



Incorporated 1927

Town of Lake Lure

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MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, SEPTEMBER 15, 1998, 7:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER

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

Sam Karr, Acting Town Manager
Chuck Place, Zoning Administrator

ABSENT: Commissioner Beth Rose
J. Christopher Callahan, Town Attorney

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 that an item be added on the agenda to discuss a request from the Lake Lure Tours. Commissioner Cobb moved, seconded by Commissioner Stanier, to add an item on the agenda under new business as item 6c to discuss a request from the Lake Lure Tours. The vote of approval was unanimous.

Commissioner Cobb moved, seconded by Commissioner Stanier, to add an item on the agenda under new business as item 6d to discuss a request from Mr. Mike Parton regarding lighting the baseball field at Rutherford-Spindale Central High School. Commissioner Cobb and Stanier voted in favor of the motion. Commissioner Sheffield voted against the motion. Therefore, the motion carried with a vote of two to one.

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Commissioner Cobb moved, seconded by Commissioner Stanier, to add another item on the agenda under item 6e to discuss a request for a waiver in order to serve wine by the Lake Lure Republicans who plan to hold a Lake Lure Republicans "Meet the Candidates Night" on October 1, 1998, 6:30 p.m., at the Lake Lure Community Hall room of the Municipal Center. The vote of approval was unanimous.

PUBLIC FORUM

Mayor Powell invited the audience to speak on any non-agenda item. Bill Wallace, owner of Lake Lure Hardware Store, stated he sold fishing licenses at his business. Wallace told Council he had taken a class from the state. He explained his procedure of issuing State fishing licenses. Mr. Wallace said that when someone comes into his business and tells him they are a resident of North Carolina and he knows they are not, he issues the fishing permit anyway. He said that it was the game wardens responsibility to handle the problem. In addition, Wallace commented on the Town of Lake Lure's policy requiring current valid boat registrations in order to purchase a non-resident daily or annual boat permit. Mr. Wallace asked Council what gives the Town of Lake Lure the right to police state matters? He said that if you do not have a valid state boat registration card, it is up to the state and the game warden to enforce, not the Town of Lake Lure. Mr. Wallace said that there had been several cases where individuals wanted to spend their money to enjoy getting on the lake, but the Town refused to issue them a permit because of an invalid boat registration. Mr. Wallace told Council that he believed the Town was trying to enforce something over which the Town had no jurisdiction. He asked the Town Council to review their rules and consider looking into a non-resident/resident off-season boat permit at a greatly reduced rate.

Mayor Powell responded to Mr. Wallace's comments stating the Town was not enforcing something that wasn't their jurisdiction. He explained the Town was only making a requirement that a valid state boat registration be presented before issuing a boat permit as stated in the Town's policy. The Mayor stated that if an individual does not have a valid boat state registration, the Town will not issue a boat permit. He said the boat registration was used to verify boat dimensions, such as boat length, to see if they are in compliance with the Town's regulations.

Sam Karr, Acting Town Manager, told Mr. Wallace that the Town accepted out-of-state boat registrations, as well as the North Carolina boat registrations.

Commissioner Cobb asked Mr. Wallace if he had checked on the North Carolina General Statutes to see if there was something that prohibited the Town from requiring valid boat registrations? Mr. Wallace said that he had not checked the General Statutes.

CONSENT AGENDA

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

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

- a. **Approved Minutes of August 18, 1998 (Regular Meeting), and August 28, 1998 (Recessed Regular Meeting).**
- b. **Approved the 14th Annual Truck Show to be held on September 18-20; reserved the Lake Lure Community Center for September 18-20 (half-day Sunday, September 20); Town will provide a trophy for the Mayor's Choice award (Mayor will present this award on Saturday afternoon at the awards ceremony); suspended the peddling prohibition provision in the Town Code of Ordinances (Section 61.01) during the term of the show so that t-shirts and truck parts might be sold on-site during the show; and suspended Section 63.01 of the Town Code of Ordinances (Consumption of Malt Beverages and Unified Wine, Spirituous Liquors, or Mixed Beverages) on Friday evening, September 18, 1998 so that beer can be served during the cookout.**
- c. **Adopted the Resolution of Intent No: 98-09-15:**

A resolution declaring the intention of the Lake Lure Town Council to consider the closing of a portion of Bottomless Pools Road (Avenue "A") between First Street and a point 180' South of First Street, as well as a 20' wide alley immediately South of said Arcade Building.

