

August 24, 2022

The Town Board of the Town of Lyons met for a meeting on August 24, 2022 at 6:30 p.m. at the Town Hall.

Present: Jim Brady, Supervisor  
John Paliotti, Councilman  
Dan LaGasse, Councilman  
Dan DeWolf, Councilman  
Amy Shaffer, Town Clerk  
Tim Moore, Highway Supt.

Absent:

Also Present: Richard Bogan, Tony Villani, Jim Wedman, Andrew DeWolf, Dave Doyle, Joan Smith, James Reynolds, Rick Hauser, Dorothy Barnes, Jennifer Brautigam, Jeff Daniels, John Hawman, Jerred Crandon, Jasckie Taylor, Roy Taylor, Linda Stevenson, Dan Compitello

This meeting was 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 the Pledge of Allegiance.

Councilman DeWolf moved to accept the minutes of the July 27, 2022 and the August 17, 2022 meetings. Motion seconded by Councilman Paliotti. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman LaGasse moved to approve payment of General Fund vouchers #366 through #408 totaling \$93,737.51 and Highway Fund Vouchers #128 through #149 totaling \$271,668.68. Councilman Paliotti seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Jeff Daniels requested a curb replacement in front of his property at 47 Pearl Street as the curb is in terrible disrepair. Superintendent Moore will schedule a time with Mr. Daniels to take a look to determine whether a replacement is needed.

At 6:45 pm, the public hearing for the Establishment of the Town Center Sewer District was conducted. There were no questions or comments. Public Hearing was closed at 6:50 pm.

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Joan Smith came in to discuss a small strip of property that belongs to the Town of Lyons that is adjacent to her property. She had previously discussed this with the Supervisor and on June 23, 2022 the Town Board approved to hire C. McIntyre Landscaping to clean up some of that area that was discussed. Ms. Smith is asking for this to be looked at again as she states there are additional items that should be taken care of. Supervisor Brady agreed to go back out to take a look to revisit the situation. He mentioned that he would have another board member go with him.

Dorothy Barnes was present to give some history on the Mildred Taylor house along with asking questions pertaining to the disrepair of the property. Linda Stevenson from the Wayne County Historical Society also spoke on this property. She stated that it would be worth exploring to determine if it is salvageable. It was asked if there was anything that the Town could do in relation to this property. Attorney Villani mentioned that the Town has the ability to enforce Town Code and demand for the property to be brought up to code. Councilman Paliotti suggested that Ms. Barnes contact the State Historical Society to ask questions.

Councilman DeWolf moved to approve the Lyons Rotary Application to conduct a Senior Citizen picnic on September 14, 2022 at the Central Park. Councilman Paliotti seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Superintendent Moore will ensure that there are 6 picnic tables along with the electricity for this event.

Rick Hauser and James Reynolds of In-site Architecture were present to review their qualifications in relation to developing design guidelines for the Town of Lyons. The Town Board will review their proposal and get back to them.

Councilman DeWolf moved to refer the special use permit for the Dollar General project to The Wayne County Planning Board along with scheduling a public hearing on September 21, 2022 at 6:45 PM. Councilman LaGasse seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman Paliotti moved to accept the new site plan for Delaware Solar. Councilman DeWolf seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman DeWolf moved to refer the special use permit for Delaware Solar to the Wayne County Planning Board and the Town of Lyons Planning Board, declared the Town Board as Lead Agency status for this project and directed coordinated review along with scheduling a public hearing on September 21, 2022 at 6:55 PM. Councilman LaGasse seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman LaGasse moved to accept the application from Roy Taylor for a special use permit. Councilman DeWolf seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman DeWolf then moved to schedule a public hearing for the Taylor special use permit on September 21, 2022 at 7:15 PM. Councilman LaGasse seconded. Vote:

