



**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, FEBRUARY 13, 2024, 5:00 P.M. AT THE LAKE LURE MUNICIPAL
CENTER**

PRESENT: Mayor Carol C. Pritchett
Mayor Pro Tem David DiOrio
Commissioner Patrick Bryant
Commissioner Scott Doster
Commissioner Jim Proctor

William Morgan, Jr., Town Attorney
William Hank Perkins, Jr., Town Manager
Michael Williams, Community Development Director
Dana Bradley, Parks, Recreation, and Trails Coordinator
Dean Lindsey, Public Services Director
Stephen Ford, Finance Director
Michael Dydula, Project Manager
Laura Krejci, Communications Director

ABSENT: N/A

I. CALL TO ORDER

Mayor Carol C. Pritchett called the meeting to order at 5:00 p.m. Council members led the pledge of allegiance and Commissioner Patrick Bryant led the invocation.

II. APPROVE THE AGENDA

Commissioner Scott Doster made a motion to add G.S. 143-318.11(a) (6) for the purpose of discussing personnel matters to the closed session. Commissioner David DiOrio seconded and all voted in favor.

Commissioner Patrick Bryant made a motion to approve the agenda, as amended. Commissioner DiOrio seconded and all voted in favor.

III. MAYOR'S COMMUNICATIONS

Mayor Pritchett thanked all individuals in attendance. Mayor Pritchett recognized the Rumbling Bald Golf Course, Rutherford County EMS, Town of Lake Lure Fire Department, and all others who assisted on an emergency call at the Rumbling Bald Golf Course. It was noted that the Lake Lure Police Department was recognized during the 2024 Night of Honors last week. Mayor Pritchett announced that in a recent article, the Town of Lake Lure was named as the safest city in North Carolina. Mayor Pritchett expressed appreciation for the Town's public safety departments for keeping the community safe. Mayor Pritchett noted that the comprehensive plan has been referenced the past couple of months and there is a need to update it, so tonight all the Commissioners received a copy of the full plan and each commissioner will go through the entire document and make highlights of what may need to be amended within the plan. Mayor Pritchett added that the comprehensive plan is an elusive process with various groups involved, but having commissioners review the entire document will be a good first step to making necessary updates. It was detailed that commissioners will review the comprehensive plan prior to the work session and action meeting when they will discuss their notes formalize the process to move forward.

IV. TOWN MANAGER COMMUNICATIONS

Town Manager Hank Perkins summarized highlights from his Manager's Report for January which is available in the meeting packet.

Town Manager Perkins reported that there were no actions taken at January's work session and action meeting.

V. COUNCIL LIAISON REPORTS & COMMENTS AND BOARD PRESENTATIONS

Commissioner Scott Doster reported that the Zoning and Planning Board did not meet this month. Commissioner Doster noted that there will be a builder's forum at the Zoning and Planning Board meeting in March,

Commissioner David DiOrio reported the activities of the Lake Advisory Board and noted that the Board of Adjustment / Lake Structure Appeals Board met.

Commissioner Jim Proctor reported the activities of the Parks and Recreation Board. Commissioner Proctor thanked Ed Dittmer for his many years of serving on the Board.

Mayor Pritchett reported the activities of the ABC Board.

VI. PUBLIC COMMENT

Mayor Carol C. Pritchett invited the audience to speak.

Ed Dittmer, 1136 Memorial Highway, thanked the Lake Lure Fire Department, first responders, and County EMS. Mr. Dittmer explained that he had a stroke 10 days ago and the Lake Lure Fire Department quickly responded and took action. Mr. Dittmer added that the responding firefighters were Trey Lewis and Josh Hendrix. Mr. Dittmer noted that he since found out that only two hospitals in the area, Mission and Greenville, can administer the drug he needed. Mr. Dittmer detailed that he was taken to Mission and got there in time to have the drug administered. It was noted that even though he was unconscious for much of the time, he is still here today. Mr. Dittmer explained that a few years ago, this drug was not available, so he feels blessed to be able to continue living and wanted to thank those responsible for saving his life. Mr. Dittmer also explained that he has completed 18 years on the Parks and Recreation Board, 10 of which he served as the Board chair and eight as the vice chair. Mr. Dittmer noted that Jim Walters, Bill Massey, and Moe Bay are also resigning. Mr. Dittmer expressed that each of them will be missed on the Board. Mr. Dittmer explained that chose not to reapply to give new people an opportunity to serve. Mr. Dittmer thanked the Town for allowing him to serve the Board and expressed that it is in good hands.

There were no further comments.

