



**MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
LINN COUNTY COURTHOUSE – ROOM 200
TUESDAY, DECEMBER 12, 2023**

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, December 12, 2023.

Those present at various times for the matters as indicated below were: Steve Wills, Linn County Planning and Building Director; Alyssa Boles, Planning Manager, Linn County Planning and Building Department; Alex Paul, Linn County Communications Officer; Kevan McCulloch, Deputy County Attorney for Linn County; Tami Cochran; Les Poole; Alice Morrison; Lucie Gouin; Astrid Doornenbal; Ivan Maluski; Starla Becker-Tillinghast; May Garland; Roger Gaither; Art Papathanasopoulos; Lise Hubbe; Nina Brenner; Peggy Curtis; Sara Hubbe; Kendra Kimibiranskas; Sarah Ballini-Ross; Christina Eastman; other audience members for the Public Hearing; Bill Poehler, Reporter for Statesman Journal and Shayla Escudero, Reporter for Democrat-Herald.

1, 2, 3. At 9:30 a.m. Chair Nyquist called the meeting to order. The flag salute and roll call followed. Commissioners Roger Nyquist, Chair; Will Tucker, Vice-Chair and Commissioner Sherrie Sprenger were present, as well as, Darrin Lane, Linn County Administrative Officer and Courtney Leland, Recorder for the Board of Commissioners.

4. Approval of Agenda.

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

5. Reports of Staff and Committees:

A. Planning and Building Update – Steve Wills, Linn County Planning and Building Director.

Mr. Wills provided the Board with a Planning and Building Update for the month of November, 2023. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Mr. Wills indicated that there were 25 land use permits issued in November, 2023 and no Planning Commission meetings scheduled for the month of December, 2023.

Mr. Wills stated that there were 15 new code enforcement cases and seven closed cases for the month of November, 2023. He also stated that the Planning and Building Department launched their new Accela software program on Monday, September 18, 2023 and have received feedback from contractors that it was working well.

Mr. Wills shared with the Board that the Linn County Planning and Building Department hosted a "Ready Night" at the Sweet Home Fire Station and there were approximately 40 participants and 22 partners at the meeting. Commissioner Tucker thanked Mr. Wills and his staff for their hard work and indicated that he was happy to see the Board of Forestry at the meeting.

Commissioner Sprenger asked how the attendance was for the contractor training and Mr. Wills stated there were 12 people in attendance. Commissioner Sprenger specified that since it was during business hours the turnout was decent.

Alyssa Boles, Planning Manager, Linn County Planning and Building Department, presented the following items.

1. Resolution & Order 2023-417 approving applications by Wilsonville Concrete Products, Inc. for a Plan Text Amendment, a Zoning Map Amendment, a Code Text Amendment and the application of a Limited Use Overlay affecting 5.00 acres of land.

Action taken below.

2. Ordinance 2023-418 approving an Ordinance amending the Linn County Comprehensive Plan Text, the Linn County Zoning Map and the Linn County Code Text.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-417 and Ordinance 2023-418.

Commissioner Sprenger asked if there was any further input from the public and Ms. Boles indicated that there had been no public comments or calls in regard to both matters.

The vote was called. The motion passed unanimously.

6. Correspondence: Letter of Proxy dated Tuesday, December 12, 2023 for the Association of O & C Counties Annual Meeting to be held on Friday, December 15, 2023.

Commissioner Tucker indicated that each County was assigned three votes and he planned on attending the meeting.

Action – Commissioner Sprenger moved and Commissioner Nyquist seconded the motion to approve the Letter of Proxy dated Tuesday, December 12, 2023 for the Association of O & C Counties Annual Meeting to be held on Friday, December 15, 2023.

Commissioner Nyquist asked that any vote or conveyance be consistent with the Linn County Board of Commissioners' policies.

The vote was called. The motion passed unanimously.

Commissioner Tucker indicated that the Santiam Hospital was seeking a letter of support from the Board to the Marion County Board of Commissioners for some additional funding. Commissioner Sprenger asked about the process and Commissioner Tucker indicated that Marion County had received a significant amount of funding from the wildfires. Commissioner Nyquist expressed his gratitude for the relationship between Marion County and Linn County since the wildfires of 2020.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve the letter of support to the Marion County Board of Commissioners. The vote was called. The motion passed unanimously.

