MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
TUESDAY AND WEDNESDAY MEETING
LINN COUNTY COURTHOUSE – ROOM 200
FEBRUARY 25 AND 26, 2020

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, February 25, 2020.

Those present at various times for the matters as indicated below were: Darrin Lane, Linn County Roadmaster; Chuck Knoll, Engineer, Linn County Road Department; Daineal Malone, Civil Engineer II, Linn County Road Department; Amanda Howell, Engineer Technician I, Linn County Road Department; Torri Lynn, Linn County Juvenile Department Director; Holly Borba, Juvenile Probation Officer II, Linn County Juvenile Department; Todd Noble, Linn County Health Services Administrator; Tony Howell, Linn County Alcohol & Drug Program Manager; Danette Killinger, Mental Health Specialist II, Linn County Alcohol & Drug Program; Michael Mattingley, Community Services Coordinator, Linn County Sheriff's Office; Robert Wheeldon, Linn County Planning and Building Director; Alyssa Boles, Senior Planner, Linn County Planning and Building Department; Matt Ropp, Land Planning Manager, Knife River Corporation NW Region; Rebecca Grizzle, Executive Director, Lebanon Chamber of Commerce; Kerry Johnson; Jami Cate; Tom Cordier; Alan Kwan; other audience members in attendance for the Bid Opening and Public Hearing 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. Approval of the February 18, 2020 Commissioners' Meeting Minutes.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve the February 18, 2020 Commissioners' Meeting Minutes. The vote was called. The motion passed unanimously.

6. Bid Opening – Old Salem Road Sidewalk Connectivity Project.

Darrin Lane, Linn County Roadmaster, stated that he asked Chuck Knoll, Engineer, Linn County Road Department to open the bids and to read them into the record. Mr. Knoll stated that several members from the Engineering team were present and that Daineal Malone, Civil Engineer II, Linn County Road Department had spent a lot of hours on this project so he asked her to open the bids as follows:

1. D & D Concrete Utilities, Inc., Canby – $487,811.30
2. North Santiam Paving Co., Stayton – $599,782.00
3. Emery & Sons Construction Group, LLC, Salem – $479,877.64
4. Brown Contracting, Inc., Eugene – $469,897.75

Ms. Malone stated that they would review the bids and come back before the Board with a recommendation regarding the bid award. She also introduced Amanda Howell, Engineer Technician I, Linn County Road Department, who has been with the Road Department for almost one year; she will be doing the inspection on this project.

Commissioner Nyquist thanked all those who submitted a bid on this project.

7. Reports of Staff and Committees:

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

Mr. Lynn provided the Board with an update for the month of January, 2020. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

He stated that at the Detention Center's native planting day they planted over 6,000 starts off the plants they had and they would be sold and used in stream restoration projects by the City of Albany, Calapooia Watershed, Oceans Blue and the Oregon Department of Forestry.

B. Resolution & Order 2020-053 approving an Amendment No. 1 to a Contract for Services between Dr. Daniel Mosher and Linn County.

Mr. Lynn provided background information regarding this item.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve Resolution & Order 2020-053. The vote was called. The motion passed unanimously.

Commissioner Tucker asked if there were any Measure 11 youth and Mr. Lynn responded that there are no longer Measure 11 youth since the law changed in January, 2020. He stated that, from this point forward, the District Attorney's office has to request a waiver hearing to determine if a youth can be charged with Measure 11 charges. He stated that there are a couple of youth that are in detention that previously would have been charged with Measure 11 but, currently, the District Attorney's office had not sought waivers in those cases so they would be processed through the juvenile system.

C. Presentation regarding the Marijuana Education Program.

Mr. Lynn stated that his office has been working closely with Linn County Alcohol & Drug Department and the Sheriff's Office regarding the marijuana education campaign. He then called upon Danette Killinger from Linn County Alcohol & Drug Program to share with the Board the campaign being put together regarding this matter.

Ms. Killinger gave recognition to Michael Mattingley, Linn County Sheriff's Office and Holly Borba, Linn County Juvenile Department; they have been critical partners on this collaborative project in regard to marijuana education in our community. She stated that the schools participate in a student wellness survey each year and the survey serves as a good resource for monitoring trends and youth perceptions about particular drugs.

