

LINN COUNTY BOARD OF SUPERVISORS
CEDAR RAPIDS, LINN COUNTY, IOWA
WEDNESDAY, OCTOBER 12, 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. 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 with regard to the proposed Ordinance for a solar moratorium:

Pam Mackey Taylor, 2200 S. 31st St., Marion, spoke on behalf of the Sierra Club. She encouraged the Board to pass the ordinance but also encourages a shorter time period for review. It is important to review but they want to ensure that it is not slowing down future solar projects and jobs that come along with it.

Don White, 602 Heron Ct. NE, Cedar Rapids, stated that he has pointed out on multiple occasions that Linn County is at risk for power outages. While the approved solar projects are being worked on, Linn County is likely to experience a power outage. The Board can respond with working diligently with developers and utility companies to excel delivery of peak power solutions or pause the process because they want to make sure "not in my neighbors backyard people" are ok with looking at solar panels. He wants to make sure that the brief pause is truly about making utility scale solar responsible and NOT about a delay, delay, stop play to prevent labor from having high quality jobs or landowners from having a reliable and significant revenue stream. There are some real important questions about the moratorium that need to be answered to the public and that is specifically: 1) There is no definition of "done" and what is going to be accomplished in the three-month timeframe. Needs to be clearly defined. 2) The selection process. He heard people talk about disqualifying developers from the committees because of conflict of interest. Another significant conflict of interest is those that are opposed to utility scale solar. They won't approach it in a way that is positive for the outcome (be efficient and expeditious). 3) Who is selecting the participants and what are their qualifications. 4) What are the transparency plans so that Linn County residents know who is on the committees. He asked the Board to postpone today's vote on the moratorium until there is a clear definition of "done" and there is clear and transparent plan for the committee selection process.

Kelly Merta, 4194 Quality Ridge Rd., Center Point, thanked Mike Carberry who gave advice at the Oct. 5th board meeting to use Rip off and Duplicate. After pondering what he said, she is on board and explained why. She heard a lot of dialogue about how strong the current ordinance is and if compared to the other 98 counties in Iowa, that may be accurate. She does not believe that it is accurate when they start looking at counties who have had "lessons learned" experiences. She reviewed solar policy from counties across the Midwest that have had actual solar development activity and she gave several examples that she has come across that they could "rip off and duplicate". In closing, she stated that Mr. Carberry was right, there is a lot of good language out there. Linn County can and should rip some of it off and paste into an updated ordinance where the county and the taxpayers are not second consideration to the giant utilities and their shareholders. She looks forward to seeing where this update takes them.

Mike Carberry, Bright Future Iowa, Iowa City, thanked Kelly Merta for name checking him and for agreeing with his Rip off and Duplicate strategy. However, if Linn County is going to rip off and duplicate solar policy from other places, they need to be from those that work; have proven the test of time and works for everybody. Some things Merta said sounds reasonable and some sounds like poison pills. Scott County for example passed an ordinance a couple months ago that has a couple poison pills, so Linn County should not rip off and duplicate everything (just those that work). Based on a meeting he attended yesterday, Linn County seems to be going back and forth with Johnson County. Linn County has a good ordinance now, noting that they have gone through the work to create all the wonderful requirements that were added for Clenera and then NextEra agreed to. The Board and staff need to focus on the deadline of the moratorium of December 31 and stay focused. Use the cut and paste feature, rip off and duplicate so that they don't need the expansion past Dec. 31.

Steve Mason, 6547 Benton Linn Rd., Palo, commended some ordinary citizens that volunteer their time to serve Linn County. Recently, the Planning & Zoning Commission (with one individual gone) voted unanimously to recommend to the Supervisors a one-year moratorium. He appreciates the time the commission took to listen to all the facts surrounding the important issue. Once the building begins, there is no turning back. He believes the taxpayers of Linn County and the public will be grateful in the future for the bold and thoughtful recommendation.

Laura Myres, 3372 64th St. Dr., Palo, thanked the Board and stated that she hopes that as the Board embraced utility solar that they will also embrace their role as overseers of that. Whether they look at IUB or not, there is another 800 megawatts (give or take) of solar in Linn County before the MISO queue (plus another 100-megawatt battery). So, she hopes that they will take whatever time Planning & Development needs to update for the BESS (battery electric storage system) and to protect the county from things that could possibly go wrong. Whether they like to think about it or not, solar industry is new, and it can be more robust.

