



Incorporated 1927

Town of Lake Lure

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MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, AUGUST 18, 1998, 7:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER

PRESENT: Mayor Jack Powell
Commissioner Carolyn Cobb
Commissioner Beth Rose
Commissioner Gene Sheffield
Commissioner Jack Stanier

J. Christopher Callahan, Town Attorney
Chuck Place, Zoning Administrator

ABSENT: John R. Strutner, Town Manager

CALL TO ORDER

Mayor Powell called the meeting to order at 7:00 p.m.

INVOCATION

Commissioner Cobb gave the invocation.

AGENDA ITEMS

Mayor Powell requested the two Public Hearings be moved on the agenda for discussion under new business as items 8b and 8c. Commissioner Rose moved, seconded by Commissioner Cobb, to move the two Publics Hearings on the agenda as requested under items 8b and 8c. The vote of approval was unanimous.

Commissioner Rose moved, seconded by Commissioner Stanier, to add another item on the agenda under new business as item 8d to discuss a request from Jim Hinkle regarding the placement of an elevator hoistway for the arcade building. The vote of approval was unanimous.

PUBLIC FORUM

Mayor Powell invited the audience to speak on any non-agenda item. Jack Donovan, a Lake Lure resident, reported that there were people on the Town's beach after closing hours. Police Chief Mike Bustle said that he would look into this matter immediately.

CONSENT AGENDA

Mayor Powell presented the consent agenda and asked if any items should be removed before calling for action.

Commissioner Sheffield moved, seconded by Commissioner Cobb, to approve the following consent agenda items as presented. Therefore, the consent agenda, incorporating the following items was unanimously approved:

- a. **Approved Minutes of July 14, 1998 (Special Workshop Meeting), and July 21, 1998 (Regular Meeting).**

End of Consent Agenda

OLD BUSINESS

- a. **Board Appointments -- Lake Lure Golf Course Committee**

After discussion, Commissioner Cobb moved, seconded by Commissioner Stanier, to appoint Donald Dean Suttles to replace John Thompson's term which expires December 1998. The vote of approval was unanimous.

Commissioner Stanier moved, seconded by Commissioner Cobb, to appoint Rick Coley to replace Harry Fritchman's term which expires December 1999. The vote of approval was unanimous.

OLD BUSINESS

- b. **Other Old Business**

There was no other old business for discussion.

NEW BUSINESS

a. Discuss & Schedule a Public Hearing on Lake Structures Ordinance Revisions

Zoning Administrator Chuck Place read into the record his memo of August 3, 1998 to Town Council regarding the Lake Structures Ordinance regulations and revisions. (Copy of memo attached). In addition, Place submitted to Council members copies for review a draft Lake Structures Ordinance regulation (revised 7/09/98); minutes (July 14, 1998) of the regular meeting of the Lake Structures Appeals Board; minutes (July 7, 1998) of the regular meeting of the Zoning/Planning Board; and a letter of August 17, 1998 addressed to Town Council from Captain Edward R. Dittmer and Kay N. Dittmer regarding the modification of the ordinance regulating the construction and use of the structures on Lake Lure. (Copy of a draft Lake Structures Ordinance regulations and Dittmer letter attached).

Gene Whitesides, Chairman of the Board of Adjustment/Lake Structures Appeals Board, and Dick Washburn, Chairman of the Zoning/Planning Board were present to discuss their boards recommendations to Town Council.

Chairman Whitesides reported after a lot of discussion his board voted to approve the draft ordinance as presented. He said the Lake Structures Appeals Board would like to see the ordinance enforced. If this ordinance is not going to be enforced, it should be removed.

Chairman Washburn stated there have been structures built on top of decks that have obstructed views of other property owners which have caused problems. He said that it has been a problem because the ordinances and policies have not been enforced in the past. The Zoning/Planning Board recommends approving the draft ordinance with the deletion of the sentence in section 94.15(A) prohibiting height variances and inclusion of a new provision to allow administrative approval of structures above the 15' height limit, provided they meet specific standards and do not obstruct the view of neighbors.