Councilman Paliotti voting aye

Councilman LaGasse voting aye

Councilman DeWolf voting aye

Supervisor Brady voting aye

Councilman DeWolf moved to accept the Environmental Assessment Form Part 2 & Part 3 in relation to the Town Center Sewer District. Councilman Paliotti seconded. Vote:

Councilman Paliotti voting aye

Councilman LaGasse voting aye

Councilman DeWolf voting aye

Supervisor Brady voting aye

Councilman LaGasse moved the following resolution:

WHEREAS, When the Village of Lyons officially dissolved in 2016, The Town of Lyons (“Town”) assumed responsibility for the substantial infrastructure within the former Village (“Former Village”), including a sanitary sewer collection system and Waste Water Treatment Plant (“WWTP”).

WHEREAS, from the time of the Village of Lyons dissolution, there has been ambiguity with respect to the validity of a Town sewer district (the “District”) being established as a matter of law upon dissolution, absent a formal District creation process. Because the Town is in the planning stages for at least two important capital improvement projects for both the collection system and WWTP, the Town determined that formal creation of a District, encompassing the current sewer service area is prudent, in order that property owners can be fairly assessed an equitable share of current capital charges and potential debt service that may be associated with future capital improvements, and

WHEREAS, in furtherance thereof, pursuant to Article 12-A of the New York Town Law, the Town Board, by resolution dated June 29, 2022, the Town Board of the Town of Lyons, adopted a resolution directing MRB Group, the Town Engineers of the Town of Lyons to supervise the preparation of a map, plan and report for providing the facilities, improvements or services in a portion of the Town of Lyons, wherein a sewer district was proposed to be established, and

WHEREAS, on July 27, 2022 the Town Engineer duly filed said map, plan and report in the office of the Town Clerk of the Town of Lyons, and

WHEREAS, the action being undertaken by the Town, as described in this report is limited to the administrative process to establish a District to encompass the current sewer service area(i.e. current customers and those properties with reasonable access to the existing sewer system), and

WHEREAS, the action does not contemplate any construction or capital improvements; the future capital improvements described below will be authorized by the Town under separate legislative proceedings, depending upon the scope and timing of those projects, and

WHEREAS, the Town is proposing to create a sewer district under the provision of the Town Law of the State of New York to create an administrative structure to replace the former dissolved Village of Lyons; and

WHEREAS, this action “constitutes” information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action” and “routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment which under the New York State Environmental Quality Review (SEQR) Act” and “adoption of regulations, policies, procedures and local legislative decisions in

connection with any action on this list” as are listed as Type II actions for which it has been determined there are no significant adverse effects on the environment; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Town Board does hereby classify the above-referenced action to be a Type II Action under 6 N.Y.C.R.R. Section 617.5 [c] [24] [26][33] of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT RESOLVED THAT, the Town Board in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action, and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Lyons finds that the proposed action will not have any significant adverse impact on the environment, and accordingly, hereby grants a negative declaration pursuant the State Environmental Quality Review Act; based upon the following findings of fact:

#### FINDINGS OF FACT

1. This Resolution is based upon the district creation documents submitted by the applicant.
2. The Board incorporates into this Resolution the completed short form Part 2 EAF, dated August 23, 2022.
3. The Board did not identify any significant potential environmental impacts associated with the application.
4. Any and all potential small to moderate impacts are adequately addressed in the application materials and through conditions of approval.

Councilman Paliotti seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman DeWolf moved to accept the following resolution:

WHEREAS, When the Village of Lyons officially dissolved in 2016, The Town of Lyons (“Town”) assumed responsibility for the substantial infrastructure within the former Village (“Former Village”), including a sanitary sewer collection system and Waste Water Treatment Plant (“WWTP”).

