



**MINUTES OF THE REGULAR SESSION OF THE  
LINN COUNTY BOARD OF COMMISSIONERS  
TUESDAY AND WEDNESDAY MEETING  
LINN COUNTY COURTHOUSE – ROOM 200  
NOVEMBER 27 AND 28, 2018**

**The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, November 27, 2018.**

Those present at various times for the matters as indicated below were: Todd Noble, Linn County Health Services Administrator; Debby Uri, Communicable Disease Nurse, Linn County Public Health; Rick Partipilo, Linn County Environmental Health Program Manager; Fred Abousleman, Executive Director, Cascades West Council of Governments; Torri Lynn, Linn County Juvenile Department Director; Gene Karandy, County Attorney for Linn County; Jodi Gollehon, Deputy County Attorney for Linn County; Michelle Hawkins, Linn County Treasurer; Jim Yon, Linn County Sheriff; Paul Timm, Linn County Undersheriff; Don Messick, Captain Support Services, Linn County Sheriff's Office; Robert Wheeldon, Linn County Planning and Building Director; Jennifer Cepello, Assistant Planner, Linn County Planning and Building Department; Virgle and Wendy Reynolds, Applicant; Daniel Christensen; Carol Carter and other audience members; Stephanie Newton; Rich Kellum; Alan Kwan and Alex Paul, Reporter for the *Democrat-Herald*.

1, 2, 3. At 9:15 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 Tucker was absent.

Commissioner Nyquist noted that the Board meeting started 15 minutes late and apologized for any inconvenience.

4. Approval of Agenda.

Commissioner Lindsey stated that the Agenda needed to be amended to add an Executive Session. Commissioner Nyquist indicated that the Executive Session would be added as Item 16A in regard to ORS 192.660(2)(f)(h).

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

5. Approval of the November 13, 2018 Commissioners' Meeting Minutes.

**Action – Commissioner Lindsey moved to approve the November 13, 2018 Commissioners' Meeting Minutes. The vote was called. The motion passed.**

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

A. Communicable Disease and Vital Statistics Reports – Debby Uri, Communicable Disease Nurse, Linn County Public Health.

Ms. Uri provided the Board with an update for the month of October, 2018. A copy of her reports are on file in the Linn County Clerk's Office in the Commissioners' Staff File.

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

Mr. Partipilo provided the Board with a Monthly Activity Report for the month of October, 2018. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Mr. Partipilo indicated that there was nothing much to report but did state that there was an error in his report regarding the revenue figure due to a tracking error in the spreadsheet which he is working to resolve. He stated that he would resubmit the correct figure once the issue was taken care of. Commissioner Nyquist noticed that animal bites were up.

Mr. Noble provided background information for the following items:

C. Resolution & Order 2018-365 approving an Amendment No. 11 to the Intergovernmental Agreement for the financing of Public Health Services (Contract No. 154121) between the State of Oregon, Oregon Health Authority and Linn County and delegating authority to execute originals.

Commissioner Lindsey asked whether or not, in the future, if the County would be expanding the tobacco program to include marijuana. Mr. Noble replied that, knowing the State, probably not at this juncture. Commissioner Lindsey asked if the money could be used for education and Mr. Noble stated that he would need to look at it more closely but that it was primarily geared toward tobacco. Commissioner Nyquist noted that there was a move to amend the Indoor Clean Air Act to exempt marijuana so the State had a bigger fight than what Commissioner Lindsey had asked about.

**Action Taken Below.**

D. Resolution & Order 2018-366 approving an Intergovernmental Agreement between Our Lady of the Lake University and Linn County.

Commissioner Nyquist asked how the County crossed paths with a university in San Antonio and Mr. Noble stated that Linn County was in high demand for people looking for internship sites and we pop up high on the list.

**Action Taken Below.**

E. Resolution & Order 2018-374 approving an Agreement between Magellan Healthcare, Inc. and Linn County and delegating authority to execute originals.

**Action Taken Below.**

F. Resolution & Order 2018-378 approving an Amendment No. 1 to an Agreement between Magellan Healthcare, Inc. and Linn County and delegating authority to execute originals.

**Action Taken Below.**

G. Resolution & Order 2018-379 approving an Agreement between Trillium Community Health Plan (Medicaid) and Linn County and delegating authority to execute originals.

**Action – Commissioner Lindsey moved to approve Resolution & Orders 2018-365, 366, 374, 378 and 379.**

Commissioner Nyquist stated that, within the changing environment, he wanted to make sure that the County was not entering into any agreements that the reimbursement covers our actual cost to meet the contract. Mr. Noble stated that they prioritize the local IHN members first, in which the County's encounters with them have been very strong which is going to lead to an increase in our funding per month because

we've done so well. In regard to private insurance and other CCO's, he stated that we have to serve ours first which is based on capacity.

**The vote was called. The motion passed.**

7. COG Update – Fred Abousleman, Executive Director, Cascades West Council of Governments.

Mr. Abousleman provided the Board with a COG Update. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

He discussed that COG was starting their housing assessment Phase 1 which the Board gave their authority to begin looking at a housing program at the Council of Governments and they are close to finalizing COG's legislative policy package with the predominate core working on wetlands.

Commissioner Lindsey asked if, in regard to wetlands, if the plan was to start from scratch or from one of the jump off points that COG has already done. He referred to a study that was 16 years in the making in which it would get started and then get to the point of where a certain State agency needed to approve it and that's where the process would end; let's move forward and quite wasting money. Mr. Abousleman concurred and stated that they are going to pick up where the State left off the last time they attempted to do this. Discussion followed.

