



**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, MARCH 9, 2021, 5:00 P.M. VIRTUALLY VIA ZOOM**

PRESENT: Mayor Carol C. Pritchett
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 5:00 p.m.

II. AGENDA ADOPTION

Commissioner David DiOrio asked to move “Budget Amendment #300 – Dam Design” from the “Consent Agenda” to “New Business, Item C” for discussion purposes.

Commissioner John Kilby made a motion to approve the agenda, as amended. Commissioner David DiOrio seconded and the motion carried 4-0.

III. MAYOR’S COMMUNICATIONS

A. RESOLUTION NO. 21-03-09 HONORING MAX LEHNER

Mayor Pritchett read Resolution No. 21-03-09 Honoring the Service and Memory of Max Lehner.

Commissioner John Kilby made a motion to adopt Resolution No. 21-03-09 Honoring Max Lehner. Commissioner David DiOrio seconded and the motion carried 4-0.

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**RESOLUTION NO. 21-03-09
HONORING THE SERVICE AND MEMORY OF
MAX LEHNER**

WHEREAS, on August 9, 1928, Max Eugene Lehner was born in Marion, Ohio; and

WHEREAS, Max Lehner faithfully served as a Commissioner for the Town of Lake Lure from November 26, 1991 until November 23, 1993; and

WHEREAS, Max Lehner faithfully served as Mayor with the Town of Lake Lure and was sworn in to office on November 23, 1993 and served until November 25, 1997. During his tenure as Mayor, the Town Hall was erected in Lake Lure; and

WHEREAS, Max Lehner was a valuable member of the Town and served on numerous boards, including the Environmental Development Council (EDC) and the Tourism Development Authority (TDA), and served as Chairman of the Isothermal Planning and Development Commission (IPDC); and

WHEREAS, the Town of Lake Lure is deeply saddened by the loss of previous Lake Lure Commissioner and Mayor, Max Lehner, who passed away on Monday, January 11, 2021. He will be missed but not forgotten.

NOW, THEREFORE, BE IT RESOLVED that the Lake Lure Town Council desires to honor the service and memory of Max Lehner for his contributions to the Town of Lake Lure and hereby express their sympathy upon his passing and extend condolences to his wife and family.

Adopted by unanimous vote of the Town Council on the 9th day of March, 2021.

IV. TOWN MANAGER'S COMMUNICATIONS
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Town Manager Shannon Baldwin provided an update on the Dam. He reported that Council approved a 10 year notional timeline with milestones and made a decision to work towards a new dam. The timeline was submitted to NCDEQ along with all additional documents/studies performed by Schnabel.

Mr. Baldwin then provided an update on the sewer system project. He reported that we are still working on the Special Order by Consent (SOC) entered into with NCDEQ which allows the Town to operate the Wastewater Treatment Plant (WWTP) in such fashion to meet standards by DEQ. Once new standards are set, the fines and penalties will cease and we can move forward. The Town is currently in the last phase of DEQ review of the Engineering Report/Environmental Information Document (ER/EID). It will likely be April before the ER/EID and SOC are approved by DEQ.

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Mr. Baldwin also provided an update on dredging. He reported that Parks, Recreation, and Lake Director Dean Givens is working with LaBella to ensure everything is in place for next year's lake drawdown. He stated that Mr. Givens is working with LaBella on permitting for a spoils fill site off of Island Creek Road that could potentially be repurposed for usable land in the future.

Mr. Baldwin provided a brief update on the Firefly Cove water system noting that more exploration is needed before moving forward with this project. He then provided an update on hydro mentioning that Dam & Hydroelectric Director Dean Lindsay is in the process of having the large generator cleaned. The large generator is planned to be back in operation next week. Commissioner DiOrio pointed out that work on Hydro was typically contracted out in the past but our current staff, under Mr. Lindsey's leadership, is now conducting 95% of that maintenance.

