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**Commissioners Present:** Chairman Dan Hartley (Gaston County)  
Vice Chairman Hunter Wilson (Mecklenburg County)  
Commissioner Sam Perkins (Mecklenburg County)  
Commissioner Brad Thomas (Gaston County)  
Commissioner Smitty Hanks (Gaston County)  
Commissioner Ray Webber (York County)  
Commissioner A.W. Bill Beers (York County)  
Commissioner Quay Williford (York County)

**Commissioners/Staff Absent:** Secretary Treasurer Dan Mullane (Mecklenburg County)

**Staff Present:** Neil Brennan, Executive Director; Chris Clark, Legal Counsel; Emily Parker, Administrator

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### Meeting Minutes

#### Item 1 – Welcome

Chairman Hartley called the meeting to order at 7:00 pm and welcomed everyone present.

#### Item 2 – Approval of Minutes

Chairman Hartley asked if any changes need to be made to the July 26, 2021 minutes. Commissioner Hanks moved to approve the July 26, 2021 minutes. Commissioner Thomas seconded the motion. There was no further discussion and the motion was approved unanimously.

#### Item 3 – Approval of Agenda

Chairman Hartley asked if any changes need to be made to the August 23, 2021 agenda. Executive Director Brennan said to delete Item 6. Chairman Hartley said to add Riversweep Discussion between Items 10 and 11. Commissioner Webber moved to adopt the August 23, 2021 agenda as amended. Commissioner Beers seconded the motion. There was no further discussion and the motion was approved unanimously.

#### Item 4 – Public Comment

Danny Hubbard (1500 Gaither Road, Belmont) – Mr. Hubbard expressed concern that the area off his dock was 20-30’ deep and is now 2-3’ deep. He said that Duke Energy does not care about the South Fork River and they need the Army Corps of Engineers to dredge. He said that Duke Energy ought to waive the dredging fee. Mr. Hubbard noted that his biggest issue is the development of a sand bar.

Stanley Joye (1809 South Point Road, Belmont) – Mr. Joye has lived and worked on Lake Wylie for nearly 49 years. He said that Duke Energy cares about little else besides turning turbines and collecting money. He commented about the fencing Duke Energy put up at Papa Doc’s that is problematic for customers. He would like an explanation from Duke Energy as to why the fencing was erected.

Billie Wells (1522 Gaither Road, Belmont) – Ms. Wells has issues with Duke Energy. She moved to her home in 1999 and had beautiful waterfront property (she shared photos from 1999 vs. today). She said that the change over time is horrible and there is now a ~4-acre sand bar attached to her property. The grass and foliage has

gotten so high on the sand bar that she no longer has a view of the water. She is afraid that flooding will back flow onto her property. She would like to see Duke Energy take care of these issues. She will send Ms. Parker a video and to share with the LWMC.

John Adams (1412 Gaither Road, Belmont) – Mr. Adams moved to his home in 2020 (he is Mr. Hubbard's next-door neighbor). The sandbar was on Mr. Hubbard's side of the property and in 18 months has moved directly in front of Mr. Adams' dock. He said that something upstream is dumping a lot of silt into the lake. He requested that municipalities work with Duke Energy to rectify the situation. He understands that Lake Wylie is a power-producing lake, but property owners are suffering and need help with dredging.

Robert Gutkowski (4333 Tucker Road, Belmont) – Mr. Gutkowski lives in Belmont in the Tucker Row subdivision. He said that water level is dockable from Lot 4 to the dead end, and there are 20 homes on his street. An acre was worth \$150,000. Lot 2 sold for \$200,000 for  $\frac{3}{4}$  acre. He said mud runs down stream to behind Lot 5. Mr. Gutkowski said you can walk into the water and sink 3' in mud. He applied for a dock and now needs to spend money on an engineering report to show how much mud will be displaced. He said the Army Corps of Engineers should be able to come and dredge channels. He added that there are no fire hydrants on his street and they will be in trouble if there is a fire on his property.