Commissioner Nyquist stated that the alternative would be to do nothing and that it was a fair conversation in regard to wetlands and whether or not property owners, developers and local governments get to a place of acceptance. He commended Mr. Abousleman and COG for their endeavor and stated it was a challenge on multiple fronts; reasonable people should attempt to take reasonable action. Discussion continued.

8. Reports of Staff and Committees:

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

Mr. Lynn provided the Board with a Juvenile Update for October, 2018. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Commissioner Lindsey noted the uptake in juvenile petitions. Mr. Lynn indicated that his department had been busy since mid-October, 2018 and in November, 2018 have had 16 to 20 juveniles in detention. He explained that part of the uptake was due to the

change in charging practices and petitions that are filed; he expected it to go up and stay steady.

9. County Attorney – Jodi Gollehon, Deputy County Attorney for Linn County.

A. Resolution & Order 2018-369 adopting a policy for the removal of unlawful campsites located on public property.

Commissioner Lindsey stated that he has received some complaints regarding a particular portion of the County and asked if the persons needed to physically be on a County property or if we could enter into an agreement with another governing agency to take care of this. Ms. Gollehon stated that the policy before the Board wasn't about necessarily punishment but moving them along. Commissioner Lindsey stated he was referring to another federal agency that was also suffering the same problem. Ms. Gollehon stated she supposed they could enter an agreement with other government agencies as long as they agreed to the same conditions in Linn County's policy.

**Action – Commissioner Lindsey moved to approve Resolution & Order 2018-369. The vote was called. The motion passed unanimously.**

Commissioner Nyquist asked Sheriff Jim Yon if the County missed anything in the policy and he replied that he didn't remember seeing a copy of the policy. Commissioner Nyquist asked that after the Sheriff reviewed the policy to let the Board know if anything should be amended.

B. Resolution & Order 2018-370 adopting a Drone Usage Policy for County employees and contractors.

**Action – Commissioner Lindsey moved to approve Resolution & Order 2018-370. The vote was called. The motion passed.**

10. Treasurer's Office – Michelle Hawkins, Linn County Treasurer.

A. Order 2018-371 accepting an expenditure of a certain grant within the General Fund, \$16,242.

**Action Taken Below.**

B. Order 2018-373 approving a transferring of certain appropriations within the General Fund, \$50,000.

**Action – Commissioner Lindsey moved to approve Orders 2018-371 and 373. The vote was called. The motion passed.**

11. Planning & Building – Robert Wheeldon, Linn County Planning and Building Department. Mr. Wheeldon was not present for this item.

A. Request for Refund to Linn County Planning and Building Department from Joan Patterson for \$650.

**Action – Commissioner Lindsey moved to approve the Request for Refund of \$650. The vote was called. The motion passed.**

Commissioner Nyquist moved Agenda Item No. 14 to the end of the Board meeting.

*Commissioner Nyquist recessed the regular Board meeting at 9:43 a.m.*

16A. Executive Session – Pursuant to ORS 192.660(2)(f)(h).

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

12. Public Hearing – PD18-0149; An Appeal by Virgle Reynolds of the Linn County Planning Commission decision denying a conditional use permit for “Expanded Animal Husbandry” to breed and raise pigs on a 14.5-acre tract of land in the Rural Residential (RR-2.5) Zone – Jennifer Cepello, Assistant Planner, Linn County Planning and Building Department.

Commissioner Nyquist read the process for the hearing. He clarified that the hearing was for a decision based upon the merits of the proposition by the Applicant not based on the Planning Commission’s decision.

Commissioner Nyquist called upon Ms. Cepello to review her Staff Report and provide background information regarding this matter. A copy of the Staff Report is on file in the Linn County Clerk’s Office in the Commissioners’ Staff File.

Ms. Cepello presented pictures on the overhead of the track of land that was in question. She stated that there were five authorized units of land which are several acres and showed where the location of the home was and where the pigs were located including pictures of the site that were taken at the end of summer, 2018. She provided

details of each picture. Copies of the pictures are on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Commissioner Nyquist asked if the picture showing the pigs was of all the pigs. Ms. Cepello stated that, at the time, the picture was of all the pigs that they had; the baby pig pictured was being picked up. She stated the Applicant sells the baby pigs to 4-H youth.

Commissioner Nyquist stated that, as a matter of process, there was a sign-up sheet for those who wished to testify. The sign-up sheet is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Commissioner Nyquist then called upon the Applicant.

**Wendy Reynolds – 33514 Brewster Rd., Lebanon OR 97355 – Applicant.**

Mrs. Reynolds stated that her husband, Virgle Reynolds, had some issues with his legs. She addressed that as it was a comment made in the last set of documents she received. She stated that the comment was misguided as to the injury he had received. The comment stated was that "large animals" have been vicious towards Mr. Reynolds himself; on one incident one of them attacked him sending him to the hospital where he received 42 stitches to close the wound. Mrs. Reynolds stated that, inadvertently, the pig was responsible for the injury; however, the pig itself did not cause it. She explained Mr. Reynolds was giving treats to the pigs and the pig nudged Mr. Reynolds which caused him to fall down and hit a rock. She stated the pig did not attack him.

Commissioner Nyquist stated that the next picture was of pigs in the yard. Mrs. Reynolds stated that that picture was almost four years old. She said, at the time, they did not realize that they could not have regular fencing and the pigs did get out. The neighbor said she wanted to take pictures because the pigs were so cute. They have gone three and half years without them getting out in the neighbor's yard.