VII. CONSENT AGENDA

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

Commissioner DiOrio made a motion to approve the Consent Agenda, as presented. Commissioner Proctor seconded. Therefore, the Consent Agenda incorporating the following items was unanimously approved and adopted:

- A. Approval of the January 8, 2024 Special Town Council Planning Retreat, the January 16, 2024 Special Town Council Meeting Minutes and the January 24, 2024 Town Council Work Session and Action Meeting Minutes
- B. Approval of Maintenance Agreement of Electric Vehicle Chargers with NovaCHARGE

VIII. UNFINISHED BUSINESS

There was no unfinished business to discuss.

IX. NEW BUSINESS

- A. **RESOLUTION NO. 24-02-13A SETTING PUBLIC HEARING FOR MARCH 12, 2024 TO RECEIVE COMMENTS REGARDING AMENDMENT OF ZONING ORDINANCES SECTION 36-70 (“BUILDING SITE MINIMUM DIMENSIONAL REQUIREMENTS”)**

Community Development Director Michael Williams explained that the proposed amendment is simple and cleans-up discrepancies within the ordinances. Director Williams further explained that in the R-4 district there is a 12 ft. side setback requirement and a 15 ft. rear yard setback requirement, which is in conflict with a schedule located in Section 30-70 which shows the R-4 setbacks as being the same as most other residential districts. Director Williams noted that staff and the Zoning and Planning Board determined that it would be most beneficial to amend Section 36-70 to reflect the correct setbacks for R-4. Manager Perkins noted that this resolution sets the public hearing for the recommended amendment.

Commissioner Doster made a motion to adopt Resolution No. 24-02-13A Setting Public Hearing for March 12, 2024 to Receive Comments Regarding Amendment of Zoning Ordinances Section 36-70 (“Building Site Minimum Dimensional Requirements”). Commissioner Proctor seconded and all voted in favor. Resolution No. 24-02-13A was adopted as follows:

RESOLUTION NO. 24-02-13A

RESOLUTION BY THE TOWN OF LAKE LURE TOWN COUNCIL SETTING PUBLIC HEARING FOR MARCH 12, 2024 TO RECEIVE COMMENTS REGARDING AMENDMENT OF ZONING ORDINANCES SECTION 36-70 (“BUILDING SITE MINIMUM DIMENSIONAL REQUIREMENTS”)

WHEREAS, the Town staff and the Zoning and Planning Board have provided the Town Council with recommended amendments Zoning Ordinances Section 36-70 (“Building Site Minimum Dimensional Requirements”); and

WHEREAS, North Carolina General Statute § 160D-605 mandates that the Town must hold a public hearing prior to amending any development regulations.

NOW, THEREFORE BE IT RESOLVED, that the Town of Lake Lure will hold a public hearing, in accordance with North Carolina General Statutes, during its regular meeting on March 13, 2024 beginning at 5:00 p.m. or shortly thereafter at the Lake Lure Municipal Center to receive comments in regard to the recommended amendment of Zoning Ordinances Section 36-70 (“Building Site Minimum Dimensional Requirements”).

IX. NEW BUSINESS

B. VOLUNTEER BOARD APPOINTMENTS

I. ABC BOARD

Commissioner Doster noted that there was only one candidate, Mr. Peter O’Leary, seeking re-appointment for the ABC Board and all other members are in the midst of their terms. Commissioner Doster expressed that Mr. O’Leary is an asset to the Board. It was noted that the ABC Store covers Chimney Rock Village, so that is why a resident from there is on a Lake Lure board.

Commissioner Doster made a motion to re-appoint Peter O'Leary to serve a three year term on the ABC Board. Commissioner Bryant seconded and all voted in favor.

II. BOARD OF ADJUSTMENT / LAKE STRUCTURE APPEALS BOARD

Commissioner DiOrio noted that Board of Adjustment (BOA) and Lake Structure Appeals Board (LSAB) are technical Boards and the people who serve typically come in as an alternate to learn regulations and then move up to a regular position. This year, Mr. Wyn Hardy is leaving the BOA/LSAB and will be replaced by a current alternate member.

Commissioner DiOrio made a motion to re-appoint Neil Gurney, Al Joyner, and Melvin Owensby to serve as regular members, and to advance Kimberly Sayles from an alternate member to a regular member, and to appoint David Lusk as an alternate member, all of which to serve three year terms. Commissioner Doster seconded and all voted in favor.