Mayor Powell thanked the three boards (Lake Structure Appeals Board, Lake Advisory Board and Zoning/Planning Board) for their work in reviewing the draft Lake Structures Ordinance and sharing their recommendations. Zoning Administrator Chuck Place was also commended for his work.

Zoning Administrator Place gave a brief overview about pros/cons of establishing standards in the Lake Structures Ordinance and how they will be enforced administratively.

Mayor Powell invited citizens to share their comments regarding the proposed draft Lake Structures Ordinance and requested that comments be limited to five minutes. The following requested to speak:

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1. Jack Donovan, a former Council member, said six years ago an effort was made to include in the Lake Structures Ordinance a height restriction and individuals had to abide by this ordinance. Donovan questioned why the Town was considering a change to the ordinance to accommodate one individual who did not abide by the ordinance restriction?
2. Bill McNary, a resident of Sunset Cove, asked for a clarification regarding the recommendations from the Zoning/Planning Board which allows administrative approval of structures above the 15' height limit, providing they meet specific standards and do not obstruct the view of neighbors. McNary asked what constitutes the definition of a neighbor? He recommended that the Town keep the current ordinance in effect and enforce it.
3. Dick Lorenzen, a Lake Lure resident, stated that he had lived on the lake most of his life and expects the Town to protect the beauty and esthetics of this lake. Mr. Lorenzen said he believed the 15' height restriction was adopted for a reason in the Lake Structures Ordinance and should be enforced with no exceptions.
4. George Pressley, a Lake Lure resident, said he was Edward R. Dittmer's neighbor. Mr. Pressley told he sees no harm in the Dittmer's gazebo, and views the gazebo as being attractive as well as an enhancement to the lake. Mr. Pressley said he supported his neighbor and found the gazebo to be proper. In addition, Pressley stated that he had been in various meetings and monitored the lack of enforcement. Pressley approved the idea of allowing gazebos as long as they are properly standardized and the neighbors approve. Pressley said the Town ordinances are there to be reviewed. He also supported the idea of having an ordinance and enforcing it.
5. Riley Hardy, a Lake Lure resident, stated he and others have been trying for several years to get the Town to enforce the regulations on this lake. Hardy said that some citizens were knowingly violating the Lake Structures Ordinance because they thought the Town would not do anything about it. He was in favor of the Town pursuing enforcement.
6. Edward R. Dittmer, a Lake Lure resident, said he would like to respond to some of the comments which were made in reference to his gazebo on a boathouse. Dittmer stated he had a justifiable reason for building a gazebo on his boathouse and he tried to follow appropriate procedures. Dittmer said he was informed that variances were granted. Based on the work load of his contractor being able to construct the gazebo without delay, Dittmer decided to go ahead with the construction without getting a variance approved by the Town. Dittmer explained he did not think getting a variance for a gazebo would be a big deal, because the same Lake Structures Appeals Board had previously granted a variance for almost

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the exact same reason which he and his wife desired a gazebo. Dittmer said the gazebo was built primarily for his wife's disabled sister who could not stand the outdoor heat and direct sunlight. Dittmer mentioned none of his neighbors objected to the gazebo and it does not block anyone's view. He questioned why the height restriction was so important?