WHEREAS, G. S. 160A-299 authorizes the Lake Lure Town Council to close all or a portion of public streets and alleys; and

WHEREAS, the Lake Lure Town Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of a portion of Bottomless Pools Road (Avenue "A") between First Street and a point 180' South of First Street, and a 20' wide alley abounding the South wall of the Arcade Building;

NOW, THEREFORE, BE IT RESOLVED by the Lake Lure Town Council that:

- (1) A meeting will be held at 7:00 p.m. or thereafter on the 20th day of October, 1998, in the Council Meeting Room of the Lake Lure Municipal Center to consider a resolution closing a 25' wide portion of Bottomless Pools Road (Avenue "A") between First Street and a point 180' South of First Street, which 25' wide strip abounds the Eastern wall of the Arcade Building, and also closing a 20' wide alley which abounds the South wall of said Arcade Building.

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- (2) The Town Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks in the Forest City Daily Courier, or other newspaper of general circulation in the area.
- (3) The Town Clerk is further directed to transmit by registered or certified mail each owner of property abutting upon that portion of said street a copy of this Resolution of Intent.
- (4) The Town Clerk is further directed to cause adequate notices of this Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.
- (5) The Town of Lake Lure intends to reserve its right, title, and interest in any necessary easement for utilities abounding or within the right-of-way of the street or alley closed pursuant to this proceeding.

Upon motion duly made by Commissioner Carolyn Cobb, and duly seconded by Commissioner Gene Sheffield, the above resolution was duly adopted by the Lake Lure Town Council at the meeting held on the 15th day of September, 1998, in the Town Hall.

Upon call for a vote the following Commissioners voted in the affirmative: Commissioner Carolyn Cobb, Commissioner Gene Sheffield, and Commissioner Jack Stanier. The vote of approval was unanimous.

This the 15th day of September, 1998, at 7:15 p.m.

ATTEST:

Mary A. Flack, CMC/AEE
Town Clerk

Mayor Jack Powell

APPROVED AS TO FORM

J. Christopher Callahan
Town Attorney

End of Consent Agenda

Mayor Powell announced that Commissioner Beth Rose was absent from the meeting tonight because she was out-of-town.

OLD BUSINESS

a. Review Revisions to the Draft Lake Structures Ordinance

Mayor Powell explained this was not an official public hearing for the draft Lake Structures Ordinance. He said the official public hearing on this ordinance would be held at the next regular Town meeting on October 20, 1998.

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Zoning Administrator Chuck Place, introduced two proposals for Town Council to consider incorporating into the draft ordinance. These proposals included sections on commercial marinas (94.02 and 94.14) and penalties in the form of a fine (94.99).

**PROPOSAL TO PROVIDE FOR COMMERCIAL MARINAS
(To be added to draft Lake Structures Ordinance)
September 9, 1998**

§ 94.02 DEFINITIONS

"Commercial Marina." A commercial facility which provides for rent or lease, covered or uncovered temporary or permanent mooring for watercraft.

§ 94.14 COMMERCIAL MARINAS.

- (A) There shall be not more than four commercial marinas allowed on the lake; one near the head of the lake, one near the dam, and one in Tryon Bay.
- (B) A commercial marina may have not more than six permanent or temporary mooring slips for each 100 feet of shoreline, provided this limitation shall not apply to any marina owned by the Town of Lake Lure.
- (C) Permanent mooring slips may be rented or leased for the mooring of any watercraft with a valid permit issued by the town. Rental and lease periods may be for any length of time, provided such rental or lease shall not extend beyond the expiration date of the permit.
- (D) Docks and piers at a commercial marina may be either fixed or floating structures.
- (E) Sale of fuel, lubricants and marine accessories as well as bait and fishing supplies shall be permitted at commercial marinas, provided the upland property is zoned C-1. Sale or repair of watercraft is prohibited. For the purpose of this regulation, installation of batteries and similar accessories shall not be considered watercraft repair.
- (F) The Lake Advisory Committee shall review each lake structure permit application for a commercial marina to confirm that the proposed facility conforms to this ordinance and to approve its location with regard to navigation and boating safety. The board shall approve or deny the request based on its review.

[Note: Inclusion of this new section will require renumbering of the existing sections 14 and 15 to 15 and 16].

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Bob Washburn, Lake Advisory Board Chairman, presented the following memorandum of September 15, 1998 to Town Council from the Lake Advisory Committee for consideration:

The Lake Advisory Committee reviewed the proposed changes to the Lake Structures Regulations dated September 8, 1998 at their regular monthly meeting last night and respectfully offer the following suggestions:

Section 94.05 Design and Construction Standards

(A) No one on the committee could understand this section. After twenty minutes of discussion and multiple attempts to interpret what it was trying to say, we had to move on, leaving a big question mark beside it.