Mrs. Reynolds then stated that the information regarding what they were raising was inaccurate. They are raising one boar and two sows, which was on their application, as well as, whatever litters they have during the season. She stated that it was difficult to contain them because they were told by a veterinarian that they should not separate the boar from the females. Mrs. Reynolds stated that they like to keep a few out of the litters to have a continuous supply of bacon. Because they are pastured pigs, it takes them longer to grow so they would have an overlap of how many pigs they would have at one time; they would be keeping some from the litter when the other ones had not

been taken to freezer camp yet because they are not big enough and it takes them six months to get to the right size.

Virgle Reynolds, Applicant, spoke from his seat in the audience. He stated that they have rectified the issue with the pigs getting out by putting up a secondary fence and there is an electrical fence and field fencing outside of that. Mrs. Reynolds stated that they were not quite finished getting the complete fence up but did start so the neighbors would feel more secure. Commissioner Nyquist asked when the last time the pigs had gotten out. Mrs. Reynolds responded that it had been three or more years. Mr. Reynolds clarified that they had gotten out of the electric fence and Mrs. Reynolds added that the fence has five strands but their charger for the electric fence had gotten unplugged. She stated that their pigs are big enough that they are not able to go through five strands without breaking it so someone had unplugged their charger and lifted the pigs up because the strands were the way they should've been and were not broken after that incident. They then put a security camera in that area and haven't had any problems. This incident happened within a week after the notice had gone around that they had applied for their permit. Commissioner Lindsey clarified that the wires on the fence were lifted and Mrs. Reynolds stated that when they went to look the fence looked "perfect" so it puzzled them because the pigs are various sizes so they have five strands to accommodate the different sizes and low enough to the ground that they can't get under. None of the strands of the fence were broken or shifted and were secure on the post. Mrs. Reynolds had to lift up the wires to put the pigs back behind the fence. Mr. Reynolds clarified that 4 out of the 5 acres now have fencing. Mrs. Reynolds then viewed the pictures with the Board.

Commissioner Nyquist asked what parcels the pigs were on and Mrs. Reynolds indicated by pointing to the pictures. A copy of the pictures are on file in the Linn County Clerk's Office in the Commissioners' Staff File. Mrs. Reynolds referenced the map that was shown on the screen and was part of the Staff Report.

Next, Mrs. Reynolds provided, for the record, pages from a spiral notebook of signatures obtained from random people during her yard sale who said they could not smell the pigs. Mrs. Reynolds stated that the pigs are pasture pigs and not close to anyone. She did state that they had a complaint about how far one of the pigs had traveled to get to one of the properties; she then, again, indicated the distance in the picture.

Commissioner Lindsey asked if the smell complaint was this year and Mrs. Reynolds stated that they didn't know there was a problem regarding the smell until they went to the last meeting. Commissioner Lindsey stated that there was a dope operation in that area and it stinks pretty badly and Mrs. Reynolds agreed. She stated that they had no idea that the neighbors had a serious issue. Commissioner Nyquist stated that this is

what this process is for. She stated that it would've been nice if the neighbors would have contacted them in regard to the smell.

Commissioner Nyquist then asked if there was anyone who wanted to speak in support of the application. There was no one wishing to speak in support.

Commissioner Nyquist asked for clarification from the Staff as to the discrepancy between what is in the record and what the Applicant applied for regarding the sow(s). Ms. Cepello responded that in the application (Exhibit D; Page Three of the Staff Report) there was a discrepancy; there is one male and two sows; two raised for food and two pigs are rotated in one-acre increments which was the description that was given. Ms. Cepello stated that she had misunderstood the two sows for the two pigs for food. Commissioner Nyquist clarified that the application before the Board was for two sows and not one which the record indicates and Ms. Cepello stated, yes, one male, two sows, two raised for food and two pigs are rotated in increments.

Commissioner Lindsey then asked Mrs. Reynolds if they had been raising two sows and the Applicant replied yes. Commissioner Lindsey then asked Mrs. Reynolds how many years had they been raising two sows and she stated since they first got them; the first thing they got was the two sows. Commissioner Lindsey commented so that has been for the last four years.

Commissioner Nyquist then called upon anyone who was in opposition. He stated that there were a couple of people signed up to speak.

**Daniel Christensen – 33588 Brewster Rd, Lebanon, OR 97355 – Opponent.**

Mr. Christensen asked to see a copy of the picture of the pigs in the yard. Commissioner Lindsey showed him the picture. Mr. Christensen stated that he had taken that picture and stated that you can't see it in the picture but the pigs had just come through his yard and dug several holes by rooting where they stick their nose in the ground; it can go down four inches and they just push along like a plow. Commissioner Lindsey asked when the picture was taken at and Mr. Christensen stated it was taken three years ago and by him. Commissioner Lindsey stated that that was the incident that drove everything; the pigs got out and that's what initiated the complaint.

Commissioner Lindsey stated that he had talked to the property owner and there was a note in the Staff Report regarding that conversation. Commissioner Lindsey assumed it was Mr. Reynolds' father; it was an older gentlemen.

Mr. Christensen stated that he had pictures of the barn in question and statements from neighbors that bordered the property. He asked that they be submitted for the record. He also submitted pictures of what he sees from his property. Mr. Christensen stated that, at the last hearing, the smell was his concern and he invited the Board out to his house to go into the backyard any time so they could smell the smell. I know that the smell is not against code but it is offensive and I really don't appreciate it. He also stated that the pigs woke him up Monday morning at about 2:30 a.m. screaming. His dog threw a fit, his wife got him up and he had to go out there to find out what was going on and it was the pigs down in their pasture. In regard to the fencing, Mr. Christensen asked the Board to load up in cars right then to go look at it; that was what he would like to see. Mr. Christensen stated that he knew there had been a site visit before and stated let's go look at it right now.

