

TOWN OF LYONS BOARD OF TRUSTEES MEETING
HYBRID MEETING
LYONS TOWN HALL, 432 5TH AVENUE, LYONS, COLORADO

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MEETING MINUTES

MONDAY, September 18, 2023

WORKSHOP

6:00 PM – 6:15 PM

MEETING PROTOCOL

6:15 PM – 6:45 PM

RIGHTS OF NATURE/GARY WOCKNER

7:00 pm BOARD OF TRUSTEES REGULAR MEETING

- I. Roll Call and Pledge of Allegiance – **Present:** Mayor Rogin, MPT Farrell, Trustee Elson, Trustee Oetting, Trustee Delman, Trustee Williams **Absent:** Trustee Daty
- II. Land Acknowledgement
- III. Approve Agenda – **Motion:** move to approve **Moved by:** Trustee Williams/MPT **Motion passes unanimously**
- IV. A Reflective Moment of Silence
- V. Audience Business – Dani LeFevre, representing Lee Conner, regarding IGA and annexing Connor drive; Jon Conner was a local builder/developer here in Lyons, looking at different options, believe in collaboration and shared vision, could provide needed density, a needed water loop, fire escapes and donated open space. We would like to be on one of your next agendas.
- VI. Staff Reports
 1. Boulder County Sheriff's Office Report – Sgt Sears introduced Sara Windholtz, new co-responder in town. Sarah with the team for a year, trying to fill a gap here. John, camp host, assaulted in Bohn Park last week, flock cameras caught the car, another win for us. About 50K less cars passed through town in the last 30 days. Hopeful for graffiti update at next meeting. No solid facts for possible indecent exposure case and no other reports.
 2. Administrator's Report
 3. Legal Update – no substantive update at this time.
- VII. Ordinances and Public Hearings
 1. 2nd Reading – Public Hearing - Ordinance 1151 – an Ordinance of the Town of Lyons, Colorado Amending Sections 13-1-150 of the Lyons Municipal Code Updating Utility Late Fees - Director Caplan provided background information; a few slight changes to change 30 days from billing date. To correct code that was updated previously. **PH opened at 7:12 pm.** Edward Kean, 228 Welch Dr, not sure what billing date is, is it when you receive the bill? If we are triggering a late fee we need to define what that date is. **PH Closed at 7:14. Motion:** move to approve **Moved by:** Trustee Oetting **Seconded by:** Trustee Williams Discussion on billing dates. Attorney Dittman stated we could state 30 days from date of billing designated on customer's bill. **Motion:** move to amend to use Attorney

Dittmans billing language **Moved by: MPT Farrell Seconded by: Trustee Williams Motion passes unanimously**