WHEREAS, from the time of the Village of Lyons dissolution, there has been ambiguity with respect to the validity of a Town sewer district (the “District”) being established as a matter of law upon dissolution, absent a formal District creation process. Because the Town is in the planning stages for at least two important capital improvement projects for both the collection system and WWTP, the Town determined that formal creation of a District, encompassing the current sewer service area is prudent, in order that property owners can be fairly assessed an equitable share of current capital charges and potential debt service that may be associated with future capital improvements, and

WHEREAS, in furtherance thereof, pursuant to Article 12-A of the New York Town Law, the Town Board, by resolution dated June 29, 2022, the Town Board of the Town of Lyons, adopted a resolution directing MRB Group, the Town Engineers of the Town of Lyons to supervise the preparation of a map, plan and report for providing the facilities, improvements or services in a portion of the Town of Lyons, wherein a sewer district was proposed to be established, and

WHEREAS, on July 27, 2022, the Town Engineer duly filed said map, plan and report in the office of the Town Clerk of the Town of Lyons, and

WHEREAS, the action being undertaken by the Town, as described in this report is limited to the administrative process to establish a District to encompass the current sewer service area(i.e. current customers and those properties with reasonable access to the existing sewer system), and

WHEREAS, the action does not contemplate any construction or capital improvements; the future capital improvements described below will be authorized by the Town under separate legislative proceedings, depending upon the scope and timing of those projects, and

WHEREAS, the boundaries of the proposed sewer district are as follows: The service area for the WWTP includes the former Village of Lyons and also includes the NYS Route 31 corridor between the western boundary of the Former Village and the Lyons/Arcadia Town line (the “Route 31 Service Area”), and limited additional Town properties on the outskirts of the Former Village. Limited properties in the Town of Arcadia also contribute wastewater flows to the system, including the Wayne County Highway campus on Route 31, just west of the Lyons/Arcadia Town Line, and

WHEREAS, by resolution dated July 27, 2022, the Town Board of the Town of Lyons accepted said map, plan and report, and

WHEREAS, the estimated yearly costs of the service is expected to remain unchanged except for the additions set forth in paragraph B below:

**A. EXISTING DEBT SERVICE, SEWER USE, AND CAPITAL CHARGES**

The Town currently has no capital debt associated with the sewer system. Under its Lease Agreement with the WCWSA, sewer customers are charged for sewer use and O&M in accordance with the following rate structure, based on the EDU policy in Appendix C and metered water consumption:

Table 1: Sewer Charges

Quarterly Metered Water Consumption (Gallons)	Cost per 1,000 Gallons (Beyond Minimum)
0 to 5,000	\$32.00 (Minimum)
5,000 to 100,000	\$6.00
101,000 or More	\$5.00

For a typical homeowner using approximately 44,000 gallons of water per year, this rate structure results in an annual sewer use cost of approximately \$272.

Additionally, sewer customers are currently assessed a quarterly capital charge of \$30 per EDU for funding of a capital reserve for sewer system improvements and related capital costs. When considering both the sewer use and capital charge, the current total annual sewer cost for a typical homeowner is approximately \$392.

**B. FUTURE DEBT SERVICE, SEWER USE, AND CAPITAL CHARGES**

Upon creation of the District, sewer customers will initially be charged for sewer use, O&M, and capital charges in accordance with the rate structure shown above, as modified from time to time to accommodate rate increases necessitated by rising costs of materials and labor, capital projects, or other factors related to the economy.

Improved properties not presently connected to the sewer system will be assessed the quarterly capital charge upon creation of the District, based on the Town’s EDU policy. Vacant or unimproved properties will be allocated a fraction of an EDU, in order to recognize the property’s benefit of having access to the public sewer system; and be assessed a nominal capital charge, accordingly.

In addition to the sewer use, O&M and applicable capital charges, properties without a

connection to the sewer system where a new connection is desired, will be responsible for the “one time” costs associated with the connection. Due to the variety of sewer main configurations in the existing system, the WCWSA does not have a standard connection fee, but charges for sewer connections on a case-by-case basis. The connection fee, which includes a connection to the sewer that terminates at the right-of-way, is typically in the range of \$2,000 to \$3,000. In addition to the connection fee, the property owner will be responsible for the cost of the private sewer lateral from the right-of-way to the home or building, including connection to the building lateral. Private lateral costs are also generally in the range of \$2,000 to \$3,000, depending upon site conditions.