Town Attorney Callahan gave a brief history about the intent of enforcement with regards to the Lake Structures Ordinance. Callahan pointed out the following main areas in the draft Lake Structures Ordinance (7/09/98) which needed to be revised:

1. Consider deletion of the last sentence in the first paragraph, page 1, under section 94.01. ~~All lake structures shall be classified as "personal property."~~ Callahan said the deletion of this sentence was suggested because it might create tax evaluation problems.
2. Revise the wording in the first sentence, page 12, under section 94.99 D to read:

(D) Any provision of this ordinance that makes unlawful a condition existing upon or use made of **any** property may be enforced by injunction and order of abatement, and the General Court of the Justice shall have jurisdiction to issue such orders.
3. Callahan also suggested two decisions need to be made regarding section 94.15 A and E. Does the Town want height restrictions? What kind of appeal process? Callahan suggested that additional wording be added to section 94.15 E if Council decides to have an appeal process to the Town Council. He suggested add at the end some words saying **"in the event the Town Council fails to hold a hearing on the appeal within 45 days then the appeal shall be deemed denied."** Callahan also suggested clarifying the wording in the last sentence (section 94.15 E) regarding the **"... hearing on the record within 45 days of the appeal ..."**

Zoning Administrator Chuck Place told Council members he had inventoried all Lake Structures a few months ago and counted approximately 25 structures that had exceeded the 15' height limitation. Place said he did not measure every deck. He explained these are boathouses which have something constructed above them. Another structure (received variance approval) had been added to the count increasing the number of structures to 26. Place reported out of

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those 25 structures, approximately six to ten were constructed after 1992. Place informed Council members the original ordinance was adopted in January, 1982, which was later rescinded in July, 1988, and replaced by a policy. In December 1992, a revised version of the original ordinance was adopted and remains in effect today. Place told Council members he would enforce the current ordinance in place as of December 15, 1992 unless instructed to do otherwise by Town Council and Town Attorney.

After discussion, Commissioner Rose moved, seconded by Commissioner Cobb, to enforce all violations of the existing Lake Structures Ordinance that have occurred since this Ordinance's adoption on December 15, 1992. The vote of approval was unanimous.

Mayor Powell read into the record the following proposal (excerpts from a letter of March 27, 1998 addressed to Town Council) which Edward R. Dittmer and Kay N. Dittmer requested Town Council to consider:

We propose for the Town Council's consideration a modification of section 5[e] of the subject ordinance to read (changes in boldface): **"Boathouses (including rooftop docks) shall not exceed fifteen (15) in height above the "shoreline". This does not include the additional height of railings (no greater than 42") around a rooftop deck, nor does it preclude construction of an approved gazebo or other structure on a boathouse rooftop deck, not to exceed a height of ten (10) feet nor to exceed 1/4 of the total boat house deck, provided no adjoining property owner will have his view of the lake from his house obstructed. Establishing the "shoreline" elevation of 990 feet MSL can be achieved by using a surveyor's level to shoot an elevation from the top of one or more of the sewer manholes which are all at 995 feet MSL or by calling the Town office for the lake level reading at the dam on that particular day."**

After discussion, Commissioner Sheffield moved, seconded by Commissioner Cobb, to deny the above described proposal from Edward R. Dittmer and Kay N. Dittmer. The vote to deny the proposal was unanimous.

Commissioner Rose moved, seconded by Commissioner Sheffield, to recess the Town meeting until Friday, August 28, 1998, 9:00 a.m. at the Lake Lure Municipal Center for the purpose of continuing a discussion regarding the Lake Structures Ordinance revisions. The vote of approval was unanimous.

Council agreed to invite board members of the Lake Advisory Board to attend this recessed meeting.

NEW BUSINESS

b. Public Hearing -- Amendment to the Zoning Ordinance Regarding Sections 92.034 S-1 (Scenic Natural Attraction District) & 92.040 Minimum Dimensional Requirements

Notice of the Public Hearing was duly given within the legal classified section of the issue of the Forest City Daily Courier newspaper.

Commissioner Cobb moved, seconded by Commissioner Rose, to enter into the public hearing for the purpose of discussing the proposed amendment to the Zoning Ordinance regarding section 92.034 S-1 (Scenic Natural Attraction District) and section 92.040 Minimum Dimensional Requirements. The vote of approval was unanimous.

