



**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL  
HELD TUESDAY, APRIL 13, 2021, 5:00 P.M. MEETING HELD ELECTRONICALLY  
VIA ZOOM.**

**PRESENT** Mayor Carol C. Pritchett

**VIA ZOOM:** Mayor Pro Tem John W. Moore  
Commissioner Patrick Bryant  
Commissioner David DiOrio  
Commissioner John Kilby

William Morgan, Jr., Town Attorney  
Shannon Baldwin, Town Manager

**ABSENT:** N/A

**I. CALL TO ORDER**

Mayor Carol C. Pritchett called the meeting to order at 5:01 p.m.

**II. APPROVE THE AGENDA**

Mayor Pritchett proposed moving "Budget Amendment #305 – WWTP Digester" from the Consent Agenda to New Business to be discussed with Task Order No. 8.

Commissioner John Moore made a motion to approve the Agenda, as amended. Commissioner Patrick Bryant seconded and the motion carried 4-0.

**III. MAYOR'S COMMUNICATIONS**

Mayor Carol Pritchett thanked Communications Specialist Laura Krejci on the efforts she's made with grant writing. She also thanked the community who gathered earlier today to pick up trash along Boys Camp Road.

**IV. CLOSED SESSION**

Commissioner John Moore made a motion to go into closed session in accordance with G.S. 143-318.11(a)(6) for the purpose of discussing personnel matters. Commissioner Patrick Bryant seconded and the motion carried 4-0.

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During Closed Session, Council held interviews for the Assistant Finance Director position.

Commissioner John Kilby made a motion to return to open session. Commissioner Patrick DiOrio seconded and the motion carried 4-0.

### **V. PUBLIC HEARING**

#### **A. REQUEST FROM DAVID AND MARCIA BAKER TO REZONE PROPERTY LOCATED AT 0 MEMORIAL HWY., PARCEL NO. 219390, FROM CG COMMERCIAL GENERAL TO R-1 RESIDENTIAL**

Assistant Community Development Director Mitchell Anderson provided an overview of the request. David and Marcia Baker are requesting to rezone a 0.05 acre parcel, located at 0 Memorial Highway, tax PIN 219390, from CG Commercial General to R-1 Residential District. Decisions on zoning map amendments are based on the potential impacts of all permitted and conditional uses within the proposed zoning district and not on the intended use of the parcel by the applicant. The current lake structure and parcel are legal non-conformities that existed before the Town's current regulations. The current lake structure encroaches into the 15 foot side yard setback. The parcel does not meet the lot width at building site required by the R-1 or CG zoning district. The required front yard setbacks overlap as the parcel is narrow. If the parcel is rezoned to R-1, the current structures and parcel will still be considered legal non-conforming. The structure will still encroach into the 15 foot side yard setback and the front yard setbacks will still overlap. The parcel will not meet the lot width at site requirement for the R-1 district. Rezoning the parcel as R-1 Residential may be considered "spot zoning" and should be avoided unless a clear showing of a reasonable basis supports the validity of spot zoning. Rezoning the entire parcel to R-1 Residential district will change the permitted and conditional uses for this parcel. The ZPB reviewed the rezoning request at their last meeting and recommended denial of the request as rezoning the property would disconnect the adjoining properties that are currently zoned CG and would not align with the current neighborhood character in the area, which is primarily commercial.

Commissioner Moore asked if the deed could include a restriction to only allow the property to be used residentially and not commercially if that is the goal of the property owners for future use of the property. Attorney Morgan stated probably, noting that any future owners of the property would have the option to petition the Town if they wished to rezone it. The Town's zoning authority isn't limited by deed restrictions or HOA's but focuses more on the zoning uses.

Mr. Baker expressed that they agree with the 2007-2027 Comprehensive Plan which he stated recommends that their property be zoned R-1 Residential, not CG, and would like to be rezoned in accordance with that Plan. He pointed out that at the last Town Council meeting regarding their neighbor's request to rezone a portion of their property from CG to R-1 Residential, the Town Attorney made the statement that if Council votes to change the zoning of a property

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that is different from what the 2007 Plan shows, then it would effectively change the 2007 Plan. He noted that if this is correct and if Council voted to not rezone their property to R-1, it would be a change to the Comprehensive Plan. Attorney Morgan agreed that if Council makes a rezoning decision that is currently inconsistent with the Comprehensive Plan, then it effectively changes it. However, he stated he did not believe that the reverse would be the same logic if the rezoning was denied to not change the parcel to what is suggested in the Comprehensive Plan and he did not believe it would create a change to the Comprehensive Plan in this event. Mr. Baker commented that he felt the property may have been mapped incorrectly in the past. Attorney Morgan explained that the map is an official adopted document and the Town is bound by what the map shows, even if there may have been an error made. Mr. Anderson pointed out that the rezoning request can only be considered for future use of the land and not the desires of the property owner or the past use of the land. The Zoning and Planning Board was not in favor of removing the commercial portion from the property when they reviewed and discussed the request at their last meeting.