Over the last six to seven years they have seen that the youth marijuana use rates have remained relatively unchanged; currently (the most recent data is from 2018 and it takes about a year after the survey to get the data) one percent of 6th graders; seven percent of 8th graders and approximately 16 percent of 11th graders said they had used marijuana in the last 30-days.

Ms. Killinger stated that what they are seeing is changes in some indicators around perceptions and attitudes. She stated that, looking back at student's perception of risk between 2010 and 2018, there were dramatic decreases in their perception of risk regarding marijuana. In 2010, 64 percent of 8th graders would say there was great risk in regular marijuana use (meaning one to two times a week) and about 36 percent of 11th

graders indicated there was great risk. Ms. Killinger stated that looking at 2018 data only 28 percent of 8th graders and 13 percent of 11th graders said there was great risk in regular marijuana use.

Ms. Killinger stated that perception of risk and harm were indicators of what one may see in the future and it was concerning as they have seen the perception of risk decrease. The data is used to see where they need to target and focus their campaign which is increasing the perception of risk related to marijuana use and delaying the onset of use; the adolescent brain is still developing at their age so the earlier youth start using, the more likely they are to be dependent or have problems with that drug later in life.

Ms. Killinger then provided information regarding the campaign. She stated there was a parent component which is designed to equip parents with knowledge and encourage them to have conversations with their kids. The youth component is designed to bring awareness to the risks associated with use as a minor. She then continued to provide details regarding the campaign.

Mr. Mattingley stated that the Sheriff's Office has received good response from the campaign; it is working. Ms. Borba indicated the same.

Commissioner Nyquist asked what the budget was for the campaign and Mr. Lynn stated that there was $10,000 in the Juvenile Budget and that the Sheriff's Office and Alcohol & Drug Program have contributed to support this effort. Commissioner Lindsey asked if there was a similar study in regard to income and/or zip code. Ms. Killinger replied that they partner with the school districts and they have the data by building. Commissioner Tucker requested a copy of the data and Ms. Killinger stated that information could be provided.

Commissioner Nyquist recessed the regular Board meeting at 10:03 a.m.

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

8. Public Hearing – BC19-0006; Combined applications by Knife River Corporation for a Comprehensive Plan Text Amendment, a Zoning Map Amendment and a Code Text Amendment for three properties zoned Aggregate Resource Overlay (ARO) – Alyssa Boles, Linn County Senior Planner, Linn County Planning and Building Department.

Commissioner Nyquist called upon Ms. Boles to provide background information and review her Staff Report in regard to this matter. A copy of her Staff Report is on file in the Linn County Clerk's Office in the Commissioners' Staff File. Ms. Boles stated that at the Planning Commission hearing, they recommended 5-0 for the Board to approve the

applications as proposed. Today, the Board would be making a decision to approve, deny or modify the applications.

Commissioner Nyquist asked the Board if any of them had any conflicts of interest to declare and/or exparte communication in regard to this matter. Commissioner Tucker stated that he had had no exparte communication and that his use of Knife River paving has been consistent as an outside person and he was treated no differently than any other customer. He had no financial gain or interest in this property. Commissioner Lindsey also stated that he has had no exparte communication and that he had been a customer and purchased products from Knife River just as any other customer. Commissioner Nyquist stated that he has had no exparte communication but stated that he owns property 3-4 miles northeast of this property and, in no way, would he be financially impacted to the good or bad and believed he could make an impartial decision in this matter.

Commissioner Nyquist then read into the record the hearing criteria and the amount of time given for testimony.

Commissioner Nyquist opened the Public Hearing and then called upon the Applicant.

Matt Ropp, Land Planning Manager for Knife River Corp. Northwest Region, 32260 Old Hwy 34, Tangent, OR 97389 – Applicant.

Mr. Ropp referred to several maps that were in the report. He stated that he wanted to be sure that the Board was oriented to where the property was located which is about a mile and a half east of Interstate 5 on Santiam Hwy 20 at the intersection of Hwy 20 and Kennel Road.

The entrance to the property is about ¼ mile south located on the east side. He stated it was the old Albany rock and sand gravel site which has been an active processing operation for more than a half century. Mr. Ropp stated that they have been cleaning up the site and it's at the time of its life when they need to transition to a plan for a post-mining use.

