



**MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
TUESDAY MEETING
LINN COUNTY COURTHOUSE – ROOM 200
FEBRUARY 26, 2019**

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, February 26, 2019.

Those present at various times for the matters as indicated below were: Torri Lynn, Linn County Juvenile Director; Russ Williams, Linn County General Services and Property Management Director; Rachel Adamec, Office Specialist/Property Management, Linn County General Services Department; Gene Karandy, County Attorney for Linn County; Brian Carroll, Linn County Parks and Recreation Director; Rick Partipilo, Linn County Environmental Health Program Manager; Robert Wheeldon, Linn County Planning and Building Department; Alyssa Boles, Senior Planner, Linn County Planning and Building Department; Alyssa Schrems, Assistant Planner, Linn County Planning and Building Department; Kevin Manske; Roger Elliott and Kenneth Walters; Lucinda Huntley, Richard Kreilich and Glenn Harrison; Frank Walker, Representative for the Applicant; 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 and John K. Lindsey, Vice-Chairman were present, as well as, Ralph Wyatt, Linn County Administrative Officer and Marsha Meyer, Recorder for the Board of Commissioners. Commissioner Will Tucker was out of the office.

4. Approval of Agenda.

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

5. Approval of the February 19 and 20, 2019 Commissioners' Meeting Minutes.

Action – Commissioner Lindsey moved to approve the February 19 and 20, 2019 Commissioners' Meeting Minutes. The vote was called. The motion passed.

6. Reports of Staff and Committees:

A. Juvenile Department – Torri Lynn, Linn County Juvenile Director.

Mr. Lynn provided the Board with a Juvenile Update for the month of January, 2019. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

B. Resolution & Order 2019-037 approving an Intergovernmental Agreement for Transition Services between Greater Albany Public School District 8J and Linn County.

Mr. Lynn provided the Board with information in regard to this item.

Commissioner Nyquist asked Mr. Lynn how things were going for the youth in Linn County. Mr. Lynn replied that, overall, they are doing well but added that there was always a portion of the youth population that struggles and that is the population he sees but added that it is a small portion of the population. He stated that there are opportunities and activities for youth to participate in the communities that are both social and cooperate. There was a discussion about youth and the use of their smartphones. Commissioner Nyquist asked if there was any awareness in the schools surrounding this issue and Mr. Lynn stated that some schools allow students to use their phones in class due to the technology they use in the classroom and it is encouraged. Commissioner Nyquist stated that this is a conversation that, as a community and society, we will hear more about and need to participate in.

Action – Commissioner Lindsey moved to approve Resolution & Order 2019-037. The vote called. The motion passed 2-0.

7. Discussion of the Sweet Home Mill Site – Russ Williams, Linn County General Services and Property Management Director.

Mr. Williams stated he was before the Board to ask them for authorization to proceed with preparing for auction regarding this matter. Commissioner Nyquist loudly hammered the gavel and said, "Auction it I say"! He stated there was seven years' worth of pent up energy in the stroke of the gavel.

Mr. Williams stated that he would package the auction in a way to attract buyers. Commissioner Lindsey stated that there was a small piece of parcel that the County was going to retain. Mr. Williams then continued to provide an update on this matter. Discussion followed on what needed to be accomplished before setting the auction.

Mr. Williams clarified for the Board that the auction needed to be held before they could subdivide the property. He stated that the plan was to auction the property as a whole and, if no one buys it at the price the Board determines, then they could cut it up in different parcels. Discussion continued.

Mr. Williams clarified that the Board was okay with proceeding down a path to auction and he would come back with a Resolution & Order, at a later date, setting the auction date and minimum bid. Commissioners Nyquist and Lindsey agreed.

Commissioner Nyquist announced that Item 8 was a Public Hearing set for 10:00 a.m. and that it was not yet 10:00 so he moved to Items 10 through 15 on the Board's agenda.

Commissioner Nyquist recessed the regular Board meeting at 9:57 a.m.

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

8. Public Hearing – BC18-004; An application by Lonnie Ashley for a Zoning Map Amendment on an 82.93-acre property identified on the Linn County Assessor maps as T10S, R1W Section 26, Tax Lot 400. The applicant proposes to amend the zoning map designation for the subject property from Exclusive Farm Use (EFU) to Farm/Forest (F/F) – Alyssa Boles, Senior Planner, Linn County Planning and Building Department.

