

LINN COUNTY BOARD OF SUPERVISORS
CEDAR RAPIDS, LINN COUNTY, IOWA
WEDNESDAY, OCTOBER 5, 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 and led the Pledge of Allegiance.

Public Comment: The following comments were made regarding the Solar Moratorium:

Don White, 602 Blue Heron Ct. NE, Cedar Rapids, thanked Charlie Nichols and his team for doing an amazing job by providing a renewable energy overlay which is the best in the nation. This positions Linn County to be the epicenter of an amazing transition of a paradigm shift in agriculture that could provide farmers with a significant reliable income stream. This is a way to replenish and reduce stress on aquifers. It also provides peak power. As a lifetime resident of Linn County, he has been renewable energy advocate since 1989 and presented examples of his advocacy. He stated that it will take four years for the current approved solar projects to come online. Even with those projects, they need more, significantly more power. He pointed out the following risks for the current Board of Supervisors and those running for election to think about: 1) Power outages. The power demand will only increase. 2) Global temperatures and trends. 3) Sole Smart Goal designation. 4) Elderly will be without power. If they are sending a signal with red flags and delays for developers, they may not want to do business with Linn County. They need peak power and will go where they can do business the easiest. 5) Delaying a significant and reliable revenue stream for Linn County farmers. He addressed the three-month moratorium stating that it needs to be very limited in scope, focused on what is most valuable and needs to be achievable in that three-month period.

Mike Carberry, 2029 Friendship St., Iowa City, Bright Future Iowa, stated that he has spent hundreds of hours in Linn County on solar business. He thanked the Board for the hours put into this plus other Linn County departments. Even though he didn't want a moratorium, it is a wise decision to go to the end of the year. This will let the new Board of Supervisors see how it works. Nichols stated that it could take five months, and it might. If they stay focused and the Board gives direction on what is important and what is not, that will help. Focus on the task and the task advantage of the pause to get the work accomplished. The Board should limit the scope and not allow for extraneous issues to muddle the process. Focus on updating the ordinance to include the conditions placed on Clenera and NextEra. Key issues such as battery storage, seed mixture, etc. should include the input of industry experts like himself and others, if not the developers themselves. Put forward a good policy based on facts and not emotional pleas or internet rumors. The Board and Nichols have done the work so use the copy and paste function on the computer and roll in all that work that's been done for the last two projects. Use those lessons learned to drive the process. If focused, it could get done in the three-month time.

Marc Franke, 4205 Vista Rd., Ely, after listening to Nichols on Monday, there is clearly a staff capacity issue that will need to be addressed that if they are going to get any traction. During the IUB hearing, he asked that NextEra fund a battery expert that the county could hire and they agreed to that. There is a pipeline issue that requires attention and there a lot of issues that will come down the line. Maybe at least one new staff person could be hired in this area. They could also supplement that with volunteer resources. Speaking on behalf of the Clean Energy Dist., there are a variety of retired engineers that are willing to volunteer to do provide leg work to do technical review or whatever is necessary.

Laura Myres, 3372 64 Dr. St., Palo, thanked the Board for considering a moratorium. Having looked at the advisory committee application, she hopes that the Board would consider adding oversight to the list. What happens if the developer/owner does not perform as called for in the conditions/ordinances? From her reading the ordinances, the only recourse the county has is to rescind or deny the overlay. What would trigger that decision? What if there are minor infractions? Since the projects are on leased land, does the landowner go to the developer directly in the case of a perceived infraction or does the landowner come to the county? She asked the Board to consider delineating responsibility, authorities, and penalties. She gave a possible list of scenarios that could end up before the county for resolution. Having come from a nuclear background, she stated that there were rules and regs for just about everything. The NRC oversaw the operation of DAEC. Violations resulted in fines (often hefty). Linn County is effectively the NRC for the solar projects. It appears that the county needs to have more/other options to hold the developer/owner accountable for infractions/violations that affect both the landowners and the taxpayers who ultimately would pay the price for remediating damage caused.