Capital debt service for future capital improvement projects, including the WWTP Disinfection Project, Pumping Station Rehabilitation Project, any other future capital projects, will be assessed to property owners at the time of project financing, and based upon the borrowing for each project when factoring in applicable grant and loan funding parameters. Annual debt service will be apportioned to property owners for each project, generally on property tax bills, based on the EDU policy in Appendix C to Exhibit 1.

The creation of the Sewer District is not intended to facilitate the direct authorizations for undertaking and financing these future projects. After District creation, separate legislative proceedings for these projects will be conducted by the Town to facilitate the authorization of these projects, including a project-specific engineering report that describes the project, its estimated cost, and the resulting annual cost impact to property owners, and

WHEREAS, the map, plan and report describing such improvement have been and continue to be on file in the office of the Town Clerk of the Town of Lyons, for public inspection, and

WHEREAS, after the said Town Engineer duly filed said map, plan and report in the office of the Town Clerk of the Town of Lyons, the said Town Board did, on June 27, 2022, duly adopt an order reciting a description of the boundaries of the proposed district, the maximum amount proposed to be expended for the improvement, the proposed method of financing to be employed, the fact that a plan, map and report describing the same are on file in the town clerk's office for public inspection and specifying that said Town Board shall meet at the Town Hall, 43 Phelps Street, Lyons, New York on the 24<sup>th</sup> day of August, 2022 for the purpose of conducting a public hearing on such proposal to establish the sewer district with the specified improvements and to hear all persons interested in the subject thereof concerning the same, and

WHEREAS, copies of said order were duly published and posted according to law, and said Town Board did, at the time and place specified in said order, duly meet and consider such proposal and heard all persons interested in the subject thereof, who appeared at such time and place, concerning the same, and

WHEREAS, the evidence offered at such time and place requires that the Town Board make the determinations hereinafter made;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Lyons, in the County of Wayne, that it be and hereby is determined as follows:

(1) The notice of hearing was published and posted as required by law and is otherwise sufficient.

(2) That all of the property and property owners, within the propose Sewer District are benefitted thereby.

(3) That all of the property and property owners benefitted are included within the proposed Sewer District.

(4) It is in the public interest to establish the proposed Sewer District as hereinafter described, and be it

FURTHER RESOLVED, that the Town Board does hereby approved the establishment

of a Sewer District as hereinafter described to be known as Lyons Town Center Sewer District which is described as follows: the geographic area encompassed by the District includes parcels with access to public sewers within the Former Village, the Route 31 Service Area, and limited properties on the outskirts of the Former Village. The general location is shown in Appendix A to Exhibit 1 and includes a Map, and Plan of the proposed District, including the proposed District Boundary. A description of the District boundary is included in Appendix B to Exhibit 1, and

FURTHER RESOLVED the action being undertaken by the Town, as described in this report is limited to the administrative process to establish a District to encompass the current sewer service area(i.e. current customers and those properties with reasonable access to the existing sewer system), and

FURTHER RESOLVED that the administrative creation of the sewer district does not contemplate or authorize any construction or capital improvements; the future capital improvements described below will be authorized by the Town under separate legislative proceedings, depending upon the scope and timing of those projects, and

FURTHER RESOLVED, that this resolution is subject to a permissive referendum in the manner provided in Article Seven of the Town Law and subdivision 3 of Section 209-e of the Town Law, and be it

FURTHER RESOLVED, that, if required, the Town Clerk be and he hereby is authorized and directed to file a certified copy of this resolution, in duplicate, in the office of the State Department of Audit and Control, at Albany, New York, together with an application, in duplicate, for permission to so create said Sewer District in the manner and form prescribed by Section 209-f of the Town Law of New York, within ten days after the adoption of this resolution, and be it

FURTHER RESOLVED, that the Town Supervisor be and he hereby is authorized and directed to execute said application on behalf of the Town of Lyons, New York.

