

TOWN OF LYONS BOARD OF TRUSTEES MEETING

ZOOM LINK:

<https://us02web.zoom.us/j/86492276944?pwd=bTN3NE1vTTZlOU5pemJud25uTWxZZz09>

Meeting ID: 864 9227 6944

Passcode: 159408

Dial by your location:

+1 312 626 6799

Meeting ID: 864 9227 6944

DRAFT AGENDA
THURSDAY, FEBRUARY 4, 2021

4:00 PM BOARD OF TRUSTEES SPECIAL MEETING

- I. Roll Call And Pledge Of Allegiance
- II. Approval Of The Agenda
- III. General Business
 - III.1. RESOLUTION 2021-19 - A RESOLUTION OF THE TOWN OF LYONS, COLORADO AUTHORIZING NEGOTIATIONS AND, IF NECESSARY, EMINENT DOMAIN PROCEEDINGS TO ACQUIRE PROPERTY INTERESTS NECESSARY FOR REPLACEMENT OF THE 2ND AVENUE BRIDGE ACROSS SAINT VRAIN CREEK.

Documents:

[COVER MEMO 2ND AVENUE BRIDGE CONDEMNATION OR SETTLEMENT \(DITTMAN EDITS 2-3-2021\).PDF](#)
[RESOLUTION 2020-19 RESOLUTION AUTHORIZING CONDEMNATION.PDF](#)
[73391-DESC-C19 \(E\)-R1.PDF](#)

IV. Adjournment

"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."

Town of Lyons, Colorado
Board of Trustees
BOT Agenda Cover Sheet
Agenda Item No: XI. 1.
Meeting Date: Feb 4, 2021

TO: Mayor Angelo and Members of Board of Trustees
FROM: Tracy Sanders, Flood Recovery Manager
DATE: February 3, 2021
ITEM: Resident Demands for Temporary Easement Agreement at 207 2nd Avenue

ORDINANCE
 MOTION / RESOLUTION
 INFORMATION

- I. **REQUEST OR ISSUE:** Consideration of a settlement for a temporary easement agreement at 207 2nd Avenue or authorization of condemnation.
- II. **RECOMMENDED ACTION / NEXT STEP:** Discussion and direction to staff
- III. **FISCAL IMPACTS:**

	<u>Estimated Fees and Funding</u>	
Condemnation Attorney	TBD	CDBG
ROW Consultant (includes Appraisal)	\$14,975	CDBG
Court Fees	TBD	CDBG
Compensation to property owner	TBD	CDBG

***current offer was \$2,500 plus stairs (\$15,500). Appraisal in process**

2nd Ave Bridge Costs Not Covered by FEMA

207 2nd Ave
 Easement Fee Requested \$18,000

196 2nd Ave
 Bridge contract build stairs \$15,500
 Bridge contract build eddy on private property \$ 820
 Easement fee (landscaping) to private property owner \$16,500
 Tree money \$ 250
 Waive Encroachment Fee \$ 100
 Build bench on property \$TBD

	\$33,170
194 2nd Ave	
Fee requested in case trees are damaged	\$ 500
123 Park Street	
Standard Easement Fee	\$ 10
Town Requests	
Tree Replacements	\$TBD
Secondary Emergency Access (east alley)	\$TBD
Additional Fees from Design Consultant	
Easement Coordination (FEMA may not cover this)	\$10,186
Estimated Town Share	\$61,866

IV. BACKGROUND INFORMATION:

The Town has been negotiating with 207 2nd Ave for a temporary construction easement for some time. The work to be performed covers about 1,500 square feet where this area nearest to the river would need to be graded to tie back to river at a 3:1 slope. No material will be removed from the property, but the area will have more of a gradual slope. A mature willow tree cluster plus another mature tree will need to be removed to add rip rap and to tie in the grading.

The property owner has been concerned about losing the trees and the potential impact to hundreds of flowers she has. The property owner also had some concerns about losing parking they used in the Town right of way. Since there is no written agreement with the Town to allow for a parking space specific to the homeowner, the Town is not obligated to replace the parking on the right of way. The property owner has gone back and forth on wanting stairs to come from 2nd Ave to her front gate that leads to the front door. The Board has previously approved funding for design and construction of the stairs of \$15,500 as a potential settlement option.

