

LYONS BOT WILL MEET FOR A PRESENTATION OF THE 2009 FINANCIAL AUDIT AT 6:00 PM, TUESDAY, JULY 19, 2010 AT LYONS TOWN HALL PRIOR TO THE REGULARLY SCHEDULED MEETING – THE PUBLIC IS WELCOME TO COME, BUT NO PUBLIC COMMENT WILL BE TAKEN AT THE WORKSHOP

AGENDA

TOWN OF LYONS

7:00 P.M., MONDAY, JULY 19, 2010

BOARD OF TRUSTEES MEETING

SHIRLEY F. JOHNSON COUNCIL CHAMBER

LYONS TOWN HALL, 432 5TH AVENUE, LYONS, COLORADO

I. Roll Call and Pledge of Allegiance

Roll Call.

Present: Mayor Julie Van Domelen, Trustee Lavern Johnson, Trustee Sandy Banta, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Kathy Jacobson.

Absent: Trustee Kirk Udovich.

II. Recognition of our Citizens in the Armed Forces

III. Sgt Kevin Parker, Lyons Substation Supervisor, Report

Sgt Parker stated the Centurion Cycle Race went off well for a first time event; there are a few traffic quirks to work on for next year. Number one complaint was the fact that Meadow Park was closed. Sgt Parker stated he felt the race organizers did a great job and they went out of their way to accommodate homeowners. Sgt Parker stated there will be a meeting with Centurion, State Patrol, Sheriff's Dept to go over the event to see how it can be made better next year.

Sgt Parker stated he put out a Question and Answer for the golf carts, there has been an article in the Longmont paper and I have talked to state troopers over the weekend, this will continue to evolve at the state level to the benefit of the users, I will keep you informed and we will need to update the town ordinance soon.

Sgt Parker stated there have been some complaints and discussions about a group who have been building a dam in the river and sitting in the river drinking beer. As long as it does not interfere with the flow of the river that is not a problem. As long as a person is doing this on private property they are not in violation it was determined this was town property, the citizens moved down river to a piece of property friends had given them permission to use. Mayor Van Domelen stated there had been complaints about parking in the same area (on Evans river side, west of 5th Ave), there is really not a shoulder there and it makes it hard for the residents to get to their homes if people park along there. Sgt Parker stated it is town right of way on that side; it is like a public street and as long as they are not impeding emergency vehicles or homeowners there is really nothing the Sheriff's Dept can do.

Discussion concerning town resident's access to Meadow Park during major events such as the Centurion and Planet Bluegrass Festivals. Town Administrator Simonsen stated she, Sgt Parker and Parks Director Cosgrove are going to sit and talk about any problems after the festival in August to see how and what can be done to make the events work better.

IV. Audience Business - All comments will be limited to four (4) minutes per person – No audience business.

V. General Business



Motion: Trustee Sandy Banta moved to amend the agenda as published and to remove March and April 2010 Clerk & Treasurers Report and add an Executive Session at the end of the meeting to discuss and receive information from the Town Attorney concerning the Vaughn/Chilson/Kavnar mediation.

Action: Adjourn, **Moved by** Trustee Sandy Banta, **Seconded by** Trustee Lavern Johnson.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Julie Van Domelen, Trustee Lavern Johnson, Trustee Sandy Banta, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Kathy Jacobson.



Town Attorney Cox stated he had been talking with Valley Bank concerning Turner Reed and Valley Bank is asking for a continuance to the August 2, 2010 BOT Meeting, the town and the bank will have come to a resolution by that time. Mayor Van Domelen asked if there were any one present that would not be able to come to the August 2, 2010 BOT Meeting who would like to speak.



Mark Browning 633 1st Ave, stated he agrees with vacating Ouray Ave and does not have any complaints about the way the lots are configured.

Motion: Trustee Kathy Jacobson moved to continue items 1, 2, & 3 under General Business to the August 2, 2010 BOT Meeting.

Action: Amend, **Moved by** Trustee Kathy Jacobson, **Seconded by** Trustee Sandy Banta.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Julie Van Domelen, Trustee Lavern Johnson, Trustee Sandy Banta, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Kathy Jacobson.