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

She stated that an exception was not required for this application and Goals 3 and 4 both applied to the Farm/Forest designation. The Applicant stated that the purpose of the amendment was to be able to timber the property to site a dwelling on the property at a future date which would require a separate land use review. Ms. Boles stated that there were no comments from surrounding property owners and that she received four agency comments from the Linn County Environmental Health Department; Linn County Sheriff's Office; Linn County Road Department; and, the Department of State Lands. None of these agencies had any concerns about the proposed amendment. Ms. Boles stated that the Planning Commission recommended that the Board approve the application as proposed. The Board had no questions for Ms. Boles.

Commissioner Nyquist then read, into the record, the criteria for the hearing. He asked if the Board had any exparte' communication or conflict of interests. Commissioner Lindsey stated that he had not had any discussion or any contact with anyone regarding this matter nor did he have any interest or property within the area. Commissioner Lindsey stated that he would be able to make an impartial decision. Commissioner Nyquist stated that he owned no property in the area and could not see how any decision he made would impact him financially. In addition, Commissioner Nyquist stated that he served on the Governmental Affairs Committee of the Albany Chamber of Commerce with Mr. Manske who had signed up to testify.

Next, Commissioner Nyquist read the time frame in which each side would have to give their testimony.

Commissioner Nyquist then called upon the Applicant.

Roger Elliott, 2110 Mission St, SE, Salem, OR 97302 - Representative for the Applicant.

Mr. Elliott stated that he was speaking for the Applicant, Lonnie Ashley. He stated the purpose in changing the zoning was for two reasons; it is not a place where farming would actually work and getting it into Farm Forest would then make it possible to putting a dwelling on the property and work with the timber and run cattle. With Exclusive Farm Use there would be no way it could be farmed and make the \$40,000 because it is Class II soils. Mr. Elliott stated that the Board had all the information and then he referred to Kevin Manske.

Kevin Manske, Cadwell Realty Group, 220 NW Hickory St, NW, Albany OR 97321 – Supporter Representing the Williamsons - Supporter.

Mr. Manske stated that he was echoing what Mr. Elliott had said that the Applicant wanted to log and replant the timber. The last time it was logged was back in the 1990's. It was never replanted and now it was mostly scrub. They want the ability to manage the forest and to run cattle. There is a well and almost a shop; the poles are in but the sides are not in. Eventually, they want to get enough revenue off the land to build a house and meet the test and make it all legal.

Kenneth Walter, 42736 Rodgers Mtn. Loop, Scio OR 97374 – Supporter.

Mr. Walters stated that he owns the property behind the property in question and has 50 acres. There is a nice elk herd that comes through the property. He stated that the property was logged in the 1990's and nothing was done with it so hawthorns grew and that's the way a good portion of the mountain is. Mr. Walters stated that it should all

be clear-cut and replanted. The topography is steep and hard to get up and down so there's no farming that could be done. Getting it back to its natural habitat would be the best use of that property. He stated that it was a marginal property and will never do anything but grow trees; in about fifty-sixty years there should be a good crop. He stated that he was in favor of the Applicant and would like to see everyone working together along with the neighbors in a way to get the property back to its historical use.

Commissioner Nyquist stated that there needs to be a new award called "Good Neighbor of the Year" which would be Mr. Walters. He stated that he has been waiting for a neighbor to show up and give such a testimony.

Commissioner Lindsey stated that he needed to amend his original statement for the record. He stated that he realized that he grew up in Lebanon, Oregon and so he knew Mr. Elliott. Also, Mr. Commons who owned this property, at one-time and, if you were a County Commissioner for any number of years, you knew him quite well. Also, this morning his neighbor actually fed an elk herd at his house because of the snow on the ground. Commissioner Lindsey also said that he was currently in federal litigation on a marijuana grow. He said you can interpret that any way you wanted for any potential conflict of interest.

Commissioner Nyquist asked if there was anyone else who wished to speak in support. There being none, he called upon the opponents. Commissioner Nyquist stated, for the record, that there was no one signed up to speak in opposition nor was there anyone present in the room. For the record, Commissioner Nyquist also stated that this hearing had been properly advertised as required by State Statute and County Code. Again, there was no one wishing to speak in opposition and, therefore, there was nothing for the Applicant to rebut. The Applicant also acknowledged they had nothing to rebut.

