

LYONS BOT WILL MEET FOR A WORKSHOP CONCERNING MID YEAR BUDGET ADJUSTMENTS AT 6:00 PM, MONDAY, AUGUST 16, 2010 @ THE LYONS TOWN HALL PRIOR TO THE REGULARLY SCHEDULED MEETING – THE PUBLIC IS WELCOME TO COME BUT NO PUBLIC COMMENT WILL BE TAKEN AT THE WORKSHOPS

Present at the Workshop

Mayor Van Domelen & Trustees Johnson, Banta, Bruder, Udovich & Carroll – Absent Trustee Jacobson

AGENDA

TOWN OF LYONS

7:00 P.M., MONDAY, AUGUST 16, 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

Present: Mayor Julie Van Domelen, Mayor Pro Tem Kirk Udovich, Trustee Sandy Banta, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Lavern Johnson.

Absent: Trustee Kathy Jacobson

II. Recognition of our Citizens in the Armed Forces

III. Sgt Kevin Parker, Lyons Substation Supervisor, Report – not present.

Motion: Mayor Pro Tem Udovich moved to add the July 2010 Clerk & Treasurer's Report to the Agenda under General Business.

Action: Approve, **Moved by** Mayor Pro Tem Udovich, **Seconded by** Trustee Kathy Jacobson.

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

Yes: Mayor Julie Van Domelen, Mayor Pro Tem Kirk Udovich, Trustee Sandy Banta, Trustee Ed Bruder, Trustee Kathy Carroll, Trustee Lavern Johnson.

Absent: Trustee Kathy Jacobson.

Discussion concerning parking problems in the residential areas during the Festivals. (4th and Evans & 5th Ave)
Mayor Van Domelen stated the 2 hour parking signs need to be put in place on Main Street between 3rd and 5th.
Trustee Johnson suggested Craig Ferguson put something in the Festival Brochure concerning parking.

Discussion concerning code enforcement and possibly having several staff members appointed to this.

IV. Audience Business – All comments will be limited to 4 minutes per person

Ann Obrien, Lyons resident and Member of the Lyons Gardening Club, asked the BOT to be the fiscal agent again this year since the town is a 5013C in order for the Garden Club to apply for a grant with the Lyons Community Foundation for more flowers along the corridor and within the town. The Garden Club also holds several fund raisers during the year to promote the Garden Club.

Consensus was for the town to act as the fiscal agent for the Garden Club for their application for the grant. Ms.

Obrien stated they will be asking for \$2,500 this year.

The Mayor, Trustees and Staff thanked Ms. Obrien for all the hard work the Garden Club does all over town.

V. General Business

1. Acceptance of the 2009 Financial Statements prepared by Mr. Paul Hoshler of Johnson, Hoshler & Company, PC per LMC 1-10-9.

Town Administrator Simonsen stated Mr. Hoshler presented the 2009 Audit to the BOT at a work shop. According to Mr. Hoshler 2009 has been reviewed and is according to state statute and Lyons Code. The BOT must state by code that you have received the 2009 audit and it has been completed. Finance Director McClurkin the audit is within compliance.

Motion: Mayor Pro Tem Udovich moved to accept the 2009 Financials prepared by Mr. Paul Hoschler of Johnson, Hosclher & Company, PC.

Action: Approve, **Moved by** Mayor Pro Tem Udovich, **Seconded by** Trustee Kathy Carroll.

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

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

2. July Financials and Clerk and Treasurer's Report –

Finance Director McClurkin stated the report is pretty straight forward, there is nothing major to report. We did make a payment to Lawson Construction for the Main Street Project and have applied for a refund from CDOT, we are waiting to receive approximately \$600,000. Discussion concerning sales tax revenue.

Motion: Trustee Kathy Carroll moved to approve the July Financials and the Clerk & Treasurer's Report

Action: Approve, **Moved by** Trustee Kathy Carroll, **Seconded by** Trustee Lavern Johnson

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

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

3. Resolution 2010-29, for Supplemental Budget and Appropriation, and Revision of the 2010 Fiscal Year Budget.

Town Administrator Simonsen stated the BOT had a workshop concerning this and the Finance Director and I do not feel there is a need to take action on this Resolution at this time. We are close to budget and feel there are not any midyear adjustments that need to be made. The BOT does not have to take action on this item tonight.

