Schilling. She stated that she looked up the property and Mr. Schilling owns the large piece of land to the west.

Commissioner Tucker stated, for the record, that both parties adjoining this property had asked about and understand this process.

**Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to accept the offer made by Steven Schilling for Account No. 304192. The vote was called. The motion passed unanimously.**

11. Treasurer’s Office – Ralph Wyatt, Linn County Administrative Officer.

Mr. Wyatt presented the following items on behalf of Michelle Hawkins, Linn County Treasurer. He stated that the following items were continued from last week’s Board agenda moving money around to provide funds for the Alcohol & Drug deficit at the beginning of the year to make them whole and sets up the first three payments of the loan from the Road Fund allowed to remodel the Parole and Probation building.

A. Order 2018-377 accepting an expenditure of a certain grant within the General Fund, \$803,874.

**Action Taken Below.**

B. Order 2019-011 accepting an expenditure of a certain grant within the Road Fund, \$83,495.

**Action Taken Below.**

C. Order 2019-012 accepting an expenditure of a certain grant within the Health Grants Fund, \$95,379.

**Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Orders 2018-377, 2019-011 and 2019-012. The vote was called. The motion passed unanimously.**

Before moving to Item No. 12, Commissioner Nyquist moved to Agenda Item No. 18 “Business from Public”. He then called upon Rich Kellum, Councilman for the City of Albany.

Councilman Kellum stated that he was before the Board representing the City Council from the City of Albany. He provided his address as 4085 E Commercial Way, Albany, OR.

Mr. Kellum stated that the City Council for the City of Albany met in an Executive Session discussing the upcoming land partition on top of Knox Butte. Commissioner Nyquist stated that this matter was the next item on the Board’s agenda.

Mr. Kellum stated that the City Council had a proposal for the Board that, if, today, the Board did not go through with the matter (Item No. 12A on the agenda), the City would not appeal the case in order to leave time for staff to get together to make a temporary agreement between the City and the County with what the City calls the urban fringe which is between the urban growth boundary and the City boundary. The long-term is something the City recognizes that they will need to be dealt with; and, in the short-term, it would require a short-term agreement. Mr. Kellum stated that if the Board voted to pass the Resolution & Order, there would be a request at some point for the City to take this matter to the Land Use Board of Appeals (LUBA). He stated that he could not say how the Council would vote and that he is reminded that both governing bodies were there to do the same thing but they approach it differently. It is the “folks” that are their boss; the more they can work together the more they may be able to have

the system work and, in doing so, the cost is lowered to the taxpayer and the level of service is raised to the people in Linn County.

Commissioner Tucker stated that he thought Mr. Kellum was getting off the topic of urban growth boundary decision. Mr. Kellum stated that he was giving the Board a reason why he thought it was important to work together instead of fighting about it. He stated that he has had his say and the Board will approach this matter as they determine to do.

Commissioner Nyquist thanked Mr. Kellum for engaging the Board and stated that, for the record, he had attended the Council's work session yesterday, Monday, February 12, 2019, and talked briefly about this specific case. He stated that Senator Frank Morse and Applicant Monty Ellison both spoke as well. Commissioner Nyquist then asked the Staff what the appeal period was and Robert Wheeldon, Linn County Planning and Building Director answered that the appeal period was 21-days. Commissioner Nyquist stated that there would still be time should the Board approve the application today and, as was pointed out; they are already beyond the deadline. He stated that from the Applicant's perspective and the County's perspective it's a better environment to have a conversation then having a hammer to the head saying do what we want or go to LUBA. Commissioner Nyquist stated that he pointed out to the Council that there are two Intergovernmental Agreements with the City that are applicable to this case: 1) a 1988 agreement between the City and the County on how these lands would be managed and what the process was; and, 2) an Intergovernmental Agreement that addresses the infra-structure and roads, in particular, and how those would be transferred between the County and the City. In this case the infrastructure concerns are not well placed because, ultimately, the County would have to bring the road up to City standards before they ever took over that road.

Commissioner Nyquist stated that he completely agreed with Councilman Kellum that the interactions should be seamless to the taxpayer and the user and he believed that that was Councilman Kellum's goal as well. Commissioner Tucker stated that he supported that concept but they have had the hearing in regard to this case and made a decision and Staff has created findings. Now, this matter needed to move forward. Commissioner Tucker stated the timing was such that to not act would also put the issue at risk. He stated he has made a motion and the Board did approve it. Today, they have a Resolution & Order that moves this matter into action. Discussion followed.

Commissioner Tucker stated that he believed that the Board needed to act on the matter before them today and appreciated Councilman Kellum's efforts to work together.