Commissioner Nyquist asked if there was a motion to close the hearing and the record.

Action – Commissioner Lindsey moved to close the hearing and the record. Commissioner Nyquist stated that the hearing and the record were closed.

Commissioner Lindsey stated that the Staff Report needed to be accepted into the record.

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

Commissioner Nyquist stated, procedurally, the record was reopened to accept the Staff Report into the record. He then closed the record.

Commissioner Nyquist then asked Commissioner Lindsey what was the pleasure of the Board.

Action – Commissioner Lindsey moved to approve BC18-0004 an application by Lonnie Ashley for a zoning amendment on an 82.98-acre property. The vote was called. The motion passed unanimously.

Commissioner Nyquist recessed the regular Board meeting at 10:20 a.m.

Commissioner Nyquist reconvened the regular Board meeting at 11:00 a.m.

9. Public Hearing – *Continued from Tuesday, February 12, 2019.* 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 Alyssa Schrems to review her Staff Report with the Board. A copy of the Staff Report is on file in the Linn County Clerk's Office.

Ms. Schrems stated to the Board that she had received additional comments regarding this matter and provided the Board and the Recorder with a copy for the record.

Action – Commissioner Lindsey moved to accept into the record a document dated February 26, 2019. The vote was called. The motion passed unanimously.

Ms. Schrems continued with her Staff Report.

Commissioner Nyquist read the hearing criteria into the record and asked if the Board had any ex parte communication or conflict of interest. Commissioner Lindsey stated that he did not have any contact with any individuals regarding this hearing and owns no property or interest in the area. Commissioner Nyquist stated that he owns no property in the area and could think of no way he would have a financial interest in any decision he would make today regarding this matter.

Commissioner Nyquist then read, into the record, the time allowed for both the Applicant and opponents. Commissioner Nyquist then called upon the Applicant for his testimony.

Frank Walker, 4674 Commercial St SE, Suite 100, Salem OR 97301 – Representative for the Applicant.

Mr. Walker stated that the Historic Resource Commission (HRC) indicated that there should not be a covered walkway and that was the only condition that he was there to appeal. The HRC recommended approval of the structures that would be accessory to the historic church. However, the major problem for the congregants was they have a lot of infants and elderly people and, at the present time, the only thing they have is a port-a-potty for a sanitary facility outside of the church. The new structure would have a restroom and they already have an approved septic system.

Mr. Walker stated that the HRC did not want to see a walkway that would be in front of the accessory structure and certainly not in front of the church. The Applicant sent in a revised drawing to the Planning Staff. He stated that the congregants have a lot of events at the facility but there was not a clear path from the church to the new facility and there was no protection from the weather. The Applicant is proposing to have something in front of the accessory structure that would come almost up to the church but wouldn't be blocking the view of the church. They would have a few feet to get out of the weather and get to a covered walkway to get to the porch of the accessory facility. Mr. Walker stated that the Applicant was not modifying the church and not attaching anything to it; this was a reasonable thing for the congregants to expect.

Commissioner Lindsey asked why they chose to put a building so close to the church; 15-feet was not very far. Mr. Walker stated that he was not sure of the exact motivation of the Applicant to have it at that location. Commissioner Lindsey stated that, unlike others, this was a national historical structure and, typically, when there is any design that comes before this Board that alters something such as the unique architectural structures and, now you place a building next to it, the features are now blocked. He understood the concerns of the HRC.

Commissioner Lindsey stated that the set-back was set at 15-feet which is on top of the building. He stated that there were no mock-ups provided and no elevations included in the application which typically they would have. Just the addition of the building alters the historic look of the church. He asked why it was set back to keep the church in its current condition. Mr. Walker stated that it was the congregant's decision and he didn't influence that part of that discussion. He stated that it meets the required set-back between the structures and would be architecturally congruent with the church in terms of color and size and does not block any window views. Commissioner Lindsey disagreed. By simply looking at the photographs of the church, it would block the view of that side of the church. Mr. Walker stated that he thought the congregants would be amiable to a greater set-back.