Kelly Merta, 4194 Quail Ridge Rd., Center Point, gave a recap of what she heard at Monday's board meeting. Nichols thought it was time for a code update for a better code and to take it serious this time so that the county can have the best code possible. She gave a recap of what Supervisors Rogers and Walker stated on Monday. Nichols spoke of the strategic planning his office has done and how it's been identified that they have 5-7% staff capacity for the "other" which those reviews fall under. He ended with a statement along the lines of "trusting that the moratorium would be

extended". She stated that discussion continued about necessary quarterly reviews. As a member of the listening public, she heard that this action is about strategy and not about the obligation to protect the county, the landowners, and the taxpayers. When they don't commit to the process on the basis they are embarking on, the actions are reduced to just being political theatre. The quarterly review is a way to come across to those who are not paying attention as actually caring. If the public has been actively engaged in watching how the county does business for the last two years, they would know that the department heads come before the Board frequently to provide updates. It is a slap on the face of Nichols and his office to have to jump through arbitrary deadlines that detract from them actually doing their work. The message that Supervisor Rogers has given is that if political pressure gets too hot, he wants to drop the process before it's complete, full knowing that a new application would then be reviewed on the foundation of an ordinance that has not been updated to address the very risks and gaps that were used to justify the pause. She asked Nichols to "walk faster and chew harder" and not to forget the updates. She ended by saying to please keep in mind that there is a vote coming and everyone should show up for that.

Traci Nelson, 3311 Pleasant Creek Rd., Palo, stated that back in May she emailed Nicholes to see if NextEra would be required to fix drainage tile and he said they will be required to fix tile resulting from construction of their solar project if approved. However, drainage issues are a civil matter between property owners which the county will not take sides. She looked into case law regarding liabilities between neighbors and she gave examples of court cases. The landowner and the independent contractor is liable to adjoining landowners. This includes the farmers that leased land to NextEra. She gave examples of who is responsible for certain damages and that is why distance is a big issue. It needs to be further than 50' to the property line or 300' to the house. The county needs to have in place consequences for not meeting requirements. There is nothing about requiring NextEra to fix something within a reasonable time. They want protection from fires, tile damage, vibrations from pile driving and wind damage.

Motion by Rogers, seconded by Walker to approve Consent Agenda as follows:

Resolution 2022-10-152

Linn County and City of Lisbon Agreement For
Rental Housing and Property Maintenance Inspections

WHEREAS, the Board of Supervisors, Linn County, Iowa, pursuant to Iowa Code Chapter 28E, proposes that Linn County enter into an agreement with the City of Lisbon, Iowa under the title *Linn County and City of Lisbon Agreement for Rental Housing and Property Maintenance Inspections*, and AND WHEREAS, the purpose for such agreement is to provide for the administration of the property maintenance and housing codes of the City of Lisbon by Linn County in order to protect the public health, safety, and welfare, and AND WHEREAS, such agreement is in the best interests of Linn County and the City of Lisbon, and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors, Linn County, Iowa, that Linn County, Iowa will join pursuant to Iowa Code Chapter 28E, with the City of Lisbon, Iowa into an agreement entitled *Linn County and City of Lisbon Agreement for Rental Housing and Property Maintenance Inspections*.

Resolution 2022-10-153

PETITION FOR THE SUSPENSION OF FISCAL YEAR 2023/
ASSESSMENT YEAR 2021 PROPERTY TAXES

WHEREAS, the Linn County Board of Supervisors is this day presented with a petition for the suspension of taxes and/or special assessments pursuant to Iowa Code Section 427.8; and

WHEREAS, the property for which assessments against the Petitioner are made lie within Linn County; and

WHEREAS, the Petitioner is unable to contribute to the public revenue by reason of age, infirmity, or both.

BE IT THEREFORE RESOLVED by the Linn County, Iowa Board of Supervisors, this date met in lawful session, that the petition listed below is approved as described.

Petitioner	Parcel#	Tax Years	Special
Papke, Erin	14162-02002-00000	2021	

BE IT FURTHER RESOLVED the Linn County Treasurer is ordered to suspend the collection of taxes assessed against the Petitioner, and his or her polls or estates, for the parcel listed above for the tax years as indicated

Resolution 2022-10-154 ESTABLISH STOP REGULATIONS

WHEREAS, the following intersection located in Linn County has been reviewed by the Linn County Secondary Road Department, and WHEREAS, it is deemed appropriate to place traffic control signing, and NOW THEREFORE BE IT RESOLVED by the Board of Supervisors, meeting in regular session, and upon recommendation of the Linn County Engineer that the Secondary Road Department place a stop sign at the following locations.