Commissioner Nyquist stated that the Board is dealing with the facts before them and stated that they have done the field trip thing before. Commissioner Nyquist stated that he hoped the Board would have enough information to make a decision based on what they had.

Mr. Christensen stated that the one pig traveling to get to his neighbor's yard where the pig chased his neighbor's dog down had to travel quite a distance. He then pointed to a picture showing where the pig traveled. He stated that his property and the property next to him to the north have access down to the river level which is about 30 feet higher or lower than their property. The only other access is the Applicant's property. There is, from the property level, a clear access road that goes to his place. Commissioner Nyquist asked Mr. Christensen to show him where he lives by pointing to the picture. Mr. Christensen did so. Commissioner Nyquist asked Mr. Christensen whether or not if he disagreed with the statement that where the pigs are, in the way of the table, is 90 feet lower than their property. Mr. Christensen stated it's about 30 feet not 90 feet and definitely down in the flood plain. He stated that the people who lived there before the Applicant divided the property and they had planned on building but Linn County would not let them do that and subsequently they lost the property because of that. Commissioner Lindsey stated it was zoned Rural Residential 22.25 and sub-dividable.

Commissioner Nyquist thanked Mr. Christensen for his participation and his input.

**Carol Carter – 33438 Brewster Rd., Lebanon, OR 97355 – Opponent.**

Ms. Carter indicated that her concerns were in regard to the flood plain. She stated that she has seen that area when it is really flooded and was concerned about all the waste that goes into the ground and into the river which will cause issues further down the

road. She stated that she was under the impression that the Applicant was doing two sows as opposed to one and, in the Applicant's first statement, it stated that they were only allowed to breed once a year; she is not sure how one stops that. Ms. Carter stated that the pigs had been out and it was one time this past year not long before the electric fence was shut off.

Mrs. Reynolds spoke up that they have a thing that they hook to a car battery and it has an inverter so there's no worry when the power goes out.

Commissioner Nyquist asked Ms. Carter to continue with her testimony. Ms. Carter stated that two of the pigs were in her yard running down her driveway and one of the larger ones was further than his house (referring to Mr. Christensen's house) and the next ladies house chasing her dogs. Ms. Carter referred to the fact that the Applicant was thinking about putting pigs up by the barn which she said was very close to the road and the fence there is practically non-existent. There are concerns about what happens when those pigs get out into the road and cause an accident or people with children will be around there and she is concerned about the safety in that whole area.

Ms. Carter stated that she was concerned about the flood plain and the floral and fauna that is down there as well. Commissioner Lindsey stated that he has been down in that area and it is not exactly flora and fauna and people are still illegally taking timber down there for firewood. It's County land.

She then referred to the fact that there hasn't been the communication between neighbors that there should have been; however, it is not just her.

Commissioner Nyquist stated that the Board had heard from all the people who had signed up to speak in opposition and asked if there was anyone wishing to speak that was not signed up. He recognized a woman in the audience.

**Trudie Bason – 33527 Brewster Rd., Lebanon, OR 97355 – Opponent.**

Ms. Bason stated that she and her husband live directly across from the Applicant. She stated that she did try to speak with them. She has a small seasonal nursery and her husband has a sign company and has been in business for years; big sign, little nursery. It brings in some income and she has worked really hard at it. She stated that she had met the Reynolds at the neighborhood watch and a few weeks later they had pigs. Ms. Bason stated that her Dad had raised pigs so she knows pigs; she knows farming and knows that pigs stink. Her thought was that the Applicant was not supposed to have pigs and decided to let it go because the Applicant would find that out but they didn't. She stated that time went by and she opened her window and she gets this stink; my

house is way down the road from the Applicant. She recognized about four years ago the pig stench. She stated that she had called the County twice just to ask if the Applicant could have pigs and both times the answer she got was no.

Ms. Bason then went over to the Applicant's house to talk to them. She stated that she told Mrs. Reynolds that they were not supposed to have pigs and told her what she had heard from the County about what they could have and that it concerned her. Ms. Bason stated that, at that time, they had the pigs up in the barn (which she called an old turkey building) which is so close to the road. She stated that having the pigs that close to the road (and a couple of horses for a while) it stunk. She stated that she knows the difference between drugs and pigs and that the smell was from pigs. Ms. Bason stated that eventually, the pigs were moved downhill which she knows the property down there because her Dad hayed that property for about 10 years. It is not good ground for pigs. Ms. Bason stated that the Applicant had been told that they should not have pigs. I tried to talk to the Applicant and never heard a word from them again and the pigs continued.

Ms. Bason stated that she was adamantly opposed to the pigs especially when the Applicant stated that when the sows feral they are going to put them up in the building. She stated that she guaranteed that if the pigs were up in that building she would smell the pigs at her property. She stated that she did not mean to be hurtful but the place is already trashed from one end to another and that's what I look at. She stated that she can be in five or six different places on her property and she looks at trash which makes her think that they are not going to be responsible with the pigs. Ms. Bason stated that she has someone in her nursery almost every week and when she's opened they ask her what is going on over on that property with the mess. She stated that if they come to her nursery and they have to shop outside and have to smell that that she may as well shut her doors; it will not work. Ms. Bason stated that she knows the Board has pictures of the Applicant's property so she felt like if you can't trust them to clean up the property she did not feel confident that they would do everything they needed to do to not affect the neighbors. It's their business until it starts to affect the neighbors. They are not zoned to have the pigs so let's just say no to the conditional use permit and be done with this.