Commissioner DiOrio noted that the Baker's bought the property split zoned as commercial/residential and asked how rezoning it to residential benefits the Town. Mr. Baker commented that he feels there was an error made at some point in the past that split zoned their property and the property adjacent to them to the south. He stated that they bought their property as commercial but do not plan to use it as commercial and felt it was more in line with the Comprehensive Plan to keep it residential. He felt it would be more beneficial to have the property residential and keep it in line with the other properties in their Cove. Commissioner DiOrio stated that there is a shortage of commercial tax base in the Town and putting a residential property in between two commercial properties would not benefit the Town in the future. Changing the zoning not only affects the current property owners, but also any property owner in the future. Mr. Baker expressed their intent to move all of their Lake Lure properties into an irrevocable trust and relayed that they would never use that property commercially. He mentioned that long-term they do not have a problem with the zoning issue, but with more of that cove turning into commercial property.

Mayor Pritchett explained the statutory requirement to postpone the hearing for at least 24 hours to allow opportunity for public comments. She asked if anyone from the public would like to speak and no one requested to speak. The Board unanimously agreed to postpone the hearing until Tuesday, May 11<sup>th</sup> at 5:00 p.m.

#### **VI. TOWN MANAGER COMMUNICATIONS**

Town Manager Shannon Baldwin provided an update on the grant for the design of the reservoir drain/sewer access valve. He stated that we should know in the next few weeks if the Town is awarded that grant.

#### **VII. COUNCIL LIAISON REPORTS & COMMENTS**

Commissioner DiOrio reported the activities of the Utilities Advisory Board.

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Commissioner John Kilby reported the activities of the ABC Board and the Lake Advisory Board.

Commissioner John Moore reported the activities of the Zoning and Planning Board.

Commissioner Patrick Bryant reported the activities of the Parks and Recreation Board.

### **VIII. PUBLIC COMMENT**

Mayor Carol C. Pritchett invited the audience to speak and no one requested to speak at this time.

### **IX. CONSENT AGENDA**

Mayor Carol C. Pritchett presented the Consent Agenda and asked if any other items should be removed before calling for action.

Commissioner John Moore made a motion to approve the Consent Agenda as amended, moving “Budget Amendment #305 – WWTP Digester” from “Consent Agenda” to “New Business” to be discussed with “Task Order No. 8.” Commissioner David DiOrio seconded. Therefore, the Consent Agenda incorporating the following items was unanimously approved and adopted:

- A. The March 9, 2021 Regular Meeting Minutes and the March 31, 2021 Regular Work Group Meeting Minutes
- B. Request from Lake Lure Tours, Inc. for a Classic Boat and Car Show
- C. Budget Amendment #301 – Fire Boat Repairs
- D. Budget Amendment #302 – Sewer Chemicals
- E. Budget Amendment #303 – Lobbyist
- F. Budget Amendment #304 – Dam Automation
- G. Request from Harold Harper to Remove Trees Within the Lake Boundary
- H. Adoption of the Town of Lake Lure Social Media Policy

**X. UNFINISHED BUSINESS:**

There were no unfinished business items to discuss.

**XI. NEW BUSINESS:**

**A. LABELLA ENGINEERING TASK ORDER NO. 8 – WWTP DIGESTER  
PROJECT AND BUDGET AMENDMENT #305 – WWTP DIGESTER**

Council discussed LaBella Engineering Task Order No. 8 for the Waste Water Treatment Plant (WWTP) project. Mr. Baldwin explained the need to try and find a way to replace or modify the digester to reduce the expensive operating costs of hauling away wet sludge. He stated the proposal in the packet can be withdrawn or is obsolete at this point based on a newly determined approach.