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

Receive and place on file Revised Treasurer's (Auto Dept.) Report to the County Auditor Receipts and Disbursements for the Month of August 2022.

Receive and place on file Treasurer's (Auto Dept.) Report to the County Auditor Receipts and Disbursements for the Month of September 2022.

Resolution 2022-10-156 VACATE EXCESS ROAD RIGHT-OF-WAY

WHEREAS, the Linn County Board of Supervisors desire to vacate a portion of excess road right-of-way, more particularly described as follows.

A portion of Johnsons First Addition to Toddville, Block 7, located in the SE 1/4 SE 1/4, Section 12, T. 84N., R. 08W. of the 5th P.M., Linn County, Iowa described as follows:

The alley lying between Lots 7 and 8, Lots 5 and 6, Lots 3 and 4, and Lots 1 and 2 of said Johnsons First Addition, Block 7 and Second Street lying north of Lot 2 and said alley. Said vacated area = 5,897 sf or 0.14 acres.

WHEREAS, pursuant to Chapter 306.12 and 306.13 of the Code of Iowa, notice was published in the Cedar Rapids Gazette, a copy of said notice being attached hereto, and

WHEREAS, all adjoining land owners, all utility companies and the Iowa Department of Transportation have been notified by certified mail pursuant to Chapter 306.12 of said vacation and the hearing thereon, and

WHEREAS, the Linn County Board of Supervisors pursuant to the aforesaid notice held a hearing on the proposed vacation of the aforementioned right-of-way, and

WHEREAS, it being deemed in the best interest of Linn County to vacate said right-of-way, and

WHEREAS, this vacation is subject to easements of record at time of the public hearing including a utility easement, and

NOW, THEREFORE BE IT AND IT IS HEREBY RESOLVED by the Linn County Board of Supervisors this date met in lawful session to vacate as described below:

A portion of Johnsons First Addition to Toddville, Block 7, located in the SE 1/4 SE 1/4, Section 12, T. 84N., R. 08W. of the 5th P.M., Linn County, Iowa described as follows:

The alley lying between Lots 7 and 8, Lots 5 and 6, Lots 3 and 4, and Lots 1 and 2 of said Johnsons First Addition, Block 7 and Second Street lying north of Lot 2 and said alley.

Said vacated area = 5,897 sf or 0.14 acres.

in Linn County, Iowa, be and the same is hereby vacated, and shall no longer be deemed public road right-of-way.

Resolution 2022-10-157 SET PUBLIC HEARING FOR CONVEYANCE OF VACATED RIGHT-OF-WAY

WHEREAS, the Board of Supervisors, Linn County, Iowa, is empowered under authority of §331.361, Code of Iowa, to dispose of the interest of Linn County, Iowa, in real property, and

WHEREAS, the Board of Supervisors, Linn County, Iowa, has vacated portions of right-of-way described as:

LEGAL DESCRIPTION

A portion of Johnsons First Addition to Toddville, Block 7, located in the SE 1/4 SE 1/4, Section 12, T. 84N., R. 08W. of the 5th P.M., Linn County, Iowa described as follows:

The alley lying Lots 3 and 4, and Lots 1 and 2 of said Johnsons First Addition, Block 7. Said vacated area = 787 sf or 0.02 acres.

and

WHEREAS Heidi L. Sherman, owner of real property adjacent to the above-described parcel of vacated right-of-way desire to obtain whatever interest Linn County may have in the above-described parcel of vacated right-of-way.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors, Linn County, Iowa, this date met in lawful session that a public hearing shall be held for the purpose of determining whether Linn County, Iowa, will convey to Heidi L. Sherman, whatever interest Linn County, Iowa, may have in the above-described parcel of vacated right-of-way.

BE IT FURTHER RESOLVED that said hearing shall be held on the 24th day of October 2022, at 11o'clock, in the formal Board Room on the lower level of the Jean Oxley Linn County Public Service Center, 935 2nd St SW, Cedar Rapids, Iowa, for the above stated purpose and that notice of the time and place of said public hearing shall be published in accordance with §331.305, Code of Iowa.

