

1
2 TOWN OF LYONS BOARD OF TRUSTEES MEETING
3 VIRTUAL MEETING
4 LYONS TOWN HALL, 432 5TH AVENUE, LYONS, COLORADO
5

6 ZOOM LINK
7

8 <https://us02web.zoom.us/j/82331849324?pwd=UzZQUmpBL1grempRQlcxMklyR1hjUT09>
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11 Meeting ID: 823 3184 9324

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16 Meeting ID: 823 3184 9324
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18 DRAFT AGENDA

19 **MONDAY, MARCH 1, 2021**

20
21 5:30 pm – 6:50 pm WORKSHOP

22 *Ordinance 1096 - An Ordinance of the Town of Lyons, Colorado Repealing and Replacing*
23 *Chapter 6 Article 1 of the Lyons Municipal Code Concerning Business Licenses*
24

25 7:00 PM BOARD OF TRUSTEES REGULAR MEETING
26

- 27 I. Roll Call and Pledge of Allegiance – Present: Mayor Angelo, Mayor Pro Tem Browning,
28 Trustee Rogin, Trustee Karavas, Trustee Waugh **Absent:** Trustee Lowell, Trustee
29 Miller
30
- 31 II. A Reflective Moment of Silence
32
- 33 III. Approve Agenda – **Motion:** move to approve **Moved by:** Mayor Pro Tem Browning
34 **Seconded by:** Trustee Karavas **Vote passes 5-0**
35
- 36 IV. Audience Business – Ms. Lavern Johnson, Evans St, complimented the Board on the
37 first ever town report; and thanked them for dedicating it to her. Many years fighting for
38 the town, thanked everyone for all their help.
39
- 40 V. Boulder County Sherriff's Report, Sgt. Bill Crist – Sgt. Crist also thanked Trustee Lowell
41 for the report. Last Thursday met w/student council at the high school to come together
42 with SRO's. No further updates on Lyons Den. New fire chief to be sworn in next
43 month, and town is status quo. Mayor Pro Tem asked about Porch Pirating, Sgt. Crist
44 said it is prevalent during the holidays, we have ID'd several suspects. We have seen a
45 sharp decrease; it ebbs and flows.
46
47

48 VI. Trustee Reports
49 Trustee Rogin – echoed kudos to Trustee Lowell and Staff. DRCOG meets tomorrow at
50 3pm to discuss increase in federal funds. HPC has not met. Met with Library folks to
51 discuss anti-racism education.
52 Mayor Pro Tem Browning – Thanked Trustee Lowell and no report
53 Trustee Karavas – Congrats to Greg and Staff; solar farm grant process that UEB is
54 working on; looking for sites will know more on Wednesday. Lot of utilities underground
55 at 2nd Ave Bridge. Hopeful pressure issues will be addressed with new valve.
56 Ordinance updates for net metering policy.
57 Trustee Waugh – Echoed comments on town report; PCDC met last Monday to prep for
58 upcoming joint meeting with BOT. Want clear direction on their role. 1st tour of key
59 properties for upcoming Comp Plan. Another tour scheduled for this Friday.
60 Mayor Angelo – Student advisory commission met, will advertise on town/school
61 website to garner interest in police force.
62

63 VII. Boards & Commissions
64 1. Mayoral Appointments :
65 a. Mary Huron Hunter to Economic Vitality Commission
66 UEB has a vacancy.
67

68 VIII. Staff Reports
69 1. Flood Recovery Update – Manager Sanders: girders installed on bridge, first one in
70 state to have these type, CDOT will be here this week to inspect. Bohn Park
71 stormwater and 4th Ave. Ped bridge in design, hopeful to start in the spring. Murray
72 Smith is design contractor.
73 2. Administrator’s Report – COVID update: case numbers trending down, level yellow.
74 Vaccination numbers are up 50K in the county have 1 dose. 80% of population
75 over 70 have been vaccinated. Clinic here in Lyons, 40 local seniors vaccinated.
76 Tomorrow Phase 1A to begin planning phases. 2 groups looking at community
77 gardens/farms on a couple of our buyout properties. Will be here next meeting.
78 LAHC very active; looking at a potential large-scale mural on NW side of Town Hall.
79 Reached out to Ute Trail to replace signs lost in flood. RLF all loans current and
80 have 58K available to loan now, not CARES funding. Director Mitchell working with
81 State for tourism funding. PCDC did get DOLA grant resubmitted in time. Several
82 job openings, see website, seasonals, front desk/AP, and Finance Director Johnson
83 will be taking a job as finance director for Caspar Wyoming.
84 3. Legal Update – able to collect outstanding balance from the Fork for the RLF. 2
85 executive sessions this evening.
86