1. Resolution 2010-20, a Resolution Approving an Application for a Plat Amendment and a Variance from the Required Right of Way Width for Lots 17-19, Block 1 of the Turner Reed Addition Plat Amendment A in the in the SE ¼ Section 18, Township 3 North, Range 70 West of the 6th PM, Town of Lyons, Colorado
2. First Reading, Ordinance 882, an Ordinance Approving the Vacation of Certain Public Right of Way Adjacent to Portion of First Avenue, Ute Trail and Ouray Avenue, Located in Turner Reed Addition in the SE ¼ Section 18, Township 3 North, Range 70 West of the 6th PM, Town of Lyons, Colorado
3. Resolution 2010-22, a Resolution Approving a Subdivision Improvement Agreement for Turner Reed

4. Resolution 2010-27, a Resolution Opposing Proposition 101 & Amendments 60 & 61



Town Attorney Cox stated quick statement familiar with fair campaign act and explained the restriction concerning the use public funds to vote yes or no on any ballot. Town Attorney Cox stated you may present objective data to the public, there can be workshops for both sides, you may express personal/individual opinion, no public resources may be used, use private email not town email. The BOT has the ability at the local level to adopt a resolution for or against, it is permissible. My advice is you have the power to adopt and discuss and to be heard, but understand there is an administrative case law where public officials use of the forum to advocate for a side could be in violation of the Fair Campaign Act, as a board you can have a healthy discussion but need to be careful not to cross the line. Town Administrator Simonsen stated there are three initiatives on the November ballot that if passed would have a negative financial impact on the town and could affect the services that are provided to the town. This information has been shared by CML to all communities in Colorado; if you are comfortable you can pass the resolution in support or against the initiatives. Town Administrator Simonsen stated Finance Director McClurkin and I will be attending a seminar tomorrow and will have more details for the BOT during the budget cycle. Basically 101 would mean statutory changes that would reduce ownership taxes paid, highway users fund, franchise fees, and telecommunications. Amendment 60 is constitutional and stated government could not raise taxes any more than their base year, it limits the revenue government can keep and anything above the cap would be paid back to the citizens. This would also affect towns who have debruced, they would only be allowed to debruce for 4 years and they would have to apply again. There would be a 10 year limit on property tax increase, real property would be taxed and would cut the mill levy paid to the schools in half.

Amendment 61 is also a constitutional amendment and would alter how municipalities incur debt, you would only be allowed to finance projects up to 10 years without a vote of the people, it will also lower the limits on what can be borrowed and bonds than are longer than 10 years must be paid off early and within the next 10 years if they were not approved by the people. Discussion about who the organizer of these initiatives. Town Administrator Simonsen stated if any of these are passed they would go into effect January 1, 2011, municipalities will not have time to react, and the debt would have to be restructured. Mayor VanDomelen stated any loan paid off would require a tax cut to the citizens. Trustee Bruder asked what the intent is for getting these on the ballot. Town Administrator Simonsen stated to reduce the size of government and get debt under control. CML is working on lobbying against 101, 60 & 61. Town Attorney Cox stated the Mayor and Trustees can choose to support or not support the measures personally, personally you can state your opinions to the public, do not use the town email and separate yourself – do not speak as a trustee – you need to state it as your personal opinion that you support or don't support and why.

Mayor Van Domelen stated it is important to understand how people feel about this, do you want more information or do you have enough to make a decision whether to pass the resolution in support CML in lobbying against these

measures. Trustee Jacobson stated I believe government has a responsibility to the people. Trustee Carroll stated it would bankrupt towns. Trustee Bruder stated he would like to go door to door, with the failure of the tax increase last year, this is very important we need act now. Trustee Banta stated amendments are hard to change in our constitution, some ownership tax may be okay but I don't want to see the highway user tax go away, I would support the resolution. Trustee Johnson stated she would support the resolution. I think this is dangerous, I think this is dangerous, I don't know how we can get to the people, I hope CML can fight this. The tax increase last fall was defeated by only 21 votes.

Mayor VanDomelen stated I have one question, do we want to make sure we have a more united front and give Trustee Bruder time to touch base with our citizens or vote on it tonight, it may be better to wait 2 weeks. Trustee Bruder stated I am not saying I would not vote for this, but I don't want to be the only one going door to door, I think some people would have a problem with this. Trustee Carroll stated they don't have the information we have about the town's revenue sources, the bottom line is it would be devastating to the town and it is our responsibility to make the decision. Trustee Bruder stated it is appropriate to vote on this tonight and then go door to door. Town Attorney Cox stated you could say why you voted one way or the other but not as a Board Member. Mayor Van Domelen stated I feel strongly about our responsibility, besides we can afford things now and we can't afford to take the hit, we can barely afford things now, this would also take away from our ability to acquire debt, our responsibility to fund our education programs, what this does to local finances is unjustifiable, I have my own opinions and will go out with my personal opinion. Trustee Johnson stated she would support this, we have to convince the voters.

