

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

5 **ZOOM LINK:**

6 <https://us02web.zoom.us/j/83965830275?pwd=Tk5hOVM4clk4cm1aZ21tU3QyMFV3QT09>

7
8 Meeting ID: 839 6583 0275

9 Passcode: 413995

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11 Dial by your location

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13 Meeting ID: 839 6583 0275
14

15 DRAFT AGENDA
16 **MONDAY, APRIL 5, 2021**

17
18 5:30 pm – 6:00 pm WORKSHOP

19 STR's in Commercial Buildings

20 6:00 pm -6:50 pm

21 4th Avenue Pedestrian Bridge and Safe Routes to School Update
22
23

24 **7:00 PM BOARD OF TRUSTEES REGULAR MEETING**
25

- 26 I. Roll Call and Pledge of Allegiance – **Present:** Mayor Angelo, Mayor Pro Tem Browning,
27 Trustee Lowell, Trustee Karavas, Trustee Rogin, Trustee Waugh, Trustee Miller
28
- 29 II. A Reflective Moment of Silence
30
- 31 III. Approve Agenda – **Motion:** Move to approve agenda **Moved by:** Trustee Karavas **Seconded**
32 **by:** Trustee Lowell **Motion:** amend agenda, move item 13.1 PB discussion to below item 14.
33 Moved by: Trustee Waugh **Seconded by:** Trustee Rogin **Vote on amendment passes 7-0**
34 **Original Vote passes 7-0**
35
- 36 IV. Audience Business – Andrea Marshall, 218 High St., very distressed to learn about smart
37 meters in town; never received a post card. A lot of potential health issues that have not been
38 studied yet. I have 2 meters, one in garage, rate of \$30 to read seems way out of proportion to
39 the bill. Some way I can read my own meter and have periodically checked? Why was this not
40 brought up to the town so we could decide? Phase them out slowly instead of one swell
41 swoop? Was this propagated by MEAN? Other states have lower fees. I know others that have
42 caved in to these due to the high fee. Lavern Johnson, 306 Evans, have been kind of lax, low
43 and behold these smart meters are going in, and maybe because we haven't had a live
44 newspaper. I can't believe the town is allowing it.
45
- 46 V. Boulder County Sherriff's Report, Sgt. Bill Crist – Sgt Crist thanked the board for the cards and
47 flowers, toughest day of my career. Meeting later this week to meet with Chief Zick (fire), in
48 annual report introduced Jessica Yates and Eric Robinson. Unfortunately, Jessica fractured
49 her hand first day in. Eric is the night duty officer; he knows Lyons well. Weather nice, LMJ

50 park is busier, extra patrols. Noise complaint last Thursday on Planet Bluegrass at 7:55 pm.
51 Great response from Planet Bluegrass. Called them and they cut the mains and subs,
52 sensitive to the town.
53

54 VI. Trustee Reports

55 Trustee Rogin – been a year since this board was elected, none of us had any idea what was
56 about to happen for the past 12 months, we have never met in person, I will be in town hall in 3
57 weeks. We have had a lot of traumatic things happen, want to remind everyone that kindness
58 is the most important thing. I am so grateful for Crystal White; I don't think I ever realized how
59 hard Crystal works for this town.

60 Trustee Lowell – I echo Trustee Rogin's sentiments. Ecology board 3/16, big topic was weed
61 management plan. It became clear to me that they need to have a meeting of the minds, some
62 are very adamant of nonuse of ANY synthetic herbicides, while the Parks board has different
63 opinions. They need to meet and iron out these differences. I am grateful for modern
64 medicine.

65 Mayor Pro Tem Browning, echo what Trustee Rogin says, I have found it very frustrating to not
66 meet in person. Here in town hall tonight, a few technical challenges, but I would sure like to
67 resume live meetings.