4. Discussion of Ordinance an Ordinance Repealing and Readopting Chapter 12 of Title 1 of the Lyons Municipal Code in its Entirety Regarding General Provisions Applicable to All Boards, Commissions, Committees and Other Advisory Bodies Established by the Town of Lyons

Town Administrator Simonsen stated this is a discussion tonight. Currently we have nearly 15 boards, commissions and committees in the Lyons Municipal Code. At this time there is not one place in the code book that all the boards, commissions and committees are listed, some of those listed are active, some are not and other are more casual we need a way to bring more consistency to all of them. Mayor Van Domelen and Trustee Kathy Carroll have made some changes. Discussion included who appoints, length of terms, number of members, how to elect officers, reporting requirements, liaisons, compensation, staggering terms, advisory capacity, limited number of absences and accomplishments. Mayor Van Domelen stated the water study commission, land use advisory commission and engineering advisory board are obsolete. Mayor Van Domelen asked the Trustees to talk with the committee/board they are the liaison to and come back with suggestion to make things run smoother and changes to the code if any that can be discussed. Discussion about forming a task force together with the single purpose of the St Vrain River, we don't have a master plan for the river. Mayor Van Domelen we would need to put out public notification of vacancies, applications would then be screened and then put before the BOT for ratification. Discussion concerning some boards/commission having members from outlying areas of Lyons. The application process would be fairly simple and would ask the applicant what they feel they can contribute and if they are committed to the length of the term. Town Administrator Simonsen stated formal letters would be sent to the member stating the terms and a copy of the letter would be kept in a file at town hall. Trustee Lavern Johnson stated she did not like the ideal of term limits. Trustee Kirk Udovich stated no offense to anyone but feels turnover is healthy. Discussion concerning the pros and cons of term limits, the length of term limits. Mayor Van Domelen stated a Trustee, Mayor nor Staff liaison can be the Vice Chair of any committee/commission. Discussion concerning compensation, ability to pay for training and if paid a stipend it shall not preclude authorizing reimbursement for classes. Mayor Van Domelen stated it would be Town Clerk Anthony's who would make sure public notice of meeting was complied with and gather the meeting reports that would be available monthly to the BOT in the packets. Discussion of where to have a public meeting if town hall were not available. Mayor Van Domelen stated the committees/commissions should also give an annual report to the BOT stating their accomplishments over the past year and state what they hope to accomplish over the next year.

Town Attorney Cox suggested as we define the committees/commissions we can break the chapter into sections for those committees/commissions that are required by state statute and those that are not, the add the task force and ad hoc committees. Town Attorney Cox stated some of the rules will be different due to state statute requirements. Discussion concerning combining the tree and weed board, Garden Club, and if the tree and weed commission could become part of the Parks & Rec Commission.

The BOT agreed to get the information needed from the various board/committees, commission they are the liaison to back to Town Administrator Simonsen so feedback can be discussed at the September 20, BOT meeting.

VI. Staff Reports

Town Administrator Simonsen stated Champion Cable has sold their Lyons franchise to CAMS Cable. This business transaction occurred without notice to the Town, as specified in the current franchise agreement. Staff has met with Cameron Stone, owner of CAMS Cable, Colorado Springs. Rob Jones is the technician for Lyons. He has already purchased the business from Champion and has reviewed the contract with town staff. The cable franchise agreement should be presented at the September 7 BOT meeting. Visit www.camscable.com

Town Administrator Simonsen stated nearly 15 people attended the Economic Development Committee meeting held last week, including non-members of group that have an interest. After introductions and an orientation to the committee, the group worked on the Comprehensive Plan implementation plan for EDC issues. Several sub-committees were formed to work on specific projects. The group will meet again on August 25 at 6:30 pm.

Town Administrator Simonsen stated Town Engineer Jim Blankenship is accepting requests for proposals (RFPs) for a complete rebuild of Stickney Avenue between 3rd and 5th Avenue. This project was budgeted for 2010 and includes replacement of necessary infrastructure under the road (water, wastewater, storm drainage) as well as road, curb and gutter installation. We will also include the cost of sidewalk replacement in the bids, and will pursue funding to assist with this item. If possible, the project could be completed yet this year, or may be held until next spring for better bids.