Commissioner Nyquist stated that, again, the entities could collectively meet to discuss this matter. He paused to state that he wanted to disclose, for the record, that he owns

property next to the Ellison's (Applicants) but has no direct financial interest in this application. He then continued by saying that he believed there needed to be an Elected Official sitting at the table as part of the conversation regarding this matter. Commissioner Nyquist stated that the troubling thing for him was the lack of the ability to have a dialogue based on a legal interpretation of whether or not that could happen. It is problematic for people elected by the citizens to not be able to have a public conversation that is important to the citizens of the community. From the County's perspective, the Board is ready to talk about this within a day's notice and requested that there be people who are accountable to the citizens of this County sitting at the table. Commissioner Lindsey stated that the entities have an agreement and written policy; if people don't like the policy then the City Council and Board of Commissioners could re-write it. He stated that other than Councilman Kellum he has yet to hear from a City elected official about this matter; however, City employees show up in mass that don't like what the County is doing but they are not elected to represent the people; it was Commissioners and Council Members who signed those agreements.

Commissioner Nyquist stated that he appreciated this conversation on the record and, to not draw conclusions about specific Council Members, they are being told by counsel not to talk to us.

Mr. Kellum recognized that they are dealing with rules on having hearings and, with being told "don't talk to your friend over there" about anything, is problematic for him. The situation the other night is problematic for me. He stated that he would look forward to any opportunity where the County and City could work together to lower the cost or raise the service to our combined constituents by combining what we do or giving up to get along better.

12. Planning Building – Alyssa Boles, Senior Planner, Linn County Planning and Building Department.

A. Resolution & Order 2019-009 (PD18-0236) in the matter of applications for a partition, a variance, conditional use permits and an access review in the Urban Growth Ara-Urban Growth Management-20 Acre Minimum Zoning District; Monty & Linda Ellison.

Commissioner Tucker called upon Alysa Boles. Ms. Boles read the Resolution & Order title into the record. She stated that the time was up on January 31, 2019 regarding this matter.

**Action – Commissioner Tucker moved to approve the findings and conclusions in Resolution & Order 2019-009.**

Commissioner Lindsey stated that the time had passed and Ms. Boles stated that the Board could still make a decision. Commissioner Nyquist stated that, at the point you don't make a decision, the Applicant could get a Writ and it would be declared. The Applicant has not done that so making a decision today would preclude them from doing that going forward.

**Commissioner Lindsey seconded the motion.**

Commissioner Nyquist stated that he was not participating in this vote as he did not participate in the hearing because he owns property next to the Applicant.

**The vote was called. The motion passed 2-0.**

Commissioner Nyquist thanked Councilman Kellum for his willingness to go above and beyond to work together.

B. Public Hearing – PD18-0283 – An appeal by Frank Walker on behalf of the Mount Pleasant Community Church of the Linn County Historic Resource Commission (HRC) decision approving a Historic Resource Alteration Review and a Non-conforming Use Review to site a modular building to be used for classrooms and sanitary facilities for the church – Alyssa Schrems, Assistant Planner, Linn County Planning and Building Department.

Commissioner Nyquist called upon Robert Wheeldon, Linn County Planning and Building Director.

Mr. Wheeldon stated that, without going into the nature of the hearing, neither the property owner nor the property owner's designated representative were present today, Tuesday, February 12, 2019. He stated that his department was contacted yesterday by Frank Walker; Applicant's designated representative, who was apparently stuck in Hood River, Oregon due to the weather. He indicated that he did not have access to a computer so he had a realtor in Hood River send the Planning and Building department an email. Mr. Wheeldon distributed a copy to the Board and presented a copy for the record which is on file in the Linn County Clerk's Office in the Commissioner's Staff File. Mr. Wheeldon read into the record which requested that the Board open and continue the hearing. Mr. Wheeldon stated this matter was running up against a time crunch and there currently is not a written request to extend the decision deadline. Mr. Wheeldon noted that there were at least two people present to testify and he stated that, at a minimum, the Board would have to open the hearing and then continue the hearing as requested or hold the hearing based upon who is here and make a decision based on what they have before them. He did state that the email may give the Applicant's representative grounds to at least object to not continuing the

hearing. Mr. Wheeldon stated that, normally, the Board does not allow other parties to request to continue the hearing until after the hearing had been held. Commissioner Nyquist stated that the Board has continued hearings before at the Applicant's request but generally not at the beginning of the hearing.