87 IX. Public Hearings and Ordinances
88 1. 2nd Reading – Public Hearing – Ordinance 1097 – An Ordinance of the Town of
89 Lyons Colorado Amending Section 13-3-90 of the Lyons Municipal Code for the
90 Purposes of Creating Water Rights Dedication Requirements – Mayor Angelo
91 recused himself. Director Caplan gave staff overview; the Town does have
92 sufficient water rights for pre-existing commitments; no effect on annexations,
93 subdivisions. Public Hearing opened at 7:27 pm Ms. Lavern Johnson asked for
94 clarification. Director Caplan provided background. Public hearing closed at 7:31
95 **Motion:** move to approve **Moved by:** Trustee Karavas **Seconded by:** Trustee
96 Rogin **Vote passes 4-0** (Mayor Angelo recused himself)
97 2. 1st Reading – Ordinance 1098 – an Ordinance of the Town of Lyons, Colorado
98 Amending Sections of the Lyons Municipal Code Regarding Upgrading Water Taps
99 and Increased Usage - Director Caplan stated code scattered throughout LMC; felt
100 it would be easier to codify together in one place; will help new developments.
101 Covers re-development of properties. Could potentially require more water, and this
102 could help the town determine how much would be needed. **Trustee Lowell joined**
103 **the meeting at 7:36 pm.** This should help the beginning of the development
104 process. Trustee Rogin asked about definition of “substantially” modifying?
105 Administrator Simonsen usually means 50% or more of value of structure is

106 changed, will add that in. We could use IRC to define. Mayor Pro Tem Browning
107 asked about administrative regulations, is that still the intent to have in place now
108 until this becomes effective? Attorney Dittman, with the new policy we can do that.
109 **Motion:** move to approve **Moved by:** Trustee Rogin **Seconded by:** Trustee
110 Karavas **Motion:** amendment to define the term substantial as IBC defines
111 **Seconded by:** Trustee Karavas Mayor Pro Tem can we define per FEMA's
112 definition of 50% or more? Friendly amendment agreed upon by both. **Vote on**
113 **amendment passes 6-0** Attorney Dittman recommended change in use as well.
114 **Vote on original motion passes 6-0**
115

116 X. Consent Agenda

- 117 1. Resolution 2021-26 – a Resolution of the Town of Lyons, Colorado Approving a
118 Contract with Trident Security
 - 119 2. Resolution 2021-28 – a Resolution of the Town of Lyons, Colorado Approving a
120 Policy to Accept Lake McIntosh Water Shares
 - 121 3. Resolution 2021-29 – a Resolution of the Town of Lyons, Colorado Approving an
122 Amendment to the Temporary Construction Easement at 123 Park Street
 - 123 4. March Accounts Payable
 - 124 5. February 16, 2021 BOT Meeting Minutes
 - 125 6. February 22, 2021 Special BOT Meeting Minutes
- 126 Trustee Waugh pulled item 2: Resolution 2021-28 **Motion:** approve as amended
127 **Moved by:** Mayor Pro Tem Browning **Seconded by:** Trustee Karavas **Vote to**
128 **approve passes 6-0**
129

- 130 XI. Items Removed from Consent Agenda – Resolution 2021-28 **Motion:** move to approve
131 **Moved by:** Trustee Waugh **Seconded by:** Trustee Karavas **Motion:** amendment to
132 replace definition of economic development to read: economic development
133 opportunities shall mean shall meet goals and objectives in stated town plans including
134 the Comp plan, 1. To create an environment in which local businesses can prosper, 2.
135 Leverage towns history, natural setting, unique retailers and relationship with the music
136 and arts community to attract tourists. **Moved by:** Trustee Waugh **Seconded by:**
137 Trustee Karavas Mayor Pro Tem Browning, no problem, that existing definition was
138 taken directly from IGA with Longmont; don't see much of a risk. Trustee Waugh I
139 stand by my motion; Longmont will honor what we define. Trustee Rogin great change,
140 that definition may change as we work on Comp plan and this covers any changes.
141 **Vote on amendment passes 6-0.** Trustee Karavas asked about a change in use in
142 future years. Attorney Dittman under existing policy is allowed. May be a tough reach.
143 **Vote on Resolution as amended passes 6-0**
144