Mr. Ropp then referred to the revised site plan that was submitted and labeled as Exhibit O and stated that it was the same site plan in the application submitted for the record (Exhibit 8; Page 66). He stated that this site plan contained more detail and identifies components of the project that are described in the findings but were not clearly represented on the site plan submitted with the original application. He referred to the area on the map where they have set aside for habitat and screening and an environmental best practices demonstration area as a buffer to insure that the core activities were both screened and separated from land to the west clarifying the use of

the expansion area. The "1000 Friends of Oregon" comment was why did they need the expansion and why couldn't they just use the lands identified for development in the original site plan. Mr. Ropp stated that they had originally designed and planned a facility based on the land they had available to them today. It is a very specialized facility that is planned with technical expertise and operating professionals across the country. The initial design reflects what they could do today with operations at this facility. If we want to expand, it would make most sense to incorporate some of our near water activity into this area to the west of the core area which will also continue to keep our operations consolidated to minimize any impact to neighbors to the west and south. This highlighted details of the revised site plan in order to respond to some of the concerns raised by 1000 Friends.

Commissioner Nyquist clarified that they were expanding to the east and not to the west and Mr. Ropp made the correction that the expansion would be on the east side. Commissioner Nyquist asked about the area further east that was included in the water and Mr. Ropp stated that would be open water; some training requires open water and is a very specialized type of work. On the job training on an active job site is not the place to break someone in so the open water area would be used for training. Commissioner Nyquist stated, as it related to neighbors and their concerns about ambiance, was it envision to represent an open body of water or a big mud puddle and was it deep enough to be an ongoing lake or was it shallow. Mr. Ropp stated that it was excavator depth at low water so it would be 20 feet deep in places.

He stated that they have been filling in this area for quite some time and did not have an immediately plan to fill all the land but wanted to demonstrate that that part of the land was not intended to be used for the expansion for training but as a buffer and for habitat maintaining a 200 foot setback from the property lines.

Mr. Ropp then reviewed the training courses and general components of the facility such as the outdoor training courses A-F; "Sim Town" which is a simulated old town simulating a developed area; a concept for the outdoor training area; skid steer loader course; core developed facility area for classrooms, training rooms, student and instructor locker rooms and a passage to the dome facility area. He then reviewed and referred to the elevations in Exhibit A on Page 116.

Mr. Ropp referred to a picture of a similar dome facility used in Dayton, Ohio to give the Board a general idea of what it would look like; their structure would only be around 60-feet tall in comparison to the example which was 70-feet tall. He also showed a picture of the inside of the dome. He stated that the dome was an air supported structure of heavy fabric which is kept ridged by air pressure and allows them to work indoor and at night without any light pollution and minimizes the dust, etc. It allows for a training schedule that is not subject to inclement weather changes and is a permanent structure

to be used for peak training during the months of January through April. Commissioner Nyquist asked if the dome was envisioned to be a permanent structure or would the air be let out in the summer when it was not being used. Mr. Ropp stated that it would still be used in the summer but the peak training months would be January through April when they have the most availability of equipment and crews; it would be there year-round. Commissioner Nyquist stated it would be 24 hours/7-days a week that they would be pumping air into the dome to keep it from falling down. Mr. Ropp stated, yes, and once the temperature was maintained it would be less obnoxious then you would think. He stated that there are air-handlers that provide pressurized air and back-up generators to insure if the power goes down the air-handlers continue to work.

Commissioner Tucker stated that he was impressed with the number of students and instructors (300-400 a month) that would be coming into Linn County and the region. This will be great for the community with them needing hotels and was an important piece as there would be industries looking for these same trained individuals. Mr. Ropp clarified that, generally, it would be around 200 individuals coming for training and there would be a one-time yearly event where there would be 300-400 individuals coming into the area; the number of hotels, meals, fuel, etc. that will be needed would be significant.

Mr. Ropp stated that they are requesting a goal exception so they can site this facility here versus somewhere in town on an industrial site. Commissioner Lindsey stated that this was the appropriate area. Mr. Ropp stated that, with large equipment deliveries, they need a location with minimal turning movements that avoid an urban setting. This site has quick and easy access off I-5 with minimal turning movements to get to the site and it would be handy to be close to an interchange where there are hotels, restaurants and quick access to get to the airport.