68 Trustee Karavas – Staff reports in the packet covers my report as well.

69 Trustee Waugh – grateful for opportunity to have spent more time in the Town of Lyons this
70 past year, got to know my neighbors and family better. No specific report; have researched,
71 last year in Lyons, 5367 guest nights in the parks and the town would have collected \$10,714 if
72 they held to the same standards they want to hold local businesses to. This is not a tax for all
73 lodging, it is a tax for business. The town has cheated the local taxpayers. Future agenda item.

74 Trustee Miller – HHS meeting next Wednesday, review Goodwill fund applications. I am
75 grateful for having outdoor live music at Planet Bluegrass.

76 Mayor Angelo – no commission reports; at pinning of new fire chief, wonderful event. I
77 appreciate Cherie for the mental health event in the park.
78

79 VII. Boards & Commissions

80 1. Mayoral Appointments:

81 a. Laura Levy to Economic Vitality Commission

82 b. Colby Birchfield to Utilities & Engineering Board

83 2. LAHC Update – Lauren Click – we have selected some Legacy pieces and temporary
84 2021 pieces as well. If you know of a business that would like to display, please reach
85 out. Poetry in Public Places contest now open. Closed the call for art on communication
86 boxes closed today. Thanked Trustee Miller for her time, we do have an opening for a
87 new trustee!
88

89 VIII. Staff Reports

90 1. Flood Recovery Update – Manager Sanders 2nd Ave bridge going well, deck was poured
91 last week, still on schedule for end of June. 30% design next week for 4th Ave Ped Bridge.
92 CDPHE ready to issue permit, award outfall project next meeting. Trustee Lowell asked
93 about stormwater project in Bohn, is that what the LOMAR is for? Manager Sanders, no, it
94 is for all the infrastructure projects we have done. Bohn is for the entrance, 2 detention
95 ponds there, increase pipe size. Trustee Karavas asked if LOMR is different than the new
96 flood mapping and what is the cost? Sanders, a very conservative estimate is \$200-
97 \$300K. Administrator Simonsen stated CHAMP mapping occurred several years ago,
98 since then we have completed several projects that are not in the CHAMP maps, we are
99 ready to adopt. We have always gotten a no rise certificate for every project, it could
100 affect the community in good ways in some areas, not so much in others. Trustee
101 Karavas asked if we would know by the next budget cycle? Administrator Simonsen
102 stated, yes, hopefully by end of next month.

103 2. Utility Update – Director Caplan PRV in on 5th, made impact on water pressure on north
104 side of town. Mayor Pro Tem Browning thanked Aaron for his hard work on the electric
105 meters, we have discussed that project for years. WW still have copper concerns. We

106 want to get that done as quickly as possible. Trustee Lowell asked about permit
107 conditions, new outfall location showed copper limit over 5x the limit. Given environmental
108 effect, regardless of limit, I hope we continue to investigate where that copper is coming
109 from. Director Caplan, copper levels haven't gone up, we weren't required to meet them
110 prior to last year. Mayor Angelo asked about March 19, 2021 letter, penalty per day has
111 skyrocketed, has that been addressed? Director Caplan confirmed, response is included in
112 packet. Not as big of a concern of copper since the flood, something changed. Is the
113 State aware that our outfall is into a river that is mostly dry 3 months a year? Trustee
114 Karavas, are we looking at wastewater to see where copper levels are in lift stations?
115 Director Caplan, yes, we were cleaning first and testing. The testing is not that costly
116 compared. Mayor Pro Tem asked if the outfall costs will be shared with Longmont?
117 Manager Sanders, yes, and FEMA should cover the Town's costs. CDOT installing fiber,
118 they will be boring through town. Installing small cell towers all the way up the canyon. 2
119 towers in Town, even in CDOT's right of way, does Lyons municipal code come into play?
120 Attorney Dittman stated yes, it is a land use issue and will need to be permitted.
121 Longmont also in town working on water line; possible excavation near town hall and
122 2nd/Railroad. Will also work on pump station that will go into parking lot across from fire
123 station.