145 XII. General Business

- 146 1. Discussion/Direction on Resolution 2021-27 – a Resolution of the Town of Lyons,
147 Colorado Authorizing the Installation of Amazon Lockers on Town Property –
148 Attorney Dittman, if something went wrong, someone gets hurt and sues Amazon,
149 we would pay Amazon's legal costs. We typically do not sign contracts like this as it
150 violates TABOR. This is also interpreted under Washington law, not CO law
151 another thing we don't agree to. Amazon will not negotiate the terms, said it is a free
152 service and no negotiations. Risk of indemnification clause is low; I can't tell you to
153 pass this and agree; it's a town decision. Director Mitchell, EVC and discussion of
154 letting the public know, by having this locker in town more sales tax revenue. They
155 came out and surveyed the visitors center, is ADA accessible. From staff
156 perspective, there is a demand. Trustee Rogin I am excited to see this here
157 somewhere in town. Did any businesses in town show interest? Director Mitchell, I
158 did send the info to Neil/Connie Sullivan I think they are interested, but a one-year
159 commitment, timing seems off. Amazon not adverse to having two lockers.
160 Administrator Simonsen when we had the General Store this would have been very
161 beneficial. We did not put a call out to all local businesses. Mayor Pro Tem
162 Browning, the town could terminate after one year; the town doesn't want to
163 compete with local businesses, and we could get out of it. Erin Foudy, Chamber,
164 did send out in newsletter 4/5 months ago, did not get any response. Trustee

165 Lowell, great idea, no competition, let's move forward. Trustee Rogin, super excited
166 on personal level. Can we track sales tax that would come from the lockers? Mayor
167 Pro Tem Browning concurs, delivery has been an issue for years. Trustee Karavas
168 less enthusiastic. Would like to see these lockers sitting at a private business, not
169 ours; COVID cleaning, who is going to do it? Trustee Waugh, we should definitely
170 do it. Mayor Angelo asked if door delivery would continue? Director Mitchell stated
171 nothing would change, just an additional option. **Motion:** move to approve **Moved**
172 **by:** Mayor Pro Tem Browning **Seconded by:** Trustee Lowell **Vote passes 6-0**

