

LINN COUNTY BOARD OF SUPERVISORS
CEDAR RAPIDS, LINN COUNTY, IOWA
MONDAY, FEBRUARY 7, 2022 11:00 A.M.

The Board met in session at the Linn County Jean Oxley Public Service Center.
Present: Chairperson Rogers, Vice Chairperson Zumbach and Supervisor Walker (via phone). Board members voting "AYE" unless otherwise noted.

Chairperson Rogers called the meeting to order.

Motion by Rogers, seconded by Zumbach to approve minutes of Feb. 1, 2, 4, 2022 as printed.

Motion by Rogers, seconded by Zumbach to remove the following from the agenda: Discuss Resolution disposing of an interest in real estate via a long term 20-year real estate lease between Linn County Conservation, Linn County and Feed Iowa First for the exclusive use of approximately 17 acres legally described as Outlot A, Squaw Creek Ridge Second Addition to Linn County, Iowa.

Motion by Rogers, seconded by Zumbach to authorize Chair to sign, retroactive to February 4, 2022, a letter to Governor Reynolds supporting the Eastern Iowa Airport's request for federal coronavirus state assistance funding.

Darrin Gage, Dir. of Policy & Admin., presented a temporary construction easement request from the City of Cedar Rapids on property located NW of 1018 5th SE, Cedar Rapids as part of the City's 11th Avenue SE and 5th Street SE Roadway and Utility Improvements project. The Board will approve on Wednesday.

Gage and Sarah Coleman, Martin Gardner, presented a Resolution to provide for a Notice of Public Hearing on the proposed plans, specifications, form of contract, and estimated total cost (\$322,500) for the Priority #1 Linn County Facilities Derecho Repairs Project, and for the taking of bids on said project.

Motion by Rogers, seconded by Zumbach to adopt Resolution 2022-1-21

A RESOLUTION TO PROVIDE FOR A NOTICE OF PUBLIC HEARING ON THE PROPOSED PLANS, SPECIFICATIONS, FORM OF CONTRACT, AND ESTIMATED TOTAL COST FOR THE PRIORITY #1 LINN COUNTY FACILITIES DERECHO REPAIRS PROJECT, AND FOR THE TAKING OF BIDS ON SAID PROJECT WHEREAS, in response to the August 10, 2020 derecho, it is proposed that the Linn County, Iowa Board of Supervisors (the "Board") authorize the construction of the public improvement(s) as described in the proposed plans, specifications, and form of contract prepared by Martin Gardner Architecture (the "Project Architect"), which may be hereinafter referred to as the "Priority #1 Linn County Facilities Derecho Repairs Project", or the "Project"; and, WHEREAS, the proposed plans, specifications, form of contract, and estimated total cost for the project (the "Contract Documents") are on file with the Board; and, WHEREAS, it is necessary to set a time, and place for a public hearing on the Contract Documents, to publish a Notice of Public Hearing on the Contract Documents, and to advertise for sealed bids on the Project.

BE IT THEREFORE RESOLVED by the Board as follows: The Board hereby approves the proposed contract documents referred to in this Resolution, as prepared by the Project Architect, in their preliminary form. The Board hereby determines that the Project is necessary and desirable for Linn County (the "County"), and finds that it is in the best interest of the County to proceed toward the construction of the Project. The Board shall hold a public hearing on the proposed contract documents on the 7th day of March 2022 at 11 o'clock am in the Formal Board Room of the Linn County Public Service Center located at 935 - 2nd Street SW, Cedar Rapids, Iowa, at which time any interested person may appear and file objections to the proposed Contract Documents, and, after hearing objections, the Board may proceed with approval of said Contract Documents. The Board hereby authorizes and directs the publication of a notice of public hearing on the Contract Documents for the Project at least once, not less than four (4) nor more than twenty (20) days before the date of the hearing in one or more newspapers which meet the requirements of Iowa Code Section 618.14. The Board hereby delegates to the Purchasing Director and/or his designee(s) the duty of receiving bids for the construction of the Project until 2 o'clock pm on March 4, 2022, at the Linn County Public Service Center in Cedar Rapids, Iowa. The Board hereby sets March 7, 2022, at 11 o'clock am in the Formal Board Room of the Linn County Public Service Center as the time and place that the Board or its designee will open and announce the bids received for construction of the Project, and that the Board will consider said bids. The Board hereby fixes the amount of the bid security to accompany each bid at five (5) percent of the amount of the bid. The Board hereby authorizes and directs advertisement for sealed bids for the Project in accordance with Iowa Code Section 26.3.