District 1 (west of I-380)

Road Name	Direction of Traffic	At Intersection with Road Name	Section	Township	Range
Sisley Grove Road	Southbound	Morgan Valley Road	6	82	8

District #4 (west of Hwy 13 and north of 151)

P	Direction of Traffic	At Intersection with Road Name	Section	Township	Range
Paris Road	Westbound	W Otter Road	19	86	7
Maple Knoll Road	Westbound	N Marion Road	6	85	6
Maple Knoll Road	Eastbound	Sutton Road	6	85	6
Reed Lane	Northbound	Fay Road	15	85	8
Blue Creek Road	Northbound	Durow Road	31	86	8
E Urbana Road	Eastbound	Blue Creek Road	31	86	8

The Board of Supervisors declares these signs to be legal, valid, and enforceable and directs the County Engineer to erect said signs in accordance with the provisions of the Code of Iowa.

Resolution 2022-10-155

A Resolution approving a three lot Land Preservation Parcel Split, case JLPS22-0001. The following description is a summary of Resolution No. 2022-10-155 as passed and approved by Linn County Board of Supervisors, effective October 5, 2022. Lang Acres First Addition (case # JLPS22-0001) to Linn County, Iowa, containing three (3) lots, numbered lot 1, lettered lot A, and outlot A, a subdivision of real estate located in the NE NW of Section 7, Township 84 North, Range 5 West of the 5th P.M., Linn County, Iowa, described as follows: Commencing as a point of reference at the NW Corner; thence N88°35'21 "E along the north line of Parcel A, Plat of Survey No. 76, 1158.17 feet to the Point of Beginning; thence N88°35'21"E along the north line of said NE¼ NW¼, 1131.97 feet the NW Corner of Hawkins' First Addition to Linn County; thence S01 °34'53"E along the west line of said Hawkins' First Addition, 517 .10 feet to the SW Corner of said Hawkins' First Addition; thence S88°44'14"E along the south line of said Hawkins' First Addition, 156.10 feet to the east line of said NE ¼ NW ¼; thence S01 °02'19"E along said east line, 803.62 feet to the SE Corner of said NE ¼NW¼; thence S88°31'04"W along the south line of said NE¼ NW¼, 1289.01 feet to the east line of said Parcel A; thence N01 °12'17"W along said east line, 1329.60 feet to the Point of Beginning containing 37.49 acres which includes 1.04 acres of road right of way. The full text of the Resolution may be inspected in the Linn County Auditor's Office located at 935 Second Street SW, Cedar Rapids, Iowa, during regular business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday or on the Linn County website at www.linncountyiowa.gov.

Approve and authorize Chair to sign an Adopt-A-Roadside for Kristin Wheatley-Willimack and Chad Willimack to adopt 1354 Martin Creek Road from the west property line to the east property line.

Approve and authorize Chair to sign an American Rescue Plan Act (ARPA) Subaward Agreement between Linn County and National Association for the Advancement of Colored People (NAACP 4013) for the Immigrant and Refugee Community Gardens Project in the amount of \$17,460.00.

Approve and authorize Chair to sign an agreement between Linn County and the Iowa Governor's Office of Drug Control Policy for Linn County Mental Health Access Center marketing funds, and related documents.

Approve and authorize Election Costs to be billed for September 13, 2022 Special Election - Alburnett Community School District.

Approve and authorize Election Costs to be billed for September 13, 2022 Special Election - Anamosa Community School District.
Award bid and approve purchase order PO385 for a Tandem Roller to Star Equipment LTD in the amount of \$39,550.00 for the Secondary Road Department.

Award bid and approve purchase order PO386 for a Tilt Tag Trailer to Wright Way Trailers INC in the amount of \$28,695.00 for the Secondary Road Department.