Commissioner Nyquist recognized Darrin Lane, Linn County Roadmaster. Mr. Lane asked if the indoor dome building would be seismecly resilient and, in the event of a major natural disaster, could it be used for emergency shelter or distribution. Mr. Ropp stated that that was not something they had considered. They have preliminary engineering, costing and timelines and they were at the point where they can't go any further until they know that the zoning would permit the use then they could go into a detailed design phase. Targeting the occupancy and the safety of this structure during an event was something that could be looked into. Commissioner Lindsey stated that Emergency Management has certain rules. Commissioner Tucker stated that he was pretty pleased with the application.

Mr. Ropp continued stating that the "why" they need it is clear but the "how" was a big part of this and goal exceptions are no picnic. He complimented the staff for their willingness to collaborate with them. It is a technical review process and there is a lot

that goes into it. This site was selected out of many sites within Knife River's inventory across the country and they looked for easier sites to permit. They landed on this site as a perfect location for this type of training facility. Mr. Ropp stated that, before they could move forward and commit to the advance technical design with structural drawings and construction plans, they needed to get through the process of getting it zoned. The County will see in the next phase the site plan review.
Commissioner Nyquist asked Mr. Ropp if he believed he had adequately answered the concerns of the 1,000 Friends of Oregon and Mr. Ropp replied that they had. He stated that they received really good questions from 1000 Friends and that comments were right on point. They are not saying why this location; but why this much land and why does the exception need to be this large. With the supplemental findings, more detailed site plan, an explanation of how we train in open water with buffers; noise retention and requirements, it was clear that the entire exception area was justified.

Commissioner Nyquist then stated that Mr. Ropp was the only one who signed up on the sign-in sheet and asked if there was anyone else wishing to testify in support, opposition or neutral.

He stated that the record should reflect that there was no one wishing to give any public testimony and he didn't see any need to give the Applicant the opportunity to rebut testimony that didn't happen.

Commissioner Nyquist asked if there was anything else that needed to be done before he closed the public hearing. Robert Wheeldon, Linn County Planning and Building Director, stated that the documents needed to be accepted into the record.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to accept into the record the following: *(Marked as Exhibits)*

1. **Staff Report dated February 18, 2020 (Exhibit 1);**

Three documents date stamped February 24, 2020:

2. **Letter from Matt Ropp re: Learning Center Land Use Application (Exhibit 2);**
3. **Document from Applicant re: Supplemental Findings and Evidence (Exhibit 3); and,**
4. **Email from Matt Ropp re: Knife River Goal 3 Exception (Exhibit 4).**

The vote was called. The motion passed.

Commissioner Nyquist asked if it pleased the Board he would close the Public Hearing.

Commissioner Nyquist then asked if it pleased the Board he would close the record. The record was closed by consensus.

Commissioner Nyquist asked what the pleasure of the Board was and Commissioner Tucker sated that he had read over the record and appreciated the outline of the course and it was really robust. The Applicant did a great job of addressing the sections and appreciated the concept of having a plan for future growth and knowing that this site would accommodate it. Commissioner Tucker also stated that he looked at the impact to the County and the trained workforce and was pleased to see that a Linn County site was available.

Commissioner Lindsey stated that another training facility in Linn County would be wonderful.

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to approve BC19-0006; an application by Knife River for Comprehensive Plan Text Amendment, Development Code Text Amendment and a Zoning Map Amendment.

Commissioner Nyquist stated that they would have trouble siting this inside city limits and, particularly, inside the City of Albany. This site proposal makes a lot of sense and, hopefully, could get through the process in a timely manner to get it done.

The vote was called. The motion passed unanimously.

9. Correspondence: There was not correspondence.

10. Special Orders:

A. Personnel Action Forms were read into the record for: Melissa Kometz and John Young (Developmental Disabilities); Zoe Sams, Robin Simmons and Logan Woodstocksmith (General Services); Dawn Young (Mental Health); Glen Erspamer, Jr. and Amber Swindall (Parks & Recreation) and James Alexander (Planning and Building).

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 – Commissioner Lindsey stated that if the Board had free time on Saturday, February 29, 2020 the American Legion State Oratorical Championship (for an enormous amount of scholarship money) would be held at the Linn County Fair and Expo Center.

12. New Business: Commissioner Tucker stated that there was a Proclamation signed by the Board on Thursday, February 20, 2020 in opposition of House Bill 4167. It needed to get up to Salem in time for a hearing that was schedule with short notice. He then proceeded to read the Proclamation into the record. A copy is filed in the Linn County Clerk's Office in the Commissioners' Staff File.