Commissioner Nyquist stated that he thought Ms. Bason was correct in the fact that the pigs are not an outright use; pigs are allowed through a conditional use permit which is this process. He stated that the argument that Ms. Bason was making is that, based on current and past performance, it is not likely the Applicant would comply with the conditions should it be permitted. Ms. Bason agreed and stated that what she had been told by the County was that they could have one pig to be a show pig for 4-H and, even at that, all the neighbors would have to agree. She said there were so many other

things the Applicant could do for income that would not affect the neighbors and that is why she did not think it would be a hardship for them if the Board said no to the permit.

Commissioner Nyquist asked if anyone else wished to speak in opposition that did not sign-up.

Commissioner Nyquist recognized someone from the audience who stated she was in opposition of the permit. Commissioner Nyquist asked her to stand and give her name and address for the record.

**Lisa Kirk – 38150 Payne Dr., Lebanon, OR 97355 - Opponent.**

Ms. Kirk stated that she sees the condition of the fences on Brewster Rd every day and it hasn't gotten any better; it's gotten worse. With that said, she stated that the Applicant can't have pigs up there; it is too dangerous.

Commissioner Nyquist asked if there was anyone else wishing to speak. Hearing none, he stated that the Applicant, should they choose, would have an opportunity to give a rebuttal.

Mrs. Reynolds stated that they were told by the neighbors when they bought the property that they would not be able to build; however they were talking to Linn County Planning Department, they did not show that they could not build and recommended she talk with the Linn County Environmental Health Department as it could have been something to do with her septic. Environmental Health stated no that they didn't have any reason they couldn't build and maybe that was what the previous owner had told Mrs. Reynolds, however, they were actually able to build and subdivide houses.

Next, she referred to the statement that she said they only wanted one litter of pigs per year; Mrs. Reynolds stated that that was not even a likely thing with one sow. She then stated, in regard to the fence at top of the property, that it was a scrawny little field fence so that was true; however, until they had been approved for a permit they weren't going to move any of the pigs up to the top so it was not prepared for pigs at the moment. They felt that if they did not have a permit they should not be moving the pigs until they did get the permit and only if it was necessary to move them.

Mrs. Reynolds did agree that Ms. Carter did come and talk with her and told her that they could not have pigs and that it could only be a show pig. However, when Mrs. Reynolds talked with the County they said you're not in the City. When they bought the property they had said that they had planned on having livestock so that they could be more self-sufficient. The County stated that if they have the pigs after three years and

could show that they had made a profit off of them they could get a tax deduction. Therefore, that was why she did not take Ms. Carter seriously. She said there may have been some confusion with other properties around them that are zoned RR2.5.

Mrs. Reynolds stated that they do not raise pigs to make money but raise them for bacon. She admitted that when they do process the pigs they sell the other half; they have people that pay for the whole processing and they get half so they place their order with the butcher so there is no money going out for the processing when the pigs go to freezer camp.

Commissioner Nyquist stated that either in Mrs. Reynolds testimony or written in the Staff Report that she was just keeping two pigs and selling the rest of the piglets to 4-H kids. Mrs. Reynolds stated that when they buy stuff for the piglets and putting them on grain to be sold, it doesn't cost them anything; it is money they get from selling the other piglets. Commissioner Nyquist stated that if they were selling animals then they are endeavoring in commercial activity; the whole compatibility is its own issue. Mrs. Reynolds stated that she hadn't read anywhere that they were not allowed to sell the excess. Commissioner Nyquist stated that, for him, it was all a compatibility issue. He stated that the Board had a case similar to this one where one of the challenges in the zoning was that 2.5 acres was close to other 2.5 acres that were zoned residential and enough property to grow a lot of weeds to do nothing with except in the case of a nursery. People do things with their property; you bought it, you own it and have the right to pursue that. At the end of the day, it comes down to compatibility and there can be a difference between doing it for your freezer and doing it as a commercial activity.

Commissioner Lindsey stated that the other similar case was a confined operation and today they are talking about free range.

Mrs. Reynolds continued by apologizing to the neighbors for the state of the property. She stated that Mr. Reynolds had gotten to where he was unloading the barn and it is his project with someone helping and he is determined that he will finish it; however, it is taking him a long time because he has had spinal surgery and has weight limitations. Commissioner Nyquist stated that Mrs. Reynolds could understand the neighbor's concern that they would be able to execute the conditions of any permit based upon the state of things. Mrs. Reynolds stated that they have been doing it for years now with that number of pigs.

Lastly, Mrs. Reynolds referred to the last time the pigs got out and got into the neighbor's yard. She said there was a story that the pig was charging. Mrs. Reynolds stated that they went to see the neighbor who said she was looking out her kitchen

window and the pig came up the hill and her dog barked and the pig went back down. Mrs. Reynolds stated that she followed the path of the pig; about a five minute walk from her property, and put the pig back in. They have heard nothing or received any police report that the dog was charged. She felt that if the story had changed since she talked to the neighbor, then it would be obligatory for that person to be here today versus it being something that goes around neighbor-to-neighbor that the pig charged the dog. Commissioner Nyquist stated that, in his mind, that is not a big deal; for him the matter comes down to whether or not the use is compatible as a conditional use permit. If you're raising animals, there is potential for animals to get out no matter who is raising the animals or what the animals are doing. He stated that it is a fair question to the number of times one would expect it to occur and the likelihood of that happening. He stated that he has received enough testimony in that regard to have an observation about that.