The Town has been working with this property owner on negotiations since June of 2020. There have been many iterations of requests and counter offers. On February 2, 2021 the Town was onsite with an appraiser to start the condemnation/eminent domain process. The property owner came outside and spoke with Town staff, the ROW consultant, and the project Construction Manager. During the discussion, the property owner said that she no longer wanted the stairs and would prefer to have the money instead. The Town made a formal offer of \$15,000 with that offer contingent upon approval of funds by the Board of Trustees. The property owner countered at \$18,000.

The project is at a critical point where the lack of an agreements is starting to impact schedule. The contractor is ready to remove the trees and start placing rip rap and the stairs are ready to be constructed Monday, February 8. If the stairs are not needed the contractor will need to know

as soon as possible. The Town can always proceed with condemnation, but the construction timeline will be affected while the Town.

Town staff needs direction on whether to authorize condemnation or to settle for \$18,000

V. LEGAL ISSUES: Attorney Dittman has been involved and drafted the resolution language. Town condemnation counsel has advised Town Staff on considerations for condemnation. The Town will need to secure some form of authorization before proceeding with construction at 207 2nd Ave.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES: TBD

VII. SUMMARY AND ALTERNATIVES:

The Town could continue to pursue condemnation of the temporary construction easement on the property;

The Town could pay the owner \$18,000 requested with no other improvements;

The Town could direct staff to negotiate another amount.

Drafted 2.3.21

**TOWN OF LYONS, COLORADO
RESOLUTION 2021-19**

**RESOLUTION OF THE TOWN OF LYONS, COLORADO AUTHORIZING
NEGOTIATIONS AND, IF NECESSARY, EMINENT DOMAIN PROCEEDINGS TO
ACQUIRE PROPERTY INTERESTS NECESSARY FOR REPLACEMENT OF THE 2ND
AVENUE BRIDGE ACROSS SAINT VRAIN CREEK.**

WHEREAS, the Town of Lyons (the “Town”) has the power and authority to acquire, and if necessary, to take by eminent domain, property necessary to the exercise of the powers granted to it by Colorado law; and

WHEREAS, the Town has determined that the property interests described in **Exhibit A** attached hereto are necessary in order to complete the replacement of the 2nd Avenue Bridge across Saint Vrain Creek and associated improvements which is required as a result of flooding in 2013 (the “Project”); and

WHEREAS, the Project is a public purpose; and

WHEREAS, the property interest which is necessary to be acquired is specifically a temporary contraction easement as for the area more particularly described in **Exhibit A**, and attached here to; and

WHEREAS, the Lyons Town Board of Trustees (the “Board”) has determined that the Project and the acquisition of the property interests described in **Exhibit A** attached hereto are necessary for the health, safety, and welfare of the citizens of the Town and the public.

**NOW THEREFORE, BE IT RESOLVED BY THE LYONS TOWN BOARD AS
FOLLOWS:**

1. The acquisition of the property interests described in **Exhibit A**, and attached hereto, is required for the public purposes described herein and is necessary for the health, safety and welfare of the citizens of the Town and the public.
2. The Board hereby approves the acquisition of the property interests described in **Exhibit A**, and attached hereto, by the Town initially through negotiations with the owner thereof, and if unsuccessful, the property interests may be acquired through eminent domain proceedings initiated by the Town.
3. The Town Administrator, or their designee, is hereby authorized to enter into negotiations with the owner of the property described in **Exhibit A**,

and attached hereto, to acquire said property interests as necessary for the Project.

4. In the event negotiations for the Town's purchase of the property interests described in **Exhibit A** attached hereto are unsuccessful, the Town's Administrator, or their designee, is authorized to direct attorneys representing the Town, or a designee thereof, to initiate eminent domain proceedings to acquire the property interests for the public purposes described herein.
5. The Town Administrator, or their designee, is hereby authorized to execute any document(s) necessary for the acquisition of the property interests described in **Exhibit A** attached hereto.

ADOPTED this 4th day of February 2021.