Commissioner Lindsey stated that generally this would be offset showing the architectural design with the building next to it and whether it compliments it. He stated that all he knew was there was a modular being placed there but doesn't know the height or whether it was part of the structure. Mr. Walker agreed that was a good question. He stated that it would be a modular structure single story about the same ground evaluation as the church and surrounding landscape. He stated that it was partly a matter of affordability for the church as they don't have the budget that some churches have to make improvements. Mr. Walker stated they are blocked in by the right-of-way to the east but there was some space to the south that they could move the covered walkway over. He didn't think the Applicant would disagree with the Board if they proposed that as a condition.

Mr. Walker stated that if the Board wanted them to bring back a more sophisticated drawing the Applicant could do that to get closure on this issue. He did say that the Applicant does want the walkway covered. Commissioner Lindsey stated that the modular was being placed the farthest away from the parking lot and Mr. Walker stated that that is not the targeted structure.

Mr. Walker stated that the church has a higher apex roof and they don't want it to be overpowering and dominate the church's structure. He stated that the Applicant wants congruent colors and even set back a little bit and not directly even with the church but recessed in.

Mr. Walker added that it would be within the Board's authority to remand it to the Applicant and they could provide a new and better proposal. They were working with a company to have a design done but they didn't provide that for the application. They could provide that type of architectural information and they would be willing to work with the Board. He stated that the main thing was safety, sanitation and ease of passage between the buildings. Mr. Walker stated that he did not see the parking as being problematic as they come there on Sunday's for church; the other facility would be used less frequently.

Mr. Walker stated that he took this case pro-bono but the Applicant could work with the company that is designing the modular to provide more detailed information. He would be comfortable, on the Applicant's behalf, to keep this matter going to come up with a revision that the Board would understand. The only door is in front of the church so they need more weather protection which was their motivation.

Commissioner Nyquist stated that this was a hard one for him. If you make an application like this on a historical property and you get 90 percent of what you want you take it and run. He stated that the Applicant was talking about 15 feet of walkway

between two buildings and it seemed, to him, that it would be a minor part of this application at this point and time. Commissioner Nyquist stated, to be clear, the site plan showed the church was 33 feet from the road and the modular was 36 feet from the road or the property line. Mr. Walker stated it is the edge of the right-of-way. Commissioner Nyquist then asked how close the right-of-way was to the actual road. Mr. Walker replied just a few feet.

Mr. Walker stated that one of the major concerns of the Applicant was having the building close for nursing mothers and for the use of the restroom during services to have the building relatively close in order to meet the needs of the congregants. He stated that, although it is great to meet the needs of the HRC; for the worshipers, it was a comfort level thing. Mr. Walker stated that he did not have any input on the design. Commissioner Lindsey stated that they have had set backs of 24-30 feet to not inhibit the ambience.

Commissioner Nyquist then called on anyone else wishing to speak in support. Hearing none, he stated that there were three people signed-in to speak in opposition.

Lucinda Huntley, 40363 Huntley Rd, Scio OR 97374 – Opposed.

Ms. Huntley stated that her family bought a farm north of the church back in 1902 and there was a long family history and devotion to the church. She currently lives 600 feet from the church. It is a beautiful historic building that has survived 165 years. She stated that she was grateful to the current congregation who have done a lot of restoration. She opposes the modular building but it is time to update. She stated that she agreed with Commissioner Lindsey that placing the modular further back or away from the church would save the view of the church. With that being said, she strongly objected to the idea of a roof sticking out 15 feet from the side of the modular in that corner of the church. It blocks any view of the church and its historical site. It is actually going to extend closer to the road than the church so that is going to further block some of the view of the church.

Ms. Huntley stated that she did not see a need for the cover walkway because they still have to get from their car to the church; are they not going to be using umbrellas and coats in the appropriate weather to get from the church to the modular building. I think, in the interest of everybody's needs, the modular building was a good thing but having a covered walkway is an unnecessary blemish on a historical site that could never be replaced to that vision in the future.

Richard Kreilich, 40143 Kingston-Jordan Rd, Scio OR 97374 – Opposed.

Mr. Kreilich stated that he has a farm that goes back to 1912 and he lived northwest of Mount Pleasant Church and he was opposed to the breezeway. He stated that he believed that when a person goes to a community church you should be in a community. If he wanted to go to a church without a breezeway he would go to a mega church in town. Mr. Kreilich stated that having the breezeway in the back would take away from the historical significance of Mount Pleasant. He stated that he did not see why they needed a breezeway and, again, told the Board he was opposed to it.