III. LAKE ADVISORY BOARD

Commissioner DiOrio explained that the Lake Advisory Board (LAB) should be representative of the community because the community uses the lake and it is important to have public perspective. Commissioner DiOrio added that the LAB very balanced with the current members that are up for re-appointment. Commissioner DiOrio further explained that Richard Sayles is an inn keeper in Lake Lure and can communication with tourist and visitors, Sonya Ledford manages Lake Lure Tours, and David Lusk is a public safety volunteer.

Commissioner DiOrio made a motion to re-appoint Sonya Ledford, David Lusk, and Richard Sayles to serve three year terms on the Lake Advisory Board. Commissioner Proctor seconded and all voted in favor.

IV. PARKS AND RECREATION BOARD

Commissioner Proctor explained that the Parks and Recreation Board recommended re-appointing Larry Czajkoski and Robin Worcester to be re-appointed for a three year term, advancing Ozzie McFarland from an alternate member to a regular member and serving a three year term, and appointing Debbie Warren and Matthew Manzi to serve a three year term as regular members, and to appoint Dan Gorman to fill the remaining term of Mr. McFarland as alternate.

Commissioner Proctor made a motion to approve the Parks and Recreation Board recommendation. Commissioner seconded and all voted in favor.

V. ZONING AND PLANNING BOARD

Commissioner Doster noted that there is only one vacancy on the Zoning and Planning Board and Mr. Mac Hillabush is seeking re-appointment

Commissioner Doster made a motion to re-appoint Mac Hillabush to serve a three year term on the Zoning and Planning Board. Commissioner DiOrio seconded and all voted in favor.

Mayor Pritchett thanked all individuals who help on the Boards.

IX. NEW BUSINESS

C. BUDGET AMENDMENT #364 FOR REPAIRS TO PARKS, RECREATION, AND LAKE OFFICE ROOF AND MAINTENANCE RELATED TO NCDOT REPLACEMENT AND UPSIZING OF DRAIN PIPE UNDER HIGHWAY 64/74

Manager Perkins noted that he spoke with the Parks and Recreation Department this morning about the roof repairs and drain pipe under Highway 64/74. Manager Perkins explained that staff would like to proceed with appropriating the funds, but would like to further review what needs to be done in regard to the drain. It was noted that the roof replacement will proceed. Commissioner DiOrio noted that DOT has done a good job on the drain pipe and asked what kind of roof will be on the Parks and Recreation office. Parks, Recreation, and Trails Coordinator answered that staff is leaning towards a metal roof to maximize longevity. Commissioner DiOrio recommended proceeding with metal. It was noted that this budget amendment would cover either metal or asphalt for the roof. Manager Perkins noted that the Town is soliciting competitive bids to get the best price. Public Services Director Dean Lindsey noted that the number in the budget amendment includes a buffer and it should cover all repairs. Commissioner Proctor noted that their house has had a metal roof for over 100 years and the only reason that they replaced it is because the nails were coming up. Mayor Pritchett noted the amendment is for \$75,000.

Commissioner Bryant made a motion to approve Budget Amendment #364 for repairs to Parks, Recreation, and Lake office roof and maintenance related to NCDOT replacement and opening of drain pipe under Highway 64/74. Commissioner DiOrio seconded and all voted in favor.

IX. NEW BUSINESS

D. BUDGET AMENDMENT #365 FOR MANHOLE REPLACEMENT PROJECT AND SEWER LINE STABILIZATION PROJECT AT LAKE HOUSE RESTAURANT AND HIGHWAY 9

Manager Perkins explained that this manhole replacement project is similar to ones done before. Director Lindsey noted that the stabilization is for two culverts that have excessive erosion and the Town is adding support to avoid any further erosion or destabilization of the pipe.

Commissioner DiOrio made a motion to approve Budget Amendment #365 for manhole replacement project and sewer line stabilization project at Lake House Restaurant and Highway 9. Commissioner Doster seconded and all voted in favor.

IX. NEW BUSINESS

E. RESOLUTION NO. 24-02-13A AUTHORIZING THE TOWN MANAGER TO ACT ON RUBY-COLLINS DESIGN BUILD AGREEMENT TERMS REGARDING SECTION 8.2 (“DELAYS OF WORK”) AND SECTION 11.1 (“OWNER’S RIGHT TO STOP WORK”) FOR WORK DETAILED IN AGREEMENT AMENDMENT 02

Manager Perkins explained that as discussed in work session, Ruby-Collins will suspended sewer work for this year to avoid conflict with the drain valve installation. Manager Perkins explained that this resolution allows him to act on appropriate agreement terms.