Resolution 2022-10-158 SET PUBLIC HEARING FOR CONVEYANCE OF VACATED RIGHT-OF-WAY

WHEREAS, the Board of Supervisors, Linn County, Iowa, is empowered under authority of §331.361, Code of Iowa, to dispose of the interest of Linn County, Iowa, in real property, and

WHEREAS, the Board of Supervisors, Linn County, Iowa, has vacated portions of right-of-way described as:

LEGAL DESCRIPTION

A portion of Johnsons First Addition to Toddville, Block 7, located in the SE 1/4 SE 1/4, Section 12, T. 84N., R. 08W. of the 5th P.M., Linn County, Iowa described as follows:

The alley lying between Lots 7 and 8, Lots 5 and 6 of said Johnsons First Addition, Block 7.

Said vacated area = 787 sf or 0.02 acres.
and

WHEREAS, Lonnie Oliphant, Zonna Bonar and Nina Williams, owner of real property adjacent to the above-described parcel of vacated right-of-way desire to obtain whatever interest Linn County may have in the above-described parcel of vacated right-of-way.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors, Linn County, Iowa, this date met in lawful session that a public hearing shall be held for the purpose of determining whether Linn County, Iowa, will convey to Lonnie Oliphant, Zonna Bonar and Nina Williams, whatever interest Linn County, Iowa, may have in the above-described parcel of vacated right-of-way.

BE IT FURTHER RESOLVED that said hearing shall be held on the 24th day of October 2022, at 11 o'clock, in the formal Board Room on the lower level of the Jean Oxley Linn County Public Service Center, 935 2nd St SW, Cedar Rapids, Iowa, for the above stated purpose and that notice of the time and place of said public hearing shall be published in accordance with §331.305, Code of Iowa.

Resolution 2022-10-159 SET PUBLIC HEARING FOR CONVEYANCE OF VACATED RIGHT-OF-WAY
WHEREAS, the Board of Supervisors, Linn County, Iowa, is empowered under authority of §331.361, Code of Iowa, to dispose of the interest of Linn County, Iowa, in real property, and

WHEREAS, the Board of Supervisors, Linn County, Iowa, has vacated portions of right-of-way described as:

LEGAL DESCRIPTION

A portion of Johnsons First Addition to Toddville, Block 7, located in the SE 1/4 SE 1/4, Section 12, T. 84N., R. 08W. of the 5th P.M., Linn County, Iowa described as follows:

Second Street lying north of Lot 2 and north of the alley between Lot 1 and Lot 2 of said Johnsons First Addition, Block 7.

Said vacated area = 4,323 sf or 0.10 acres.

and

WHEREAS Gary L. Holsinger, owner of real property adjacent to the above-described parcel of vacated right-of-way desire to obtain whatever interest Linn County may have in the above-described parcel of vacated right-of-way.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors, Linn County, Iowa, this date met in lawful session that a public hearing shall be held for the purpose of determining whether Linn County, Iowa, will convey to Gary L. Holsinger, whatever interest Linn County, Iowa, may have in the above-described parcel of vacated right-of-way.

BE IT FURTHER RESOLVED that said hearing shall be held on the 24th day of October 2022, at 11 o'clock, in the formal Board Room on the lower level of the Jean Oxley Linn County Public Service Center, 935 2nd St SW, Cedar Rapids, Iowa, for the above stated purpose and that notice of the time and place of said public hearing shall be published in accordance with §331.305, Code of Iowa.

Award bid and authorize Chair to sign the contracts for Winter Sand for the Secondary Road shop locations:

- o To Martin Marietta Aggregates in the amount of \$12,900.00
- o To Weber Stone Company in the amount of \$15,000.00
- o To Wendling Quarries, Inc., in the amount of \$68,687.50

Approve and authorize the Chair to sign a Lease Termination Agreement effective November 1, 2022 between Linn County and Foundation 2, Inc. for 232 square feet, more or less, of leased office space in the Mental Health Access Center located at 501 13th Street NW, Cedar Rapids

Approve purchase order #P0389 to G Mac Door Hardware to add 4 low energy swing door operators on 4 exterior doors for Linn County Options in the amount of \$8,845.00 paid with American Rescue Plan Act funds.

