



**MINUTES OF THE REGULAR SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
LINN COUNTY COURTHOUSE – ROOM 200
TUESDAY, NOVEMBER 21, 2023**

The Linn County Board of Commissioners met for the regularly scheduled meeting on Tuesday, November 21, 2023.

Those present at various times for the matters as indicated below were: Todd Noble, Linn County Health Services Administrator; Dr. Adam Brady, Linn County Health Officer; Shane Sanderson, Linn County Public Health Program Manager; Kris Barnes, Linn County Fair and Expo Director; Wayne Mink, Linn County Roadmaster; Steve Wills, Linn County Planning and Building Director; Alyssa Boles, Planning Manager, Linn County Planning and Building Department; Stacey Whaley, Linn County Parks and Recreation Director; Dean Barawis, Administrative Assistant/Office Manager 3, Linn County Parks and Recreation Department; Lynn Merrill, Representative for Applicant; Robert Wheeldon, Consultant for Applicant; Justin Albion, T2, Inc.; Ron Edwards; audience members present for the Public Hearing; Alex Paul, Linn County Communications Officer 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 Marsha Meyer, 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. Approval of the November 7, 2023 Commissioners' Meeting Minutes.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve the November 7, 2023 Commissioners' Meeting Minutes. The vote was called. The motion passed unanimously.

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

A. Communicable Disease and Vital Statistics Reports – Dr. Adam Brady, Linn County Health Officer.

Dr. Brady provided the Board with an overview of the Communicable Disease and Vital statistics Reports for October, 2023. A copy of the reports are on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Dr. Brady stated that Respiratory Syncytial Virus (RSV) was increasing around the state and locally; there hadn't been many cases of the flu. Commissioner Tucker asked about the access for vaccinations for RSV and the flu. Dr. Brady stated that access for the RSV vaccination was adequate for those over the age of 60 and for pregnant women; for newborns there's a new immunization to protect against RSV but it's hard to get with shortages nationally.

Commissioner Nyquist stated that, by statute, the Board was the local Public Health officials which they wisely delegate to Dr. Brady and the Linn County Health Department. He then asked Dr. Brady if there were mechanisms in place for testing the water should the Board have concerns in reaction to the U.S. Army Corps. of Engineers and the judge's Order regarding the Santiam River reservoir draw down and the fish issue. Dr. Brady stated yes and provided additional information.

B. Environmental Health Monthly Activity Report – Shane Sanderson, Linn County Public Health Program Manager.

Mr. Sanderson provided the Board with an overview of the Environmental Health Monthly Activity Report for October, 2023. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

Commissioner Tucker asked Mr. Sanderson about the two facilities who received a "fail to comply" inspection; was it a communication or training issue. Mr. Sanderson stated that communication was a part of the equation in those two cases but things had improved now that they have bilingual staff within the Environmental Health Department who help with on-site translation. At the follow-up inspections, corrections had been made.

Todd Noble, Linn County Health Services Administrator, presented the following two items:

C. Resolution & Order 2023-403 approving a Student Affiliation Agreement between Gonzaga University and Linn County and delegating authority to execute originals.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-403. The vote was called. The motion passed unanimously.

D. Request for Refund from Linn County Mental Health Department to Intercommunity Health Network, CCO, \$1,351.19.

Per Todd Noble, the refund had already been taken care of so this item was removed from the agenda.

7. Reports of Staff and Committees:

A. Fair/Expo Update – Kris Barnes, Linn County Fair and Expo Director.

Mr. Barnes provided the Board with a Fair/Expo Update for the month of October, 2023. A copy of his report is on file in the Linn County Clerk's Office in the Commissioners' Staff File.

He stated that every weekend was full with events and the event calendar was booked solid through 2024. He stated they were getting ready for the Christmas Bazaar and they were setting up for Storybook Land.

Commissioner Nyquist noted that the year-to-date revenue was for the fiscal year starting in July, 2023 which included four months of revenue. He stated that for year-to-date they were \$31,000 which is better than where they were last year.

8. Road Department – Wayne Mink, Linn County Roadmaster.

A. Resolution & Order 2023-399 approving an Amendment to the Memorandum of Agreement for the North River Drive (County Road No. 0035) improvements between the Federal Highway Administration and Linn County and delegating authority to Roger Nyquist, Chairman.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-399. The vote was called. The motion passed unanimously.