Zoning Administrator Chuck Place submitted to Council members copies of a memorandum of August 13, 1998 regarding the proposed S-1 zone district; minutes (June 2, 1998) of the regular meeting of the Zoning/Planning Board; and draft ordinance no. 98-08-18 for review. Place said the Zoning and Planning Board recommended approval of a new district to be known as the S-1 Scenic Natural Attraction district. He explained this district was created specifically for the Bottomless Pools and Chimney Rock Park properties as well as any similar attractions which may be developed in the future. Place said from a zoning standpoint, these uses are commercial in nature; but the commercial aspects are a minor part of the total operation which includes the preservation and maintenance of precious natural scenic features for the enjoyment of the public. To that end, the "intent" sections reads:

Intent. The S-1 Scenic Natural Attraction District is established as a district within which unique natural scenic areas are developed for commercial recreational purposes. The district is intended to encourage development of facilities and services oriented towards scenic and outdoor recreational activities, while remaining compatible with adjacent residential areas. Any development or use which would be detrimental to the natural and ecological beauty of the district is prohibited.

Place said the primary uses allowed are: Commercial recreational facilities which may include hiking trails, nature and wildlife exhibits, picnic facilities, and the like. Support activities such as ticket sales, information services, gift and craft shops, food service, pavilions, parking areas and the like are also permitted where accessory to the primary uses.

Placed mentioned the Zoning/Planning Board also moved to initiate the rezoning of both the Bottomless Pools and Chimney Rock Park properties from their classifications to the new S-1 upon it's adoption. The application for the Bottomless Pools is on the agenda and Chimney Rock Park will follow next month.

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Mayor Powell invited citizens who wanted to speak during the public hearing. Powell requested that comments be limited to five minutes and avoid repetition. Martha Jane Powers, owner of the Bottomless Pools, requested to speak. Ms. Powers said that she was in favor of this proposed ordinance amendment.

With no further items of discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield, to come out of the public hearing and re-enter the regular session of the meeting. The vote of approval was unanimous.

After discussion, Commissioner Stanier moved, seconded by Commissioner Cobb, to adopt the following ordinance no. 98-08-18 (amendment to the Zoning Ordinance regarding section 92.034 S-1 Scenic Natural Attraction District and section 92.040 Minimum Dimensional Requirements) as presented. The vote of approval was unanimous.

ORDINANCE NO. 98-08-18

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF LAKE LURE**

WHEREAS, the Town of Lake Lure Zoning and Planning Board, after due consideration, has recommended an amendment to the zoning regulations to create a new S-1 (Scenic Natural Attraction) district; and,

WHEREAS, the Lake Lure Town Council, after due public notice, conducted a public hearing on the 18th day of August, 1998, upon the question of amending the zoning ordinance in this respect;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF COUNCILMEN VOTING IN THE AFFIRMATIVE:

SECTION ONE: Amend Chapter 92 of the Lake Lure Code of Ordinances to add:

§ 92.034 S-1 SCENIC NATURAL ATTRACTION DISTRICT.

- (A) **Intent.** The S-1 Scenic Natural Attraction District is established as a district within which unique natural scenic areas are developed for commercial recreational purposes. The district is intended to encourage development of facilities and services oriented towards scenic and outdoor recreational activities, while remaining compatible with adjacent residential areas. Any development or use which would be detrimental to the natural and ecological beauty of the district is prohibited.

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(B) Permitted Uses. Within the S-1 Scenic Natural Attraction District, structures and land shall be used only for the following purposes:

- (1) Single Family Dwellings, excluding mobile homes.
- (2) Commercial recreational facilities which may include hiking trails, nature and wildlife exhibits, picnic facilities, and the like. Support activities such as ticket sales, information services, gift and craft shops, food service, pavilions, parking areas and the like are also permitted where accessory to the primary uses.
- (3) Utility systems and facilities, including wells, pumping stations, storage tanks, garages, non-commercial workshops, and the like, as accessory to the primary uses, provided:
 - (a) All buildings and parking areas for such uses shall be set back not less than 35 feet from any property line.
 - (b) Fences and/or other appropriate safety devices are installed to protect the public.
 - (c) All structures are in keeping with the character of the attraction and any adjacent residential area.
 - (d) Any adjacent residential area and/or public and private rights-of-way shall be buffered from all such facilities by existing or planted natural vegetated areas to the extent that the utility facilities are screened from view.