(N) The Committee could not see the need to limit the width of structures and suggests deleting this subsection.

(O) The Committee was not clear on the purposes of this subsection and felt that it would be difficult to administer and enforce since the lake is a flowing body of water and suggests its deletion.

(P) Since this subsection is relevant to subsections (F) and (G) we recommend that it be moved and listed as (H) for clarity and continuity.

Section 94.08 Lake Structure Certificate ...

(A) No suggestions - just questions. How does a lake structure have a different owner than the upland lot and does this apply to leased structures such as the marinas at Fairfield and the possibility of privatizing the Town's Marina.

Section 94.11 Swimming Areas

Add the word "Designated" to the beginning of the sentence.

Section 94.13 Cluster Mooring Facilities

(A 2) Add the wording - In areas zoned C, "not classified as Commercial Marinas" ...

(B) Retain the Lake Structures Appeals Board as the party to review the Cluster Mooring applications since administrative positions in the Town Office seem to stay in a state of limbo.

Separate Commercial Section

94.02 Definitions

"Commercial Marina". A commercial facility "with upland property zoned C, C1, or R3."

§ 94.14 Commercial Marinas

(A) With the change to the definition and the possibility that cluster mooring at future developments may prove a valuable viable alternative to the developers, the Committee saw no need for this subsection.

(B) Change six to three, add "individual" mooring slips and "in keeping with Section 94.13 Cluster Mooring Facilities".

(C) and (D) The Committee suggests that these two sections be stricken.

(E) The Committee felt that the sale and service of boats at Marinas could actually be a positive element for the citizens of Lake Lure and recommends that the last two sentences of this subsection be deleted.

(F) Replace the Lake Advisory Committee with Lake Structures Appeals Board.

After lengthy discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield, to **not** approve adding the proposal to provide for Commercial Marinas (Sections 94.02 and 94.14) into the draft Lake Structures Ordinance. The vote of approval was unanimous.

Zoning Administrator Chuck Place presented the following proposal to provide for additional penalty in the form of a fine. Mr. Place also reviewed an overhead transparency of a flow chart showing penalties and mitigation processes for Lake Structures without permits. (Copy of flow chart attached).

**PROPOSAL TO PROVIDE FOR ADDITIONAL
PENALTY IN THE FORM OF A FINE
(To be added to draft Lake Structures Ordinance)
Revised September 14, 1998**

§ 94.99 PENALTIES.

(A) Unless otherwise specifically provided, violation of any provisions of this ordinance or any other ordinance shall be a misdemeanor or an infraction as the case may be, as provided by G.S. § 14-4, and punishable as provided therein.

(B) Fines

(1) All lake structures built after December 15, 1992 are required to have a permit prior to commencement of construction (see § 94.03). Should construction be started before a permit is issued or alterations not in accord with the permit be made during

construction, the owner of the upland property and the building contractor shall each be subject to a fine not to exceed \$500. If the illegal structure or alteration meets all requirements of this chapter, a permit shall be approved upon application and a lake structure certificate shall be issued upon payment of the fine. If the illegal structure or alteration does not meet said requirements, the structure shall either be removed, be brought into compliance or receive a variance (see 94.15) prior to approval of a permit and receipt of the certificate.

- (2) The owner of the illegal structure shall either apply for a permit or apply for a variance within 30 days or remove the structure within 60 days of receipt of notification that the structure is in violation of this section. Failure to comply with this requirement shall subject the owner to an additional fine, not to exceed \$500, payable upon notification.
- (3) The fines imposed in subsection (1) above shall be due and payable by the owner within 30 days of approval of a permit and due and payable by the contractor within 30 days of notification that the structure is in violation of this chapter.
- (4) In the event that a petition for variance is submitted, the petitioner shall have 30 days in which to apply for a permit in conformance with the conditions of an order granting the variance or 60 days in which to remove the illegal structure if an order denying the variance is issued. Failure to comply with this subsection shall result in an additional fine, not to exceed \$500, payable immediately upon notification.

Mayor Powell stated he had been advised by the Town's legal Council that this proposed penalty section should be enforceable.

Following discussion, Commissioner Cobb moved, seconded by Commissioner Stanier, to approve incorporating the proposal (revised September 14, 1998) to provide for additional penalty (Section 94.99) in the form of a fine into the draft Lake Structures Ordinance as presented. Commissioners Cobb and Stanier voted in favor of the motion. Commissioner Sheffield voted against the motion. Therefore, the motion carried with a vote of two to one.