Commissioner Nyquist emphasized the importance in recording a copy of the letter to the Willamette Riverkeeper dated Friday, December 8, 2023 in regard to the dam drawdown. Commissioner Tucker indicated that he would file a copy of the letter with the Linn County Clerk's office.

7. Special Orders:

A. Personnel Action Forms.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to accept the Personnel Action Forms list as Exhibit 1. The vote was called. The motion passed unanimously.

8. Unfinished Business and General Orders:

A. Calendar Update: The Commissioners updated their calendars.

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

10. Announcements: The regularly scheduled Board meeting on Tuesday, December 26, 2023 is being rescheduled to Wednesday, December 27, 2023 at 9:30 a.m. due to the holiday.

11. Business from the Public (3-minute limit per speaker): Ron Edwards, 875 Lebanite Drive, Lebanon OR 97355.

Mr. Edwards indicated that he was glad the Board had received the recording from the Lebanon Soil and Water Conservation meeting held on Thursday, November 30, 2023 and asked the Board to review it. He also asked if there had been any changes with the dam drawdown at Green Peter and Commissioner Nyquist discussed the letter dated Friday, December 8, 2023 to the Willamette Riverkeeper and offered Mr. Edwards a copy of the letter. Commissioner Sprenger asked Mr. Edwards to be clear on his requests from the Board.

Les Poole, Clackamas County.

Mr. Poole shared his concerns about the water quality in the area and his opposition to the Muddy Creek Solar project.

Commissioner Nyquist recessed the regular Board meeting at 9:54 a.m.

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

Commissioner Nyquist called upon Staff to provide background information on this matter.

12. Public Hearing – PD23-0670: A legislative Code Text Amendment Application by Linn County to amend sections of Linn County Code (LCC) Chapters 920, 928 and 934. The proposed amendments are to implement portions of Senate Bill 85 (2023) relating to the establishment of new large confined animal feeding operations – Alyssa Boles, Planning Manager, Linn County Planning and Building Department.

Ms. Boles indicated that the criteria applicable for this hearing was in the Linn County Code, section 921.824. She indicated that the proposed amendments and supporting documents were attached to the Staff Report as exhibit A and exhibit B explained the language of Senate Bill 85 and the applicable sections were under the land use element, Sections 14 and 15. She indicated that Senate Bill 85 declared emergency and became effective upon passage and rule making to implement provisions of the Bill to an Administrative role had not yet been completed. This could result in future code amendments based on clarification of the definitions to Senate Bill 85.

Ms. Boles read into the record the proposed code text amendments which were LCC 920.100 (B); LCC 928.310 (b) (18); LCC 928.610 (B) (27) and LCC 934.530 (C). She indicated that there were no agency comments on the proposed amendment and no public comments received, however, exhibit D contained comments received during the Planning Commission review period and there were three memos since the Staff Report

was prepared; a memo dated Friday, December 8, 2023 with three comments; a memo dated Monday, December 11, 2023 with seven additional comments and a memo dated Tuesday, December 12, 2023 with five public comments; all of the comments were in support of the proposed amendments.

Ms. Boles stated that the Planning Commission held a meeting on Tuesday, November 21, 2023 and voted unanimously for the Board to approve the amendments with a modification to the setback. She indicated that, initially as the amendments were drafted, a ½ mile setback was proposed and the Planning Commission recommended a setback of 3,960 feet or ¾ of a mile from all property lines on a property that contained a large Concentrated Animal Feeding Operation (CAFO).

Commissioner Nyquist suggested a motion to enter the documents into the record.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to accept into the record the Planning Department’s Staff Report with nine letters of support dated Monday, December 4, 2023; a memo with three letters of support dated Friday, December 8, 2023; a memo with seven additional comments in support dated Monday, December 11, 2023 and a memo with five public comments dated Tuesday, December 12, 2023. The vote was called. The motion passed unanimously.

Commissioner Nyquist indicated that the Board would now hear public testimony and that there were 15 people signed up to speak. He asked the audience to keep public testimony at around two minutes each. *(There were two sign-in sheets 1-30 and only page two was used).*

Alice Morrison, 29056 Hatton Ln, Junction City OR 97448 – Support.

Ms. Morrison indicated that she was a small farmer in Lane County. She discussed the financial hardship of the ground water impacts to her well filtration system and that she supported the proposal.