Councilman Paliotti seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Dave Doyle from MRB talked about the Wastewater Treatment Disinfection Project (WWTP). He mentioned that the capital improvements that the Town Board resolved to add to the WWTP Disinfection Project generally include the replacement of the influent building screen, the influent building grit system, and rehabilitation of the final clarifiers. These additional improvements will increase the estimated project cost from \$2,588,000 to approximately \$4,218,600.

Councilman LaGasse moved to approve that the MRB Group continue on with the project even with the increase. Councilman DeWolf seconded. Vote:

Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Department reports were reviewed by the Town Board. Public inspection of said reports is available at the Town Hall upon request.

At 8:22 PM, Councilman Paliotti submitted his resignation to the Town Clerk effective immediately.

At 8:23 PM, Councilman LaGasse moved to accept John Paliotti resignation of the Town Board effective immediately. Councilman DeWolf seconded. Vote:

Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

At 8:26 PM, Supervisor Brady moved to appoint Jerred Crandon as a Town Councilman to complete the remaining term vacated by John Paliotti term ending December 31, 2022. Councilman DeWolf seconded.  
Vote:

Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman Crandon took and signed the required oath of office.

At 8:30 PM, Supervisor Brady moved to appoint John Paliotti to fill the Council seat vacated by Joanne Greco-Eddy (resignation accepted July 27, 2022) term ending December 31, 2023. Councilman LaGasse seconded. Vote:

Councilman Crandon voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman Paliotti took and signed the required oath of office.

At 8:32 PM, Supervisor Brady moved to go into Executive session. Councilman LaGasse seconded.  
Vote:

Councilman Crandon voting aye  
Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

At this time Andrew DeWolf objected to the board going into Executive as he did not hear what was stated in relation to the reason for the executive session. Attorney Villani had the board move to go into executive session once again. Mr. DeWolf stated that he and Mr. Wedman would be waiting outside to be asked to return to any remaining portion of the meeting.

At 8:35 PM, Supervisor Brady moved to go into Executive session to discuss litigation. Councilman DeWolf seconded. Vote:

Councilman Crandon voting aye  
Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

At 8:45 PM, Councilman Paliotti moved to exit Executive session. Councilman Crandon seconded.  
Vote:

Councilman Crandon voting aye  
Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

At 8:46 PM, Councilman LaGasse moved to go back into Executive session to discuss Personnel items in relation to hiring for a position and contracts. Supervisor Brady seconded. Vote:



Councilman Crandon voting aye  
Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

At 9:00 PM, Councilman Crandon moved to exit Executive session. Councilman Paliotti seconded.  
Vote:

Councilman Crandon voting aye  
Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Councilman Paliotti discussed the sign that has been placed at the stairway to the gazebo in Central Park. He mentioned how people have been removing the chain and sign and still going up into the gazebo after dark. He recommended possibly removing the stairs as an alternative.

Mr. DeWolf publicly objected to the Town Board selection process of appointing new council members. He did not agree with what had transpired earlier in the meeting. He opened the floor to the board for comment. Supervisor Brady explained his reasoning behind the decisions that were made.

Attorney Villani then went into discussion with the board in reference to the special permit process. Further discussion and questions ensued in relation to current projects. Councilman LaGasse suggested setting aside an hour or so during workshops to discuss and review special permit projects.

At 9:16 PM, Councilman LaGasse moved to adjourn the meeting. Councilman Paliotti seconded. Vote:

Councilman Crandon voting aye  
Councilman Paliotti voting aye  
Councilman LaGasse voting aye  
Councilman DeWolf voting aye  
Supervisor Brady voting aye

Amy L. Shaffer

Lyons Town Clerk