2. 2ND Reading – Public Hearing - Ordinance 1152 – An Ordinance of the Town of Lyons, Colorado Amending Section 18-6-10 of the Lyons Municipal Code Adopting by Reference the 2023 Edition of the National Electric Code as the Town of Lyons Electric Code – Director Caplan provided background information; a few changes noted; State updated the code, and we are now in line with what State has adopted. Discussion on fiscal impact on businesses/residential cost; no estimates in yet, just went into effect at State level August 1st. **PH opened at 7:21 pm No speakers PH closed at 7:22pm Motion:** move to approve **Moved by: Trustee Williams Seconded by: Trustee Oetting Motion passes unanimously**
3. 2ND Reading – Public Hearing - Ordinance 1153 – An Ordinance of Lyons, Colorado Approving a Lease of Town Property Adjacent To 4100, 4196 and 4206 Ute Hwy, Lyons, Colorado 80540 To Spirit Hound Distillers – Manager Sanders provided update; SH is purchasing old Clarks Hardware, are requesting lease. MPT Farrell, page 5, 12.2 Attorney Dittman suggested language. **PH opened at 7:28 pm** Nicholas Angelo, 4089 Ute Highway, it seems to me like the contract financial terms could have been written by the lessee as they are extremely favorable to the lessee, not the town. They already pay \$3300 a year for their current lease. Perhaps the board should consider waiving the rental fee for the ROW property behind Circle K and charge them for the ROW property behind Clark's. It's better to get 50% of something than 100% of nothing, they will have use of a town-owned shed - if the town wants to pay for modifications that's up to you. I would think that any charges for modifications would be their responsibility as there is no current charge for use of that building now. \$3300 a year is less than \$10 dollars a day. **Comments from Neil Sullivan read in (see attached) PH closed at 7:32 pm. Motion:** move to approve **Moved by: Trustee Oetting Seconded by: Trustee Williams –Motion:** amendment to charge for two properties at \$3300 each **Moved by: Trustee Delman Seconded by: Trustee Elson** Trustee Oetting stated Mayor / MPT negotiated with them, can you provide insight? MPT Farrell stated Clark's building has been one of the major roadblocks in trail negotiations; discussed increased property taxes, and benefits to the town. Mayor Rogin we have to think bigger than what the exact amount the General Fund could gain and what could the bigger rewards be. We need to create community and trust. Trustee Oetting, they are outside the URA area, they don't benefit from the TIFF. I feel comfortable with it. Trustee Williams agrees, if we have other leases that come up for reconsideration, fine we will do that at that time. The strongest thing is the trail going from 10 to 16 feet, that's a lot of loss. Manager Sanders stated these are not separate parcels, they are arbitrary lines drawn in. Two other lease agreements on the town property and they are paying the same. Trustee Delman so the other lessees are paying comparable. **Motion fails unanimously.** Trustee Elson, page 3, 6.5 references construction dates, 90 days, and a June 2024 deadline. Attorney Dittman, this was a concern that no drop date of when it had to get done. Trustee Elson, SH gets three quotes to do the work and then we are paying for it? MPT Farrell, the problem would be the goal is to move the building forward, not sure it can withstand that. Standard is 3 quotes for building RFP. Mayor when municipalities get quotes vs private it could be higher. Trustee Elson feels like we are writing a blank check. We could put a cap on it at the very least. Can we request SH to get quotes and we can put a not to exceed. MPT Farrell suggested a not to exceed of \$10K and then they come before us. Discussion on amount, current policies. Attorney Dittman recommended \$20K, is administrators limit, and then needs board approval. **Motion:** amendment to add: the modification shall be constructed by the lowest qualified quote of 3 minimum bidders subject to written approval by the Town of Lyons Board of Trustees **Moved by: Trustee Elson Seconded by: MPT Farrell amendment passes unanimously. Motion:** add "internal / external" to section 12.2. **Moved by: MPT Farrell Seconded by: Trustee Oetting Amendment passes unanimously. Ordinance as amended passes unanimously**

VIII. Consent Agenda

1. Resolution 2023-58 - A Resolution Of The Town Of Lyons, Colorado Ratifying The Third Amendment To The Construction Agreement With Construction Agreement With Horrocks Engineering, Inc St. Vrain Trail Extension
2. September 5, 2023, Regular BOT Meeting Minutes
3. September Accounts Payable

Motion: move to approve **Moved by:** MPT Farrell **Seconded by:** Trustee Oetting
Motion passes unanimously

IX. Items Removed from Consent Agenda

X. Boards & Commissions

1. SFC Update – NREL Tour – Ed Kean 228 Welch Drive, SFC Chair, **Discussion** on time of use rates; going 100% green with MEAN. Future workshop with NREL. Mayor Rogin asked if we had any estimates on how we could triple our capacity? Director Caplan, no, would need a bigger substation. Find out if there is funding from them.