Commissioner Nyquist asked Mr. Wheeldon if he had any reason to believe that Don Nunamaker, the name listed on the email dated Tuesday, February 12, 2019, was not speaking on behalf of the Applicant. Mr. Wheeldon stated that he did not have any direct knowledge that he was but he did seem to know something about the matter such as when it was scheduled and when he would like it to be continued. Commissioner Lindsey asked who Mr. Nunamaker was and Mr. Wheeldon stated that he was the one who sent the email. Commissioner Nyquist asked Mr. Wheeldon if Mr. Walker, himself, had called the Planning and Building department and that he believed that the email was a result of him calling yesterday. Alyssa Schrems stated that she talked to Mr. Walker and assumed so as the email was from Hood River.

Mr. Wheeldon stated that March 17, 2019 was the decision deadline. Commissioner Tucker stated that the recommendation from Staff would be to open the hearing and move it out a week. He stated that his concern was that there were two people present to testify who may not be available next week or the following week. Discussion followed.

Mr. Wheeldon stated that Mr. Walker had indicated that he would be available on Tuesday, February 26, 2019 for a continued hearing. Commissioner Nyquist stated that it wasn't a great decision to make for the Board because the public was not notified and he was inclined to run through the hearing and make a decision; however, on the other hand getting to a fair end result, he did not think that would be appropriate. He apologized to those who came for the hearing and asked that they understand that this was an unusual circumstance and out the of the Board's control. Commissioner Nyquist stated that he was inclined to open the hearing and have it continued to Tuesday, February 26, 2019. Commissioner Tucker asked to be able to ask those in attendance if they would be able to come back for the hearing on February 26, 2019 because Commissioner Tucker stated that he may want to hear their testimony today if they are not able to come back at a later date. Discussion continued.

Commissioner Nyquist opened the Public Hearing.

Ms. Schrems reviewed her Staff Report with the Board.

Commissioner Nyquist stated that normally, at this point in the hearing process, the Board would hear testimony. He reviewed the hearing timeline for the record. He stated that there were two people present who indicated on the sign-in sheet that they

were opposed and that Commissioner Tucker had asked to give them the option to either speak today or come back to a date set for the continued hearing. Commissioner Tucker stated that he would now ask to see if the two people present would be willing to come back to the continued hearing and, if they could not and only then, allow them to speak today. Commissioner Nyquist stated, for the record, that it was Lucinda Huntley and Glenn Harrison that were present and signed up in opposition of the Applicant. Glenn Harrison nodded yes that he could return and Ms. Huntley indicated, yes, barring any ice or snow. Commissioner Nyquist stated that, if for any reason due to transportation problems they were unable to come on February 26, 2019, the Board would give them the same courteous that they have given to the Applicant. Ms. Huntley also stated that the Board has received letters from her stating her position.

Commissioner Nyquist stated if it pleased the Board this hearing would be continued.

Commissioner Nyquist continued the hearing to Tuesday, February 26, 2019 at 11:00 a.m.

13. Correspondence: Commissioner Nyquist read, into the record, a letter that the Board sent to Tammy Baney, Chair of the Oregon Transportation Commission dated Friday, February 8, 2019. He stated that the letter was consistent with the Board's conversation last week and submitting the letter for the record today covers the transparency and public meeting components of such a discussion.

14. Special Orders:

A. Personnel Action Forms were read into the record for: Dana Wikner (Alcohol Drug); Shannon Ellis and Mary Johnson (Developmental Disabilities); Karen Dunning (Health Services Administration); Brenda Foster, Nickie Frisch Taylor, Mia Schroer and Ronald Ryden (Mental Health); Angela Johnson (Public Health) and Richard Burnett, Paul Harris and Mitchell Keenon (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 2019-039 adopting a new classification for Park Manager (Range 18-Management/Exempt).

**Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Order 2019-039. The vote was called. The motion passed unanimously.**

15. Unfinished Business and General Orders:

A. Calendar Update: The Commissioners updated their calendars. Commissioner Tucker stated that both he and Commissioner Nyquist would be attending the Ag Appreciation Breakfast at the Linn County Fair and Expo Center on Wednesday, February 13, 2019 and Commissioner Lindsey stated that he and Commissioner Tucker would be attending a FTLAC meeting on Friday, February 15, 2019 in Salem.

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

17. Announcements: There were no announcements.

18. Business from the Public (3 minute limit per speaker): *This item was moved up on the Board's agenda after Item 11-C.*

19. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 10:27 a.m. by unanimous consent.

The next regular public meeting of the Board of Commissioners is scheduled for Tuesday, February 18 and 19, 2019.

 Recorder  
For Board of Commissioners  
Marsha Meyer

**LINN COUNTY BOARD OF COMMISSIONERS**



Roger Nyquist, Chairman



John K. Lindsey, Commissioner



William C. Tucker, Commissioner

Date 2-19-2019