

Incorporated 1927

Town of Lake Lure

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MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, SEPTEMBER 23, 1997, 7:30 P.M. AT THE LAKE LURE MUNICIPAL CENTER

PRESENT: Mayor Max E. Lehner
Commissioner Bill Bush
Commissioner Carolyn Cobb
Commissioner Beth Rose
Commissioner Bud Schichtel

J. Christopher Callahan, Town Attorney
John R. Strutner, Town Manager

ABSENT: N/A

CALL TO ORDER

Mayor Lehner called the meeting to order at 7:30 p.m. He thanked everyone for the calls, cards, and prayers which he had received during his recent recovery from retinal surgery.

INVOCATION

Attorney Callahan gave the invocation.

AUDIENCE OF CITIZENS

No persons had signed to speak under Audience of Citizens. However, Mayor Lehner gave the audience an opportunity to speak if they had any questions or concerns. Malee Keller, resident of Lake Lure, requested to speak in regard to the Lake Certification Tag Policy which was established at the March 25, 1997 Town Council meeting stating that all individuals who have neglected to pay and pick up their Lake Lure Lake Structure Certification Tag or those individuals who have failed to meet the requirements to be issued a Lake Structure Tag, cannot purchase a boat permit until they have abided by these regulations.

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Ms. Keller stated that she had lived on Lake Lure since 1951 and retired as Postmaster from the Lake Lure Post Office in 1989. On August 29, 1997, Ms. Keller applied for an annual resident type boat permit at the Lake Lure Marina. She was denied the permit and referred to the Municipal Center due to her husband's name being listed as neglecting to pay and pick up his lake certification tag which was to be purchased and issued approximately three years ago. Ms. Keller wanted to voice her opinion that she thought this was unfair since not all persons owning property within the Town have to purchase this type of tag for their property, and she felt it should not be intended just for lake structure owners. Ms. Keller presented a letter to the Mayor requesting clarification of the policies regarding boat permits. Mayor Lehner referred the letter to Town Manager Strutner and requested that he respond in writing to Ms. Keller's questions.

CONSENT AGENDA

Mayor Lehner presented the consent agenda and asked if any item should be removed or added before calling for action. There being no requests for removal or additions, Commissioner Rose moved, seconded by Commissioner Bush, to approve the consent agenda. Therefore, the consent agenda, incorporating the following item(s) was unanimously approved:

- a. **Approved Minutes of August 26, 1997 (Regular Meeting).**
- b. **Adopted Resolution No: 97-09-23 (Approving an Agreement between the North Carolina Division of Archives and History and the Town of Lake Lure for Municipal Records Retention and Disposition. (Resolution attached).**

End of Consent Agenda

OLD BUSINESS

a. 1997-98 Budget Amendments Regarding Water/Sewer Fund

Sam Karr, Finance Director, reported on the requirement for a budget amendment due to the water and sewer rate increase which took effect July 1, 1997.

Due to the newly adopted water and sewer rate increase and some unforeseen emergencies, a budget adjustment within the water and sewer fund was addressed. The rate increase has created a surplus of approximately \$50,668.00 in the water and sewer fund. The unforeseen emergencies and unbudgeted well expenses can be included within this surplus.

The following is a breakdown of expenses and revised revenue estimates:

EXPENSES

<u>Wastewater Treatment Plant</u>		<u>Water</u>	
Rate Study	\$2,220.00	Rate Study	\$2,220.00
Hobson Const.	\$6,750.00	New Well Pump	\$2,850.00
WNC Electric	\$4,040.00	Well Testing and	
Samples	\$ 500.00	Supplies	\$ 875.00
Potential repairs	\$4,000.00	Electrical	\$2,000.00
TOTAL	\$17,510.00		\$7,945.00

REVISED REVENUE

<u>F.Y. 1997-98 Adopted Budget</u>		<u>Proposed Adjustments</u>
Water Charges	\$ 77,000.00	\$ 94,000.00
Sewer Charges	\$221,632.00	\$253,000.00
Taps-Water	\$ 2,000.00	\$ 2,100.00
Taps-Sewer	\$ 6,000.00	\$ 8,000.00
Penalty/Interest	\$ 2,500.00	\$ 2,500.00
Transfer Fee	\$ 200.00	\$ 400.00
TOTAL	\$309,332.00	\$360,000.00

The costs at the Wastewater Treatment Plant are \$17,510.00 and the costs for the Water Department are \$7945.00, which brings the total cost to \$25,455.00. Subtracting these additional expenses from the surplus will leave a balance of \$25,213.00. This excess can be appropriated to the fund balance (fund equity) in the Water/Sewer Fund.