Motion: Trustee Kathy Carroll moved to approve Resolution 2010-27, a Resolution Opposing Proposition 101 & Amendments 60 & 61

Action: Approve, **Moved by** Trustee Kathy Carroll, **Seconded by** Trustee Kathy Jacobson .

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Julie Van Domelen, Trustee Lavern Johnson, Trustee Sandy Banta, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Kathy Jacobson. **Absent;** Kirk Udovich

5. Discussion of Boulder County Response for IGA Amendment



Town Administrator Simonsen stated in 2009 the Town requested to amend the IGA with Boulder County to include 3 properties in our Planning Area (north water treatment plant, Hawkins Property and Gwens Greenhouse). The Town did not get a formal response until May of this year. Discussion on where to go from here with the letter from Boulder County stating they want the Ramey Property that is now in the Lyons Planning area and setting up a meeting with Boulder County to discuss the IGA.

VI. Trustee Reports

Trustee Johnson stated they talked at the Parks & Rec meeting about charging for parking at Bohn Park for events like the Lyons Outdoor Games.

Trustee Johnson gave the BOT some background on the Ramey property near Meadow Park. I sent an email to the Ramey's to find they have already sold the property to the Stuarts, it would have been nice for the town to buy that property it would have been a nice addition to Meadow Park.

Trustee Johnson stated the history program for kids put on at the Redstone Museum last week was good and they are going to try to do another next year.

Trustee Banta stated she met with the Lyons Chamber Board concerning sales tax data and asked their opinion. Trustee Banta asked if the sales tax collected could be broken down by business sectors and given to the BOT. Trustee Banta asked if the town has a way to audit sales tax collections. Finance Director McClurkin stated the sales tax information is confidential so it would not be specific, it would have to be like all restaurants. Town Attorney Cox stated the open records act does not reference sales tax, it states it shall not disclose the individual but can use a category. Trustee Banta stated the Chamber is not interested in staffing the Visitor Center as they feel it is not effective due to its location and stated that she was told staffing at the Visitor Center in the past would not give specific recommendations for a restaurant as to not favor one over another, they would just give them a list of all the restaurants in town. Trustee Banta stated the Chamber is coming out with the Lyons First booklet; they have 10,000 copies and will focus on getting those out for now.

Trustee Banta stated LAHC would not be having a regular meeting this week but would be putting up a show "Summer in Lyons" on June 24th at Town Hall. Trustee Banta stated LAHC is looking for new members.

Trustee Bruder stated he took pictures of the Centurion Race on Sunday July 18th. The Centurion Staff and volunteers had lots of nice things to say about the help they received from Parks & Rec and Public Works.

Trustee Bruder stated he accompanied Jacque Watson and Ms. Cornell to the Downtown Colorado workshop in Grand Junction; it was very interesting and thought provoking. Lyons is a candidate for federal funding with Downtown Colorado; it would be just about Main Street. With the federal funding there would be help to organize staff in conjunction with the EDC and the Chamber to make sure you are working together and not repeating things. There were ideas to encourage the Chamber, to change store fronts, get the media involved, social networking, etc. the next step would be a steering committee to get the applications done. Trustee Bruder stated Deputy Clerk Watson has a clear idea on how we would take advantage as a candidate. Trustee Bruder stated I hope we can find enough interest to pursue this; it really ties in with Economic Development.

Trustee Bruder stated he had spoken with Boulder County about a Senior Summit and they are interested in using Lyons as a flag ship, the intention is to bring as many services as possible to the Town of Lyons.

Trustee Carroll stated SFC had their monthly meeting, they are working on the Comp Plan, they have broken the areas us and are having volunteers help. The localization for food sources, perma culture, energy renewable transportation, going green, air quality, wildlife habitat, there is so much to be done. We will see in September what we have and see if we need to prioritize any of the projects. SFC is having a contest "Brand the Sustainability Effort for Lyons."

Trustee Jacobson stated the library held another open house there were 15 people in attendance along with the DOLA designers. The designers will assemble all the comments from the meeting and bring them to the regular Library meeting next month. Trustee Jacobson stated then they will have a meeting with the Library Board, Friends of the Library and the Future Library Committee to discuss where to go from here, forming a library district will also be a topic.