Maurice (Reese) Walsh, LaBella Associates, explained that rehabilitation of the digester with a steel tank would be less costly than a replacement. He noted that as long as the size of the tank is not increasing or the process is not changing, there are no permitting requirements. He agreed to withdraw his previous proposal as he does not feel this is the best route for the Town to take at this time. Mr. Baldwin stated that he feels they have found a much better and less expensive solution and will wait for their next proposal.

**XI. NEW BUSINESS:**

**B. SEWER POLICY RECOMMENDATION FROM THE UTILITY ADVISORY  
BOARD**

The proposed sewer policy was developed by the Utility Advisory Board to help implement the new sewer collection system replacement project currently underway.

Commissioner DiOrio made a motion to accept the Sewer Policy recommended by the Utility Advisory Board. Commissioner John Kilby seconded and the motion carried 4-0.

**XI. NEW BUSINESS:**

**C. TOWN OF LAKE LURE-RUTHERFORD COUNTY SEWER AGREEMENT  
DISCUSSION**

Council discussed the Sewer Agreement with Rutherford County. Mr. Baldwin explained that Rutherford County and the Town of Lake Lure entered into a sewer agreement on May 5, 1970 which allowed the Town to collect and treat sewage for Rutherford County. At present,

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Rutherford County is working with Chimney Rock Village to transfer ownership of the County sewer collection system located in Chimney Rock Village. The Town would like to ensure that the rights and ownership of the County sewer collection system are transferred in keeping with the Rutherford County and Town of Lake Lure Agreement. The Agreement has been shared with NC DEQ, Rutherford County, and Chimney Rock Village. The County is in talks with Chimney Rock Village to transfer rights and responsibilities over to Chimney Rock.

Attorney Morgan stated that he feels the Agreement is still enforceable and in place. Although not required, he felt it best that Council reaffirm the Agreement due to the long period of time that has passed and would show that the Town sees the Agreement as valid and binding.

Commissioner Patrick Bryant made a motion to reaffirm the Rutherford County-Town of Lake Lure Sewer Agreement dated May 5, 1970. Commissioner John Moore seconded and the motion carried 4-0.

### **XI. NEW BUSINESS:**

#### **D. ZONING AND PLANNING BOARD MEMBER APPOINTMENT**

Commissioner Moore explained that Jonathan Hinkle resigned from the ZPB leaving a vacant regular position on the Board.

Commissioner John Moore made a motion to appoint Mac Hillabush as a Regular Member on the ZPB Board to fill an unexpired term ending on December 31, 2022. Commissioner John Kilby seconded and the motion carried 4-0.

### **XI. NEW BUSINESS:**

#### **E. LAKE USE SURVEY DISCUSSION**

Parks, Recreation, and Lake Director Dean Givens reported that the Lake Advisory Board discussed wakesurfing during their April 5<sup>th</sup> meeting. They created a draft survey created to solicit information from boaters and lake front property owners. The responses received from this survey could be used to craft new changes to the Lake Use Regulations regarding wake surfing and/or other lake related activity.

Council reviewed the survey questions and made some modifications. Commissioner Bryant recommended including a demonstration of what wakesurfing and wakeboarding is for clarification to the public and Mr. Givens agreed to add that to the survey. Commissioner Moore suggested sending the survey to the list of boaters registered with the Town. Mayor Pritchett questioned sending this survey by email instead of mail. Mr. Givens stated he would work with Linda Ward on what information is available; email or addresses, in order to send to the most

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people. He also suggested sending to members of the Lake Lure Lakefront Owner's Association (LLLOA) as well.

<b>XII. CLOSED SESSION</b>
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Commissioner David DiOrio made a motion to go into closed session in accordance with G.S. 143-318.11(a)(3) for the purpose of discussing attorney client privilege or legal claims and with G.S. 143-318.11(a)(6) for the purpose of discussing personnel matters. Commissioner Patrick Bryant seconded and the motion carried 4-0.

During Closed Session, Council discussed the interviews held for the Assistant Finance Director position and discussed a legal matter.

Commissioner David DiOrio made a motion to return to open session. Commissioner John Kilby seconded and the motion carried 4-0.

<b>XIII. RECESS THE MEETING</b>
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With no further business, Commissioner David DiOrio made a motion to recess the meeting until May 11, 2021 at 5:00 p.m. Commissioner Patrick Bryant seconded and the motion carried 4-0.

ATTEST:

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Michelle Jolley,  
Town Clerk

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Mayor Carol C. Pritchett