- 124 3. Administrator's Report – updated the Board on current COVID state orders as well as
125 Boulder County order which controls locally. Still in yellow until May 5th, masks indoors
126 are required. No longer required outdoors. Once in green level you can opt out. 37% of
127 eligible people are vaccinated. Suicide attempts up 36% from last year, 70% increase in
128 very young people 10-17 years old. Vaccination clinic here Saturday April 10th and May
129 5th. Friday testing still going on. Summit submitted building permit application packet on
130 Friday, wanting to get through approval process, hopeful to start construction in late May.
131 Several development projects underway. RLF has 21 current loans, we have \$74K
132 available to loan out. April is dog licensing month; new dog poop cleanup campaign
133 starting this week as well. A bear has been spotted, so take care of your trash. Dave
134 Cosgrove hit the 20-year mark with the town, thanks for all your service to our community.
135 Trustee Lowell, first time for many of us going through a major subdivision process, what
136 is the process? Is Carter Drive to be built first with infrastructure? Administrator Simonsen,
137 yes, we hold a letter of credit for these public improvements. Trustee Rogin asked about
138 tree limb pickup? Administrator Simonsen, I know SFC is looking at a spring clean up day.
139 Director Mitchell, we did budget for a limb pickup, SFC to meet Thursday, looking for labor
140 in lieu of jail crew.
- 141 4. Legal Update – email out of Friday on Frysig settlement; court issued official judgment
142 today on this agreement. Honeywell has asked that our complaint be dismissed; response
143 to be filed soon. SOSSV sued Boulder County over decision to grant special use permit to
144 Martin Marietta Co. which would expire after 5 years if not used; Boulder County issued
145 opinion that permit had not expired due to reclamation activities on site. Last week court of
146 appeals overturned that decision and Martin Marietta no longer allowed to mine.

147 IX. Public Hearings and Ordinances

- 148 1. 2nd Reading – Public Hearing - Ordinance 1096 – an Ordinance of the Town of Lyons,
149 Colorado Repealing and Replacing Chapter 6, Article 1 of the Lyons Municipal Code
150 Concerning Business License Updates – Attorney Dittman business license code
151 updated to address deficiencies; contains updates by board from 1st reading. Public
152 Hearing opened at 8:33 pm No speakers, public hearing closed at 8:34 pm. **Motion:**
153 Approve Ord 1096 **Moved by:** Mayor Pro Tem Browning **Seconded by:** Trustee Karavas
154 **Vote passes 6-1 NO: Trustee Miller**

155 X. Consent Agenda

- 156 1. Resolution 2021-32 – a Resolution of the Town of Lyons, Colorado Approving the 2021
157 Installation and Maintenance of Seasonal Landscape Services Agreement with CoCal
158 Landscape Services, Inc.
159
160

- 161 2. Resolution 2021-33 – a Resolution of the Town of Lyons, Colorado Approving the First
162 Amendment to the Agreement with Charles Abbott & Associates for Building Inspection
163 Services
164 3. Resolution 2021-34 – a Resolution of the Town of Lyons, CO Ratifying the Fourteenth
165 Amendment to the Construction Agreement with Walsh Construction Inc. for Bohn Park
166 Phase II
167 4. Resolution 2021-35 – a Resolution of the Town of Lyons, CO Ratifying the
168 Third Amendment to the Professional Services Agreement with Rocksol Consulting Group
169 Inc. for Construction Management Services for the 2nd Avenue Bridge Replacement
170 Project
171 5. Resolution 2021-36 – a Resolution of the Town of Lyons, Colorado Accepting a
172 \$282,003.00 Grant “Resilient Colorado” From the State Board of the Great Outdoors
173 Colorado Trust Fund
174 6. Resolution 2021-37 -a Resolution of the Town of Lyons, CO Approving an Operating &
175 Maintenance Agreement Between the Town of Lyons and Lyons Ditch Company
176 7. Resolution 2021-38- Declaring a State of Local Emergency Due to the Public Health
177 Emergency Created by Coronavirus
178 8. April Accounts Payable
179 9. March 15, 2021 BOT Meeting Minutes
180 **Trustee Karavas pulled items 5 & 7. Motion: approve as amended Moved by: Mayor**
181 **Pro Tem Browning Seconded by: Trustee Karavas Vote passes 7-0**
182