Dana Moss (422 Sebring Drive, Belmont) – Mr. Moss mentioned two issues. One was trees being cut from a nearby property that go into lake and into his cove, and he is left to cut up tree parts. The other issue he mentioned was about epoxy glue getting into his well after a new pipe was installed as part of a drainage system repair beside his property. He said that the epoxy glue is killing wildlife in his cove. Mr. Moss will send Ms. Parker pictures and to share with the LWMC.

Jean Dellinger (1510 Gaither Road, Belmont) – Ms. Dellinger's daughter Lisa spoke on her mother's behalf. Ms. Dellinger has lived at her property for over 50 years. She currently has no water for fishing or swimming. A sand bar has developed and is causing safety concerns because boaters do not know that the sandbar is there. She said this is a dangerous situation that needs to be fixed.

Sonya Allen (1726 Gaither Road, Belmont) – Ms. Allen asked who is responsible for the river, and said beyond lake levels and sand bar, there is the issue of safety. She said it took first responders 3.5 hours to get to an accident. She was told GCPD could not respond to the accident. She said boat traffic on the far side of the channel is unbelievable and boaters regularly run aground. First responders cannot get up the river and the sand bar is growing. Ms. Allen shared pictures with the LWMC. She added that vegetation is growing that impedes her view of the water. She said that this is a very frustrating situation and does not want to keep paying for waterfront property taxes.

Chairman Hartley commented that many of the Marine Commissioners are also lake residents, and he appreciates everyone coming to the meeting and making comments. Vice Chairman Wilson commented that when you see sediment being dumped into the river, to please look at the LWMC website and make a call to report it. Executive Director Brennan said that he and Chairman Hartley toured the area people commented on and added that they could not get too close to danger buoys because of the sedimentation issue and shallowness of the water. NCWRC has been contacted about the danger buoys. He talked about the steps taken to address the Del Webb project to increase erosion control measures beyond the minimum. He said that the LWMC hears the concerns of lake residents. He added that the LWMC does not control dredging. Executive Director Brennan acknowledged that this is a tough situation, and the LWMC continues to work on it.

Vice Chairman Wilson talked about his experience with the Mecklenburg County appeal process related to property tax value. Executive Director Brennan said the Gaston County tax assessors will listen. Commissioner Thomas said the water level is fully in Duke Energy's control and that sedimentation matters are controlled by

municipalities. Lake residents are getting it from both ends – coves filling up from development and the flow, or lack flow, coming downstream. The question was raised -- how do we get Duke Energy to hear lake residents regarding dredging? Commissioner Perkins said that two entities influence Duke Energy. FERC (a federal entity that people can contact directly) and the state legislature. He added that your state legislators need to hear from you if there is an issue. Commissioner Beers said that he does not think the Army Corps of Engineers can work on Lake Wylie. Executive Director Brennan said that another active initiative is the South Fork River Health Committee. It is led by Mayor Cauthen (Cramerton) and includes representatives from nearby municipalities. The committee is looking at how to improve the health of the South Fork River. He added that there are other people interested in what lake residents are concerned about and suggested contacting local government staff and elected officials. Someone from the audience asked if the sandbar that is currently attached to his property is now his. It was said that the sandbar is Duke Energy's property.

### **Item 5 – Stakeholder Reports**

Charlotte Mecklenburg Police Department (CMPD) – Officer Kennelly reported the Coast Guard rode with them a few weeks ago and will be back on Labor Day weekend. He noted that CMPD helped GCPD provide support for the Paddle Battle.

Gaston County Police Department (GCPD) – Sgt. Knupp reported that their season on the water has ended, but they will be on the water through Labor Day on weekends. They provided support for the Paddle Battle with CMPD and the Belmont Fire Department. He noted that it was a good event for Lake Wylie. GCPD will operate on an as-needed basis after Labor Day. Commissioner Hanks asked since GCPD is the primary law enforcement agency for the South Fork, is GCPD looking into purchasing a flat bottom boat? Sgt. Knupp said they have looked into it and added that it is getting to the point where it is hard to get their boats up there. He talked about finding grants for future boat purchases. The boat GCPD purchased in 2003 was bought with money from drug busts and other donations; taxpayer money was not used.