Commissioner Nyquist asked if the Applicant had anything else to add and Mr. Reynolds stated that he has been released to go back to work so the clean-up on the property would happen a lot faster.

Someone from the audience asked a question about how the result of the hearing would be enforced by the County. Commissioner Nyquist stated that the hearing was to deal with the facts; once the meeting was over he would be happy to talk to the gentleman about that matter and that this was a legal proceeding that needed to be completed first.

Commissioner Nyquist stated that that concluded the public testimony in this case.

**Action – Commissioner Lindsey moved to accept the following documents into the record:**

- **Amended Staff Report with additional comments for the record dated November 26, 2018 (Exhibit 2); including the initial Staff Report dated November 27, 2018 (Exhibit 1);**
- **Pictures provided by Daniel Christensen (Exhibit 3);**
- **Some addresses and stuff along with a photo of a fence from the Applicant (Exhibit 4);**

**He recommended that Marsha Meyer, Recorder, label the documents as she deemed appropriate. The vote was called. The motion passed unanimously.**

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

Commissioner Nyquist stated that the hearing and the record was now closed.

Commissioner Nyquist then asked to hear from Robert Wheeldon, Linn County Planning and Building Director.

Commissioner Nyquist stated to Mr. Wheeldon that the Board had been at this place before with the same fact set and, in his mind at this point, pigs in Rural Residential 2.5 was a proposition in the Linn County Code and was fair game and questionable. He stated that he was concerned about compatibility and conflicts. He asked to hear Mr. Wheeldon's thoughts on this matter.

Mr. Wheeldon stated that the reason this matter was a conditional use and not an allowed use was it was something that was able to be done in the zone without having conflict with the normal use of other residentially zoned properties nearby. It was probably included as a conditional use to recognize that all Rural Residential zones may not be equal and all proposed pig operations may not be equal. The underlining issue was if there were compatibility issues. Is it able to be operated without having significant adverse impact on surrounding property owners in the residential zone.

Commissioner Nyquist stated that, in his mind, there was a distinction between raising a pig or two in your field for your freezer and commercial activity. Because of the potential of the size and scope; was it fair game to consider that or was he, according to the code, supposed to ignore that proposition. Mr. Wheeldon replied, not necessarily; you look at the scale and scope and the cumulative impacts whether it is one animal or two; three or occasionally six. It is fair to look at that. In the sense that they are potentially being bought and sold at a certain scale you could certainly consider it in that regard. Mr. Wheeldon stated that the question was what were the impacts; is the operator able to constrain the operation in such a way that it does not have a negative impact on the surrounding residential use. That is the underlining question.

Commissioner Nyquist asked Commissioner Lindsey if he had any questions. Commissioner Lindsey stated that he would like a week to look everything. He stated that the acreages is much more significant than anything else the Board has looked at before. He stated, to be fair, there is not really a compatibility issue; the issue is whether or not the pigs can stay confined to the property. Commissioner Lindsey stated that that was an issue.

Commissioner Nyquist stated that, rather than making a decision today, he was inclined to agree with Commissioner Lindsey for other reasons. He was not sure that they did not need Commissioner Tucker here to resolve this matter. Commissioner Nyquist stated, for the record, that Commissioner Tucker had escorted the Christmas tree from Sweet Home to Washington D.C. He stated that if the Board continued the hearing to a

time when Commissioner Tucker returned, he would need a copy of the record and be able to listen to the audio record to be able to participate in the decision on this application. Commissioner Nyquist stated, again at a higher level, the underlying policy of pigs and a zone that is a residential zone based upon his previous experience, is something that he is very cautious about; pigs and residents don't always go hand-in-hand. He also stated that he was concerned that it is a different proposition when you have the pigs down lower then up in the barn close to the road. It wasn't raised, but his concern as either a resident or surrounding resident, if he is up at the same level how much activity do I have to have before I potentially impact wells and someone's water. With that, he asked when Commissioner Tucker would be returning. The Recorder stated that he would be back on Thursday, December 13, 2018 and the next Board meeting date would be Tuesday, December 18, 2018.

Commissioner Nyquist stated that if it pleased the Board the Public Hearing would be continued for deliberation and final decision on Tuesday, December 18, 2018 at 10:00 a.m.

Mr. Wheeldon stated that there was already another Planning item on the Board's agenda for reviewing a Resolution and Ordinance and potential adoption of the Armory exception. He was concerned about the time and Commissioner Lindsey stated that it shouldn't take more than ten minutes. The Recorder stated that that matter was scheduled on the Board's agenda on Tuesday, December 18, 2018 at 9:45 a.m. Commissioner Nyquist stated that it was just a procedural matter.

Commissioner Nyquist then stated again, for the record, that the Public Hearing would be scheduled for December 18, 2018 at 10:00 a.m.

*Commissioner Nyquist recessed the regular Board meeting at 11:04 a.m.*

*Commissioner Nyquist reconvened the regular Board meeting at 11:10 a.m.*

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

14. Special Orders:

A. Personnel Action Forms were read into the record for: Olivia Bakondi (General Administration); Keith Olsen (GIS); Alexis Prinslow (Juvenile Detention); Rebecca Benham, Shellany Cushner, Joshua Exton, Gregory Hoskins and David Marshall (Mental Health); Joshua Liddell, Regina Lobdell, Amber Swindall and Jerry Williams (Parks & Recreation) and Michael Hunter, Joel Jamison, Robert Ramsey and Blake Warren (Road Department).

