

Dec. 13, 2017

The Town Board of the Town of Lyons met for two public hearings on Wed Dec. 13, 2017, at 12:30 p.m. in the Town Board meeting room.

Present: Brian Manktelow, Supervisor
Jake Emmel, Councilman (arrived at 12:35 p.m.)
Nancy Collins, Councilwoman
Joanne Greco, Councilwoman
Sal Colatarci, Town Clerk

Also Present: Richard Bogan, C.E.O, Larry Hartwell (Town Justice), Rick Wunder(Town Justice), Julie Wunder, David Falvio, Atty.

Absent: Phil DeSain, Councilman

The public hearings were duly noticed by contacting the Times of Wayne newspaper, as well as posting a notice on the Town bulletin board and on the Town's web site.

All stood for Pledge of Allegiance

Town Clerk Colatarci read the legal notice for local law 3-2017. Councilwoman Greco moved to open the Public Hearing. Motion seconded by Councilwoman Collins. Vote:

Councilwoman Greco voting aye
Councilwoman Collins voting aye
Councilman Emmel voting aye
Supervisor Manktelow voting aye

Supervisor Manktelow stated the public hearing would remain open until all comments had been heard by the Board. The local law, in its entirety is below...

LOCAL LAW 3 - 2017

Be it enacted by the Town Board of the Town of Lyons:

The existing [former] Village of Lyons Municipal Code is to be amended and adopted by the Town of Lyons as follows. All references to the Village limits shall mean the limits of the Town Center District as defined by the new Article VII of the Zoning Law. All references to the "Village of Lyons", "Village Board of Trustees", "Mayor", and "Chief of Police" shall mean the "Town of Lyons", "Town Council", "Town Supervisor", and "Town Council or their designee", respectively. In case of conflict between any provision of the retained Chapters and the Town of Lyons Zoning Law, the Zoning Law shall govern.

The following Chapters shall be DELETED:

Chapters 1, 3, 4, 6, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 25, 37, 39, 41, 44, 45, 50, 52, 54, 55, 60, 61, 70, 71, Local Law 3-2006, 3-2007, 3-2008, and Appendix A (Joint Planning Board).

The following Chapters shall be RETAINED:

Chapters 2, 8,10, 12, 16, 23, 24, 26, 27, 38, 40, 42, 43, and 51.

Chapter 2: Environmental Quality Review. To implement the provisions of the State Environmental Quality Review Regulations incorporating environmental facts into existing planning and decision making processes.

Chapter 8: Lien on Fire Insurance Proceeds. Pursuant to Section twenty-two of the General Municipal Law, provides and authorizes the Clerk to cause a notice of intention to claim against the proceeds of a policy of fire insurance insuring the interest of the owner and issued on real property located in the Town for an unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the Town which is an encumbrance on real property provided in said section.

Chapter 10: Tax on the Furnishing of Utility Services. Authorizes the Town to impose a tax upon every utility doing business in the territorial limits of the Town of Lyons in addition to any and all other taxes and fees imposed by any other provision of law.

Chapter 12: Bingo. Authorizes the operation of the game of bingo by authorized organizations in the Town of Lyons pursuant to the Constitution of the State of New York and as implemented by the State Bingo Control Law and the Bingo Licensing Law.

Chapter 16: Games of Chance. To allow organized organizations, upon the obtainment of a license from the Town Clerk, to conduct games of changes within the Town as provided in the General Municipal Law to be conducted in accordance with the General State Law and with the rules and regulations of the New York State Racing and Wagering Board and this chapter.

Chapter 23: Streets and other public places. To regulate bill posting, notices, signs and advertisements upon trees, fences, poles or other structures along any street, park, highway or public place in the Town; planting of trees or shrubbery and removal of same; obstructions on sidewalks, the use of public rights of way; the placing, parking or standing of vehicles; throwing of dirt and other materials into streets; the construction and maintenance of sidewalks; excavations in streets and safeguards and barriers during the constructions and/or restoration thereof.

Chapter 24: Parks. To regulate the protection, safety and enjoyment of park patrons upon the grounds, buildings, waters and any other property necessary for the operation of said parks, which are or may hereafter be maintained, operated and controlled by the Town of Lyons for public park and recreation facility purposes.

Chapter 25: Snow and Weed Control. To regulate the removal of snow on Town sidewalks, the use of ashes, salt, sand or other material; the prohibition of depositing snow and ice in public streets and piling of snow and ice on streets and terraces, the removal of snow from roofs, the failure to remove snow, parking during snow emergencies; the cutting of grass and other vegetation, and control of grass and weeds on private property.