(C) Conditional Use Permit. The following uses require a conditional use permit subject to a finding by the Board of Adjustment that all applicable provisions of §§ 92.045 through 92.048 and 92.080 through 92.088 have been met:

- (1) Planned unit developments.
- (2) Hotels, lodges, motels, boarding and rooming houses, or private clubs to provide lodging, services and board for the general public.
- (3) Telecommunication towers, subject to the requirements of § 92.026(C)(7).

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SECTION TWO: Amend § 92.040 MINIMUM DIMENSIONAL REQUIREMENTS to add:

Zoning Classification	Lot Area	Lot Width at Building Site	Setbacks			Open Space % of Lot
			Front Yard	Side Yard	Rear Yard	
S-1	25 Acres	100	35	35	35	None

SECTION THREE: This ordinance shall be effective upon its adoption.

Adopted this 18th day of August, 1998.

Mayor Jack Powell

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

NEW BUSINESS

c. Public Hearing -- Amendment to the Zoning Ordinance to Reclassify the Bottomless Pools Property from R-1A to S-1

Notice of the Public Hearing was duly given within the legal classified section of the issue of the Forest City Daily Courier newspaper.

Commissioner Rose moved, seconded by Commissioner Cobb, to enter into the public hearing for the purpose of discussing the proposed amendment to the Zoning Ordinance to reclassify the Bottomless Pools Property from R-1A to S-1. The vote of approval was unanimous.

Zoning Administrator Chuck Place submitted to Council members copies of a rezoning petition (RZ-98-1) to rezone from R-1A to S-1; notice of public hearing; and draft ordinance no. 98-08-18A for review.

Mayor Powell invited citizens who wanted to speak during the public hearing. Powell requested that comments be limited to five minutes and avoid repetition. Martha Jane Powers, owner of the Bottomless Pools, requested to speak. Ms. Powers said that she was in favor of this proposed ordinance amendment.

With no further items of discussion, Commissioner Rose moved, seconded by Commissioner Cobb, to come out of the public hearing and re-enter the regular session of the meeting. The vote of approval was unanimous.

After discussion, Commissioner Sheffield moved, seconded by Commissioner Cobb, to adopt the following ordinance no. 98-08-18A (amendment to the Zoning Ordinance to reclassify the Bottomless Pools Property from R-1A to S-1) as presented. The vote of approval was unanimous.

ORDINANCE NO. 98-08-18A

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF LAKE LURE**

WHEREAS, the Town of Lake Lure Zoning and Planning Board, after due consideration, has recommended an amendment to the zoning map for the property known as Bottomless Pools; and,

WHEREAS, the Lake Lure Town Council, after due public notice, conducted a public hearing on the 18th day of August, 1998, upon the question of amending the zoning map in this respect;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF COUNCILMEN VOTING IN THE AFFIRMATIVE:

SECTION ONE: To amend the zoning map referenced in Chapter 92 of the Lake Lure Code of Ordinances by changing the zoning classification of the property commonly known as Bottomless Pools from R-1A to S-1. This property is described as Tax Parcel 524-1-5 on the official tax maps of Rutherford County, North Carolina, and encompasses 26.4 acres, more or less.

SECTION TWO: The Zoning Administrator shall make all the necessary corrections to the zoning map so as to implement the provisions of this ordinance and shall henceforth enforce the ordinance as hereby amended.

SECTION THREE: This ordinance shall be effective upon its adoption.