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

B. Resolution 2018-368 approving the filling of a vacancy for the Office of the Surveyor of Linn County.

Commissioner Nyquist stated that this Resolution appoints Tom Casey to the Surveyor position.

**Action – Commissioner Lindsey moved to approve Resolution 2018-368. The vote was called. The motion passed.**

C. Resolution & Order 2018-372 approving a Letter of Agreement between SEIU Local 503, OPEU Linn County Local 390 and Linn County and delegating authority to execute originals.

Ralph Wyatt, Linn County Administrative Officer, explained that there was a new job classification for Health Services Medical Billing Specialist. As part of the approval process and part of the SEIU contract, when Linn County lays off people it is done by department. The billing unit would become a new department so if there are layoffs, in the future, they would now be considered separately. Commissioner Lindsey stated that that made sense.

**Action – Commissioner Lindsey moved to approve Resolution & Order 2018-372. The vote was called. The motion passed.**

15. Unfinished Business and General Orders:

A. Calendar Update – The Commissioners updated their calendars.

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

17. Announcements: There were no announcements.

18. Adjournment: There being no other business to come before the Board; by unanimous consent, the Board of Commissioners meeting was adjourned at 11:14 a.m. to Wednesday, November 28, 2018.

**Minutes of the Linn County Board of Commissioners adjourned meeting, November 27, 2018 continued to November 28, 2018:**

Those present at various times for the matters as indicated below were: Jim Yon, Linn County Sheriff; Paul Timm; Linn County Undersheriff; Michelle Duncan, Lieutenant, Linn County Sheriff's Office; Darrin Lane, Linn County Roadmaster; Gene Karandy, County Attorney for Linn County; Kevan McCulloch, Deputy County Attorney for Linn County; Robert Wheeldon, Linn County Planning and Building Director; Alyssa Boles, Senior Planner, Linn County Planning and Building Department; Troy Jones; Audrey Raschein; Tom Adams, Reporter, KVAL TV; Alan Kwan; Stephanie Newton; other audience members and Alex Paul, Reporter for the Democrat-Herald.

19, 20. At 9:30 a.m. Chairman Nyquist called the meeting to order and roll call followed. Commissioners Roger Nyquist, Chairman and John K. Lindsey, Vice-Chairman were present, as well as, Ralph Wyatt, Linn County Administrative Officer and Heather Gravelle, Recorder for the Board of Commissioners. Commissioner Tucker was absent.

21. Public Hearing – Revocation of WCMF 2017-2021 Permit.

Commissioner Nyquist provided a brief overview of the matter and called upon Gene Karandy, County Attorney for Linn County, for further details. Mr. Karandy stated that the purpose of the hearing was to determine whether or not Linn County would revoke the Willamette Country Music Festival (WCMF) 2017-2021 permit. He stated that the Board passed Resolution & Order 2018-361 at the Tuesday, November 13, 2018 Board meeting which set today's public hearing date and also made an initial determination of non-compliance with the permit and the Linn County Outdoor Assembly Code.

Mr. Karandy clarified that the key issues that warranted revocation of the WCMF permit included the following: non-enforcement of the alcohol rules in the campground areas and outside the designated beer gardens; the inadequacy and modification of the traffic plan; non-payment of vendors after the event indicating lack of financial responsibility as required by the Linn County Outdoor Assembly Code; concerns about the public safety plan compliance and the conviction of a member of the Willamette Country Music Concerts (WCMC), LLC which was discovered after the permit was issued.

Mr. Karandy then provided the following items for the record:

- Copy of Resolution & Order 2018-361, setting the hearing;
- Copy of a letter dated Tuesday, November 13, 2018 that was sent to the Applicant, WCMC, LLC, notifying them of the Wednesday, November 28, 2018 Public Hearing details;

- Proof of publication of the notice of Public Hearing published in the *Albany-Democrat-Herald* on Sunday, November 18, 2018; and,
- Copy of Resolution & Order 2017-261, approving the 2017-2021 permit to conduct an outdoor assembly.

Next, Mr. Karandy explained that the grounds under which the Board would be making a determination on the matter was under Linn County Code (LCC) 580.105 (B), Revocation of permit for multiple outdoor assemblies, Paragraph 3: "The Board shall revoke the permit if the Board finds by a preponderance of the evidence that the terms and conditions of the permit, this section, or this Chapter, have been substantially violated by the organizer, or for any reason under LCC 580.305 that would constitute grounds to refuse to approve a permit." The Board thanked Mr. Karandy for his summary.

Commissioner Nyquist asked if there was anyone present that was representing the WCMC, LLC. There was no one present. Commissioner Nyquist then called upon Michelle Duncan, Lieutenant, Linn County Sheriff's Office.

Lieutenant Duncan provided the Board with a PowerPoint presentation which is on file in the Linn County Clerk's Office in the Commissioners' Staff File. She explained that in 2013 Anne Hankins, who was the President of WCMF at that time, had sent a letter to the Linn County Board of Commissioners specifically addressing the issues of alcohol consumption in the non-licensed camping areas. Ms. Hankins had stated in that letter that WCMF was going to change their policies and there would be no outside alcohol permitted in the camping area and that the only time alcohol would be consumed was when the concert venue was open and only within the licensed beer gardens. Lieutenant Duncan added that it had varied over the years as to whether WCMF staff and security have enforced the rules, and, in 2018 they did not.