13. Announcements: There were no announcements.

14. Business from Public: Commissioner Nyquist recognized Tom Cordier, North Albany, who asked the Board if they had taken a position that they support the idea of senators removing themselves from the process so that an abhorrent legislation could go forward in regard to cap and trade bills.

Commissioner Tucker stated that he was distressed by the situation and that the Board had not written a proclamation but believed his peers would. There needed to be a democratic process that allowed these bills to be looked at in a timely manner and not held in a short session. The Republicans were left with no tool but to deny a quorum. Discussion followed.

Mr. Cordier asked the Board to consider placing a proclamation in the public domain that supported that idea as a last resort when the cards are stacked against them and that is the only option. The people in this rural County need to know that the Board is in support of the use of that procedure when it comes to the radical agenda that is being hoisted upon us.

15. Adjournment: There being no other business to come before the Board; by unanimous consent, the Board of Commissioners meeting was adjourned at 10:40 a.m. to Wednesday, February 26, 2020.

Minutes of the Linn County Board of Commissioners adjourned meeting, February 25, 2020 continued to February 26, 2020, 2020:

Those present at various times for the matters as indicated below were: Robert Wheeldon, Linn County Planning and Building Director; Alyssa Boles, Senior Planner, Linn County Planning and Building Department; Alan Kwan; Bill Kloos; Frances Osborne; Mary Treiber; Don Kelley; Doug and Pam Fery; Joanna Langdale; Scott Humphrey's and various people in attendance for the Public Hearing.

16, 17. At 9:30 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, Heather Gravelle, Recorder for the Board of Commissioners.

18. Public Hearing – PD 19-0200; An appeal by Kimberly O'Dea of the Linn County Planning and Building Director's decision denying a partition and easement review – Alyssa Boles, Senior Planner, Linn County Planning and Building Department.

Commissioner Nyquist called upon Ms. Boles to provide the Board with background information and to review her Staff Report in regard to this matter. A copy of the Staff Report is on file in the Linn County Clerk's Office in the Commissioners' Staff File. Ms. Boles provided the Board with detailed information including the applicable rules and laws on the matter.

Commissioner Nyquist stated that the Board had approved a Measure 37 claim on this parcel in 2006 and the State of Oregon Department of Land Conservation and Development (DLCD) then approved a Measure 49 claim in 2010. He asked Ms. Boles if the Board had missed the fact that the parcel was not an authorized unit of land. Ms. Boles responded that at the time that the property was acquired in 1981 it was an authorized unit of land but it was divided into three parcels in 1985 without a survey or a partition. She added that, in regard to the review of the Measure 37 claim, they had only looked at what the property was designated at the time of acquisition and, at that time, it was considered an authorized unit of land.

Ms. Boles noted that the property owners had been on a path to validate the property in 2018 and make it an authorized unit of land and had the Planning Commission's approval but they never completed the process and withdrew their application with no explanation before it came before the Board for review. Discussion followed.

Commissioner Nyquist opened the Public Hearing and noted, for the record, that the Public Hearing had been dutifully advertised. He then asked the Board if they had any exparte communication, conflict of interest or financial interest regarding this matter and they did not.

Commissioner Nyquist then called upon the applicant to speak.

Bill Kloos, 375 W 4th Avenue, Suite 204, Eugene, Oregon 97403 - Applicant's Attorney. ***(Did not sign the sign-in sheet)***

Mr. Kloos stated that his client was simply trying to partition land with the strength of the Measure 49 Order they had received from DLCD. He explained that they should not be arguing about whether or not the proposal was in compliance with the Linn County Code, they should be looking for guidance from the Measure 49 Order which states that the owner was entitled to two additional lots or parcels and three dwelling units. He added that they should not have to address the unauthorized unit of land question because the Board had deemed the property an authorized unit of land on page 3 of

Resolution and Order 2007-293. Mr. Kloos further explained that Measure 49 prohibited the County from denying the partition request or the addition of the dwellings. He stated that regardless of whether the Board approved the application today or denied it, their next stop would be to the Land Use Board of Appeals (LUBA) due to the "big footprint" of opposition.

Commissioner Lindsey expressed that he was dumbfounded because the applicant had applied to make the property a legal unit of land and that application was approved by the Planning Commission unanimously and the next step would have been for the matter to come before the Board of Commissioners; why was that application withdrawn before completing the process? Mr. Kloos responded that they were not getting support from staff and they had a lot of opposition from the neighbors and felt that they would end up going to LUBA regardless. Discussion followed.