The Finance Director's recommendation is of the \$50,668 in excess generated, \$17,510 would be applied to Wastewater Treatment Plant (\$11,290.00 for Maintenance and Repairs-Equipment, \$4,000.00 for Potential Repairs, \$2,200.00 for Professional Services), and \$7,945.00 to Water Department (\$5,705.00 New Well Account, \$2,200.00 for Professional Services) and the balance of \$25,213.00 to the Water/Sewer Fund Balance (Fund Equity) for future Capital needs.

With no further discussion, Commissioner Cobb moved, seconded by Commissioner Schichtel that the recommended transfers and transactions which were presented by the Finance Director be approved. The vote of approval was unanimous.

OLD BUSINESS

b. Lake Structures Appeals Ordinance Amendment (re: Appeal Process)

Council received a letter dated August 26, 1997 from the Town Attorney in regard to a proposed amendment to the Lake Structures Appeals Ordinance dealing with the appeal process of Lake Structures Appeals Board decisions. Copies of same were distributed to the Town Council at the August meeting; a copy also was attached to the minutes of the August 26 meeting.

Town Manager Strutner requested that the Zoning Administrator submit a copy of the Town Attorney's memorandum to the Lake Structure Appeals Board and place this item on their next Agenda in order for them to give their input before a decision is made.

Commissioner Bush moved, seconded by Commissioner Schichtel, to table this item until a written reaction report is received from the Lake Structure Appeals Board. The vote of approval was unanimous.

OLD BUSINESS

c. Proposal to Timber Property (Island Creek Road)

Town Manager Strutner summarized his two previous memorandums on this matter.

Commissioner Cobb suggested the possibility of weighing the advantage of selling the property in lieu of taking on a long range management cost at taxpayers' expense.

Commissioner Schichtel moved, seconded by Commissioner Rose, to table this item until a recommended written management report/plan for this tract is received from Olin Freeman, Paul Merton and Craig Lawing of the N. C. Forestry Division.

OLD BUSINESS

d. Funding for Installation of all Town of Lake Lure Street Name Signs in conjunction with E-911 Program

It was the consensus of Council to proceed to purchase and install all new street signs, in private communities and on private roads, as well as on public streets, in conjunction with the E-911 Program. A motion will be made at the appropriate time amending the dollar amount which will be taken from the Contingency Fund. The Town is currently waiting on a list and

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map of all the streets from the County. At this time there is no line item for this project. However, for the safety of the citizens, it was felt that the project needs to get underway as soon as possible.

OLD BUSINESS
e. Other Old Business

There was no other old business for discussion.

NEW BUSINESS

a. Presentation to the Town by Pediatric Brain Tumor Foundation

Mr. Walt Sweatt, representing the Pediatric Brain Tumor Foundation, presented Chief Jake Gamble, representing the Lake Lure Police Department, with a plaque in appreciation of their help during the June 1997 "Ride for Kids" which is a motorcycle fund raising event.

Mr. Sweatt reported that approximately 300 motorcycles came through the area and approximately \$60,000 was raised.

Mayor Lehner reported that this group was very well-behaved and the event was for a very good cause.

NEW BUSINESS

b. Set Date for Public Hearing Regarding Proposed Amendments to Sections 1101-1(a) and 1101-1(b) of the Lake Lure Zoning Ordinance

Dave Weatherman, Zoning Administrator, spoke in regard to the proposed amendments to Sections 1101-1(a) and 1101-1(b) of the Lake Lure Zoning Ordinance. This proposed change deals with the lot width at building site requirement in Article VII of the Zoning Ordinance. If approved, this amendment will reduce the number of variances and the workload for the Board of Adjustment. The Zoning and Planning Board proposes the following words be inserted into Section 1101-1(a) (b):

Existing 1(a) under Nonconforming Vacant Lots:

"Where the lot area is not more than twenty (20) percent below the minimum specified in this ordinance, and other dimensional requirements are otherwise complied with, the Zoning Administrator is authorized to issue a certificate of zoning compliance".