V. PUBLIC HEARING

A. REQUEST FROM BRIAN AND JENNIFER LAIL TO REZONE PROPERTY LOCATED AT 506 MEMORIAL HWY FROM R-1 RESIDENTIAL TO CG COMMERCIAL GENERAL

Assistant Community Development Director Mitchell Anderson explained the request. He stated that Brian and Jennifer Lail are requesting to rezone approximately 0.26 of a 0.29 acre parcel located at 506 Memorial Highway from R-1 Residential to CG Commercial General. The Zoning and Planning Board (ZPB) reviewed the request on February 16, 2021 and found that the rezoning of the R-1 Residential zoned portion of the Lail's property is inconsistent with the 2007-2027 Comprehensive Plan, as the Future Land Use Map indicates the Lail's parcel is to be zoned for future residential use only. The rezoning of the R-1 residential portion of the parcel would not align with the current neighborhood character in this area, which is primarily used for residential single family dwellings. Further, the parcel's current dimensions would not comply with § 92.040 Building Site--Minimum Dimensional Requirements of the Town's Zoning Regulations and would not easily accommodate required off-street parking for commercial uses. Therefore, the ZPB recommended that the request for a map amendment to rezone the above parcel be denied based on their statement of reasonableness and Comprehensive Plan Consistency.

As a result of G.S. 166A-19.24, Town Council must wait a minimum of 24 hours to vote on a decision to allow adequate time for written public comment.

Commissioner Moore reported that an email was received from Tony Montanari, property owner across the cove from the Lail's property at 134 Basswood Drive, who stated he did not receive notification about the hearing and expressed that he had some concerns with the request. Mr. Anderson explained that he posted the property with a sign about the hearing, he

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had an ad posted in the local newspaper on two separate occasions, and he mailed notice to the adjoining property owners in accordance with what is required by law. He explained that he mails notice to all property owners within 100' from the property line. Commissioner Kilby suggested sending Mr. Montanari an email explaining the notification requirements and that his property is not located within 100' from the Lail's property. Mr. Anderson pointed out that Section 92.174(B) of the Zoning Regulations only requires a mailed notice to owners of properties that are abutting the property in which the request is being made. He pointed out that he actually goes above and beyond what is required by law for adjoining property owner notifications.

Mayor Pritchett invited the public to speak on this matter and no one requested to speak at this time.

Jenny Lail provided a background and history of the property. She stated that they purchased the property in May 2020 because it was split zoned R-1 and CG and would allow them to operate their boat rental business. She mentioned that their pontoons are rented out on a long-term basis to vacation rental homes across the Lake and she did not feel that her neighbors see their business as a nuisance. She explained that the current CG zoned section of their property is small and they would like to expand that CG district to create a larger buffer between their business and their neighbors, David and Marcia Baker. They would also like to build a boathouse and dock and were advised from contractors that the ideal spot for construction of a permanent boat house was to extend the dock towards the Baker's property line. Ms. Lail pointed out that their property is grandfathered in because it was built prior to the current Zoning Regulations and they were told that they would never lose the existing CG zone. Ms. Lail also assured the Board that they can comply with the parking requirements. She stated that they have enough parking for ten vehicles and could consider off-site parking as well, similar to Lake Lure Adventure parking near Point of View Restaurant. She explained that rezoning the property would create a less invasive environment for their neighbors on the water.

Mr. Anderson explained that when a property is rezoned, it is rezoned for all uses allowed by that zoning district and not for just for specific uses. Attorney Morgan agreed and stated that to do otherwise would constitute contract zoning. The Board must consider all of the range of uses that could take place once a property is rezoned.

Commissioner DiOrio pointed out that Section 4.09 (D) (chart on page 17, "Mooring Restrictions") of the Lake Use Regulations allows livery boats to be moored in any zoning district; not just CG. Therefore they could moor their boats anywhere on their property which appears to accomplish what they wish to do. Attorney Morgan agreed and felt this was a correct and reasonable interpretation. He explained that the Board would still have to take action on the request unless it's withdrawn. Mr. Baldwin asked that Mr. Givens discuss the interpretation of this particular revision with Attorney Morgan. Commissioner DiOrio explained that if they plan to build a boathouse, it must be done in accordance with the Regulations no matter its location and would be reviewed by the Community Development Department.