Lucie Gouin, 43550 Thomas Creek Drive, Scio OR 97374 – Support.

Ms. Gouin indicated that she was a full-time vegetable crop farmer near Jordan, OR. She thanked the Board for their time on this matter and indicated that she supported the proposed amendment but would like to see the setback at one mile.

Astrid Doornenbal, 44012 Thomas Creek Drive, Scio OR 97374 – Support.

Ms. Doornenbal indicated that the setback line should be measured at the property line and not at the physical residential structure. She also asked the Board to consider adding additional language to the definition.

Ivan Mulisky, 39006 Richardson Gap Rd, Scio OR 97374 – Support

Mr. Mulisky stated that Senate Bill 85 indicated that local community members had to have a voice in these decisions and he was thankful to be given the opportunity before the Board. He discussed the hardships of having to go before the Legislators to discuss Senate Bill 85 and asked the Board to support the Planning Commission's recommendation.

Starla Becker-Tillinghast, 41546 Hwy 226, Scio OR 97374 – Support

Ms. Becker-Tillinghast thanked the Board for their support and availability to her throughout the process. She supported the recommendation. Commissioner Nyquist thanked Ms. Becker-Tillinghast for her hard work and Commissioner Tucker concurred.

May Garland 38795 Main St, Scio OR 97374 – Support.

Ms. Garland indicated that she was there to support her family, friends and neighbors, as they all shared the hardships throughout this process. She supported the $\frac{3}{4}$ mile set back.

Roger Gaither, 38795 North Main, Scio OR 97374 – Support.

Mr. Gaither stated that he supported the $\frac{3}{4}$ mile setback.

Art Papathanasopoulos, 43550 Thomas Creek Dr., Scio OR 97374 – Support.

He indicated that he had been farming in Linn County for almost 20 years and that these larger Concentrated Animal Feeding Operations (CAFO) operate 24-hours a day, 365 days a year. He supported the $\frac{3}{4}$ mile set back but expressed the benefit for a one-mile setback.

Lise Hubbe, 41534 Oupor Drive, Scio OR 97374 – Support.

Ms. Hubbe indicated that poor air quality could affect her valuable livestock. She thanked everyone in the audience for their hard work and asked the Board to accept the Planning Commission's recommendation.

Nina Brenner, 35891 Richardson Gap Rd, Lacombe OR 97355 – Support.

Ms. Brenner discussed the design of her property and that a neighboring property adjacent to her was large enough to sustain a decent size CAFO operation. She supported a one-mile setback.

Peggy Curtis, 39027 Shelburn Dr., Scio OR 97374 – Support.

Ms. Curtis supported a $\frac{3}{4}$ mile setback but expressed support to a one mile setback as well.

John Thornton, 41235 Oupor Dr., Scio OR 97374 – Support.

Mr. Thornton indicated that this was an astonishing event to happen in his lifetime and emphasized the good will of the Board. He expressed gratitude to the Board and congratulated everyone in the audience.

Sara Hubbe, 41534 Oupor Dr., Scio OR 97374 – Support.

Ms. Hubbe indicated her appreciation for the $\frac{3}{4}$ mile setback to the property line but expressed how beneficial one-mile would be.

Kendra Kimbirauskas, 39006 Richardson Gap Rd, Scio OR 97374 – Support.

Ms. Kimbirauskas shared her support of the $\frac{3}{4}$ mile set back but would like to see it be one mile. She reminded the Board that this process began two years ago and thanked the Board for their support.

Sara Ballini-Ross, 41354 Shineller Bridge Dr., Scio OR 97374 – Support.

Ms. Ballini-Ross indicated that she was the owner of Oregon Meat Co. and purchased her forever home in Linn County. She discussed the hardships of her husband having three lung surgeries and how important air quality was for her family. She thanked the Board for their support and indicated that she would like to see the setback at one-mile.

Christina Eastman, 37309 Jefferson Scio Dr., Scio OR 97374 – Support.

Ms. Eastman discussed the financial hardship that she was faced with when she had to replace the well at her property. She discussed how a large CAFO operation could run her water source dry. She asked the Board to consider the setback at one-mile.

Commissioner Nyquist closed the public hearing at 10:34 a.m.

Commissioner Nyquist acknowledged the hard work of everyone who took their concerns to the State level in regard to changing the CAFO laws. He discussed the hardship in the beginning of this process and how much of an accomplishment this really was.