Proposed changes to 1(a) under Nonconforming Vacant Lots:

"Where the lot area for all zoning classifications, and the lot width at building site for zoning classifications R-1, R-1A, R-1B, and R-1D is not more than twenty (20) percent below the minimum specified in this ordinance, and other dimensional requirements are otherwise complied with, the Zoning Administrator is authorized to issue a certificate of zoning compliance".

Existing 1(b) under Nonconforming Vacant Lots:

"Where the lot area is more than twenty (20) percent below the minimum specified in this ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions in order to protect adjacent properties to the maximum extent possible".

Proposed changes to 1(b) under Nonconforming Vacant Lots:

"Where the lot area for all zoning classifications, and the lot width at building site for zoning classifications R-1, R-1A, R-1B, and R-1D is more than twenty (20) percent below the minimum specified in this ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions in order to protect adjacent properties to the maximum extent possible".

Due to a prior commitment, the Zoning Administrator cannot attend the next Council Meeting scheduled for October 28th. However, he has conferred with Dick Washburn, Chairman of the Zoning and Planning Board who has agreed to attend the meeting to answer any questions.

With no further discussion, Commissioner Cobb moved, seconded by Commissioner Schichtel, to schedule a Public Hearing for Tuesday, October 28, 1997, 7:30 p.m. at the Municipal Center Regarding proposed Amendments to Sections 1101-1(a) and 1101-1(b) of the Lake Lure Zoning Ordinance. The vote of approval was unanimous. Commissioner Schichtel requested that necessary notification be published.

NEW BUSINESS

- c. Appointment of Representative to the North Carolina Municipal League --
Voting Delegate and Alternate**

It was the consensus of Council that no Council Member would be attending the annual meeting of the North Carolina League of Municipalities scheduled in October. Therefore, no action was taken.

NEW BUSINESS

d. Request for Temporary closing of Yacht Island Road

Eric Kunath, Vice President of K Enterprises spoke on behalf of Mr. and Mrs. Hugh Pinney, property owners on Yacht Island Road.

Mr. and Mrs. Pinney requested that Yacht Island Road be closed for approximately ten weeks due to construction which needs to take place on three concrete retaining walls between the road and the Pinney's residence. The walls currently there have cracks which are irreparable, according to Day Engineering, and pose a serious threat to the residence. Removal of the existing walls is required to properly build a new single engineered wall of the proper strength. It is the removal of the old walls which cause the need for closing the road and very probably the need to remove the section of road directly adjoining these lots. Since this dramatically increases the cost of the project, removal of the road would be a last resort but may be necessary for the safety of the workmen and proper placement of the footing. Roger O'Dell has agreed to perform the removal work as well as back-filling and rebuilding the effected road area according to Town specifications. To safely perform this task, flashing lights, signs, and physical barricades will mark both sides of the project. Since the road is a loop, no homeowners should be blocked from their residences.

Mr. Kunath has investigated the weight limit of the bridge over which heavy equipment will have to cross. The weight limit is approximately 80,000 tons. The weight of the track-hoe which will be required on site is approximately 40,000 tons and has smooth tires which will minimize road damage; there should be no damage to the area, only minor scuffing.

If approved, Mr. Kunath requested that the Town provide notification to the property owners which would be affected. Only three to four homes should be affected by the closing of the road since the majority of homeowners access their properties via the other side of the "loop". It was felt this would be an appropriate time for the closing since traffic is less during the winter months.

Mayor Lehner questioned bonding and the need for a performance bond in order to assure the Town that all necessary road repairs would be made. Mr. Kunath is bonded as a General Contractor licensed in the State of North Carolina. Since the project as proposed involves paving over Town right-of-way, Mr. Strutner informed Mr. Kunath that if any utility work needed to be done by the Town they would have possibly have to tear into the pavement without obligation to repair. In addition, the Town would assume no obligation to repair and maintain any part of the right-of-way which is paved as a part of this project.