Glenn Harrison, 1132 30th Place SW, Albany OR 97321 – Opposed.

Mr. Harrison stated that he wrote out some comments and then he passed copies to the Board and Recorder to be included in the record.

Mr. Harrison stated that the main issue was with a couple of the standards that have to be met and he indicated that he would read what they were. Commissioner Lindsey asked if what he was going to read was already given to the Board that he had already read as it looked familiar to him. Mr. Harrison stated that he had revised it from the earlier version from two weeks ago.

Mr. Harrison continued to read that any characteristic of the building, property or site, its environment shall not be destroyed. Removing or altering any historical material or distinctive architectural element should be avoided when possible. He stated that the key issue was B2 – all buildings, properties and sites shall be recognized as products of their own time. Additions that have no historical basis or that seeks to create a different style shall be discouraged.

Mr. Harrison stated that part of the concern regarding the modular was cutting up trees behind the church. The main issue was we didn't disagree with the need for restrooms but do oppose the breezeway. Mr. Harrison stated that one of the people that was at the last hearing was going to try to make it today but she lives in Eugene and is snowed in. He stated that she had emailed her comments to him. Those comments were included in the information Mr. Harrison provided to the Board at the beginning of his testimony.

Action – Commissioner Lindsey moved to accept the documents that Mr. Harrison just provided to the Board. The vote was called. The motion passed unanimously.

Commissioner Nyquist thanked Mr. Harrison for his documents and testimony.

Commissioner Nyquist then asked if there was anyone else who wanted to speak in opposition that did not sign-up or that he did not call upon. There was no one else wishing to speak. Commissioner Nyquist asked if there was anyone wishing to speak who was neutral. Hearing none, Commissioner Nyquist called on the Applicant's Representative should they choose to give a rebuttal to any testimony that was given in opposition.

Mr. Walker, Representative for the Applicant, stated that over the years he's been a consultant he has done about 38 church developments and, with that said, he brought up what he had said at the other hearing; that the rights the worshippers receive are constitutionally protected. Commissioner Nyquist recommended that he not bring up that matter as this was a picture of snatching defeat from the jaws of victory but told Mr. Walker to carry on.

Mr. Walker stated that he wanted to exercise his right to free speech; "you asked me for it so I'm going to give it to you." He stated that the church was the sanctuary and it receives exceptional rights. He gave an example of a church in Salem that wanted to make changes and the neighborhood came out and opposed it fervently and it was very contentious. Commissioner Nyquist stated that that was what was missing from this case. Mr. Walker disagreed and stated that it was very germane to it. Commissioner Nyquist stated that he did not see a neighborhood adamantly opposed to this proposal; and, for the life of him, did not understand why Mr. Walker couldn't take yes for an answer and leave here declaring victory and let the parishioners go and do what they propose to do. Mr. Walker stated that in the alternative he may just do that and said when you are restricting the worship and the comfort of the worshippers there is a law firm waiting in the wings that may take this as far as they needed to. Mr. Walker stated that he was not saying that as a threat but he has seen the City having a \$500,000 legal bill that was owing and a federal magistrate called and met that some did not have the right to meet but he ordered that meeting which boiled down to the worship itself and not the structures and whether it impeded worship in any shape or form. Commissioner Nyquist, again, stated, for the record, that he had seen zero evidence of that in this case and again did not know why Mr. Walker was raising the issue.

Mr. Walker stated that he was raising the issue because you're talking about nursing mothers and elderly women who attend this church who have to go outside in an unprotected environment, whether 15-feet or 50-feet. Mr. Walker stated that he thought his client would be willing to make a modification, however, to not have weather protection at all was untenable for the church. He stated that it was great to have historical structures but he thought it was also great for people to have their first amendment rights protected to worship unaffected. The language in the constitution is very explicit about it. He stated that he was not sure that he would engage in a legal

battle as he was doing this pro-bono but to say it destroys the appearance of the church was a little farfetched and something that was not even touching the church; it only gives a way for people to get out of the weather. There were sidewalks covered in ice in Salem last night and, if someone slips, falls and get hurts; who's going to fill that responsibility. Is it going to be the Commissioners or the neighbors; no it's going to be the person who got hurt or injured. Mr. Walker stated that he wanted that in the record so, if there is an appeal, that at least it had been introduced in the record.