XI. General Business

1. Think Generator Update – Paul Tamburello/Rene Doubleday presented; 402 Main status, demo on burned building, not a lot of experience with a major spill, all contractors in place, asbestos team, waiting in CDPHE to grant approval of work plan. Have 45 days initially to review, then 11 days after that. Means and Methods for cleaning any equipment that will be used in demo; wish I had a date for you. I don't think the demo itself will be 8-10 days. Discussed a use for that lot in the near future with Administrator Simonsen. Discussed demo in winter, open aired abatement. Water is used in open air abatement, so freezing temperatures might play into it. We will tamp the dirt with road base so not to make a mud pit. Property is not for sale. HWY 66 property – WTP north/south sides, outdoor recreation gateway destination; that idea didn't really go anywhere; responding to feedback from several lodging/hotel groups. Most felt it was out there all alone and wanted more activity on eastern corridor before they would be interested. Concept plan for entire strip to Highland Drive. A parkway, beautiful entrance to Lyons. Met with CDOT a few times, they didn't like number of trees, but felt it had potential. That it met some COMP plan points. Circling back to a maker's village; snow boards, skis, backpacks, etc. designed a LI makers village, with large park, met with Victoria and David Kimmett, two asks, current zoning with 20-foot setback would be cutting it off. Perhaps a shared drive with Public Works. We were given site plan Tebo had for a gas station and drive through coffee shop. CDOT requested a drive through on our property, looking at possible redesign as lots didn't line up. Construction financing is at 8-11%, market is wagging the dog. South side was kind of on hold, did apply for a grant, denied for that on river restoration. Early proposals were between \$300-400K, feedback was to create more public access to river. Redesigned with S2O, currently 4 access points, numerous steps, still trying to find grant funding to help. Spent time with Summit housing to help them with some of the rock they needed to move. We've taken some of that rock. Also leasing space for Martin Marietta construction project, that will wrap up soon. We remain committed to see this through, timing of the market isn't right, hopefully it will adjust in the next 18-24 months. This is also not on the market, have considered listing it to see if it sparks movement in that area. MPT Farrell, I know it is a private company, but if you were to list, hopefully we could be a part of that conservation. Paul, I hear you, and there is activity in that area. I believe there is an option for the town to buy this back. Attorney Dittman believes there is a right of refusal in the contract, without looking at it. Mayor Rogin, I feel we have come this far and hopefully we can continue! Paul congratulated the town on the flood commemoration. **5-minute break at 8:39 pm.**
2. Discussion/Direction to Staff on Listing 2186 Apple Valley Road (Decommissioned Water Treatment Plant) For Sale – Director Caplan provided update; 9 months ago, we looked at 2186 Apple Valley; survey was done, discussions with BOCO for lot to be buildable; designates 3 parcels, one has easement on it, was there desire to bring this back and put it on the market or have ex session? MPT with new survey we own over the river, can we parcel a property to bring the line in to bring into the south side of the river. As a boater,

176 you get under the bridge and people are falling out and trying to get to the banks. Attorney
177 Dittman, you could subdivide that piece off, you can't move property lines. Mayor Rogin,
178 how do we maintain public access? What would it take to subdivide that piece? Director
179 Caplan - would BOCO allow that, and allow that other lot to be buildable? Board
180 consensus is to move forward with seeing what subdividing AV lots looks like.