183 XI. Items Removed from Consent Agenda

184 **Item 5** – Resolution 2021-36 – grant monies seem to cost us; what is 5-year
185 maintenance/cleaning costs? Considering vandalism to our parks, it gets costly. Director
186 Mitchell stated we will have parking revenue to help offset costs. Trustee Lowell, year-round
187 at least 2 ADA porta potties, once those go away those costs will go down. **Motion:** move to
188 approve **Moved by:** Trustee Karavas **Seconded by:** Trustee Waugh **Vote passes 7-0**

189 **Item 7** – Public Health Emergency – Trustee Karavas stated the State is opening, BoCo
190 staying closed. What is our plan to keep the rest of the state out of our town? What are our
191 plans to take care of this if people don't comply? Administrator Simonsen, I am in same
192 position, wondering if we need to continue this, significant jump in cases, way to memorialize.
193 As long as we are still yellow, from local perspective still in emergency. This week the fire
194 marshal will meet with staff to determine capacity limits in our parks. My recommendation is
195 to continue reservation system for shelters/picnic tables. In budget for park hosts, gate
196 attendants. Trustee Rogin, last year our parks were so crowded because all other parks
197 were closed. Hopefully it won't be as insane as last year. Trustee Karavas, seeing what
198 happened on the Hill in Boulder, people are frustrated, are we prepared for any type of
199 incident in our parks? Administrator Simonsen stated we train staff, but you can't fully prep
200 for these incidents. Trustee Lowell, agenda item for parks plan? Mayor Pro Tem asked
201 about 25-person cap, can we adjust? **Motion:** move to approve **Moved by:** Trustee Karavas
202 **Seconded by: Trustee Miller Motion:** amendment to Section 6 to: The Town Administrator
203 shall have the discretion to limit the size of large groups in public parks **Moved by:** Mayor
204 Pro Tem Browning **Seconded by:** Trustee Miller NO Waugh **Amendment passes 6-1 NO:**
205 **Trustee Waugh original vote passes 7-0**
206
207

208 XII. General Business

- 209 1. Discussion/Direction on Planet Bluegrass Issues, Including Possible Amendments to the
210 Amendable Letter of Understanding and Keynotes
211 A. Sub Committee Report
212 B. Planet Bluegrass Presentation
213 C. Board of Trustees Discussion of Amendable Letter of Understanding and Keynotes
214 and related issues
215 D. Board of Trustees Discussion on “Minor Events”