Award bid and approve purchase order P0392 for CMP Culvert to Contech Engineered Solutions, LLC in the amount of \$5,184.00 for the Secondary Road Department.

Motion by Rogers, seconded by Walker to approve minutes of October 10 & 11, 2022 as printed

Motion by Rogers, seconded by Walker to approve Claims for AP checks #71008695 - #71008754 in the amt. of \$137,879.20, and AP ACH in the amt. of \$2,294,081.52 for a total of \$2,431,960.72; and void\reissue checks #710008755 in the amt. of \$24.21.

Motion by Rogers, seconded by Zumbach to approve payment to Supervisor Walker in the amt. of \$41,500. VOTE: Rogers & Zumbach - Aye Walker - Abstain

At this time Charlie Nichols, Planning & Development Dir., presented the proposed ordinance amendment relating to a moratorium for accepting rezoning applications for the Renewable Energy Overlay District. He stated that they started with 12 months and now it will expire in three months (December 31, 2022) with the ability to renew up to 12 months. There have been no changes between second consideration and today.

Chairperson Rogers stated that comments were made asking for a definition of "done" and what does that look like. He stated that they have a really good ordinance, but

it does not include battery electric storage systems (BESS). They are looking for the county to try and make a better ordinance, noting that he is not looking for a perfect ordinance. He is also supportive of giving a narrow window because they have a solid ordinance with some tweaks needed. They have learned a lot, and this is a valuable pause. They are looking to fill in the gaps. Rogers also asked Nichols to include this topic at his monthly update to the Board and would like to see a working definition of what "done" looks like. He noted that they are putting a tremendous amount of work on Nichols and his staff and appreciates all they have done and acknowledged that they are solution oriented.

Supervisor Walker thanked everyone who has been with them throughout the process. It has been well over a year where they have been thinking about how to do renewable energy in Linn County. He also has not lost how important it is for Linn County and local government to endeavor down the path of renewable energy. He is grateful to have had the opportunity to work for residents of Linn County while trying to get it right. He has had conversations with Nichols about what they are trying to achieve, and he is confident that the framework is good. He has also articulated what he would like to see, for example strong labor protections. He is also interested to know what other powers the Board might be able to exercise throughout the process of review and investigate if there is a spectrum of consequences or sanctions the Board can impose.

Supervisor Zumbach agreed that they will never have a perfect ordinance, but he looks forward to an ordinance with far less people against it and far more that can live with what is going on. He added that they are all naive if they think they can have it done by December 31 given the holidays.

Nichols stated that it makes sense that they are not shooting for perfect. He is looking at two outcomes; updating the ordinance and the process. Solar and wind energy is likely changing, and they need a good example of a process.

Motion by Rogers, seconded by Zumbach to approve upon third and final consideration Ordinance #17-10-2022 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.

Stephanie Lenze, Planning & Development, presented the following ordinance amendment and stated that she has received no further conversations or comments.

Motion by Rogers, seconded by Zumbach to approve upon third and final consideration Ordinance #18-10-2022 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.

Public Comment:

Marc Franke, 4205 Vista Rd., Ely, noted the urgency that some of the Board has for a better ordinance and not a perfect ordinance which is a good idea. He pointed out some low hanging fruit that could move the process along. 1) Require testing of panels (EPA has a test for toxicity); and 2) Add battery energy storage system language. Identify what are the elements of low hanging fruit and get done quickly.

Board Member Reports - Chairperson Rogers reported that he and county staff presented to Cedar Rapids Planning a proposal for a homeless shelter which was approved. It will now go before Council on October 25.

Supervisor Walker reported that he served on the Univ. of Iowa panel discussion including communication minority leaders. He will be meeting with a Linn County Public Health staff member, Ann Harris Carter and a former Cedar Rapids Comm. Sch. Dist. Supt.

Motion by Rogers, seconded by Zumbach to appoint Kendall Hausmann to the Conservation Board for a term of five-year term, ending December 31, 2027.

Adjournment at 11:36 a.m.

Respectfully submitted,

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

Approved by:

BEN ROGERS, Chairperson
Board of Supervisors