Maura Pilcher, Chr. of Linn County Historic Preservation Commission, presented their 2022 Annual Update.

Motion by Rogers, seconded by Zumbach to open Public Hearing on an ordinance amending Section 107-149 Renewable Energy Overlay District of Chapter 107 Unified Development Code to establish a six-month moratorium on rezoning to the Renewable Energy Overlay ("RE") zoning district for utility-scale solar projects.

Charlie Nichols, Planning & Development Dir., presented staff's proposal for a moratorium on utility scale solar for a period of six months or until new language is adopted. The purpose is to incorporate some of the lessons learned during the Coggon project into the code. This would include requiring an agricultural impact mitigation plan (specifying drain tile identification, top soil avoidance, etc.), require vegetation management plan (seed mix ratios, maintenance practices, etc.), update setbacks to reflect the Coggon project, decommissioning plan changes (not using salvage value) and inserting language regarding disaster cleanup. Staff would also like more time to investigate a more flexible approach to building soil health such as a scorecard where the applicant would be able to get points for doing different vegetative practices. He noted that the intent is not necessarily to have this be a moratorium on projects for six months but to give staff time to update the code, to reflect the conditions that were added for the Coggon project and also give staff more time to look into specific issues.

Supervisor Zumbach stated that this has been discussed in the past and experience is the hardest form of education because the test comes first and the lessons come after (this is a great indication of that). He thinks that they got the cart a little bit before the horse last month and it is time to circle the wagons and make sure the county is more prepared.

Supervisor Walker asked Nichols for more explanation regarding the need for more time.

Nichols stated that there are a few specific issues that he feels they need time to figure out. One of the most pressing being the handling of vegetation on site to build soil health.

Supervisor Walker noted that Jon Gallagher wrote a memo regarding soil health and panel height and they had a pretty in depth discussion that followed. Even after having that discussion and pointing out any blind spots, he asked Nichols if he still feels that this may be necessary.

Nichols responded that staff would like a little bit more time as they realized that there were some blind spots in their recommendation on the minimum panel height. They would like to take a more comprehensive approach to soil health and not fixate on any one aspect of a project. He thinks that there is some more research and experts to be consulted before they have a final product. Again, looking at pollinator scorecards is a really good model. They need more time to iron it out and put something forward that makes sense not just for Linn County but also for any applicant coming forward.

Chairperson Rogers asked about Nichols' statement "for a period of six months or until new language is adopted". He asked if Nichols was able to put an approximation of time (30, 45, 60 days). He noted that he does not typically like holding out a deadline if it is not clearly understood by all.

Nichols stated that it is hard to put a time limit on it. He is confident that it will not take a full six months, noting that 90% has been figured out. The biggest issue is vegetation.

Supervisor Zumbach clarified that a moratorium is not designed to stop a solar project. It is designed to just get the county in a better position. It could take 30 days or all 6 months. The key thing is that it is not meant to stop any projects.

Nichols reflected on the Coggon project and stated that by taking a pause and putting all conditions in the code, any future applicants will know up front what Linn County is looking for. It will hopefully shorten the process for future applications. He stated that a representative of NextEra contacted him last week regarding this agenda item and stated that they are willing to abide by all of the conditions put on the Coggon project (even without them being in the code). They could address it the same way they did Coggon, (extra conditions outside the code). If they do that, he would still like to bring code changes to the Planning & Zoning Commission and then before the Board. There are four projects in que and it important that the code is updated as soon as they can. He explained the county's obligation once an application is filed.

Swati Dandekar, 2731 28th Ave., Marion, and Chairperson of Bright Future Iowa, spoke on behalf of their 4,000 supporters. She stated that less than two weeks ago the Board approved the Coggon solar farm after a long and thoughtful process. The Board heard from all sides and ended up with the plan that addressed resident's concerns while allowing the project and all of its economic benefits to move forward. After listening to Nichols, she does not understand why the pause. Now is the time to move forward with the Duane Arnold solar project noting that it will bring in a \$150 million investment to Linn County as well as millions in new tax revenue. She reminded the

Board that the business community is seeking access to clean renewable energy and having both Coggon and Duane Arnold Solar Farms makes Linn County an attractive place to open for new business. Solar progress can make Linn County a 21st century leader in Iowa. She added that a moratorium risks everything, Nichols, and his staff can do things parallel. If the Board votes yes, they are voting no for progress. It is time for Linn County, Alliant and NextEra to come together in good faith and finalize details. She urged the Board to reject the unnecessary moratorium.