Mayor Van Domelen reminded everyone they need to be working on their sections of the Comp Plan implementation. Mayor Van Domelen stated the August deadline to send in the TIP Grant, the BOT passed the MOU at the last meeting we need to get a steering committee for this project and keep it moving forward. Town Administrator Simonsen stated some of the work has already been completed by DIPICT and Tim Schope from Boulder County has stated he would help. The BOT directed staff to ask Town Engineer Blakenship if he would be interested in doing this.

VII. Consent Agenda

1. July 6, 2010 Board of Trustees Meeting Minutes
2. June 21, 2010 Board of Trustees Meeting Minutes
3. June 2010 Clerk and Treasurer's Report

Mayor Van Domelen asked that item #3 be removed from the Consent Agenda.

Trustee Carroll asked Trustee Bruder if the changes to the July 6, 2010 BOT minutes met his approval. Trustee Bruder stated yes.

Motion: Trustee Carroll moved to approve items #1 & #2 on the Consent Agenda.

Action: Approve, **Moved by** Trustee Kathy Carroll, **Seconded by** Trustee Ed Bruder.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Julie Van Domelen, Trustee Lavern Johnson, Trustee Sandy Banta, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Kathy Jacobson. **Absent:** Trustee Kirk Udovich.

VIII. Items Removed from the Consent Agenda

3. June 2010 Clerk and Treasurer's Report

Mayor Van Domelen asked staff to explain the graphs showing the gross sales and taxable sales. Mayor Van Domelen stated I am trying to understand what is stated here as there seems to be a discrepancy in the numbers. Finance Director McClurkin stated the revenues for the year mimic the taxes paid in 2009 - 2009 and 2010 are similar with peaks and valleys, similar to 2009 but I would like to see 2010 higher, I am waiting to hear from the state what the non taxable is. Trustee Carroll stated on the second page February 2010 looks to be significantly up but then the paid amount is down. Finance Director McClurkin stated yes they should be moving in tandem, this is from the state web site, while the information is interesting, it does matches the amounts I have but does not make sense yet, I have questions that need to be answered by the state. Trustee Carroll asked then it shows just what has been paid. Finance Director McClurkin stated the sales tax paid should mirror the sales. Mayor VanDomelen stated if you look at the percentage of the graph on the taxable in January took in more in taxable sales if add up to July it is up 1.5 million in taxable and down in what is actually paid, in fact we should be up 40% – 50%, it does not make sense. Finance Director McClurkin stated it does lead us to doing the sales tax audit. Trustee Banta stated I think it is miss reported. Finance Director McClurkin stated sales tax returns are on the honor system you pay against what you state your

income was. Mayor VanDomelen asked the Trustees if they wanted to pursue a sales tax audit. Trustee Bruder asked if someone from Lyons buys a big appliance such as a couch or tv is the Town of Lyons supposed to get the tax from that sale. Finance Director McClurkin stated no, the tax is paid to the town/city it is bought in. Discussion concerning sales tax and use tax and what actually is paid to the Town. The BOT agreed they need to discuss asking the state to come in and do a sales tax audit for the Town.

Finance Director McClurkin stated she hoped the Clerk and Treasurers Report was more readable than the last financial report, it shows the balances for each fund, the actual cash balances and what each fund has available to spend. Discussion included tracking the fund balance, actual year to date balances, net revenue over expenditures and fund balances. Mayor VanDomelen stated I want to be able to check the balance of each account every month. Finance Director McClurkin stated she could do that. Mayor VanDomelen stated it looks like we are off in revenues, we need a good snap shot of what we need to react to.

Motion: Trustee Ed Bruder moved to approve the Clerk and Treasures Report for the month ended June 30, 2010.

Action: Approve, **Moved by** Trustee Ed Bruder, **Seconded by** Trustee Kathy Carroll.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Julie Van Domelen, Trustee Lavern Johnson, Trustee Sandy Banta, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Kathy Jacobson. **Absent:** Kirk Udovich.