Commissioner Lindsey asked who owned the property or whose name was on the deed. Mr. Walker stated that he did not know that information and that church properties usually don't appear in assessor's records. He stated that it was the Pastor who asked him to take this case. Mr. Walker stated that he appreciated and respected the Board's opinion; we're friends and there is no animosity between them; it seemed like they could make adjustments but to absolutely have no walkways at all seemed to distract from the comfort of the worshippers.

Commissioner Nyquist asked if they, procedurally, had done everything necessary in the way of submissions for the record. The Recorder stated that the Board needed to accept the Staff Report and other documents into the record.

Action – Commissioner Lindsey moved to submit into the record the Staff Report dated February 12, 2019; the Planning Commission comments dated February 11, 2019; additional comments which were hand-marked on the side dated February 11, 2019 and an additional set of comments from February 22, 2019, as well as, the documents received earlier during the hearing. The vote was called. The motion passed.

Commissioner Nyquist asked if there was a motion to close the record and hearing.

Commissioner Lindsey stated that he was surprised when he read the documents that there was a pre-civil war building in Linn County. He stated that people don't think it all the way through when they make a decision to preserve something and there are a set of criteria and rules that are supposed to be used when it comes to this type of issue. This is not a denial of the use or the specific purpose. Commissioner Lindsey stated that he would have liked to have seen more thought to what was being done in this matter and could see why some neighbors would be upset about this. Mr. Walker has offered, a couple of times throughout this hearing, that possibly the Applicant would be willing to make some different alterations. It is not the intention of the Board to hold up anyone and especially a church from pursuing their beliefs but in this particular case he did not realize that there was a 164 year old building in Linn County that was still in use and that is pretty significant; Oregon wasn't even a State when this church was built.

Commissioner Lindsey stated that he would like to keep the hearing open with the permission of Mr. Walker (*who stated from the audience "absolutely"*) and perhaps take a look at different issues heard today.

Commissioner Nyquist called upon Robert Wheeldon, Linn County Planning and Building Director. Mr. Wheeldon stated that if Mr. Walker, representing the Applicant, would request that the hearing be left open to provide additional information to satisfy some of the concerns of the Board that he would also request at the same time an extension to the 150-day decision time limit which would be coming up in March, 2019. Mr. Wheeldon also requested that Mr. Walker, at least, formerly request that that 150-day time period be waived and request an extension for a minimum of 90-days to allow both the Applicant and the Board to reconsider.

Commissioner Nyquist stated that for him land use and opposing land use and fighting back and forth at times seemed like it was the number one participation sport in this State and that troubled him. He stated that nothing troubled him more than what it does beyond the land use decision outcome; the result is pinning neighbor against neighbor and a change in a relationship that last for generations or more. Like Commissioner Lindsey, Commissioner Nyquist stated that he sensed that the Applicant could get it better in the way of a site plan but he did not know if it was the Board's job. Speaking to Mr. Walker, he stated that the neighbors were working in good faith and he couldn't just sit there and have him play some religious bias card with people who are obviously kind and completely operating in good faith. Commissioner Nyquist stated that, when he first saw the case, he was surprised that this matter was coming before the Board because in a building this old you have 95 percent of what you asked for and in his mind it was a win.

Commissioner Nyquist stated that he was hesitant but not adamantly opposed to continuing the hearing but he was just one vote. He asked the people concerned about this application and who had given their testimony in opposition what their thoughts were regarding continuing this matter for another month; or, would they like for this matter to be done today. Ms. Huntley stated that it would be nice to have it over but it needed to be taken care of. She did not know anyone in the community any longer that was part of the church but has nothing against them and was happy that they have taken care of the building and, right now, they seem to be growing. Do we want a walkway that sticks out so when you look at the church you see this roof to the edge of it? They still have to get from the parking lot to the church door so why can't they get from the church door to the modular.

Commissioner Nyquist stated, to be candid before they began deliberations, in his mind the walkway was a non-starter considering their request and looking at it today. The

only reason for him to continue the hearing was if there was some concern by all parties that the building may be placed in a location that would be more appropriate. If you're moving the building, one assumes you're moving it further away from the church; I don't know if that gets us anywhere. Commissioner Nyquist stated that his gut instinct was if they could come up with two votes to move this today in order for folks to get on with their lives. The fact that the church was growing and that Ms. Huntley supported that was good and the Board also supports that as well.