York County Sheriff's Office (YCSO) – Sgt. Richardson reported that their season on the water has ended. School Resources Officers (SROs) have gone back into schools. They will have 1-2 boats out on Labor Day weekend, then they will be available on an as-needed basis. Duke Energy has helped York County by barricading bridges so people cannot jump off bridges. He has heard both positive and negative comments about the fence at Papa Doc's. They are having an issue with people being on islands after sunset. They will give a warnings at first, but if they have to go over twice, they will issue citations.

Mecklenburg County Sheriff's Office (MCSO) – No report was given.

Tega Cay Police Department (TCPD) – No report was given.

Mecklenburg County ABC Board Law Enforcement – No report was given.

NC Wildlife Resources Commission (NCWRC) – No report was given.

SC Department of Natural Resources (SCDNR) – No report was given.

US Coast Guard (USCG) – No report was given.

US Coast Guard Auxiliary (USCGA) – Commissioner Webber reported that:

- Boat Safety classes have restarted.
- The local flotilla (Lake Wylie) has been notified about the bacteria and are including Boyd's Cover as part of their on-water work.
- There are now crews available and present on the water as allowed by orders.
- Several rental boating companies are implementing boating safety inspections.

Mecklenburg County Land Use and Environmental Services Agency (LUESA) – Mr. Dave Ferguson reported on July water quality data. He reviewed the current bacteria results and where sampling happens. Mr. Ferguson walked through the second page of his report for the benefit of the larger than usual audience. He talked about

their sampling techniques and scheduling with the lab.

Mr. Ferguson then gave a presentation on the Boyd's Cove cyanobacteria issue. He reviewed LUESA's timeline of effort and thanked the LWMC for their notification efforts. He showed map of Boyd's Cove. He said with higher nutrients, there will be higher algal cell counts and addressed why this is happening. They are trying to keep communications open between area organizations and agencies. They plan to do more buoying with 5' inflatable regatta buoys that can include customized messages. Those buoys have been ordered along with rope and anchors. Commissioner Beers commented that paddle board races used them and there were very helpful. These inflatable buoys can be visible at night if they have reflective tape on them.

An audience member said they have cyanobacteria in their cove and asked if it is treatable. Matt Philips (LUESA) said that time is the trick, and to monitor it and allow time for it to disappear naturally. The combination of stagnant lower water, hot temperatures, and hot water all contribute to algae growth – it is not just about lower water levels. On bright sunny days it is easier to see algae blooms and more turbidity means less cyanobacteria. Commissioner Hanks asked if it is made worse by driving through it. Mr. Philips said that boat traffic is not that big of an issue. He said that SCDHEC is doing weekly checks. Executive Director Brennan said the LWMC set up patrols to warn people (and their pets) to not swim. He asked if the LWMC should continue to patrol and warn people. Mr. Rusty Rozzelle (LUESA) said to please continue patrolling.

Duke Energy – Mr. John Bradley said that lake level is 97.2'. There are no approved dredges and we are not in a drought. Commissioner Webber mentioned the cyanobacteria in Boyd's Cove and noted that it says nothing about it on Duke Energy's website or app. Mr. Kelvin Reagan (Duke Energy) said it is not up to Duke Energy to make such a notification and that it is up to the state. Commissioner Webber added that on Duke Energy's website, there are several points about safety and wondered why the cyanobacteria algae issue was not one of them. Mr. Reagan said they are trying to avoid creating confusion. NC Department of Health and Human Services (NCDHHS) is responsible for notifications about harmful algal blooms. Duke Energy is not the regulatory authority in this case. Commissioner Webber asked about the "Special Announcement" area of Duke Energy's app. Mr. Reagan said that is usually used in flooding events. Vice Chairman Wilson said in the back of Wither's Cove someone has put a 2x4 in the water with a sign that says "Rock". The sign is just above the surface of the water.