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Commissioner DiOrio felt that additional time and review was needed before a decision could be made. Attorney Morgan stated that the Board could recess the hearing but explained that when the hearing is closed, the Board must wait at least 24 hours before making a final decision to allow adequate time for public comment in accordance with NCGS 166A-19.24(e). Mr. Baldwin stated that the Board could recess the public hearing for a period of time to a date/time specific and in that time the Lail's could work with Mr. Anderson regarding their request for a boathouse structure and Mr. Givens relative to use of those structures. Then, if their needs are met, they could be given the option to withdraw their application.

David and Marcia Baker, adjoining property owners, expressed their opposition to the Lail's rezoning request. Mr. Baker stated that their cove is a small, shallow and narrow cove and he feels it would be in the best interest of the cove and the community for the property to remain zoned R-1 Residential. He mentioned that they recently applied to rezone their property from the CG Zoning District to R-1 Residential. They also stated that parking for the Lail's property is an issue and explained that they have to keep their property roped off to keep people from parking on their property. The only other parking is parallel to the Highway in the DOT right-of-way. He expressed that their concern is that all commercial uses would be allowed on the property if rezoned. He stated that they have spoken with other neighbors in their cove who are also opposed to having another business near their property and in a small cove.

Commissioner John Kilby made a motion to recess the Public Hearing until Tuesday, March 23, 2021 at 9:00 a.m. Commissioner John Moore seconded and the motion carried 4-0.

VI. COUNCIL LIAISON REPORTS & COMMENTS

Commissioner DiOrio reported the activities of the Utilities Advisory Board.

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.

VII. PUBLIC COMMENT

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

VIII. 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 earlier in meeting. Commissioner David DiOrio seconded. Therefore, the Consent Agenda incorporating the following items was unanimously approved and adopted:

- A. Adopt the February 5, 2021 Special Town Council Minutes, the February 9, 2021 Regular Meeting Minutes, the February 10, 2021 Special Town Council Minutes, and the February 24, 2021 Special Town Council Work Group Meeting Minutes
- B. Approval of Budget Amendment #298 – Schnabel Engineering Invoice
- C. Approval of Budget Amendment #299 – Public Works Fence
- D. Resolution No. 21-03-09A Amending Article VII of the Personnel Policy

**RESOLUTION NO. 21-03-09
A RESOLUTION TO AMEND THE EXISTING PERSONNEL
MANUAL FOR THE TOWN OF LAKE LURE**

WHEREAS, the Town of Lake Lure has a Personnel Manual adopted November, 2001, which has been subsequently amended; and

WHEREAS, the Personnel Manual shall apply to conditions of employment of the employees of the Town of Lake Lure; and

WHEREAS, updates have been recommended to the Manual in order to provide further clarification on employee eligibility and administrative leave; and

NOW, THEREFORE BE IT RESOLVED, the Town of Lake Lure Personnel Manual be amended a follows:

****Note**** ~~strikeouts~~ for deletions and underline for additions.

Article VII, Leaves of Absence, Section 4(f), Vacation Leave-Adverse Weather

Section 4(f). Vacation Leave-Adverse Weather

Only the Town Manager may declare when administrative leave will be given to regular full time employees for adverse weather conditions. Since the Town provides significant essential

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services, it will be necessary to keep the Town operating whenever possible. Department heads shall determine which of the required functions of their departments must continue during the adverse weather event. No employee is expected to ~~work~~ risk their safety to commute to work when roads are unsafe and compensatory time or vacation days will be granted approved for those employees who need to be absent for this reason.

Employees required to report to work will record actual hours worked as regular time on the time sheet. If actual hours worked for the designated day is greater than the employee's normal work day, the employee will not receive administrative leave. If an employee is already on vacation or other approved leave, the employee will remain in leave status and is not entitled to administrative leave.

An employee scheduled to telework on the day(s) of the weather event is expected to work the regularly assigned hours and will not be eligible for the administrative leave.