- 173 2. Discussion/Direction to Staff and sub-committee regarding Planet Bluegrass Issues
174 regarding Amendable Letter, Keynotes and Lodging Tax – Mayor Pro Tem
175 Browning provided general background on lodging tax; this came up when the
176 lodging tax revenue was significantly lower than anticipated for the two song
177 schools. PBG explanation was in the definition of campsite it didn't define as they
178 can pitch a tent and camp anywhere. My intent on the board then was to make sure
179 we captured this in the 2020 year. That opportunity never arose due to COVID but
180 here we are and now is the time to address those issues. 2/3 months ago, they
181 contacted the town about things they might do this year; board appointed sub-
182 committee to meet; when we informed them, we were ready, they expressed
183 disappointment in the time it took and informed us they no longer wanted to talk to
184 the town, to talk to their lawyer, which makes it harder to reach an agreement. PBG
185 also uses 6 per campsite which they got from LMJ park. We should be able to sit
186 and find a compromise somewhere in the middle. There is a clause that they must
187 report all taxable sales; they have not done that; they report their vendor sales.
188 They don't report camping passes. Should they pay that lodging tax for 2019?
189 Penalties format is a lot of money, if we calculate it is over \$50K; I don't think PBG
190 should have to pay and we shouldn't go after them; but if all we get is we don't want
191 to talk to you, then that is something we should consider as well. This isn't a huge
192 amount, but it is going to occur year after year. Trustee Rogin really hopes to sit
193 with the Planet and hash this out; I'm sure there are changes they would like as
194 well. Director Mitchell stated lodging tax, I honestly found nothing in my email, no
195 mal intent of not paying tax on song school/academy. In 2019 they submitted for
196 Folks/Rockygrass. Regarding campsite/# of campers, since town uses 6 as max, it
197 seemed like a good number to them. After the 2019 season it was left vague; I'm
198 sure we can work with them on that. Administrator Simonsen: this was a deep dive;
199 and I hope they will reconsider and work through some of these issues with us.
200 Trustee Waugh, lodging tax is flawed in many ways including that the town does not
201 pay it. Hard pill to swallow for those who do pay it. Purpose of lodging tax is to
202 promote tourism and the town should pay. COVID in 2020 and for us to be reaching
203 back is ridiculous. PBG and the reason those music festivals exist is because the
204 town did a bait-and-switch and have been trying for years to extract more. I
205 wouldn't want to meet with the town either. I believe the town and this
206 subcommittee is being aggressive in ways I don't agree with. Mayor Angelo, I did
207 sign the original agreement. I want to know precisely what the bait-and-switch was.
208 Trustee Waugh, Meadow Park was reserved and ready to go and withdrew at the
209 last minute and a new venue was needed; this is hearsay, that the Mayor's wife
210 wanted to have her birthday in Meadow Park, and it was changed. Mayor Angelo, I
211 recall Mr. Ferguson having an agreement with Mr. Bell to use Bohn Park. It
212 behooves PBG to communicate with the town and let's get these
213 misunderstandings resolved. Agreements are agreements and our word is
214 important on both sides. Not wanting to talk is not legitimate. I recommend they
215 enter into talks and take care of these issues. Director Mitchell asked if it was staff
216 only or sub-committee? Mayor Angelo, I want the sub-committee involved every
217 step of the way. Trustee Rogin, happy to be involved as much as I can be helpful.
218 Staff has a long-standing relationship; they should take the lead. **Motion:** defer this
219 agenda to a date certain of April 5, 2021. **Moved by:** Mayor Pro Tem Browning
220 **Seconded by:** Trustee Karavas Director Mitchell recommended that PBG staff be
221 allowed to speak. **Vote passes 6-0**

- 224 XIII. Discussion on Future Agenda Items
225
226
227 XIV. Summary of Action Items
228 1 Ord 1098 amendments
229 2. PBG follow up April 5th, 2021.
230 3. Business licenses from Amazon
231 4. Track tax on Amazon lockers/who is cleaning.
232 **Motion:** move to enter into executive session **Moved by:** Mayor Pro Tem Browning
233 **Seconded by:** Trustee Lowell **Vote passes 6-0** regular meeting adjourned at 9:24 pm.
234
235 XV. Executive Session – Executive session being conducted pursuant to C.R.S. Sections
236 24-6-402(4)(e) and 24-6-402(4)(b) for the purpose of determining positions relative to
237 matters that may be subject to negotiations, developing strategy for negotiations, and
238 instructing negotiators, and for receiving legal advice from attorneys representing the
239 Town on specific legal questions, and specifically, determining negotiating positions and
240 strategies regarding the Town’s Energy Cost-Savings Contract with Honeywell
241 International, Inc. for the new wastewater treatment plant, and obtaining advice as
242 needed from legal counsel on related legal issues. 1st executive session concluded
243 at 9:39 pm.
244
245 **Motion:** enter executive session: **Moved by:** Mayor Pro Tem Browning
246 **Seconded by:** Trustee Karavas **Vote passes 6-0** Executive Session started at
247 9:41 pm.
248 This is an Executive Session being held pursuant to C.R.S. Sections 24-6-402(4)(a)
249 and 24 6-402(4)(e) for purposes of discussing litigation between Paul Frysig, D/B/A
250 Western Stone of Lyons, LLC and the Town of Lyons, and determining positions
251 relative to matters that may be subject to negotiations, developing strategy for
252 negotiations, and instructing negotiators regarding the litigation between Paul Frysig,
253 D/B/A Western Stone and the Town of Lyons Executive session ended at 9:49 pm.
254 **Motion:** direct staff to execute decisions made in executive session **Moved by:**
255 Mayor Pro Tem Browning **Seconded by:** Trustee Karavas **Vote passes 6-0**
256
257 XVI. Adjournment – **Motion:** move to adjourn **Moved by:** Trustee Lowell **Seconded by:**
258 Trustee Karavas meeting adjourned at 9:52pm
259
260

261 Respectfully Submitted by:

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263
264 _____
Dolores M. Vasquez, CMC – Town Clerk

265 _____
Nicholas Angelo, Mayor

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