Commissioner Proctor made a motion to adopt Resolution No. 24-02-13A authorizing the Town Manager to act on Ruby-Collins Design Build Agreement Terms Regarding Section 8.2 (“Delays of Work”) and Section 11.1 (“Owner’s Right to Stop Work”) for Work Detailed in Agreement Amendment 02. Commissioner Bryant seconded and all voted in favor. Resolution No. 24-02-13A was adopted as follows:

RESOLUTION NO. 24-02-13A

RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE AUTHORIZING THE TOWN MANAGER TO ACT ON RUBY-COLLINS DESIGN BUILD AGREEMENT TERMS REGARDING SECTION 8.2 (“DELAYS OF WORK”) AND SECTION 11.1 (“OWNER’S RIGHT TO STOP WORK”) FOR WORK DETAILED IN AGREEMENT AMENDMENT 02

WHEREAS, adverse weather and conflicts with the reservoir drain valve installation project has resulted in the need to suspend or delay the work of sewer replacement Design Build team Ruby-Collins that was to be completed during the 2024 drawdown under Agreement Amendment #2; and

WHEREAS, Section 8.2.1 of the Design Build Agreement states that if Ruby-Collins is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Ruby-Collins is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order; and

WHEREAS, Section 8.2.2 of the Design Build Agreement states that in addition to Design-Builder’s right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement; and

WHEREAS, Section 11.1.1 of the Design Build Agreement states that the Town may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project¹; and

¹ The situation encountered by the Town during the current drawdown period has illustrated the need to amend Section 11.1.1 of the Design Build Agreement since each drawdown period is typically 90-120 days thus the 60 and 90 day periods referenced in paragraph 11.1.1 are not practicable. The Manager is directed to work with Ruby-Collins to negotiate appropriate amendments to paragraph 11.1.1.

WHEREAS, Section 11.1.2 of the Design Build Agreement states that Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of the Work by Owner; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA:

SECTION ONE. The Town Council authorizes the Town Manager (or his designee) to act on Ruby-Collins Design Build Agreement terms regarding Section 8.2 (“Delays of Work”) and Section 11.1 (“Owner’s Right to Stop Work”) to formally suspend work for the remainder of the 2024 drawdown period for work specified in Agreement Amendment 02. The Town Manager (or his designee) shall work with Ruby -Collins to make appropriate Amendments to the Contract Documents to account for any costs and additional time necessitated by this suspension of work.

SECTION TWO. The Town of Lake Lure and Ruby-Collins will abide by all terms specified in the Design Build Agreement and Agreement amendments.

IX. NEW BUSINESS

F. FISCAL YEAR 2024 FALL REHABILITATION OF HIGH HAZARD POTENTIAL DAMS FUNDING OPPORTUNITY

Manager Perkins explained that Communications Director Laura Krejci has done an excellent job dealing with the state and dam safety on these grants. It was detailed that within the last week, she was contacted by dam safety being encouraged to apply for the 2024 grant. Manager Perkins noted that reason it is before Council tonight is because the Town’s procurement policy says Council must approve matching grants. It was further noted that the Town has open grants from dam safety. Manager Perkins stated that the application deadline occurs prior to Council meeting again. Director Krejci is working with Schnabel Engineering and Project Manager Michael Dydula on the application. It was detailed that the grant would be for the 70% design of the dam. Director Krejci noted that grant will fund \$75 million nationally, but that amount is not divided yet. Commissioner DiOrio asked if the Town can use dam funds for the match and it was answered yes. Commissioner DiOrio noted that this means that it is not really a tax burden. Manager Perkins noted that it may be difficult to do a 70% design application since the Town has not yet done field work or the 30 % design because there has not been feedback received from dam safety on those two items. Commissioner DiOrio expressed support for applying for the grant.

Commissioner DiOrio made a motion to approve Town Staff submitting an application for the Fiscal Year 2024 Rehabilitation of High Hazard Potential Dams Funding Opportunity for the remaining portion (70%) design of the replacement dam. Commissioner Bryant seconded and all voted in favor.

X. CLOSED SESSION

Commissioner Doster made a motion to enter into closed session in accordance with G.S. 143-318.11(a) (3) for attorney client privilege or legal claims and in accordance with G.S. 143-

318.11(a) (6) for the purpose of discussing personnel matters. Commissioner Bryant seconded and all voted in favor.

During closed session, Council discussed a letter of intent to sue the Town and management of performance expectations.

Commissioner Proctor made a motion to return to open session. Commissioner Doster seconded and all voted in favor.

XI. ADJOURNMENT

With no further business, Commissioner Proctor made a motion to adjourn the meeting at 7:50 p.m. Commissioner Bryant seconded and the motion carried 4-0.

ATTEST:



Olivia Stewman, Town Clerk



Mayor Carol C. Pritchett