B. Resolution & Order 2023-401 delegating authority to Wayne E. Mink, Roadmaster, to purchase a Ford F450 Cab and Chassis.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve Resolution & Order 2023-401.

Commissioner Sprenger stated, for the record, that this was part of the State bid process which lowers the cost of vehicles rather than getting them from a dealership lot.

The vote was called. The motion passed unanimously.

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

10. 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.

11. Unfinished Business and General Orders:

A. Calendar Update: The Commissioners updated their calendars. Commissioner Sprenger stated that she and Commissioner Nyquist were both audience members at the Sweet Home Informational Session regarding the drawdown agreement. She stated that there were no deliberations towards any decision.

12. New Business:

A. Discussion and possible action to seek modification before the Court in regard to Case No. 3:18-cv-00437-HZ regarding U.S. Army Corps. of Engineers reservoir management and operations in Linn County.

Commissioner Nyquist stated that this agenda item was specifically regarding the management and the draw down and consequences of the reservoir system in Linn County. He stated that, after many conversations and requests last week from citizens, this agenda item landed before the Board today. Commissioner Nyquist stated that, for him, this matter felt like the spotted owl issue meets reservoir management forty years later. He stated that, as a community, they're stunned and the residents of Linn County had come to expect some leadership and action from this Board in times like these. He then asked the Board for their thoughts.

Commissioner Tucker stated that the Army Corps. of Engineers' execution of a plan was actually an injunction from a judge; the execution of the plan was the problem but they didn't have a choice. The plan was created by the judge to resolve salmon restoration which resulted with injunctions that clearly stated what was to happen. Commissioner Tucker stated that it wasn't just Linn County or water quality; the shutdown would also take Green Peter offline for power generation and Foster offline from dusk to dawn every single day. He stated that when he had asked for the data and numbers of how much power was produced by that system on a normal year, he was deeply concerned that the lack of power could be the next. He stated that he found the whole thing discouraging and would support the investment of money to attempt to get the judge's attention to look at this issue. Discussion followed.

Commissioner Sprenger stated that she was upset over the situation and that this had been a long time coming going back to the 2008 Biological Opinion when she worked on a similar issue in 2009. The same thing was happening in Detroit. She then provided additional background information. Commissioner Sprenger stated that she has had City Managers, Mayors and other people reaching out to her asking what could be done about this issue. The judge has spoken and the Army Corps. has to do this.

She stated that here they were again having the same conversation about the same Biological Opinion; the reason they have the judge's Order was that the 2008 Biological Opinion wasn't strict enough and was dated. So now a new Biological Opinion was being done and she feared what that would be. She stated that she didn't have any other idea so, if joining a suit and making a lot of noise was what the Board needed to do, she was all for it. If there was ever a point where a suit should be filed, in her opinion, it was now.

Commissioner Nyquist stated that he wanted to be clear that it was one thing to announce that they're pursuing litigation but another thing to actually do it and be successful. The question becomes what would a reasonable person do and what would the community expect. For him, there was no intention to do this just to do it or because there's no other tool in the toolbox. We all, as decisionmakers, are only as good as the information we get. He stated that he could not believe that a judge would've made a decision knowing the consequences and outcomes. Commissioner Nyquist stated that these situations occurred, in part, because the inputs were one-sided from Portland environmental interests and that the Army Corps. had been restricted by government officials at a higher level. He stated that there needed to be a balance in the information before the judge in order for him to make a better decision. Commissioner Nyquist hoped this would be the outcome and it was perfectly reasonable and was the responsible thing to do on behalf of the citizens of Linn County.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to instruct staff to acquire appropriate legal counsel for the purpose of requesting that the judge, in this case, be presented with a more balanced set of facts and, along with that request, that he amend his previous order based on the new information he would be receiving.

Commissioner Tucker stated that time was of the essence. In a few weeks the next step of the judge's Order would kick in which would stop the draining of the reservoir and start filling it. It would change everything as it is an annual event that will occur based upon the new practice. Again, time was of the essence as it affects power, drinking water and the substantial cost for replacing filters to both Sweet Home and Lebanon. Usually, they replace filters weekly but now they have to replace the filters multiple times a day which has put a strain on the communities. He asked that, as the County staff looked for someone, they find someone who is ready to act quickly to stop the judge's Order, hopefully, within the month of November, 2023.

Commissioner Sprenger agreed to move forward and acquire legal counsel regarding this matter.