Executive Director Brennan said the LWMC sent questions to Duke Energy in advance of the meeting. Commissioner Thomas thanked Duke Energy for information on lake levels. Chairman Hartley asked if dropping the water level on August 6-7 and raising it on August 8 an effort to mitigate the Paw Creek sewage spill. Ms. Tami Styer with Duke Energy addressed the LWMC. She said the lowering of lake level was not to flush the spill, but it was in directly response to mitigation related to recreation flows and that Lake Norman was almost a foot below target level. He added that on August 15, water level was at 95.5' and asked what drove the water level down. Ms. Styer said Tropical Storm Fred. Another question was if 96' is the new target level. Ms. Styer said it could perhaps be considered an interim target level. Another question was if the public can be notified when water level will be down. Vice Chairman Wilson asked when pre-rain event water drops happen, does Duke Energy lower Lake Wylie commensurate to how Lake Norman is lowered. He added that it seems like Duke Energy can drop Lake Norman a few inches but dropping Lake Wylie has more of an impact. Ms. Styer explained why more water needs to be moved out of Lake Wylie because it is at higher risk of flooding. Lake Wylie's dam is gated, so it will not go above full pond (100'). The lake level is measured at 100' at the dam but could be higher upstream. Duke Energy cannot lower Lake Norman at the same rate as Lake Wylie. They cannot open the gates at Lake Norman because it will flood Mountain Island Lake. They cannot release as much water out of Lake Norman as they can out of Lake Wylie. Executive Director Brennan asked if Duke Energy can assist with promulgating no swim advisories. Ms. Styer said that is not something in Duke Energy's purview, but we can talk about it. Vice Chairman Wilson added that people go to Duke Energy's website for lake information. The more word we can get out, the better. Updating Duke Energy's app to include such notifications should

become a budget item. Executive Director Brennan asked again if Duke Energy can help get the word out about swim advisories and other issues. Ms. Styer said we can talk about it. Dr. Brett Hartis (Duke Energy) said perhaps Duke Energy can develop messaging to point people to NCDHHS. He suggested coordination between LWMC, Duke Energy, Catawba Riverkeeper Foundation, and other groups to work something out. Dr. Hartis noted that low water, water retention, and weather conditions can drive algal blooms. Commissioner Thomas asked if there are any resolutions to fluctuate water level so plant life will not grow on a sand bar. He added that this is a matter of destroying our natural resource. He said that Duke Energy's effort to lower water level in advance of Fred was the right move. Ms. Styer addressed construction projects downstream saying the sooner they can be completed, the sooner lake levels can return to normal. She said Duke Energy can try to keep water levels around the target on holidays and weekends. Commissioner Hanks asked if Duke Energy has data on how much water volume has been lost in Lake Wylie. She said the Water Management Group is studying sedimentation. Commissioner Hanks asked if Duke Energy has been consistent with its dredging rules and asked if there is a way to take another look at these rules. Mr. John Bradley (Duke Energy) reviewed Duke Energy's dredging rules.

Catawba Riverkeeper Foundation (CRF) – Mr. Brandon Jones reported that there are two weeks left in this season's Swim Guide Program. He said that turbidity is high in the South Fork River. He mentioned a Catawba Lands Conservancy restoration project about stopping sedimentation in upper Lake Wylie. Riversweep is coming up on Saturday, October 2. He added that the thrips seem to be settling in, however, they are not reproducing at same rate as alligator weed. They may need more thrips. CRF has had over 30,000 views and 700 shares on their facebook post about cyanobacteria in Boyd's Cove. They will be out at Boyd's Cove on Thursday. Commissioner Hanks asked about tracking sedimentation rates. Mr. Jones noted that the Catawba-Wateree Water Management Group (CWWMG) did a study that came up with the average rates of infill for all of Lake Wylie but is likely not useful for specific coves. Executive Director Brennan asked if there are sites on Lake Wylie for Riversweep. Mr. Jones believes that information is on the Riversweep website.