Commissioner Nyquist called upon anyone who was wishing to speak in support and there was no one. He then stated that everyone who signed the sign-in sheet was in opposition and he would call upon them in order:

Francis Osborne, 42020 Kingston Lyons Drive, Stayton, Oregon 97383 – Opposed.

Ms. Osborne stated that she did not wish to testify she signed the sign-in sheet for information only.

Mary Treiber, 42020 Kingston Lyons Drive, Stayton, Oregon 97383 – Opposed.

Ms. Treiber stated that she did not wish to testify she signed the sign-in sheet for information only.

Don Kelley, 110 N 2nd Street, Silverton, Oregon 97381 – Opposed.

Mr. Kelley explained that he was an attorney from Silverton, Oregon and that he had letters from Kendall and Kenneth Horn and Lucinda Huntley that he wanted to submit for the record. He then referred to a letter that he had submitted for the record on Tuesday, February 25, 2020. The letters are on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Mr. Kelley explained that he was supportive of Measures 37 and 49 but that the intention of those measures was to put a land owner back into the position they would have been in when they purchased the property; they were never intended to be a land use decision. He further explained that there was an avenue in place for folks to use to validate an illegal unit of property and the applicant's had started that process but then never completed it. He asked that the Board support the Planning and Building staff

recommendation, the affected neighbors and the Linn County Code which required the property to be validated before it can be split.

Doug Fery, 42225 Mt. Pleasant Drive, Scio, Oregon 97374 – Opposed.

Mr. Fery distributed written testimony to the Board and it is on file in the Linn County Clerk's Office in the Commissioners' Staff File. He stated that he was a neighbor and he was not against the notion of allowing an extra dwelling on farmland which would allow farm operations to continue or to be improved. Mr. Fery added that this application, in his view, was the opposite of supporting farm operations; it was taking a farm which had already been split into three pieces and splitting one of the parcels into three pieces again. Mr. Fery stated that it was a recipe for future conflict and he was opposed to the request to partition the property to allow new dwellings.

Joanna Langdale, PO Box 595, Stayton, Oregon - Opposed.

Ms. Langdale stated that she supported property owner's rights but that there needed to be consideration of the impact of how folks leave their properties to the people that remain in the neighborhood. Ms. Langdale added that the costs that were accrued by putting in new dwellings and the use of the water needed to be addressed on the existing residents. She stated that there were many wells in the area that have run dry and had to be deepened or replaced. The new home sites would negatively impact the water in the neighborhood because they would be using water that was already unavailable.

Scott Humphrey's, 42286 Kingston Lyons Drive, Stayton, Oregon - Opposed. ***(Did not sign the sign-in sheet).***

Mr. Humphrey's stated that the meat of the mess began in 1981 when it was a legal piece of property but then the owners divided it and several years later applied for Measure 37 and then Measure 49. He stated that the property owners had duped the County and led them to believe it was still only one piece of property; they should never have been allowed to do that because it wasn't legal.

Commissioner Nyquist asked if there was anyone else wishing to speak that had not signed the sign-in sheet that was in opposition or was neutral and there was not. He called upon the applicant to rebut.

Mr. Kloos commented that he agreed with Mr. Kelley's opening statement that the intent of Measure 37 was to put a land owner back into the position they would have been in when they purchased the property. He stated that everything the Board had

heard in opposition was irrelevant because they were asking them to review the validity of the Measure 37 and 49 claims; that process was over.

Mr. Kloos further commented that they had the Measure 49 Order from DLCD and whatever the Board did today had to be in strict compliance with it and it could not be revisited. He quoted from the Order: "the County standards must not be applied in a manner that prohibits the establishment of the land division or dwellings." Brief discussion followed.

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

Action – Commissioner Tucker moved and Commissioner Lindsey seconded the motion to accept the following items into the record: 1.) Staff Report dated Tuesday, February 18, 2020; 2.) Comments from the Linn County Road Department dated Thursday, February 20, 2020 and comments from L & O Sibernagel dated Monday, February 24, 2020; 3.) Letters of opposition from Kendall and Kenneth Horn dated Monday, March 4, 2019 and Sunday, February 23, 2020; 4.) A letter from Lucinda Huntley dated Tuesday, February 25, 2020; 5.) A fax from Donald Kelley dated Tuesday, February 25, 2020 and 6.) A letter from Doug and Pam Fery dated Wednesday, February 26, 2020. He stated the recorder should mark them as exhibits as she deemed appropriate. The vote was called. The motion passed unanimously.