Commissioner Sprenger asked Ms. Boles to clarify whether or not the recommendation allowed the setback to occur from all property lines and Ms. Boles indicated yes. Commissioner Sprenger then asked for clarification on the definition of Senate Bill 85. Ms. Boles stated that the language in Senate Bill 85 wasn't specific in the definition regarding residential structures. She discussed that indicating multi-family would be inclusive to several different types of residential buildings. Discussion continued.

Commissioner Sprenger asked if there was a need to specify "apartment" as part of the motion to define a residential structure and Ms. Boles indicated that if the Board approved a larger set back, in some rural areas there could be properties that have pre-existing duplexes or structures already on them. Commissioner Sprenger asked if there was

additional documentation to support a larger set back and Ms. Boles indicated that the Staff Report contained data from other states to support a larger set back. There wasn't anyone opposed to the findings. Discussion continued.

Kevan McCulloch, Deputy County Attorney for Linn County, cautioned the Board to use the information presented in this matter to minimize the risk of an appeal.

Commissioner Nyquist asked if there was still equal opportunity for buyers if the setback was changed and Mr. McCulloch stated that the analysis should reflect that. Commissioner Nyquist indicated that, prior to the hearing, he contacted Steve Barnett, Linn County Geographic Information Systems Manager (GIS) and confirmed that changing the set back from $\frac{3}{4}$ of a mile to one mile would not limit an opportunity for a potential buyer who wanted to pursue building a CAFO operation. Commissioner Sprenger thanked Commissioner Nyquist for that information.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve PD23-0670 with a $\frac{3}{4}$ mile set back, as well as, the Planning Commission's definition of residential structure.

Commissioner Tucker indicated that the Staff Report clearly defined what a residential structure was and that apartments were included and, as far as the distance for the setback, he indicated that the Planning Commission had already increased the distance for the setback from a half mile to $\frac{3}{4}$ of a mile in their recommendation. He proposed the Board accept the recommendation as it was presented. Discussion followed.

Commissioner Nyquist indicated that he would like to accept two more documents into the record and Commissioner Tucker indicated he would make a motion. Commissioner Nyquist reminded him that the Board was in discussion on a motion already.

Commissioner Nyquist shared with the audience that growing up he lived a mile from a dairy farm and that the scent wasn't noticeable to him on a daily basis. He discussed the hard work of the people and that there were still 89 locations available for a CAFO operation with a one-mile setback. He stated his opposition to the $\frac{3}{4}$ of a mile setback and discussed the benefit for a one-mile setback.

Action – Commissioner Tucker withdrew his motion.

Action - Commissioner Tucker moved and Commissioner Sprenger seconded the motion to accept into the record, two maps from the Linn County Geographic Information Systems Department that showed equal opportunity at $\frac{3}{4}$ of a mile and at one-mile for potential buyers of a CAFO operation. The vote was called. The motion passed unanimously.

Commissioner Sprenger indicated that she would like the word "apartment" to be in the definition and discussed that it didn't discredit the hard work that the Planning and Building Department had done.

Action - Commissioner Sprenger moved and Commissioner Tucker seconded the motion to approve PD23-0670 with two amendments; adding "apartment" to the definition and setting the setback at one mile.

Commissioner Nyquist indicated that there wasn't any harm in adding the word "apartment". Commissioner Tucker indicated that there were different types of farm dwellings and that adding the word apartment wouldn't cover them all; residence would cover all dwellings. Commissioner Sprenger asked if multi-family would cover all dwellings and Ms. Boles indicated that it would be a good addition to the definition.

Action - Commissioner Sprenger withdraw her motion.


Action - Commissioner Sprenger moved and Commissioner Tucker seconded the motion to approve PD23-0670 with two amendments; adding the word "multi-family" to the definition and setting the setback at one-mile.

Commissioner Sprenger discussed the reward of the community working together.

The vote was called. The motion passed unanimously.


13. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 11:09 a.m. by unanimous consent.


The next regular public meeting of the Board of Commissioners is scheduled at 9:30 a.m. on Tuesday, December 19, 2023.

 Recorder
For Board of Commissioners
Courtney Leland

LINN COUNTY BOARD OF COMMISSIONERS


Roger Nyquist, Chair


William C. Tucker, Vice-Chair


Sherrie Sprenger, Commissioner

Date 1-3-2024