- 181 3. Discussion/Direction to Staff on Rights of Nature Workshop Presentation – Attorney
182 Dittman stated he has experience with this; in 70's was Standing for Trees, recently the
183 CO river was an issue, has problems as a river is not a person, to give an inanimate object
184 status, you would have to appoint a guardian, and is that person's view the right one?
185 This is really a statement on how town feels on importance of St. Vrain river, problem with
186 granting a "RIGHT" conceptually could have standing in town's decisions. We could re-
187 word to say we acknowledge it, but not give it rights. Whenever you say someone has a
188 right, there is due process. Not recognized in our system of laws and town cannot manage
189 practically the due process. How would this affect ditch rights/companies. Attorney
190 Dittman, if Ordinance passed on reduced flows, we would probably get sued over that.
191 Someone could view this in more binding terms than it actually is. The concern is in
192 section 2 that could bring potential problems with downstream water users. It creates all
193 sorts of conflicts. Discussion on if non-binding, don't want to create undue legal issues.
194 Potential declaration to say St. Vrain is extremely important and include in future
195 decisions. Attorney Dittman to redline EAB resolution; could have unintended
196 consequences.
- 197 4. Discussion/Direction on Boulder County Zoning Moratorium Near Lyons – Planner Kimmet
198 presented; BOCO surprised us with this on 9/5, affects Lyons as these are potentially
199 commercial properties in our 3-mile area; CEMEX more affected parcel, as well as
200 Loukonen but not all of the properties. PCDC had a robust discussion on this, why does
201 BOCO want to do this? BOCO commissioners are holding a PUBLIC HEARING tomorrow
202 at 11:45 am; anyone can attend, as a town it would be good if Mayor/Town Administrator
203 could give town's opinion. Mayor Rogin, I appreciate sharing opinion, not sure entirely
204 appropriate to say this was against good inter – governmental decisions. Our complaint
205 was we were not included in CEMEX decisions, to me this is BOCO saying they will put a
206 halt on any future zoning decisions without our input. Discussion on not being informed
207 of this as well is not good governance. Hopeful for productive IGA discussions in the future.
208 Board consensus is for Mayor Rogin to speak at tomorrow's hearing.
209

210 XII. Trustee Reports

- 211 1. Trustee Elson – both groups were here tonight; Emerson will be attending future
212 meetings.
- 213 2. Trustee Oetting – SAC looking to set first meeting; concerned about graffiti. SFC met
214 and I missed it. Not sure if any movement from Tierra; budget request \$25K for software;
215 Aaron already in budget from before, looking at transitioning to time of use
- 216 3. MPT – PCDC discussed CEMEX; coming up is R1 and detached ADU's; spoke with Dr.
217 Haddad, discussed SVSSD going for new bond to raise \$6-700 million, would like \$900
218 million, they wouldn't have to raise our taxes, Lyons is not on the list of any of the
219 potential projects. I advocated for more safety cameras, mental health, racial equity.
- 220 4. Trustee Delman – missed PRC meeting,
- 221 5. Trustee Williams – HPC meets Wednesday; talked with new sheriff on increased costs,
222 he didn't apologize for it, there were a couple of communities that received preferential
223 treatment and you're one of them, new eyes and needs to be dealt with.
- 224 6. Mayor Rogin – I too talked with Sheriff Johnson, a good sport. Met with HS principal on
225 new leadership program; commend staff on flood remembrance committee on
226 remarkable events that were beautifully produced and so well attended. Not able to
227 attend last LAHC meeting; when will PCDC want to take on zoning over all
228

229 XIII. Summary of Action Items:

- 230 1. Potential agenda item as requested by Dani LaFever regarding Connor property
- 231 2. Ordinance 1151 passed on 2nd reading
- 232 3. Ordinance 1152 passed on 2nd reading

4. Ordinance 1153 passed on 2nd reading
5. Potential workshop with NREL (Edward Kean to provide contact information)
6. Reach out to BOCO to see what subdividing AV lots looks like.
7. Update letter from county to reflect 2022 date
8. Attorney Dittman to redline EAB resolution / potential workshop and include SAC and EAB
9. Mayor Rogin to speak at tomorrows BOCO zoning moratorium hearing.
10. Future agenda item on time of use rates
11. Discuss when PCDC can review all zoning

XIV. Adjournment – **Motion:** move to adjourn **Moved by:** MPT Farrell **Seconded by:** Trustee Oetting **motion passes unanimously** meeting adjourned at 9:43pm

Respectfully Submitted by:

Dolores M. Vasquez, CMC – Town Clerk

Hollie Rogin, Mayor

“The Town of Lyons will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. Persons needing accommodations or special assistance should contact the Town at hr@townoflyons.com as soon as possible, but no later than 72 hours before the scheduled event.”