Robert Wheeldon, Linn County Planning and Building Director, commented that the Measure 49 Order was not a land use decision, it waived certain development standards at the County level such as parcel size. He added that the question of whether or not the property was an authorized unit of land was not a development standard, it was a provision of the Linn County Code and it was a requirement that the decision maker may not issue a decision on a property that was not an authorized unit of land.

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

Commissioner Tucker stated that this issue was difficult because he was supportive of Measures 37 and 49 but that the question before them was: do they apply the County Code consistently. Commissioner Lindsey commented that the code states it must be a legal unit of land and he was having a hard time with the concept that the Measure 49 Order bypassed the code.

Commissioner Nyquist commented that he didn't like the idea that there could be unauthorized parcels of land and, what made the situation more difficult, was that the

Assessor and Tax Collector had been sending out property tax bills to the separate units of land.

He added that he didn't like that the Board had approved the Measure 37 application in 2006 with the status of the tax lot not being recognized; people should be able to rely on government actions to make decisions. Since 2010 when the Measure 49 claim was approved, someone has made some financial reliance on that claim being true and coming back ten years later and attempting to undo it was troublesome. Discussion followed.

Action – Commissioner Tucker moved to deny PD 19-0200; An appeal by Kimberly O'Dea of the Linn County Planning and Building Director's decision denying a partition and easement review.

Commissioner Lindsey commented that on page 3 of the Measure 37 claim there was a statement that says the copy of the resolution and order containing a legal description satisfying ORS 93.600 be filed in the deed records of Linn County but it was not included in the exhibit. Meaning, at that time, the Board would have said it was a legal lot and that same statement was included into the Measure 49 claim. He added that there were a lot of defects with this matter. Brief discussion followed.

Commissioner Tucker withdrew his motion.

Commissioner Lindsey stated that, in the words of the Veteran's Administration, you always error on the side of the applicant; this land was appropriated with a Measure 37 claim and he can't see denying the application because of the Board's past decision.

Action – Commissioner Lindsey moved to approve PD 19-0200; An appeal by Kimberly O'Dea of the Linn County Planning and Building Director's decision denying a partition and easement review.

Commissioner Nyquist stated that he felt the Board had made the best decision that they could based on the information they had at the time. He added that he doesn't find the language Commissioner Lindsey mentioned (page 3 of the Measure 37 claim) itself to tip the scale either way for him. Brief discussion followed.

Commissioner Lindsey withdrew his motion.

Commissioner Tucker commented that property owners had rights and Measures 37 and 49 were passed by the voters to reinforce those rights; this piece of property had a wart on it and he could go either way because it would likely end up at LUBA regardless.

Mr. Wheeldon commented that this was an application for a partition and easement review consistent with the Measure 49 Order. The options before the Board were: approve, deny or modify. Brief discussion followed.

Action – Commissioner Lindsey moved and Commissioner Tucker seconded the motion to deny PD 19-0200; An appeal by Kimberly O'Dea of the Linn County Planning and Building Director's decision denying a partition and easement review.

Commissioner Nyquist asked Mr. Wheeldon if he was asking him to honor and uphold the County Code and to ignore a State Statute while doing so because Measure 49 was now State law. Mr. Wheeldon replied that was an additional question before the Board today and that was what the applicant was arguing. He added that his interpretation of the matter was in the staff report that he had submitted to the Board. Discussion followed.

The vote was called. The motion passed unanimously.

Commissioner Nyquist thanked everyone for attending the meeting and participating in the process and stated that he hoped that the parties could have a conversation and come to an agreement before going to LUBA.

19. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 11:02 a.m. by unanimous consent.

The next regular public meeting of the Board of Commissioners is scheduled for 9:30 a.m. Tuesday, March 3, 2020.

[redacted]
Marsha Meyer

[redacted]
Heather Gravelle

Recorders
For Board of Commissioners

LINN COUNTY BOARD OF COMMISSIONERS

[redacted]
Roger Nyquist, Chairman

[redacted]
John K. Lindsey, Commissioner

[redacted]
William C. Tucker, Commissioner

Date 3-3-2020