Town Administrator Simonsen stated the PCDC held a workshop this week to discuss Planned Unit Development (PUD) zoning as an alternative in Lyons. They also had preliminary discussions of medical marijuana regulations, but will address this topic more formally at their August 23rd meeting.

Town Administrator Simonsen stated the Library Board of Trustees; Friends of the Library and Library Futures Task force met this week to identify the size, site and function of a proposed new library facility. After much discussion and debate, the group made the decision to direct DOLA to finalize their schematic plans with a facility of 5000-7000 square feet, to be located on the west end of Sandstone Park, and including public restroom, meeting space and a visitor's information counter.

Town Administrator Simonsen stated the town has received a total of six applications for the municipal prosecutor position opening. The selection committee is planning to interview candidates the first week of September.

Town Administrator Simonsen stated Melissa Swedlund, Library Clerk, has submitted her resignation notice effective August 18th. We are advertising her full-time position as two part-time positions to allow more scheduling flexibility and to reduce the expense of full-time benefits.

Discussion concerning the MOU for the eastern corridor and the TIP applications.

VII. Trustee Reports

Trustee Bruder stated he had a conversation with Cameron Stone, the new owner of Champion Cable and they have agreed to provide internet service to the senior center, the downtown area will also eventually be covered, we are working on getting clearances with the county to allow the access at the senior center.

Trustee Bruder stated several residents have asked him where the town is on amnesty for the building permits. Town Administrator Simonsen stated she and Deputy Clerk Watson have been talking about getting samples resolutions from other communities; we will have this ready for the next meeting.

Trustee Carroll stated the Sustainable Future Commission met with Boulder County representatives concerning zero waste projects and they are going to help us with grant writing and resources, we will need volunteers to help implement the program. We also have a net metering task force that is gathering information and MEAN has some services they can provide for us to move forward. MEAN is also willing to help facilitate the financial structure for net metering, it should cost less than \$1,000 to get all the documentation the town would need.

Trustee Johnson stated she is trying to raise funds to keep the Visitors Center open until October. Trustee Johnson stated the Museum will be open to the end of September. Trustee Johnson stated the Museum would be applying for a grant through the Lyons Community Foundation this year for another History Class like the one they held this summer.

Trustee Udovich stated the PCDC met for a workshop and Town Planner Ortiz presented draft PUD regulations and they also discussed zoning and business licenses for medical marijuana businesses. Since there were only 2 commissioners at the workshop they decided to wait to the next meeting to discuss the issues surrounding medical marijuana. Mayor Van Domelen stated I don't want the PCDC to think they are developing the marijuana regulations, it needs to be clear the process will come from the BOT. Discussion concerning the 500 ft rule for the medical marijuana stores.

Mayor Van Domelen stated DRCOG will be hosting Local Elected Officials Orientation August 26, 2010 at 4 pm and anyone wanting to attend should contact her by Friday.

VIII. Consent Agenda

1. August 2, 2010 Board of Trustees Meeting Minutes

Motion: Trustee Sandy Banta moved to approve the Consent Agenda.

Action: Approve, **Moved by** Trustee Sandy Banta, **Seconded by** Trustee Ed Bruder.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 3).

Mayor Van Domelen and Trustee Kathy Carroll abstained from voting since they were absent at the August 2, 2010 BOT Meeting.

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

IX. Second Reading Ordinances.

1. Public Hearing – 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 – Second Reading.

Administrator Simonsen stated this is the second reading of this ordinance that will vacate portions of public right of way of First Ave, Ute Trail and Ouray Avenue within Turner Reed.

Mayor Van Domelen moved to open the Public Hearing at 9:09 pm. Public Hearing closed at 9:10 pm with no public comment.

Trustee Johnson stated she could understand Mr. Wickum's concerns about the landscaping. Town Administrator Simonsen stated this action has nothing to do with the retaining wall or beautification it has to do with the easements and improvement to access and drainage.

Motion: Mayor Pro Tem Udovich moved to approve Ordinance 882 on second reading.