OLD BUSINESS

b. Review Proposal from the Fairfield Mountains Property Owners Association Regarding Moorings

Paul Nealon, President of the Fairfield Mountains Property Owners Association, asked Council members to consider their request to increase the number of moorings per 100 feet of lake frontage. Mr. Nealon said the maximum number currently allowed is three per 100 feet. He stated there is in excess of 2000 feet of frontage. Mr. Nealon asked Town Council to consider increasing to six per 100 feet based on cluster moorings whereby a specified total number of feet of lake frontage would be required to be open. He said there are 76 moorings at this time and if Council approves this request, the total would increase to approximately 126.

Commissioner Sheffield made a motion to table sending this request to the Lake Advisory Committee at this time for further input. There was no second to this motion, therefore the motion did not carry.

Bob Washburn, Chairman of the Lake Advisory, explained that it was the Lake Advisory Committee's recommendation under Section 94.14 (B) Commercial Marinas to change six to three, add "individual" mooring slips and "in keeping with Section 94.13 Cluster Mooring Facilities".

Mayor Powell explained sending this request back to the Lake Advisory Committee for review would not accomplish anything at this point. He said that it appears that no action is required by Council at this time for this request.

OLD BUSINESS

c. Other Old Business

There was no other old business for discussion.

NEW BUSINESS

a. Report on Resumption of Hydro-Electric Power Sales Contract Negotiations & Project Schedule

Andrew Givens, Cardinal Energy Service, Inc., gave a brief overview on meeting objectives including the exploration of dual paths, schedule, and items of interest to the board.

Exploration of Dual Paths

- * Sale of Power to a Utility or Power Market
 - Sale to a utility at avoided cost rates
 - Sale to a utility at negotiated rates
 - Sale to a power marketer at negotiated rates
- * Third Party Operation of the Facility
 - Sale electrical facilities - one time payment
 - Lease of Dam (20 years +) - annual payments
 - Operational issues to be addressed

Schedule for New Power Sales Agreement September 15, 1998 to February 15, 1999

- | | | |
|----|--|---|
| 1. | Board presentation | September 15, 1998 |
| 2. | Meeting with third party operator | September 16, 1998 |
| 3. | Determination of opportunity for third party operation | September 25, 1998 |
| 4. | Discussions with Duke re: enhanced dispatch rate | September 15, 1998 --
October 16, 1998 |
| 5. | Issue request for proposals (RFP) for third party operation - if necessary | October 9, 1998 |
| 6. | Receive third party proposals - if necessary | November 6, 1998 |
| 7. | Recommendations to the Board | December, 1998 |
| 8. | Board decision | January, 1999 |
| 9. | Implementation of new contract | February, 15, 1999 |

Items of Interest to the Board

1. Energy market - recent issues and long term outlook;
2. Operational issues of third party option; and
3. Other items of interest to the Board.

Mr. Givens told Council that he was planning a meeting tomorrow morning, 9:00 a.m., at the Town's Municipal Center with a Northbrook representative.

NEW BUSINESS

b. Appointment of Representative to the North Carolina Municipal League 1998 Annual Business Meeting for a Voting Delegate and Alternate Voting Delegate

Mayor Powell asked if any Council members were planning to attend the North Carolina League of Municipalities annual business meeting to be held in the Charlotte Convention Center on October 19, 1998? Council members said none of them were planning to attend this meeting. Mayor Powell said he was planning to attend this meeting. He explained that under the League Constitution and the voting procedure established by the League Board of Directors, each member municipality sending delegates to the Annual Conference is required to designate one voting delegate and one alternate voting delegate.

Council members agreed to designate Mayor Powell as the voting delegate for the NCLM 1998 annual business meeting on Monday, October 19, 1998, at 2:00 p.m. No alternate voting delegate was designated.

NEW BUSINESS

c. Lake Lure Tours Request

Rick Coley, President of Lake Lure Tours, submitted to Town Council for consideration a letter of September 13, 1998, a request for renewal of the concession agreement between Lake Lure Tours and the Town of Lake Lure. (Copy of letter attached).

Mayor Powell said Town Council had just received Mr. Coley's letter yesterday and there was not enough advanced notice to put this item on the agenda for consideration. He said there was a concern among Council members about not having a chance to review the existing concession agreement. Mayor Powell asked Rick Coley if an extension of the existing term for the concession agreement would satisfy his immediate need to be able to meet printing deadlines for advertisements. Mr. Coley replied yes.