Commissioner Nyquist stated that the Board was committed to working with the cities in Linn County and Marion County. He stated that he had talked with Kevin Cameron, Marion County Commissioner, this morning and their Board shared our passion for the management of these reservoir systems in the valley. Lane County is also impacted, as well, so we would want to reach out to them. Commissioner Tucker stated that he had already contacted Lane County. We want to do what makes the best sense for Linn County, the public and the valley.

The vote was called. The motion passed unanimously.

13. Announcements: There was no announcements.

14. Business from the Public (3-minute limit per speaker):

Barbara Thayer, 2197 Burkhart Street, SE, Albany, OR – Ms. Thayer presented the Board with letters of support from the Albany and Lebanon Police Departments and one letter from herself. A copy of the letters is on file in the Linn County Clerk's Office in the Commissioners Staff File.

She thanked the Board for their service to Linn County and stated that it did not go unnoticed. She stated that she had been in recovery for 30 years and has kept her motto of "don't forget where you've come from." She now works one-on-one with those in the community who have the same struggles, however, a lack of a detox center has been a detriment. She asked the Board to facilitate the creation of a task force assigned to this cause and thanked them for their time and consideration.

Emma Dean, 6247 Savannah Court, SE, Albany 97322 – Ms. Dean stated that she was the Executive Director for CHANCE which serves Benton, Lincoln and Linn Counties. At the shelter in Albany, they're serving the community struggling with homelessness, substance abuse and mental health. She stated they are missing a tool which is a detox and stabilization center. Ms. Dean stated that she was echoing Ms. Thayer's request.

Ron Edwards, 875 Lebanite Drive, Lebanon, OR – Mr. Edwards stated that he testified last Tuesday, November 14, 2023, in Salem and wanted to give the Board a few things to consider in regard to flooding at Green Peter. He was given some ideas, as well as, a copy of House Report 117347 and asked the Board to read it. He then read, into the record, a paper with the subject of Willamette Valley Disposition Study and Report to Congress. He stated the study would be done in June, 2024 to determine federal interest in and identify the effects of deauthorizing hydro-power as an authorized purpose in whole or in part of the Willamette Valley system; that's all the dams. He continued with additional information about Green Peter and Foster regarding power and current and the consequences. He stated that he would be willing to answer any questions the Board may have on this matter.

Commissioner Tucker thanked Mr. Edwards for the education he continues to give the Board on these issues.

John (Tre') Kennedy, Lebanon, OR – Mr. Kennedy stated that, after listening to the Board's explanation of what they were going to do in regard to the judge's Order, he asked them to keep their minds opened. He then provided an explanation of the case as he had read almost all of the relevant pleadings going back to the start of the complaint. He stated that his hesitance with the Board's plan with the judge was that he didn't see him changing his mind but hoped he was wrong. Mr. Kennedy stated that he supported the Board but asked them to keep focused as to what else was possible with the State of Oregon.

Commissioner Tucker asked Mr. Kennedy to send him a copy of all the pleadings so he could share that information with Linn County's County Attorney. Mr. Kennedy stated he would.

Kelsey Young, 3225 Main St, Sweet Home, OR – Ms. Young thanked the Board for taking the draw down seriously and appreciated the advice they've provided over the past few weeks. The potential of the drawn down was devastating to Sweet Home and they have incurred a great cost in trying to keep their water testing within safe parameters. They have seen a ten percent reduction in profits for their local businesses; many who are small business owners. We're doing everything we can to be prepared. Ms. Young thanked the Board for moving forward and hoped they could be united in this matter.

Aileen Tedrow, 36504 Hwy 226 SE, Albany OR 97322 – Ms. Tedrow stated that she was before the Board regarding an issue that has impacted her family over the last five years. She asked that Linn County consider some sort of noise ordinance or guidelines to allow law enforcement the ability to assist with these issues. She then read into the record how this issue had impacted her and why it was important.

Commissioner Nyquist stated, to be clear, the Board needed to speak with the Sheriff. Ms. Tedrow stated that she already had a letter from the Sheriff. Commissioner Nyquist stated that the Board takes her situation seriously but needed to get with the Sheriff to see what tools they need as there has been a lot of push back when noise ordinances had come up in the past but this situation was different. Ms. Tedrow then gave an explanation of the type of equipment her neighbor uses. Commissioner Nyquist stated that they would get back to her after talking with the Sheriff.