If an employee does not report to work when a delayed opening is called, the employee will not be entitled to administrative leave and should use compensatory time or vacation leave to receive pay for that entire work day. Employees shall be paid based on the Fair Labor Standards Act.

READ, APPROVED AND ADOPTED this the 9th day of March, 2021.

IX. UNFINISHED BUSINESS

A. PUBLIC WORKS CIP REVIEW

Public Works Director David Arrowood provided an overview of the Public Works CIP items. He stated he is requesting \$350k for the Firefly Cove Water Interconnect. The system currently runs completely on one well. Mr. Baldwin noted this is one item that needs to be explored more and could drastically change. Commissioner DiOrio reported that the resolution from the engineers was to put in a pump station that would draw from the Chimney Rock Station to replace the well in the Firefly Cove interconnect. He stated that we need to hold off before putting in a pump while they explore what happens when they open the interconnect to the Firefly Cove system and to allow time to learn how the system works. Mr. Arrowood stated he would report back when he knows more.

Mr. Arrowood stated that he is requesting electronic water meters and is asking for \$200k in this year's budget to get these meters installed. He mentioned that he is looking into the Sensus water meters by Ferguson. He noted that several other towns are using these meters and seem to be happy with their service. The meters would come with a 15 year unconditional warranty and a five year prorated warranty at the end. Mr. Baldwin pointed out that the electronic meters would save a large amount of time that staff currently spends reading meters each month and would also save the Town \$35-\$40k in staff time reading meters. He noted that the Town would break even in 6-7 years and then would begin gaining some back.

Mr. Arrowood mentioned that he is also requesting \$20k in the sewer department for the installation of two manholes in Morse Park; one near the basketball court and one near rivers

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edge. There is currently only one access manhole at the entrance to the Marina that everything is tied into.

Mr. Arrowood stated that he is requesting to replace a portion of the old fence at the Public Works facility site. He originally asked for \$60k to replace the entire fence but has since discussed with Council about only replacing the worst sections of the fence, which would hide all debris and equipment from the public's view. He stated that the \$60k could be reduce to \$18k-\$20k.

Mr. Arrowood reported that a street study was conducted a few years ago and recommendation was made to spend more on street paving than just Powell Bill money. The Board has funded more money in the past few years to bring streets up to a good pavement rating and he would like to continue this. He mentioned that the plan was to budget \$120k a year for 10 years which he would like to continue. Other items he is requesting is a water tight lid at \$6k which is recommended by DEQ for one of the Town's water tanks and \$45k for a vehicle to replace the 2005 Chevrolet truck that has over 100,000 miles and has been causing a lot of mechanical problems.

X. NEW BUSINESS:

A. GOLF COURSE PROPERTY APPRAISAL RFP REVIEW AND DISCUSSION

Parks, Recreation, and Lake Director Dean Givens stated that the Parks Recreation, and Lake Department has prepared an RFP for appraisal of the Lake Lure Golf Course. The map of Town owned land including the Golf Course categorized into residential, commercial and recreation is attached. If approved, this map will be included as "Attachment A" in the RFP.

Commissioner Moore questioned if a buyer would be limited to how the property is currently zoned. Mr. Baldwin noted that the reason for the discussion is to get Council's thoughts and can add them as notes to give to the appraiser. Commissioner Moore disclosed that the categories shown in the map are just suggestions and are not set in stone. Mr. Baldwin stated that a narrative and additional wording would be incorporated to show that there is flexibility in assessing the categories.

Commissioner Moore suggested to add E and F categories to the assessment for the recreation on the northwest side of Memorial Highway. The Board agreed to keep the Public Works fill site and the Dittmer-Watts Nature Trail out of the appraisal.

X. NEW BUSINESS:

B. PANGAEA AGREEMENT REVIEW

Mr. Baldwin reported that a meeting was held with PANGAEA last month and they were asked to respond after being notified that the Town would like to see changes in the Agreement relative to the exclusivity clause as well as redundancy in the event that PANGAEA fiber goes down. Per Council's request, PANGAEA provided a proposed service agreement for the continuation of fiber optic internet services with or without removing the Exclusive Equipment License. Two options were proposed:

Option 1: make no changes to the Agreement and allow the term to renew for additional one year terms as provided in the Agreement

Option 2: remove the Exclusive Equipment License and the Third Party Conditions that are set forth in the Agreement. PANGAEA would begin charging the Town one current rate for services that have been provided at no charge since 2009.