Mike Carberry, 2029 Friendship St., IC, stated that he has been in the solar and agricultural policy business for over 20 years and thanked the Board for their hard work and bold leadership shown so far. He thanked everybody who was involved with the last solar project and their thoughtful discussions. He is proud of Linn County for all the work put into the Coggon project and the additions made which is important as they move forward. A moratorium is really not needed and he compared it to starting a football game and changing the rules of the game after it was started. He asked the Board to finish what they started and if they need to add some things to the code, then do that. He continued to discuss Agrivoltaic and asked the Board to move forward and not do a moratorium. There are people in que and dates to be met.

John Bregoli, 2114 Lincolnshire Dr., CR, stated that he is against a moratorium, as it is not needed for reasons already stated and will put future projects at risk. NextEra can submit an application and go in parallel with updates. He also stated that he is very concerned about the right of way already in place for them. NextEra will maintain that right of way, use it and keep it in good shape for 30 years. He stated that there will be new technology in 30 years and the footprint can be used again. Nichols stated that 90% of what they need is ready to go. They should be able to move forward in tandem.

Marc Franke, 4205 Vista Rd., Ely, voiced opposition to a moratorium noting that they just spent 8 months examining possible issues from solar farms. Some of that learning was incorporated in the Coggon solar project, which was approved. Solar farming is new and they need to preserve the beauty and character of the countryside while respecting the rights and property values of non-leasing neighbors. No non-leasing neighbor should ever be enclosed on all four sides by solar panels. They do need to update the solar overlay with what they have learned. If they can further strengthen protection for non-leasing neighbors, while balancing property rights for all, they should do it. There is further agriculture value by adopting a vegetation management plan in the form of sheep grazing instead of mowing and herbicides. When the borders of a solar farm are beautified with native Iowa pollinator plants, the soil is enhanced and honey becomes another Ag. product. Sheep grazing and honey production adds Ag. jobs and expands Ag. opportunities for farming. The solar ordinance should embrace these Ag. benefits. He suggested a two-month timeout to update the overlay and look for ways to improve. If NextEra wants to show a detailed proposal that can help inform the County of their intentions, they can do so. The application itself can wait two months (they have already delayed for reasons of their own far longer than that).

Phil Engen, 4913 Lincoln Hts. Dr., CR, supports the idea of codifying the things they learned from the Coggon project into the code for future reference to make it easier for new companies to invest in solar projects. The County will continue to learn as they do more projects but they cannot pause every time they learn something new. They need to make it as easy as possible He asked the Board to not approve a moratorium.

Sara Alden, 4124 Greens Grove Rd., CP, stated that six months is not a lot of time and she agrees with Nichols to take time to codify and get things in place. There are key things that need laid out and adjusted. NextEra has mentioned they have four projects coming. That could be tens of thousands of acres; there are 6,700 acres signed into Linn County right now and the County needs to slow down. They need time to get the foundation laid correctly such as a policy for battery stations. She asked the Board to allow their team to do research and spend time to figure out what is best for Linn County. She asked those that are present today and are in support of the moratorium to stand up. She also stated that the labor unions would likely want this to drag out more, to get more time in those jobs. They do not have enough to do both. She asked the Board to take six months to try to protect the County's liability, protect resident's property value and get the code in place to protect the county. They talked to MISO and there is a time contingency but it's not a hard fast time date. This is about Linn County and not the developers.

Jason Snell, 3105 Allegany Dr. NE, commended the Board for all of the work they put into the Coggon project. Their resilience, patience and consideration is impressive. He supports projects going forward as do the Sunrise Movement members. Vote no to the moratorium.

Danny Hemminger, 5134 Ridgewood Meadows Ln. NE, CR, thanked the Board for their due diligence and time invested in the Coggon project. He reminded everyone what is at risk with the timeline paused: \$700 million in capital investment; \$40 million in tax revenue; 300 construction jobs and over \$500 million in landowner payments. Any landowner should have the opportunity to use their land as they deem fit (within the laws of the jurisdiction it resides). They are at a historic crossroads right now in Iowa with renewable energy and he asked the Board to vote against the moratorium and continue their commitment to Linn County and renewable energy.