Angelita Sanchez, City Councilwoman, City of Sweet Home, OR – Ms. Sanchez stated that she was appearing before the Board on her own behalf and not speaking for the Council. She shared with the Board what she had discussed with the Army Corps. during a listening session last week. She then read into the record a written statement.

There being no one else wishing to speak Commissioner Nyquist asked if there was anyone telephonically wishing to speak. There being none Commissioner Nyquist asked to take a recess before going into the Public Hearing.

Commissioner Nyquist recessed the regular Board meeting at 10:30 a.m.

Commissioner Nyquist reconvened the regular Board meeting at 10:35 a.m.

15. Public Hearing – PLN-2023-00593: Applications by T2, Inc. for a Comprehensive Plan Map Amendment, a Plan Text Amendment and a Zoning Map Amendment on three tax lots totaling 10.89 acres – Alyssa Boles, Planning Manager, Linn County Planning and Building Department.

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

Ms. Boles stated that the Planning Commission held a meeting on Tuesday, October 10, 2023 regarding these applications and voted unanimously to recommend that the Board approve the applications as proposed.

Commissioner Sprenger asked Ms. Boles if, throughout this process, had there been any opposition voiced or written. Ms. Boles stated there had been no written or voiced opposition through this process.

Commissioner Tucker stated that he owns a piece of property above the T2 property and across the road (pointing to a map). He stated that he has had no contact regarding this matter and had nothing to gain; the property was under contract for three months to be sold. He stated that he was within the notice area of this transaction. Commissioner Sprenger also stated that she had no exparte communication and no conflict of interest. Commissioner Nyquist stated that he had no financial interest in this matter and no discussion on this case other than with staff.

Commissioner Nyquist then called upon the Applicant.

Lynn Merrill, 3215 Hannah Ave, SE, Albany, OR 97322 – Applicant for the Consultant.

Mr. Merrill stated that the Applicant were not able to attend today's hearing as they had a pre-scheduled out-of-state trip. He stated that they had prepared a good exhaustive application. He stated that Robert Wheeldon was present to explain any of their technical questions about the zoning and comp plan map amendments and that Justin Albion was also present representing the Totmans and he could answer any questions the Board may have regarding the operation.

Mr. Merrill stated that T2 was unique as they work with fire prevention, harvesting, trucking and all the way down to processing wood products at their facility. They maximize every step in the process to wring the last dollar out of marginal wood. He stated that, in the past, they had a conditional use permit primarily for processing those materials; this was going to be a growing industry in Oregon and Linn County for fire protection. Mr. Merrill stated that, under the conditional use permit, they brought the trees in for processing on site then cutting them for lumber, creating plywood, hog fuel, wood pellets for heat and trigger pellets for smoking in the backyard.

Mr. Merrill stated that T2 was doing a great job controlling the process and making something out of what most people looked past; they've received a lot of support within the industry from Cascade Timber Consulting, Fire Prevention and the Forest Service who are excited about what they're doing. They are a great employer and are creating jobs.

In regard to the heavy industrial zoning, they're expanding to bring in more volume and needed the space to handle more wood. He stated that they need to be able to put in buildings for drying and holding which would be permanent structures that are not conducive to a conditional use permit; heavy industrial was a better zoning. Mr. Merrill stated that heavy industrial was the zoning they have at their current operation; a

historical mill site. They've invested an enormous amount of dollars to the electrical systems for the drying milling.

Mr. Merrill stated that there was no opposition to the application. They've worked with the neighbors and employed best practices. They've done what they could to shield lighting, minimize noise, control dust, which they have a vacuum system to eliminate outside dust, and are trying to be a good neighbor.

Robert Wheeldon, 1645 9th Ave., SE, #137, Albany, OR 97322 – Consultant for Applicant.

Mr. Wheeldon stated that Staff had already explained the three applications. The decision criteria required compliance with the comprehensive plan, statewide planning goals; the goal exception criteria and OAR Divisions 4 and 14. He stated that he was confident that the application met all the applicable provisions of the comprehensive plan and state regulations in this matter. Mr. Wheeldon stated that Exhibit 4 of the Application included an alternative sites analysis which evaluated all of the industrial zoned land both in the County and in Sweet Home along the Hwy 20 corridor. He stated that there was a general analysis of all the Farm Forest land zoned along the property for suitability and impacts.