Mr. Anderson stated that he sent a small questionnaire to ERC Broadband, Vyve, Skyrunner, and AT&T. The questions he asked were if they could provide services for the Town facilities, he asked for locations without fiber for point to point service, and if their service had connection redundancy. ERC does have a fiber line directly in front of Town Hall. Their response included the monthly cost of those services. Vyve and AT&T have not yet responded back. He reached out to Skyrunner and they have an agreement with PANGAEA that may complicate them providing services to the Town on top of our current agreement with PANGAEA. Mr. Baldwin explained that we originally started this process to find a company to provide Wi-Fi in the Town Center to provide better internet service in that area. The RFP resulted in discussions with PANGAEA expressing the Town's concerns with redundancy. PANGAEA and Skyrunner have entered into an agreement which requires Skyrunner to secure permission from PANGAEA in order to have an agreement with the Town. Mr. Walters pointed out that this requirement is so that they protect themselves and recover their costs. He stated that the Town can maintain service for another year at no charge and can discuss again next year when we have more information from service providers. Commissioner Moore asked if by extending the agreement for another year, would it lessen the Town's ability to take bids/proposals from other companies at the end of the year to get away from some of the restrictions placed. Attorney Morgan stated that nothing in the Agreement limits the Town from exploring other options with other providers. We would want to get alternatives lined up well in advance of the anniversary date next year. Commissioner Moore added that we would also welcome proposals from PANGAEA. Attorney Morgan noted there is some legislation being considered that may play into this that has to do with broadband competition and changes that may impact this discussion over the next few months. Attorney Morgan stated that we have already given PANGAEA notice that we intend to release our agreement with them and will need to inform them if the Board wishes to continue with the current Agreement.

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Commissioner John Kilby made a motion to make no changes to the Agreement and allow PANGAEA to renew the Agreement for an additional one year term as provided in the Agreement. Commissioner Patrick Bryant seconded and the motion carried 4-0.

X. NEW BUSINESS:

C. BUDGET AMENDMENT #300 – DAM DESIGN

Mr. Baldwin explained that in order to receive a 65% matching FEMA grant for conceptual dam design, the Board must adopt a Budget Amendment.

Communications Specialist Laura Krejci added that Finance Director Sam Karr advised that a Budget Amendment was needed for the full amount of the project. If approved through the FEMA high hazard potential grant funding process, the Town would be reimbursed 65%. The total cost is \$58,568k and the Town's portion would be \$20,498.80.

Commissioner David DiOrio made a motion to approve Budget Amendment #300 for Dam design. Commissioner Patrick Bryant seconded and the motion carried 4-0.

XI. CLOSED SESSION

Commissioner John Moore 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. Commissioner David DiOrio seconded and the motion carried 4-0.

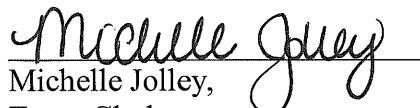
During Closed Session, Council discussed the Golf Course lease, the PANGAEA Agreement, and the Clifton Power legal claim.

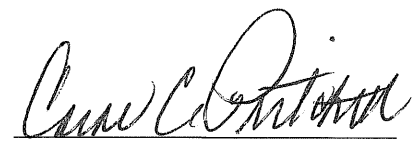
Commissioner David DiOrio made a motion to leave Closed Session and return to open session. Commissioner Patrick Bryant seconded and the motion carried 4-0.

XII. ADJOURNMENT

With no further business, Commissioner John Moore made a motion to recess the meeting until Tuesday, March 23, 2021 at 9:00 a.m. Commissioner Patrick Bryant seconded and the motion carried 4-0.

ATTEST:


Michelle Jolley,
Town Clerk


Mayor Carol C. Pritchett