Chapter 26: Water Service. To regulate the Town water supply or source, water treatment facilities, water distribution system and all its appurtenances, including but not limited to water furnished, service pipes, meters, meter rates, damaged meters, fire hydrants, payment for water services, the protection of public water system, frequency of inspection, protection of potable water system, fire systems, sewerage treatment plants and pumping stations and the recourse for noncompliance of safe and potable water supply.

Chapter 27: Sewer Use. To provide for the efficient, economic, environmentally safe and legal operation of the Town POTW.

Chapter 38: Traffic and Vehicles. Provides for the authority to regulate traffic, to install traffic control devices, prohibition of u-turns at specific intersections; the creation of stop intersections, yield intersections, maximum speed limits, parking and all-night parking, handicapped parking; parking, standing and stopping restrictions, parking time limits, parking time limits for boats and boat trailers, and the authority to impound vehicles.

Chapter 40. Noise. Provides for the regulation of any unreasonably loud, disturbing or unnecessary noise in the Town of such character, intensity or duration as to endanger or disturb public comfort, peace or repose or to be detrimental to the life or health of any person.

Chapter 42. Open containers. Prohibits and regulates the consumption of alcoholic beverages in certain public places in order to prevent disorderly behavior and littering of public places to protect the public health, safety and welfare of the general public.

Chapter 43. Dog Control. Provides for the preservation of public peace and order in the Town and to contribute to the public welfare, health and safe of its people by establishing certain regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of the dog owners and residents of the Town.

Chapter 51. Loitering. Provides for the conduct, regulation and behavior of groups in public areas of the Town without a legitimate reason and to prevent illegitimate gatherings, acts of vandalism or damage to public and private property and to promote the protection of health, safety and welfare of the citizens and community.

The Town of Lyons Zoning Law shall be AMENDED as follows:

ADD "Article VII" and Appendices A through H.

Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Effective date. This local law shall take effect immediately upon filing with the Secretary of State.

Mr. Wunder expressed concern that the new zoning laws cover situations whereby when people are brought into the court who are intoxicated, that the code addresses this matter as the penal law does not. Supervisor Manktelow indicated that once the new code is ready for adoption, sometime this coming summer, he will be sure to let the judges look it over.

As there was no further comment, Councilman Emmel moved to close the public hearing. Motion seconded by Councilwoman Greco. Vote:

Councilman Emmel voting aye
Councilwoman Greco voting aye
Councilwoman Collins voting aye
Supervisor Manktelow voting aye

As this proposal needs to be reviewed by both the Town and County Planning Boards before final adoption, the matter will be reviewed at the Dec. 27, 2017 Town Board meeting.

Councilwoman Collins then moved the following resolution as part of the SEQR negative declaration:

WHEREAS, the Village of Lyons dissolved on or about December 31, 2015; and

WHEREAS, pursuant to Article 17-A of the General Municipal Law, on January 1, 2018, the former Village Code will no longer be enforceable on the area comprising the former Village of Lyons, and

WHEREAS, the Town Board desires to retain and adopt certain portions of the former Village Code for the area of the Town of Lyons formerly comprised of the Village of Lyons, to be known as the Town Center District; and

WHEREAS, the Town Board desires to amend the zoning map of the Town of Lyons by adding a new zoning district coterminous with the land formerly encompassing the Village of Lyons, named the Town Center District:

BE IT RESOLVED, that the Town of Lyons does hereby find and resolve as follows:

1. The proposed action is subject to the State Environmental Quality Review Act.
2. The proposed action does not involve a Federal agency.
3. The proposed action involves other state agencies.
4. Using the information available and comparing it with the thresholds set forth in section 6 NYCRR 617.4, the action is found to have a preliminary classification of Unlisted.
5. As an Unlisted action, the Full EAF (environmental assessment form) has been prepared by the Town of Lyons to determine the significance of the proposed action.
6. The proposed action is not located in a coastal area.
7. The proposed action is not located in an agricultural district.
8. An uncoordinated review for Unlisted actions involving more than one agency has been performed, subject to 617.6 (b)(4).
9. More than one agency is involved, and the Town of Lyons is the lead agent.

10. The Town of Lyons hereby determines that the proposed action will not result in any significant adverse environmental impacts, a Negative Declaration is declared, and the Town hereby directs the Clerk to immediately file the determination in accordance with section 6 NYCRR 617.12.

11. In reaching this finding, the Town has:

- (a) Considered the action as defined in sections 6 NYCRR 617.2 (b) and 617.3 (g),
- (b) Reviewed the EAF, the criteria contained in subdivision 6 NYCRR 617.7 (c) and any other supporting information to identify the relevant areas of environmental concern,
- (c) Thoroughly analyzed the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and,
- (d) Set forth its determination of significance in this resolution, in addition to the corresponding long environmental assessment form.