#### **Item 6 – Stowe Regional Water Resource Recovery Facility: Line Crossing Permit Application**

This item will be moved to a LWMC meeting later in the fall.

#### **Item 7 – Duke Energy Presentation: Shoreline Management Plan & Permitting Processes**

Mr. Kelvin Reagan with Duke Energy presented on the Shoreline Management Plan. He reviewed what Duke Energy can and cannot do with or without FERC approval. Duke Energy has to obtain permits through the federal and state governments to do their work. He talked about what can be approved – conveyances, private docks, marinas, shoreline stabilization, excavation, and other miscellaneous uses. Duke Energy tries to work with counties, and other organizations if people are in violation. Mr. Reagan said that Duke Energy has information on their website about permitting. He reiterated that Duke Energy is regulated in a similar way that lakefront residents and businesses are regulated. Vice Chairman Wilson asked about the process for reclassifying shoreline. Mr. Reagan said that Duke Energy would have to come out and look at the property. He added that Duke Energy will not reclassify shoreline because someone purchased the property.

#### **Item 8 – Boyd's Cove Cyanobacteria Update**

Executive Director Brennan said that the patrols in Boyd's Cove will continue. There will be a coordination Zoom on Wednesday.

#### **Item 9 – Buster Boyd Bridge Signage Update**

Executive Director Brennan said that the LWMC does not own the faded signs, but they belong to NCDOT. They can take them down or refurbish them. There is a letter in the agenda packet. If no there are no edits or objections, Ms. Parker will send the letter to NCDOT and SCDOT staff.

### **Item 10 – Buoys and Buoy Maintenance Update**

Commissioner Hanks said that buoys have been ordered from NCWRC, but he cannot get confirmation. Commissioner Thomas received an email from Mr. Bill Young with Morningstar Marinas requesting more coverage and to move buoys farther out in South Carolina waters. Commissioner Hanks added that a template has been made to spray paint “LWMC Property” on buoys.

**Added item: Riversweep Discussion:** Chairman Hartley said the LWMC is not going to provide t-shirts this year and brought up the idea of having another kind of giveaway item for volunteers. The idea was raised to give away a LWMC-branded reusable water bottle. Vice Chairman Wilson moved to develop a quote for reusable water bottles. Commissioner Thomas seconded the motion. There was no further discussion, and the motion was approved unanimously. Vice Chairman Wilson will look into prices for reusable water bottles.

### **Item 11 – Treasurer’s Report**

Secretary Treasurer Mullane was not able to attend. Chairman Hartley reported on his behalf:

- York County: Q1 funds were requested and have come in.
- Gaston County: Q1 and Q2 funds were requested and have come in.
- Mecklenburg County: Q1 funds have been requested.

### **Item 12 – Chairman’s Report**

Chairman Hartley said that Executive Director Brennan will cover items they have been working on in his Executive Director’s Report.

### **Item 13 – Executive Director’s Report**

Executive Director Brennan reported that:

- **Brown’s Cove Buoys:** Contacted applicant Brancatto to explain that the no-wake zone at the back of Brown’s Cove was never authorized by the NCWRC, and the LWMC removed the buoy to preclude the NCWRC from removing the buoy there. Advised Mr. Brancatto that his application has been forwarded to the NCWRC, and they have directed an investigator to assess the area. If the NCWRC concurs, no-wake buoys will be installed.
- **Lake Wylie Lake Level:** Sent letter to the NCWRC regarding the potential need for additional channel markers and /or danger buoys pursuant to the Duke report that the lake level will be kept a lower level for the next three years. Cited the area north of US Rte. 74 on the Belmont side and the area north of the “hot hole” discharge from the Allen Steam Plant in the South Fork River. Discussed this issue with Brandon Burch, the NCWRC agent who is member of the commission’s danger buoy crew. NCWRC Division Chief Brian McRae responded that the NCWRC was to meet the week of August 16-20 to review the issue.
- **Lake View Farms:** The next construction project on the South Fork River is the area known as Lake View Farms, just north of the Reflection Pointe community. Steven Hinshaw, who developed the McLean properties, is co-developer. He has advised that he intends to implement all the stormwater control measures (SCMs) Belmont approved for the Del Webb project in the Lake View Farms project. In addition, he stated that the installation of high hazard silt fencing along the entire shoreline - as he did at McLean – is a “no brainer,” and that type of silt fencing will be implemented in the Lake View Farms project. In a meeting with him and a representative from Tri Pointe Homes, a potential co-developer, Riverkeeper Brandon Jones and I pressed for pre- and post-construction bathymetric surveys as well.
- **Stormwater Control Measures:** Gaston County and County and Belmont City official are scheduled to meet on August 23 to discuss enhancement to the county stormwater control measures.
- **Buster Boyd Bridge Signs:** Participated in a virtual meeting with attorney Chris Clark, Chairman Hartley, and NCDOT officials to review the LWMC request that NC DOT and SC DOT collaborate to refurbish or replace the “NO WAKE” and “DANGER” signs on the Buster Boyd Bridge. NC DOT is charged with the maintenance of the bridge. NCWRC Land and Water Access Chief Brian McRae advised that the signage was not authorized by the NCWRC, is not covered by the administrative code that directs the LWMC to maintain

markers (15A NCAC 10F.0333), is superfluous, and can be removed. Brett Canipe, NC DOT Division 10 Engineer, asked the LWMC to revise its request to indicate the signage be replaced or removed. Drafted a letter to the NC DOT and SC DOT officials for LWMC review to reflect the option for NC DOT to replace or remove the signage.

- **RiverFest 2021:** With Chairman Hartley, represented the LWMC at RiverFest2021 on August 7 at Loftin Park in Belmont.
- **FERC Application for Government Boat House:** Following a late request to account for access to a dry hydrant and subsequent drawing revision, the plans are back with the Belmont Rowing Club to ensure the all wording and drawings are correct and reflect the recent modifications.
- **Boyd's Cove:** At the request on August 12 of Rusty Rozzelle, the Mecklenburg County Water Quality Program Manager, organized patrols of Boyd's Cove to help promulgate information regarding the cyanobacteria outbreak in that cove and the at the cove is a "No Swim" area. Patrols started on August 10 and will continue until such time that Mecklenburg can deploy warning buoys or the cyanobacteria is no longer a threat to human and animals.
- **County Briefs:** Presented the annual report to the York County Council on August 16 and thanked the Council for requiring high hazard silt fencing at construction sites. Answered Council follow up questions regarding the cyanobacteria the next day after consulting with Mr. Rozzelle. The Gaston County Commission brief is scheduled for September 14.
- **Belmont City Planning and Zoning Staff Tour:** Tentatively scheduled a lake tour for the Belmont City Planning and Zoning staff on September 15th.

#### **Item 14 – Administrator's Report**

Ms. Parker said that the next LWMC meeting will be held at either the Red Fez Shrine Club or perhaps in York County. She will let the group know as soon as possible. At the September meeting the LWMC will hold its annual Election of Officers and there will be an item on the agenda to determine whether to renew the position of Executive Director.

#### **Item 15 – Public Relations Report**

Vice Chairman Wilson talked about putting time-certain notices on website and reiterated that the LWMC website is informational. The LWMC and stakeholders should focus on pulling resources together to put out via comprehensive first alert systems. He said that he created a facebook group called the Waterfront Owners Guild to be able to provide information to waterfront homeowners.

#### **Item 16 – Announcements**

Chairman Hartley mentioned North Carolina State Senate Bill 105 that says no municipality can exceed state regulations for stormwater. He urged the Marine Commissioners and those present to get in touch with their state legislators to oppose this bill.

#### **Item 17 – Adjournment**

The meeting adjourned at 9:30 pm.