Council requested the Town Manager draw up an agreement, stipulating obligations of the owners, which will have to be met. The Manager will also determine the amount of the

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performance bond, letter of credit, or other appropriate instrument of surety. Attorney Callahan suggested that the agreement be recorded with the Rutherford County Register of Deeds.

Commissioner Bush moved, seconded by Commissioner Cobb, to proceed with the road closing as described, subject to the above-described conditions. The vote of approval was unanimous.

NEW BUSINESS

e. Other New Business

It was the consensus of Council that the Mayor invite our State Legislators to the next scheduled Town Meeting in October to talk about the effects of clear-cutting. Council hopes that they will be able to arrive in Town early that day in order to take them out onto the Lake so that they may get a better understanding of what the Town's concerns are. The North Carolina League of Municipalities has suggested the Town would likely have to get authority from the General Assembly to regulate clear-cutting on private property.

Commissioner Cobb felt that by inviting the legislators, Town residents would know that Council has explored every angle.

Mayor Lehner reported that Karen Murray has resigned her position as member of the Lake Advisory Committee. Therefore, he invited anyone interested to come into the Municipal Center and fill out an application to be considered at the next Council Meeting. Mr. Strutner also announced that there will be terms of expiration on other Town Committees at the end of the year and stated that anyone interested in other Committees should come fill out an application. Also, Council requested that this be advertised in the Town's newsletter.

Mayor Lehner reported that the Town received a letter from the United States District Court North Carolina Western U.S. probation Office dated September 2, 1997 in regard to Police Officer K. S. "Scott" Harris Letter of Appreciation. The letter read as follows:

Dear Chief Gamble:

On 8/27/97, Officer Harris testified at U.S. District Court, Asheville, NC regarding a Driving While Impaired arrest that he made involving Stuart Evans who was on federal probation. I provided probation supervision for Mr. Evans.

Officer Harris testified to the events of the 3/30/97 DWI arrest of Mr. Evans. Officer Harris was very detailed and concise and testified to the chronological actions of Mr. Evans that led to his arrest. The Officer's report writing skills and articulation of his observations greatly assisted U.S. District Court Judge Lacy H. Thornburg in determining

if a violation had occurred and what the appropriate sentence should be. His court testifying skills were the best I have seen in the five years I have worked for federal court. His good work led to a habitual drunk driver receiving a ten (10) month imprisonment sentence.

Please feel free to provide Officer Harris with a copy of this letter. Please let me know if you have any questions about this information and let me know if I can ever provide any assistance to your agency.

Sincerely,

Jeffery W. Naber
U.S. Probation Officer

STAFF REPORTS

Mr. Strutner reported that the dredge is operating in the harbor to widen and deepen the channel adjacent to the pavilion under the U.S. Army Corps of Engineers Permit.

Mr. Strutner read a letter dated September 19, 1997 from James P. Black, Executive Director with the Rutherford County Economic Development Commission. The letter read as follows:

Dear John:

Our Industry Appreciation Day for this year will be held at the Meadowbrook Golf course on Wednesday, October 15th. Tee-off time will be at 12:00 PM with a shotgun start. Hickory Log Barbecue will provide a buffet supper at about 5:30 PM, after which awards and prizes will be given out.

Your Town has supported us in years past to honor our industrial citizens. I trust you will continue that support this year with a contribution of \$200.00 to be a sponsor of this important event.

Thank you for your consideration of this matter, I remain

Very truly yours,

James P. Black
Executive Director

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Commissioner Schichtel moved, seconded by Commissioner Cobb, to approve the request as presented. The vote was approved 3 to 1 with Commissioner Bush voting no. Therefore the motion was approved.

Mr. Strutner reported that the two surplus vehicles have been sold. The 1993 Caprice sold for \$1,800 and the 1989 Jeep sold for \$1,750. The boat is still unsold with a minimum price of \$4,500; there have been no offers thus far.

Mr. Strutner reported that the sale of stock with Fairfield Mountains has been on hold pending receipt of duplicate replacement stock certificates which have been requested.

COUNCIL COMMENTS

Commissioner Cobb requested that the scheduled Town Meeting of December 9, 1997 be changed back to December 16th rather than held the week earlier due to a conflict with the Annual Chamber Fund Raising Event which is scheduled that same night at the Lake Lure Inn.