TOWN OF LYONS

Nicholas Angelo, Mayor

ATTEST:

Dolores M. Vasquez, CMC – Town Clerk

EXHIBIT "A"

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18,
TOWNSHIP 3 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF LYONS, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

A PORTION OF LOT 20, BLOCK 20, LYONS AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY, RECORDED ON MARCH 20, 1929 AT RECEPTION NO. 90260389, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 3 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF LYONS, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EASTERLY LINE OF SAID LOT 20, BLOCK 20 TO BEAR SOUTH 00°26'26" WEST, A DISTANCE OF 140.00 FEET BETWEEN THE NORTHEAST CORNER OF SAID LOT 20 AND THE SOUTHEAST CORNER OF SAID LOT 20, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 20; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 20, NORTH 89°31'18" WEST, A DISTANCE OF 50.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 20; THENCE ALONG THE WESTERLY LINE OF SAID LOT 20, NORTH 00°26'26" EAST, A DISTANCE OF 30.00 FEET; THENCE DEPARTING SAID WESTERLY LINE, SOUTH 89°31'18" EAST, A DISTANCE OF 50.00 FEET TO A POINT ON SAID EASTERLY LINE; THENCE ALONG SAID EASTERLY LINE, SOUTH 00°26'26" WEST, A DISTANCE OF 30.00 FEET, MORE OR LESS, TO SAID SOUTHEAST CORNER AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 1,500 SQ.FT. OR 0.03 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS, INC.

JOB NUMBER: 19-73,391 (E)
DRAWN BY: S. SILVA
DATE: MAY 15, 2020
REV: DECEMBER 29, 2020 ED



FSI JOB NO. 19-73,391

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics



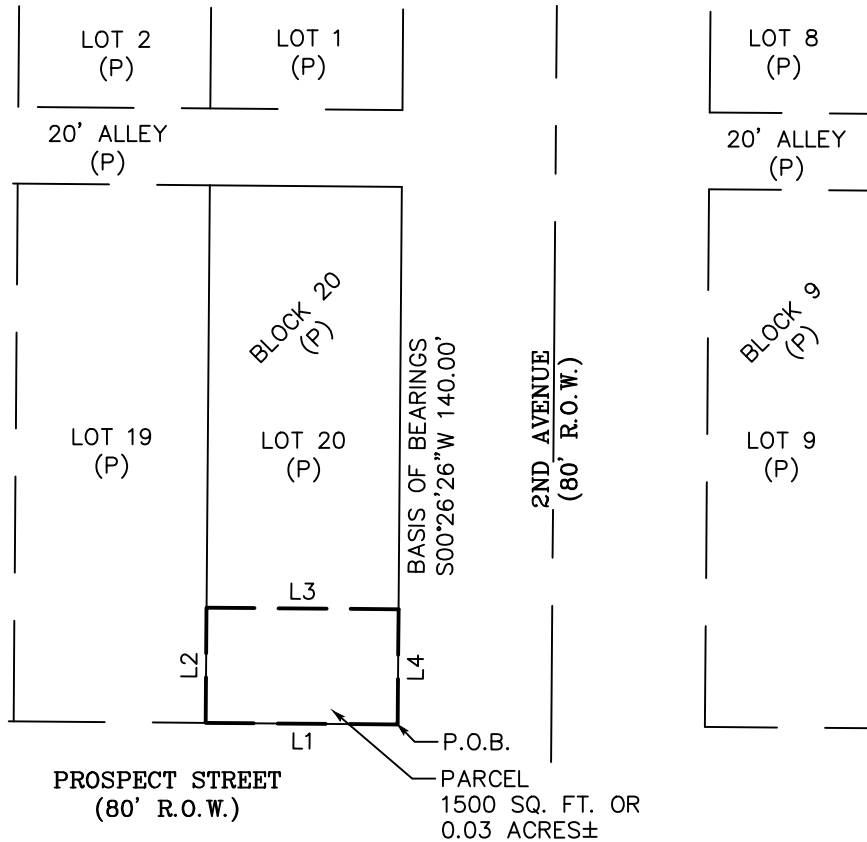
3825 IRIS AVE, STE 395
BOULDER, CO 80301
PH: (303) 443-7001
FAX: (303) 443-9830
www.FlatironsInc.com

EXHIBIT "A"

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18,
TOWNSHIP 3 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF LYONS, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2

PARCEL LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	50.00	N89°31'18"W
L2	30.00	N00°26'26"E
L3	50.00	S89°31'18"E
L4	30.00	S00°26'26"W

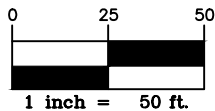


NOTE:
THE DEPOSITED SURVEY LS-16-0149 IN THE BOULDER COUNTY LAND USE DEPARTMENT WAS CONSIDERED IN THE PREPARATION OF THIS EXHIBIT.

Legend

(P) AS PER THE PLAT OF LYONS
REC. NO. 90260389 03/20/1929

P.O.B. POINT OF BEGINNING



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