Bill Gerhard, 5134 Rabbit Creek Rd. NE, IC and Pres. of Iowa State Building Construction Trades Council, stated that he represents 16 crafts and new construction workers across the state. They have 30,000 members, many of which live and work in Linn County. They are entering an era of renewable energy. Jobs created will be local people getting union wages and fringe benefits. This will put food on the table for a lot of members and will have a ripple affect around the county. He urged the Board to vote no on the moratorium and to let the project go forward.

Bob Doubek, 8508 C St Rd. CR, echoed what other's said and stands in opposition of a moratorium. It sounds like the owner and staff for Linn County can figure this out as they walk through the project.

Deb Yates, 2362 Young Rd., Palo reminded the Board that they talked about moving the goal posts. Taking the time to set this stuff down in the ordinance will be setting that goal post for the citizens and applicants to know what is expected. NextEra will be much bigger with denser populations and closer proximity to small towns and Cedar Rapids. They need to take the time to be ready to process what they are going to want to do.

Jim Pray, Atty. for Duane Arnold 1 & 2, stated that Duane Arnold wanted to request a formal pre-application meeting with Planning & Development to start the review of the Linn County application. They were told that Linn County was in the process of updating its ordinance and imposing a moratorium. Their pre-application meeting was denied. In good faith, Duane Arnold wanted to refrain from requesting a formal pre-application meeting and filing their application while the Coggon solar hearings were going on and conditions negotiated. This was not ideal as Duane Arnold wanted to have already filed with the Iowa Utility Board. They need to continue the process to bring the projects on line in the timeframes expected by its customer IPL. To deny Duane Arnold 1 and 2 the opportunity to move forward in the process now penalizes these projects for doing the right thing by waiting for a decision on Coggon. Duane Arnold has no issues with Linn County imposing the same conditions on their projects. Both projects understand that a new ordinance that is enacted during the review of its application will be applicable to their project. Duane Arnold wanted to ask that they be allowed to proceed with a formal pre-application meeting and submittal of its application with the understanding that they not be subject to a moratorium. Duane Arnold wanted to believe that both the county's desire to codify the Coggon solar conditions and the Duane Arnold 1 and 2 cases be conducted in parallel. It seems that only 10% remains to be negotiated and any moratorium (no matter how short) should not be applied to Duane Arnold 1 and 2 as they have committed to comply with the Coggon solar conditions. He also noted that they asked members of the community to comment on the moratorium and they received a lot of emails opposed to it.

Traci Nelson, 3311 Pleasant Crk. Rd., Palo, stated that she wanted to talk about property values again because nowhere in the current solar overlay district code do they consider the loss of property values which is why she is very much in support of a six month moratorium. This will give the county more time to make and adopt reasonable changes to the existing code which should include loss in property value. Solar companies have cited several studies that few properties are impacted by solar installations, however, they lumped small projects with large. Solar companies say there is no impact but when asked to provide that guarantee, they refuse. It is the Board's responsibility to protect the citizens of Linn County. The Board has to follow state law.

John Zakrasik complemented the Board for the outstanding job in taking the Coggon solar project from start to finish with a significant number of improvements. He stated that it is appropriate to proceed in parallel and to let Duane Arnold solar project proceed. They have agreed to the Coggon requirements and will take into account changes to the code. He asked the Board to vote against the moratorium and allow Duane Arnold to move ahead.

Kelly Merta, 4194 Quailridge Rd., Center Point, stated that she is tired, the Board is tired, Nichols and his staff are tired. It is in the county's best interest for Planning & Development staff to have the time to focus and not be distracted with another application while working on an update to the code. She supports a moratorium whether it be weeks, months or whatever Nichols and staff need. It will also bring trust and transparency back to the county. Trust and transparency left in 2020 which changed from a conditional use permit to the zoning process. She asked the Board to please support a moratorium and give Nichols and staff the time.

Gayla Boylen, student in Cedar Rapids, stated that she plans to stay in Linn County and is speaking on behalf of herself and the Sunrise Movement; they support changes in the code and are empathetic to the staff's capacity. However, there is an urgency of industrial solar and to move forward. She urged the Board to keep moving forward.

Motion by Rogers, seconded by Zumbach to close public hearing.

Charlie Nichols confirmed that six months would be the maximum amount of time needed and he does not anticipate it taking that long.

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Adjournment at 12:24 p.m.

Respectfully submitted,

JOEL D. MILLER, Linn County Auditor
By: Rebecca Shoop, Deputy Auditor

Approved by:

BEN ROGERS, Chairperson
Board of Supervisors