216 Trustee Waugh recused himself due to financial interest. Break at 9:18 pm

217 Meeting resumed at 9:30 pm. Mayor Pro Tem Browning provided background on why
218 committee was formed, timeline of Planet Bluegrass events/town lodging tax, sales tax, camp
219 site definitions. Planet Bluegrass has been in communication with the town/subcommittee,
220 but efforts have stalled. They have stated they have an agreement with the town to use 6 as
221 the number allowed in a campsite. They stated they would hold weddings everyday instead
222 of events. 6 days later they announce the Spring Concerts with no notice to the town.
223 Subcommittee came up with alternatives, willing to recommend town waive all
224 taxes/penalties from 2019, use 5 per campsite, PB agrees to pay future tax with 20%
225 reduction for possible no shows. PB would report all gross sales/sales tax to town. Town
226 would add confidentiality clause. BOT willing to consider amending ALU and Keynotes. Mr.
227 Ferguson stated he wanted to arbitrate the issues with the town. And the town had now cost
228 the town music. Two days after that he announced more music. Emailed that they are
229 planning the two major events 2 weeks apart. They then advised that they rejected the towns
230 compromise. Here we are with the spring shows planned and we have 3 main issues: 1.
231 Academy and Song School camping. Town can estimate and issue demand for payment, file
232 a lien. 2. Define campsite. 3. Gross sales/sales tax reporting. How does the town want to
233 proceed? The BOT can modify these agreements. Trustee Rogin stated this tax was voted
234 on by the residents of this town. The amounts are not huge, it is a matter of doing what
235 voters want. These agreements are 20 years old; these contracts need to be updated.
236 COVID or NO COVID, times change. In no way do I want to stop PB from having music, I
237 don't think anyone wants that, we need to come to a mutual agreement. Frustrating that PB's
238 reaction is to give us the hand, they don't want to discuss, and they will do what they want.
239 Zach Tucker, Planet Bluegrass, a year ago today when all events were cancelled, we saw
240 we could update Keynotes and address these issues. Important to note when discussing
241 bringing music, we do agree an update to keynotes is needed, but now we are trying to figure
242 out how to navigate a pandemic. As we read it, we feel we are not required to remit tax as
243 we don't sell camping tickets, we do however sell guest camping tickets, which need to be
244 paid. Festival camping, lodging tax issue has been around a long time. Trustee Rogin asked
245 Zach if Planet is open to revising ALU/Keynotes at this time? Zach open to resolve any
246 pressing issues, not ready to make any substantial changes at this time. We did submit at
247 COVID plan for the Spring concerts in February to town staff. Mayor Angelo, this BOT
248 cannot act individually, and I am upset that in April 2018 states that 2 BOT members
249 intimidated to PB that lodging tax would be calculated per campsite and that is highly improper,
250 needed to be agreed upon by the board. Confusion on campsites, this should have been
251 taken care of a long time ago. Trustee Miller, this whole thing we are looking at it from the
252 wrong point of view. They bring in an absurd amount of money to this town; talking about
253 \$2500 more or less, not very much. They pay for use of LMJ, maintain park, these smaller
254 shows now can help. The Keynotes need to be burned and start over. We've been talking
255 about these issues for 3-4 years now. Mayor Angelo are we going to be responsible in our
256 decisions and hold contracts to the agreed terms. We are talking about integrity and
257 upholding our oaths of office. Trustee Miller, nobody can make a decision, are we going to
258 keep talking about it. Mayor Pro Tem Browning, I agree, we need to make a decision, we
259 have tried for 3+ years; we have a duty to uphold contracts and the code. They didn't pay
260 the lodging tax required, we can give in and let PB interpret the tax code, or we can do our
261 duty and interpret and apply the code. Zach Tucker, we want to address these issues; we
262 have attended 3 meetings on this. Our hope is that the board sees the logic; we are all tired
263 of discussing this. We are not looking for a free pass; not trying to work outside of our
264 agreements. Trustee Karavas, PB stated you sell one big package; a service is a service no
265 matter how you package it. It is a taxable service, that is how the tax code works. Every two
266 years this board changes, so very possible you can have this conversation again in two
267 years. if this town picks and interprets 4 as a campsite you will have to live with it. I have no
268 problem with 4 people for campsite. I suggest we do four, figure tax immediately, and move
269 on. If PB doesn't want to address keynotes, if we really need to go down that road, and
270 cancel the keynotes. If you don't want to deal with this then why are you here. Trustee
271 Lowell would PB be averse to counting every group and taxing them \$2. Zach, we are
272 against it, as it is rare that a single tent makes up a single site. It is an undue burden.
273 Trustee Lowell what would be the mechanics for counting that number? Zach, we would take