12. In determining significance, the Town has determined whether the proposed Unlisted Action may have a significant adverse impact on the environment, the impacts that may be reasonably expected to result from the proposed action compared against the criteria in 6 NYCRR 617. The criteria considered indicators of significant adverse impacts on the environment were:

- (a) A substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (b) The removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant wildlife habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to the natural resources;
- (c) The impairment of the environmental characteristics of a critical environmental area as designated pursuant to section 617.14 (g);
- (d) The creation of a material conflict with a community's current plans or goals as officially approved or adopted;
- (e) The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;
- (f) A major change in the use of either the quantity or type of energy;
- (g) The creation of a hazard to human health;
- (h) A substantial change in the use or intensity of use, of land including agricultural, open space or recreational resources or in its capacity to support existing uses;
- (i) The encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
- (j) The creation of material demand for other actions that would result in one or the above consequences;
- (k) Changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

(l) Two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria of this subdivision.

13. For the purposes of determining whether an action may cause one of the consequences listed above, the Town considered reasonably related long-term, short-term, direct, indirect, and cumulative impacts, including other simultaneous or subsequent actions, which were;

- (a) Included in any long range plan of which the action under consideration is a part;
- (b) Likely to be undertaken as a result thereof, or
- (c) Dependent thereon.

14. In addition, the Town considered the significance of a likely consequence (i.e., whether it is material, substantial, large or important) should be assessed in connection with:

- (a) Its setting (e.g., urban or rural);
- (b) Its probability of occurrence;
- (c) Its duration;
- (d) Its irreversibility;
- (e) Its geographic scope;
- (f) Its magnitude; and
- (g) The number of people affected.

Above seconded by Councilman Emmel. Vote:

Councilwoman Collins voting aye
Councilman Emmel voting aye
Councilwoman Greco voting aye
Supervisor Manktelow voting aye

Town Clerk Colatarci then read the legal notice for local law 4-2017. Councilwoman Collins moved to open the Public Hearing. Motion seconded by Councilwoman Greco. Vote:

Councilwoman Collins voting aye
Councilwoman Greco voting aye
Councilman Emmel voting aye
Supervisor Manktelow voting aye

Supervisor Manktelow stated the public hearing would remain open until all comments had been heard.

The local law, in its entirety is as follows:

A local law to amend the zoning map of the Town of Lyons by adding a new zoning district coterminous with the land formerly encompassing the village of Lyons.

This local law establishes a new district named the Town Center District and shall encompass all those lands formerly comprising the former village of Lyons. Said district shall be subject to the rules and regulations in a zoning, planning and other regulations adopted by the Town of Lyons.

Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to

be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Effective date. This local law shall take effect immediately upon filing with the Secretary of State.

As there was no further comment, Councilwoman Collins moved to close the public hearing. Motion seconded by Councilman Emmel. Vote:

Councilwoman Collins voting aye

Councilman Emmel voting aye

Councilwoman Greco voting aye

Supervisor Manktelow voting aye

As this proposal needs to be reviewed by both the Town and County Planning Boards before final adoption, the matter will be reviewed at the Dec. 27, 2017 Town Board meeting.

Mr. Wunder then addressed the Board to praise both the Lyons Ambulance Dept. and the Fire Department for wonderful service after he fell off a ladder and broke his shoulder on Saturday.

He also addressed the Board concerning the repair of tile that comes into his pond on Dickerson Street. He explained that several decades ago when that part of the Village was being developed, the former Village constructed storm drains that allowed all the storm water to flow into the pond. Last year, the tile broke and Mr. Wunder is requesting the tile be repaired.

He also reported to the Board that since his accident, he cannot function at night so he will not be able to come out to do arraignments. He explained that 911 has been notified of the situation.

Mr. Wunder also stated that he is a bit disappointed that it is taking so long for the Town to expand the court room space at the Town Hall. Supervisor Manktelow told him the matter continues to be addressed.

Mr. Hartwell then stated he has enjoyed working with Mr. Wunder and could not think of a better person to work with.

At 1:05 p.m., Councilman Emmel moved to go into executive session to discuss possible litigation. Motion seconded by Councilwoman Collins. Vote:

Councilman Emmel voting aye

Councilwoman Collins voting aye

Councilwoman Greco voting aye

Supervisor Manktelow voting aye

At 1:10 p.m., Councilwoman Greco moved to come out of executive session. Motion seconded by Councilwoman Collins. Vote:

Councilwoman Greco voting aye

Councilman Emmel voting aye

Councilwoman Collins voting aye

Supervisor Manktelow voting aye

As there was no further business, the Public Hearing was adjourned.

Sal J. Colatarci

Lyons Town Clerk