IX. Ordinances

1. Public Hearing - Ordinance 884, an Ordinance Extending the Temporary Moratorium Imposed by Ordinance 879 on the Acceptance, Processing and Approval of any Application for a Town of Lyons Permit or License Concerning the Operation of any Business Involving the Sale or Cultivation of Medical Marijuana Pursuant to Article 18, Section 14 of the Colorado Constitution, Declaring the Intention of the Town of Lyons Board of Trustees to Consider the Adoption of Appropriate Regulations Governing Such Businesses to the Extent Allowed by Law, Directing Town Staff to Investigate the Town's Authority to Regulate such Businesses and to Prepare Regulations for the Board of Trustees' Consideration. Second Reading

Trustee Bruder stated for the record he would be recusing himself from voting and participation during any discussion for Ordinance 884. Town Attorney Cox stated this ordinance is the same as the two previous moratoriums, this one will be for the protection of the town until the state gets their regulations in place and the town decides what if any regulations they want in place between now and July 1 2011. Mayor Van Domelen stated this will be in place until July 1, 2011 or until the state and local laws are adopted and implemented.

Mayor Van Domelen opened the Public Hearing at 9: 50 pm and closes at 6:51 pm with no one speaking.



Discussion concerning how far the establishments must be from the elementary school and child care centers. Town Attorney Cox stated according to the state laws local authorities can waive the distance from a school, it would be similar to what the town did with the 500 ft for the liquor licensing.

Motion: Trustee Kathy Jacobson moved to approve Ordinance 884 on second reading.

Action: Approve, **Moved by** Trustee Kathy Jacobson , **Seconded by** Trustee Kathy Carroll.

Vote: Motion passed (**summary:** Yes = 5, No = 0, Abstain = 1).

Yes: Mayor Julie Van Domelen, Trustee Lavern Johnson, Trustee Sandy Banta, Trustee Kathy Carroll, Trustee Kathy Jacobson. **Abstain:** Trustee Ed Bruder. **Absent:** Kirk Udovich

- X. Executive Session - for determining positions relative to a matter that is subject to negotiations and instructing negotiators under Section 24-6-402(4)(E), CRS and for a conference with the Town Attorney for the purposes of receiving legal advice on specific legal questions under Section 24-6-402(4)(B) CRS, specifically regarding the Town's response to the settlement proposal developed at the mediation session held on July 15, 2010 between and among the Town Winn and Marilyn Vaughn and David Chilson and Karen Kavnar, and asking specific questions of the Town regarding the legal implications of accepting or rejecting the proposal.
- Town Attorney Cox stated Trustee Bruder and Banta were on the Board of Adjustments and heard the Chilson/Vaughn/Kavnar variance applications. This process we are going to discuss would not affect the decision for the BOA made but there is an appearance of conflict of interest by participating in an individual decision. They have not heard what the mediator has proposed, that will be heard in the executive session. Town Attorney Cox stated he did not feel this would be a conflict of interest it is just the appearance. Trustees Banta and Bruder both stated they could be objective.

Motion: Trustee Kathy Carroll stated I move to go into Executive Session for the following purposes, determining positions relative to a matter that is subject to negotiations and instructing negotiators under Section 24-6-402(4)(E), C.R.S. and for a conference with the Town attorney for the purposes of receiving legal advice on specific legal questions under Section 24-6-402(4)(B), C.R.S., specifically regarding the Town's response to the settlement proposal developed at a mediation session held on July 15, 2010 between and among the Town, Winn and Marilyn Vaughan and David Chilson and Karen Kavnar, and asking specific questions of the Town attorney regarding the legal implications of accepting or rejecting the proposal. I further move to reconvene the Board meeting at the conclusion of the executive session, for the purpose of taking any actions deemed necessary.

Action: Approve, **Moved by** Trustee Kathy Carroll, **Seconded by** Trustee Kathy Jacobson.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Julie Van Domelen, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Kathy Jacobson , Trustee Lavern Johnson, Trustee Sandy Banta. **Absent:** Kirk Udovich

The BOT went into Executive Session at 10:02 pm and returned at 10:45 pm.

Town Attorney Cox gave a brief overview of the case. Judge Kim Goldgerger was the mediator. The BOT discussed the situation and inquired into the cost of the proposed improvements. Discussion included mediation proposal.

Motion: Trustee Ed Bruder moved to direct staff to continue with research and the feasibility of conducting the proposed agreement between both parties and for staff to evaluate the cost of the green screen and the removal of trees.

Action: Table, **Moved by** Trustee Ed Bruder, **Seconded by** Trustee Kathy Carroll.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Julie Van Domelen, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Kathy Jacobson , Trustee Lavern Johnson, Trustee Sandy Banta. **Absent:** Trustee Kirk Udovich

XI. Adjournment - meeting adjourned at 11:00 pm

Respectfully submitted by;

Deb Anthony, CMC – Town Clerk

Julie Van Domelen, Mayor