Approve purchase order #PO388 for \$9,090.00 to Huber Fencing LLC for fencing around Linn County's Shelter.

Motion by Rogers, seconded by Zumbach to approve minutes of Oct. 3 & 4, 2022 as corrected.

Motion by Zumbach, seconded by Rogers, to approve Claims for AP checks #71008562-#71008693 in the amt. of \$243,579.19, and AP ACH in the amt. of \$3,265,746.35 for a total of \$3,509,325.54; and void-reissue checks #71008694 in the amt. of \$450.00

Motion by Zumbach, seconded by Rogers to approve payment to Supervisor Walker in the amt. of \$80.00. VOTE: Rogers & Zumbach - Aye Walker - Abstain

Motion by Zumbach, seconded by Walker to approve payment to Supervisor Rogers in the amt. of \$80.00. VOTE: Walker & Zumbach - Aye Rogers - Abstain

At this time the Board considered second consideration of an ordinance amending the Code of Ordinances, Linn County, Iowa by amending provisions in Chapter 107, Unified Development Code, relating to a moratorium on accepting rezoning applications for the Renewable Energy Overlay District.

Nichols stated that the ordinance language has been updated based on Monday's discussions. Comments that he received match what was said today.

Chairperson Rogers asked Nichols to include updates on this topic during his monthly updates. He also appreciates the flexibility with the language changes made because of discussions on Monday. Developers and applicants will know exactly what expectations are and this is a short-term strategic pause.

Supervisor Walker acknowledged that he is grateful to his colleagues, and he received a lot of emails from folks in the environmental and sustainability community concerned about the moratorium. He considers it a strategic pause and wants to ensure those that this does not reflect a change in substantive policy on the importance of renewable energy in the community. He wanted to dispel that sentiment. They are attempting to make an already good ordinance even better. He is looking forward to feedback from members of the public that have had some good ideas and he commends Laura Myres for her comments about oversight. He will commit to exploring that issue with the Civil Division.

Nichols stated that his name has been mentioned quite a lot about influencing the Board to vote one way or another. He tries to do the best job he can to communicate. The purpose of bringing the moratorium forward is that they have a good code, but he also thinks that this is the process to take what they know from all the research and make it into a really good code and make a model for other jurisdictions and possibly nationwide.

Supervisor Zumbach advised Nichols that he has his full support of accomplishing this on his timeframe and he does not want him to feel pressured. There are numerous issues out there and he needs to do the best he can. He also stated that for those out there that used to be public servants, the Board is looking out for the people they represent.

Motion by Rogers, seconded by Walker to approve upon second consideration an ordinance amending the Code of Ordinances, Linn County, Iowa by amending provisions in Chapter 107, Unified Development Code, relating to a moratorium on accepting rezoning applications for the Renewable Energy Overlay District.

Motion by Rogers, seconded by Walker to approve upon second consideration an ordinance amending the Code of Ordinances, Linn County, Iowa by amending provisions in Chapter 107, Unified Development Code, relating to: measuring the rear yard setback on triangular lots; amending the distance between animal runs or exercise areas and property lines in some instances for the animal boarding/shelter/kennel use; and adding use categories for Historic Schoolhouses and Recreation Camps, case JA22-0003.

Motion by Rogers, seconded by Zumbach to approve the following allocations for the Legacy & Community Attraction grant funds: The African American Museum - \$25,000; The History Center - \$50,000; Indian Creek Nature Center - \$25,000; and The Linn County Fair Association - \$50,000

Public Comment:

Jason Wright, Exec. Dir. of the Linn County Hist. Soc., thanked the Board for the grant award on behalf of the Board, staff and volunteers and promised they will continue to serve more Linn County residents in the next year.

Supervisor Walker stated that the Board is limited in the amount of funds they can distribute. They always have more requests than available funds and he really hopes those that were not awarded funds know that this is not a reflection on their organization or mission. It is simply that they must make tough decisions and encouraged them to apply and show up at Board meetings to explain what they are trying to do.

The Board received and placed on file a notice of voluntary annexation to the city of Robins.

Adjournment at 11:41 a.m.

Respectfully submitted,

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

Approved by:

BEN ROGERS, Chairperson
Board of Supervisors