Mr. Wheeldon stated that the site-specific alternative analysis wasn't necessary in this case, however, they developed a detailed alternative sites analysis because they were confident that this was the only practical location in the area for this development. He stated that it was important to note that the Administrative Rules and the County's Comprehensive Plan both encouraged this type of industrial rural development and prioritized expansion onto suitable adjacent lands. In other words, both the statutes and Administrative Rules and goals encouraged this type of development and, when industrial development is proposed, the State's priority was to develop adjacent lands so not to impact the undeveloped land.

Mr. Wheeldon stated that this decision came down to the fact that the Applicant had demonstrated the need for the use and the proposed land was adjacent to the existing land. This is really the priority in State law. He stated they went through every single nook and cranny of the statute, Administrative Rule and Comprehensive Plan and the application satisfied every letter of the regulation. He stated, for the record, that they had a recent Department of Environmental Quality (DEQ) permit review which the facility passed with flying colors. The wetland mitigation that was proposed by the Department of State Lands (DSL) had already been completed. They've taken great care to address potential conflicts. The log storage will be along the railroad to buffer from the highway and across the road; there's already poles for fencing and lighting will be directed inward; vegetation is already being planted for a vegetation screen. Mr. Wheeldon stated that he had visited the property twice and it's the cleanest industrial development he has ever seen.

Commissioner Tucker stated that it was a great report and that he had even called Staff to see what he had missed because he wasn't able to find anything to question with the application. He commended Mr. Wheeldon for the work he had done, as well as, the

work Mr. Merrill had done. This was one of the easiest reports to read and was very robust.

Commissioner Nyquist stated, for the record, that Ron Edwards had signed up on the sign-in sheet for the Public Hearing, however, he was not in the room today and as such would not be testifying on this matter. He believed Mr. Edward's intent was to speak under "Business from the Public".

Commissioner Nyquist then called upon Justin Albion, T2, Inc., who stated he only needed to speak on this matter if the Board had any questions about the operation or the facility.

Commissioner Nyquist asked if there was anyone else wishing to speak in favor of the application. There was no one wishing to speak. Commissioner Nyquist asked if there was anyone wishing to speak in opposition. There was no one wishing to speak. He then asked if there was anyone wishing to speak who was neutral or wanted to make a comment. There was no one wishing to speak.

Commissioner Nyquist asked the Applicant if he wanted to give a rebuttal given there was no testimony in opposition. The Applicant acknowledged that he did not need to give a rebuttal.

Commissioner Nyquist then closed the Public Hearing.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to accept into the record the Staff Report dated November 14, 2023. The vote was called. The motion passed unanimously.

Commissioner Sprenger stated that she had said earlier that she had no exparte conversations but, for the interest of full disclosure, it was two or more years ago that she had a conversation with a resident near the north side of T2's property who wanted to talk to her about the noise and dust issues. She stated that she had that conversation with her and offered avenues that she could take regarding her concerns. Commissioner Sprenger stated that she didn't even know, at that point, if this project was even in her mind when they had that conversation.

Action – Commissioner Tucker moved and Commissioner Sprenger seconded the motion to approve T2's Applications represented by PLN-2023-00593 and approve the Applications for a Comprehensive Plan Amendment, a Plan Text Amendment and a Zoning Map Amendment.


Commissioner Tucker stated that the Comprehensive Plan did allow and, in fact, envisioned this and the Goal 3 and 4 were well documented. He stated that ten years ago he had worked with the Totmans and found them to be an outstanding company and that he had purchased their products in the past. This was a great example of what the County should be doing.

The vote was called. The motion passed unanimously.

Commissioner Nyquist asked the representative of T2 to pass along to the Totmans the County's support for employing people in Linn County, creating jobs and having the courage to spend additional capital in the, at times, anti-business environment in Oregon. It is vitally important that organizations like this continue to grow the economy at the local level. As a County, we are very appreciative.

15. Adjournment. There being no other business to come before the Board; the Board of Commissioners meeting was adjourned at 10:55 a.m. by unanimous consent.

The next regular public meeting of the Board of Commissioners is scheduled at 9:30 a.m. Tuesday, November 28, 2023.

 Recorder
For Board of Commissioners
Marsha Meyer

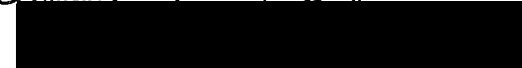
LINN COUNTY BOARD OF COMMISSIONERS



Roger Nyquist, Chair



William C. Tucker, Vice Chair



Sherrie Sprenger, Commissioner

Date 12-19-2023