Mr. Wheeldon stated that, depending on the Board's ultimate decision, there would need to be some clarity in the Board's decision. The location of the septic, as well as, protecting the trees was one condition the HRC wanted in order to be sure that they did not cut the trees down for this purpose. He urged the Board to look at the conditions of the original decision when considering their own decision. Commissioner Nyquist stated they call a "covered porch" a covered porch for a reason; so when you open the door the rain doesn't come in the door so it seemed reasonable to him. He asked if this was addressed at the Historic Resource Commission (HRC) hearing and Mr. Wheeldon stated that he believed they were okay with a pitched cover over the door way but not sure if they got to the question if the whole thing could be covered. He didn't know if that would meet the architectural integrity and recommended he ask HRC Commissioner Glenn Harrison that question.

Mr. Harrison stated that what the HRC was concerned with was having any type of cover that would detract from the building itself. Commissioner Nyquist asked about the accessory building and Mr. Wheeldon stated that what the HRC was concerned about was that it looked as much as possible like the church building. Mr. Harrison stated that the HRC did not require the same type of material but to make it look as much like the church as possible. Commissioner Nyquist asked if the Board could delegate the authority to Mr. Wheeldon as the Planning and Building Director to approve the design and construction of the porch. Mr. Wheeldon stated that doing that would be deferring a land use decision to a future date without the opportunity for people to oppose it. Mr. Wheeldon stated that the Board needed to be specific about what they're approving. Commissioner Nyquist stated that to be that specific he would need a set of plans and elevations and the construction of the building itself. Mr. Wheeldon stated that it is a Historic Resource Commission decision. Commissioner Nyquist stated the design of the covered porch should be consistent with the design of the covered porch of the church.

Commissioner Nyquist stated that, if it's going the breezeway route, this matter should be continued until Commissioner Tucker was back as a practical matter. He stated that he believed the HRC got it right and were as close as we're going to get to that without the breezeway. If that is appealed and winds up in Federal court and a Federal judge

says the system we are using in Oregon is not legal then that will be an interesting decision.

Mr. Wheeldon stated that since others have spoken, he believed that the Board should give Mr. Walker an opportunity to give a final word if he chose to do so. Commissioner Nyquist then called upon Mr. Walker. Mr. Walker stated, for the record, that he felt no religious prejudice from the neighbors at all. Commissioner Nyquist thanked him for saying that. Mr. Walker stated that perhaps the congregation needed a visit from him and maybe a designer as there are big elements that are being left out of this case as far as he was concerned. As far as time goes, if the congregation does not mind, he believed the issues could be resolved and asked if the record could be kept open to get the congregations input; the Pastor works a job and could not be here today.

Commissioner Nyquist then called upon Mr. Wheeldon who stated, procedurally, the Applicant's request that the record remain open before the hearing was closed that the record remain open for additional information. The Board shall give a minimum of seven days for that and, if Mr. Walker needs more time, he would need to formally request to waive the 150-day time limit to give sufficient time to be able to obtain and provide the information for a final land use decision. Mr. Wheeldon stated that Mr. Walker did not propose a time to come back to a date and time certain. Commissioner Nyquist asked Mr. Walker if he wanted to waive the 150-day time requirement and Mr. Walker stated he would.

Mr. Wheeldon then stated the hearing would need to be scheduled for a time and date certain and to specify what new information could be resubmitted. Commissioner Lindsey stated that there were only two items and that was the breezeway and the setback. Mr. Wheeldon stated that also the architectural style of what was being proposed.

Commissioner Nyquist looked at the calendar and, after discussion, determined that the hearing would be continued to Tuesday, March 19, 2019 at 10:00 a.m. for a final decision with the Applicant having until March 12, 2019 to present new information and to discuss matters addressed in today's hearing.

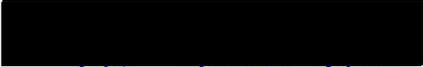
Action – Commissioner Lindsey moved to approve the timeline for the continuous of the hearing as presented. The vote was called. The motion passed unanimously.

Commissioner Nyquist thanked everyone who participated and stated that he regretted that they did not get to a final decision today but maybe there will be a better product and decision in the end.

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

16. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 12:05 p.m. by unanimous consent.

The next regular public meeting of the Board of Commissioners is scheduled for Tuesday, March 5, 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 3-12-2019