Lieutenant Duncan stated that over the years, the calls for law enforcement services at the festival had continued to increase from 55 in 2013 to 136 in 2018. She explained that the majority of the calls were alcohol related and included sex offenses, disturbances, trespasses, disorderly conduct and assaults.

Next, Lieutenant Duncan explained that Linn County Code (LCC) 580.305 (C) states that one of the reasons for revocation of an outdoor assembly permit was a history of serious or persistent problems that involved disturbances, lewd or unlawful activities associated with conducting assemblies, public drunkenness, fights, altercations and harassment. She then provided an example of an alcohol related issue at this year's event: a patron in a wheelchair was attempting to move through the venue and an intoxicated male jumped on her wheel chair and sexually assaulted her. Lieutenant

Duncan stated that assaults, disturbances and domestics over the last few years had increased and that the 2018 event had doubled what they have had previous years.

Lieutenant Duncan explained that another reason the Linn County Sheriff's Office had decided not to enter into another contract with WCMF and Ms. Hankins was because it was discovered a week prior to the 2018 event that Ms. Hankins had a 2001 federal conviction for bank fraud for submitting a false loan application; she was ordered to pay \$350,000 in restitution and had only paid \$13,044.30 towards restitution by 2013, including garnishments by the Treasury Offset Program. In 2015, after a garnishment of over \$21,000, she appealed having to pay the remainder; she lost and was ordered to pay.

Lieutenant Duncan stated that LCC 580.305 (B)(8) states that revocation of the permit was appropriate if the applicant had not demonstrated financial responsibility sufficient to adequately meet the requirements of the event to be permitted. She added that the Linn County Sheriff's Office currently had 12 open fraud investigations for non-payment to WCMF vendors that total \$156,640.

The Board thanked Lieutenant Duncan for the information and for her presentation. Commissioner Nyquist asked if there were any vendors present. There was not. Commissioner Nyquist stated that there was a lot to be bothered by and that the events described by Lieutenant Duncan were egregious and offensive; he was grateful that no one had been seriously hurt and that there were no fatalities over the years the festival had been in Linn County. He added that since the beginning of this event he had misgivings but was persuaded by the positive economic impact to local businesses that it provided.

Commissioner Nyquist stated that his main concern was how the vendors were going to get paid; it had to have been a four million dollar event: ticket sales, beer, camping etc. Where was the money?

Commissioner Nyquist then called upon Darrin Lane, Linn County Roadmaster.

Mr. Lane explained that in 2014 and 2015 the event had utilized the traffic control plan that they had worked extensively on to "fine tune." He explained that in early 2016 he had received an email from Tim Flowerday, WCMF Operations Director, asking if they could use the previously approved traffic plan for the 2017-2021 permit and he had responded that they could. Mr. Lane stated that it was later discovered that the traffic plan had been modified from what had been approved and not caught by the Road Department, and, as such, there were significant traffic issues. He added that at the

very minimum, if the permit was not revoked, he would recommend that the permit be revised to require a new traffic control plan. The Board thanked Mr. Lane for his report.

Commissioner Nyquist asked if there was any one else from the County that wanted to speak on the matter. There was not. Commissioner Nyquist stated that there was one person signed up to testify in support and called upon them.

**Audrey Raschein, 3084 Yellowstone Plane, NE Albany, Oregon – Support.**

Ms. Raschein stated that she fully supported Linn County revoking WCMF's Outdoor Assembly permit. She added that she recommended that Linn County model Marion County's Comprehensive Plan to protect farmers. Commissioner Nyquist clarified that she was referring to the Outdoor Assembly application process and the decision criteria and how it may impact agriculture; Ms. Raschein confirmed that was correct. The Board thanked Ms. Raschein for her testimony.

Commissioner Nyquist asked if there was any one else wishing to speak on the matter and no one did.

Commissioner Nyquist stated that, if it pleased the Board, he would close the Public Hearing. The Board agreed.

**Action – Commissioner Lindsey moved to revoke the 2017-2021 Outdoor Assembly Permit issued to Anne Hankins, WCMF, for the following reasons: the record strongly reflected that the Applicant violated LCC 580.305 (B) subsections: (1), (2), (3), (6) and (8) and have demonstrated incompetence managing the festival; failed to disclose a federal conviction; failed to comply or maintain a good record of compliance with the conditions of the permit; did not demonstrate responsibility sufficient to adequately meet the requirements of the permit, including a failure to pay the vendors. The vote was called. The motion passed.**

Commissioner Nyquist added that the decision to revoke the permit included all the evidence presented by the Sheriff's Office, as well as, the testimony received from Darrin Lane in which this permit was obtained under false representations.

Mr. Karandy stated that he did not have a Resolution and Order prepared and that he recommended that the Board continue the matter to the Tuesday, December 4, 2018 Board meeting. Commissioner Nyquist stated that the hearing was continued to Tuesday, December 4, 2018 at which point the documents would be ready for final signature and execution.

- 22. Special Orders: There were no special orders to come before the Board.
- 23. Unfinished Business and General Orders: There was no unfinished business and general orders to come before the Board.
- 24. New Business: There was no new business to come before the Board.
- 25. Announcements: There were no announcements.
- 26. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 10:05 a.m. by unanimous consent.

The next regular public meeting of the Board of Commissioners is scheduled for Tuesday, December 4, 2018.



Recorders for  
Board of Commissioners  
Marsha Meyer and  
Heather Gravelle

**LINN COUNTY BOARD OF COMMISSIONERS**



Roger Nyquist, Chairman



John K. Lindsey, Commissioner



William C. Tucker, Commissioner

Date 12-18-2018