Adopted this 18th day of August, 1998.

Mayor Jack Powell

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

NEW BUSINESS

d. Request from Jim Hinkle Regarding the Placement of an Elevator Hoistway for the Arcade Building

Jim Hinkle submitted copies to Council members a letter of August 17, 1998 (including a condensed survey) requesting permission to place an elevator hoistway for the arcade building on an area 8' x 8' on the eastern side of the arcade building. Hinkle said that the Otis elevator engineering surveyed the site on Friday, August 14, and determined that the most feasible access to the building would be at the same side of the building as the Lincoln Bank drive-through window. Mr. Hinkle's problem is that this area (along with the bank drive-through window) are in the easement owned by the Town. (Copy of letter/survey attached).

Town Attorney Callahan discussed options to solve Mr. Hinkle's problem which included the Town granting a long-term use of the property by either selling; granting an easement; or a lease agreement. Callahan said there are four options the Town can consider: 1) Town could simply vote to close a portion of the city streets that adjoins the property owner (requires four ads in the local newspaper; requires a public hearing; and must be recorded in the Register of Deeds office); 2) Town could sell the land (must follow the procedure outlined in the General Statutes such as by auction or a bid process); 3) Town could grant an easement (similar problems of selling the property); and 4) Town could grant a lease agreement (recommended method). Callahan said the easiest method would be to grant a one-year lease for use of town property to Mr. Hinkle for \$1.00. He explained the Town can grant a ten-year lease, but would require running ads in the local newspaper prior to the adoption of the lease.

Zoning Administrator Place told whatever method the Town chooses, Mr. Hinkle would be required to go before the Board of Adjustment for a variance. Place said this property is zoned C-1 (commercial). Contingent upon Council's approval for Mr. Hinkle to use Town property, Place said he would grant Mr. Hinkle a land disturbance permit to put the shaft in the ground and put the structure underground as long as Mr. Hinkle does not exceed the grade level. Once this has been completed, Mr. Hinkle will have time to come back before the Board of Adjustment and apply for a variance. Place said Mr. Hinkle is aware for that the Board of Adjustment has the right to refuse the variance being requested.

After discussion, Commissioner Stanier moved, seconded by Commissioner Cobb, to grant a one-year lease between the Town of Lake Lure and Jim and Mary Hinkle to use Town property (areas marked on the survey map provided by Town Attorney Callahan is approximately 16') for the sum total of \$1.00. The vote of approval is unanimous.

Commissioner Cobb moved, seconded by Commissioner Rose, to schedule a Public Hearing at the next regular Town Council meeting on September 15, 1998 for the purpose of closing the portions of the Town streets as indicated in red on the survey map provided by the Town Attorney Callahan. The vote of approval was unanimous.

NEW BUSINESS
e. Other New Business

There was no other new business for discussion.

STAFF REPORTS

No staff reports were given.

COUNCIL COMMENTS

Mayor Powell stated he had discussed with Police Chief Mike Bustle the idea of creating a special fund for the police department to be used for promotional items to be used in the way of community service, such as magnets with the pictures of police officers on them to handout; supplies to finger print and photograph children for parents to have as vital information; and other items needed. Powell said that he had made the first contribution of \$100 to this worthy fund and Jimmie Hinkle also made a \$100 donation bringing the total to \$200 at this time. He encourage anyone who would like to show their support to the Lake Lure Police Department to consider making a donation to this fund.


TOWN MEETING FORUM (AT THE PLEASURE OF THE MAYOR)

There was no discussion under the Town Meeting Forum.

RECESSED MEETING

With no further items of discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield, to recess the Town meeting from 9:30 p.m. until Friday, August 28, 1998, 9:00 a.m. at the Lake Lure Municipal Center. The vote of approval was unanimous.

ATTEST:


Mary A. Flack, CMC/AAE
Town Clerk


Mayor Jack Powell