Commissioner Cobb moved, seconded by Commissioner Rose, that the meeting date of December 9, 1997 be changed back to its original date of December 16, 1997. The vote of approval was unanimous.

Commissioner Cobb reported that the Town Potluck is scheduled to be held Thursday, October 9, 1997 at the Municipal Center. The candidates for Town Council and Mayor are invited to speak on what they plan to do for the Town.

Commissioner Bush remarked that the Lake Lure Medical Clinic has the potential of losing its physician; at this time a final decision has not been made. Rutherford Hospital claims they have suffered major financial losses in operating the Clinic. Commissioner Cobb is currently working on a committee addressing this problem. Town Manager Strutner has already written a letter to the Hospital's Board expressing hope that a physician will remain at the Clinic.

Town Manager Strutner read the section from the minutes of the Town Council dated March 25, 1997 in regard to lake certification tags which states that if a person's name appears as not obtaining their tag, the Town administration cannot authorize a boat permit. Commissioner Bush stated that the intent of the policy was that persons not paying the \$15 certification fee would not be granted a boat permit and the policy had to be obeyed.

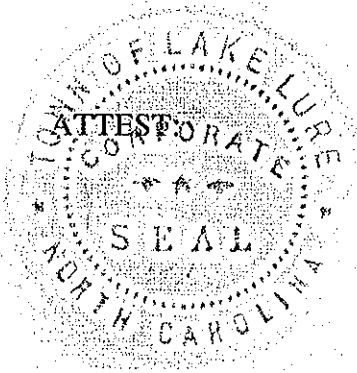
Mayor Lehner allowed Ms. Keller to voice her opinion in response. She felt this was another tax and should not be applied only to lake structures.

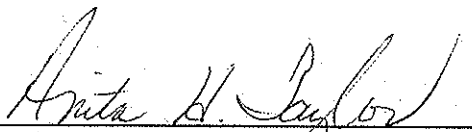
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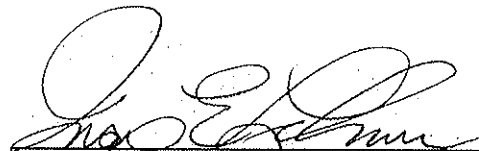
Town Attorney Callahan explained that the \$15 tag fee is not a tax but a user fee to reimburse Town employees for the inspection process which determines whether or not lake structures are within compliance.

ADJOURNMENT

With no further items of discussion, Commissioner Bush moved, seconded by Commissioner Schichtel, to adjourn the Town meeting at approximately 9:20 p.m. The vote of approval was unanimous.




Anita H. Taylor, CM/AAE
Deputy Town Clerk


Mayor Max E. Lehner

RESOLUTION NO: 97-09-23

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN
THE NORTH CAROLINA DIVISION OF ARCHIVES AND
HISTORY AND THE TOWN OF LAKE LURE FOR MUNICIPAL
RECORDS RETENTION AND DISPOSITION**

WHEREAS, the Division of Archives and History of the North Carolina Department of Cultural Resources in conjunction with the North Carolina League of Municipalities has developed a comprehensive records schedule governing the retention and disposition of municipal records, all based upon applicable statutory authority; and,

WHEREAS, the State and the League have jointly requested the acceptance and approval of the newly prepared retention and disposition schedule by the Town of Lake Lure in the form of an agreement between the State and the Town; and,

WHEREAS, it is the desire of the Town Council of the Town of Lake Lure, North Carolina to accept and approve this schedule and the proposed agreement as presented;

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

Section 1. The Agreement between the North Carolina Division of Archives and History and the Town of Lake Lure August 15, 1997 for approval of a Municipal Records Retention and Disposition Schedule is hereby accepted and approved.

Section 2. The Mayor, Town Clerk, and Town Manager are hereby authorized and directed to execute the Agreement described in Section 1 of this Resolution.

Section 3. This Resolution shall become effective upon its adoption and approval.

Adopted and Approved this the 23rd day of September, 1997.



Mary A. Flack, CMC/AEE
Town Clerk

Mayor Max E. Lehner