Action: Approve, **Moved by** Mayor Pro Tem Udovich, **Seconded by** Trustee Sandy Banta

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

Trustee Udovich stated this was a package deal, we approved the plat amendment at the last meeting and now are saying we are approving the vacancies. Trustee Bruder stated in the future he would like to have relevant staff present at the meeting to answer our questions; it would have been very helpful to have them at the last meeting.

Town Administrator Simonsen stated August was a rough month to get everyone scheduled. Trustee Banta stated she would like to have had a better explanation of why it was continued so many times, that she felt out of the loop, that staff knew what was going on but was not relaying the information to the BOT.

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

X. Items Removed from the Consent Agenda - not items were removed from the Consent Agenda

XI. Executive Session - 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 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. This executive session is a continuation of the discussion held by the Board of Trustees at an executive session on August 2, 2010.

Mayor Van Domelen stated I would like to address a point raised by Chilson/Kavnar. Chilson/Kavnar questions whether Trustee's Banta and Bruder who were previously on the BOA that made a decision in the Chilson/Kavnar/Vaughn hearing can be objective. Mayor Van Domelen stated I raised this same question on the last two executive sessions, this is an open request to Trustee's Banta and Bruder, being a decision maker in this gives the appearance of not being able to be objective. Mayor Van Domelen stated it may put the town in an awkward position. Town Attorney Cox stated the most important determination of whether to participate objectively is a personal decision apart from monetary. We are not talking about a quasajudicial or exparte communications, this is an administrative decision. If you think you have already made up your mind then we are talking about the appearance of impropriety. Please review the ethics code and see if you have a problem. There is no automatic disqualification, if you feel you can't participate it has to be an independent decision, the appearance needs to be considered with the Code of Ethics. Mayor Van Domelen stated she and Town Administrator Simonsen met with Chilson/Kavnar and they asked that you both consider whether you can be objective. Mayor Van Domelen stated it could add more fuel to the fire down the road for the BOT if you don't recuse yourself from this. Mayor Van Domelen stated they also stated Trustee Johnson testified for the Vaughan's in 2007 and that you stated the hearing was a terrible waste of time and money and therefore you have a predisposed opinion. Town Attorney Cox stated again it is up to Trustee Johnson no one knows her mind and hear only you know if you can't be fair. Trustee Johnson stated my connection is I lived in that house and I used those steps, but that was 60 years ago but I can see their point, having said the steps belong to the place, I guess I can't be objective, I did say it was a waste of time and money and I still think that, if you think I should then I will. Town Attorney Cox stated if you can't be objective you have to make the decision. Trustee Johnson stated I will recuse myself. Trustee Banta stated she feels she can be objective but she can see it may cause more energy and time for the Town if she did not recuse herself. Trustee Bruder stated I see this as a separate and distinct issue from the BOA and I feel I can be objective and don't feel the need to recuse myself from this at all. Trustee Banta stated she would recuse herself.

Motion: Mayor Pro Tem Udovich moved to go to 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 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. **This executive session is a continuation of the discussion held by the Board of Trustees at an executive session on July 19, 2010 and will return to the open meeting.**

Action: Approve, **Moved by** Mayor Pro Tem Udovich, **Seconded by** Trustee Kathy Carroll

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 3).

Trustees Banta and Johnson recused themselves from the vote.

Yes: Mayor Van Domelen, Mayor Pro Tem Kirk Udovich, Trustee Kathy Carroll, Trustee Ed Bruder

Absent: Trustee Kathy Jacobson. **Recuse:** Trustee Sandy Banta, Trustee Lavern Johnson

Executive Session started at 9:32 pm

Mayor Van Domelen stated the time is now 10:17 pm and the Executive Session has been concluded. The participants in the Executive Session were Mayor Van Domelen, Mayor Pro Tem Kirk Udovich, Trustee Kathy Carroll, Trustee Ed Bruder, Town Attorney Tim Cox, Town Administrator Cox and Town Clerk Deb Anthony. For the record if any person who participated in the Executive Session believes that any substantial discussion of any matters not included in the motion to go in to Executive Session, or that any improper action occurred during the Executive Session in violation of the Open Meetings law, I ask that you stated your concerns for the record.

XII. Adjournment - Meeting adjourned 10:18 pm