274 the # of camping passes sold, divided by 6, times the # of nights. Trustee Rogin, I
275 honestly don't care if it's 6 or 4, just want it memorialized and ratified. Zach you say you want
276 to negotiate in good faith, but we were told we don't want to talk to you, talk to the lawyers.
277 Maybe it was tempers, but we need to keep in mind that nobody wants to screw anyone over.
278 We want a contract that is adhered to as I'm sure you do. Mayor Angelo, it would behoove
279 PB to enter into negotiations. Mayor Pro Tem we need to define campgrounds, we need to
280 address these issues. I love these events; I hope we can find common ground. Trustee
281 Miller asked Zach how many camping passes are sold? Zack around 2500 per event.
282 Trustee Miller, I would like to continue this like Mayor Pro Tem said, define camping and
283 move on. Mayor Angelo: staff should pursue definition of campsite and make it clear on song
284 school and other events. Enforcement issues need to be addressed as well. The board
285 would like to see these taken care of before the big event in July. Trustee Miller precedent
286 has been set; how can we enforce now? Mayor Pro Tem Browning, many provisions have
287 not abided by the contract, time to review and decide what is important. Attorney Dittman,
288 section 16 of ALU states if a part of contract is breached, the board can still enforce. A past
289 waiver does not constitute a future waiver. Consensus it to move to next meeting, with draft
290 Ordinance defining campsite.

- 291 2. Discussion/ Direction on STR's in Commercial Buildings – Mayor Pro Tem Browning, no
292 additional inspections be required, affidavit should suffice. Change of use, not sure on that
293 one, if principal use remains the same, in general favor of lessening bureaucratic policies.
294 Trustee Miller concurs; I do think it is important to have a business in the same building and
295 an on-call person for off hours. Trustee Rogin, I agree, until we require residential to do this.
296 Mayor Pro Tem Browning, Trustee Lowell made a good point that different regs for
297 manufacturing/restaurant businesses. Trustee Karavas stated CML touched on this, all
298 mountain communities were there, largest concern was a fire takes out main business
299 district, inspections are onerous. Mayor Angelo, expensive propositions, no one is going to
300 neglect safety if they are smart. Abide by checklist provided by town. Mayor Pro Tem
301 Browning, town admin has discretion to allow with conditions. Attorney Dittman, use
302 checklist, no full inspections. No change in use just because of STR. Town Admin has
303 discretion to issue.
304

- 305 3. Agenda Request – Community Garden on Town Owned Property by: Lyons Community
306 Farm Project (**moved to 4/19 BOT Meeting**)
307
308

309 XIII. Discussion on Future Agenda Items

- 310 1. Trustee Waugh – Review of Lodging Tax being collected by Town-on-town properties.
311 2. Mayor Pro Tem Browning – update on current status/future plans on two buildings in town
312 that are eyesores/blighted. Yoder household on 2nd Ave., and former FestivalInn on Main
313 St.
314

315 XIV. Summary of Action Items

- 316 1. Sales tax reporting requirements – Trustee Waugh
317 2. Parks Safety/Capacity Plan Agenda Item – Trustee Lowell (to 5/3 mtg)
318 3. STR's in Commercial Building Checklist updates
319 4. Update Ordinance to Define Campsite for lodging tax – Mayor Pro Tem Browning
320 5. Discussion on enforcement issues at PB
321 6. Vote to proceed on collecting past due taxes PB.
322 7. Clarify with PB if the town is to be notified of Minor Events
323 8. Site plan for 4th Ave Ped bridge
324 9. Land use approval for cell towers for CDOT
325

- 326 XV. Adjournment – **Motion:** move to adjourn **Moved by:** Trustee Karavas **Seconded by:** Trustee
327 Lowell **Vote passes 6-0** meeting adjourned at 11:35 pm
328
329
330

331 Respectfully Submitted by:

332

333

334 _____
Dolores M. Vasquez, CMC – Town Clerk

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Mayor Nicholas Angelo

“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.”