After discussion, Commissioner Stanier moved, seconded by Commissioner Cobb, to authorize the Acting Town Manager and Town Attorney to negotiate a new concessions agreement (term beginning April 1, 1999 and ending on December 31, 2000) between the Town of Lake Lure and the Lake Lure Tours. The vote of approval was unanimous.

NEW BUSINESS

d. Request from Mike Parton

Commissioner Cobb said she received a telephone call from Mr. Mike Parton, owner of Parton Lumber Company of Rutherfordton, asking Town Council to consider a proposal regarding the lighting of the baseball field at Rutherford-Spindale Central High School. She explained, if this project succeeds, there will be a post recognizing those who have contributed. There will also be a municipality pole recognizing contributors. Commissioner Cobb said Mr. Parton is asking the Town of Lake Lure to consider making a \$1,000 cash donation or whatever the Town would be willing to donate. She mentioned there are some kids in the Lake Lure Community who participate at Rutherford-Spindale Central High School and would benefit from this worthy cause. Commissioner Cobb informed Council members that Mr. Parton told her that some of the money would be used on tournaments and equipment for the kids.

Commissioner Cobb moved, seconded by Commissioner Stanier, that the Town of Lake Lure contribute \$1,000 for the lighting of the baseball field at Rutherford-Spindale Central High School.

Mayor Powell stated the Town did not budget for the \$1,000 donation and if Council approves this request, it would require an amendment to the Town's current budget.

After discussion, the motion was defeated unanimously.

NEW BUSINESS

e. Lake Lure Republicans Request

Commissioner Cobb presented a request for a waiver in order to serve wine by the Lake Lure Republicans who plan to hold a Lake Lure Republicans "Meet the Candidates Night" on October 1, 1998, 6:30 p.m., at the Lake Lure Community Hall room of the Municipal Center.

Commissioner Cobb moved, seconded by Commissioner Sheffield, to approve the request from the Lake Lure Republicans to hold a Lake Lure Republicans "Meet the Candidates Night" on October 1, 1998, 6:30 p.m., at the Lake Lure Community Hall room of the Municipal Center and suspend Section 63.01 of the Town Code of Ordinances (Consumption of Malt Beverages and Unified Wine, Spirituous Liquors, or Mixed Beverages) so that wine can be served. The vote of approval was unanimous.

NEW BUSINESS

f. Other New Business

There was no other new business for discussion.

STAFF REPORTS

Sam Karr, Acting Town Manager, reported the following:

1. E-911 maps were returned because of errors and it could be another 30 days before new ones are available;
2. The Lake Lure beach is currently open for public use, such as picnicking/walking from 8:00 a.m. until 8:00 p.m. Swimming is prohibited at the beach due to no lifeguards on duty. There will be no admission fees being charged at this time;
3. Public Works Director will have a schedule of the Town's capital projects by the end of the week;
4. Announcement about a meeting with the Division of Emergency Management taking place on September 23, 1998, about the Town's lift station grant. This is the DEM's final inspection for their approval.

Commissioner Sheffield reported seeing someone swimming out near the Town's beach area.

Mayor Powell said the Lake Lure Police Department had been instructed to patrol the Town's beach area. He explained the Town beach was being kept open on a trial basis at the request of the Hickory Nut Gorge Chamber of Commerce, local businesses, and residents.

COUNCIL COMMENTS

Mayor Powell read excerpts from a September 1998 two-year technical report (Long Term Evaluation of Sediment and Pollution Sources to Lake Lure). This report was produced by the Environmental Quality Institute at the University of North Carolina in Asheville. He quoted the following from the summary/conclusions and acknowledgements sections of this report:

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"... lake siltation caused by the large loads of sediment from the upper Broad River watershed appear to be uncommon occurrences."

"...with the exception of the sediment loads during large storms, the water entering Lake Lure is relatively unpolluted.

"Volunteers in the Lake Lure program continue to be some of the most dedicated, concerned, interested, and active supporters of water quality in the VWIN program. In the past year of monitoring not one site has ever been missed."

The Mayor thanked Bob Washburn, Chuck Watkins (coordinator), Marcia Hardy and all those who volunteered their work to the Lake Lure VWIN program.

An announcement was made by Mayor Powell about the Annual Fall Roadside Cleanup. The Town of Lake Lure and the Lake Lure Republicans will participate in the DOT Litter Sweep on Saturday, September 26, 1998, at 7:30 a.m. He asked for volunteers to help with roadside cleanup and those who are interested to contact Commissioner Carolyn Cobb.

Commissioner Cobb thanked Fire Coordinator Ron Morgan and Police Chief Mike Bustle for attending the Lake Advisory meeting last night and giving excellent reports on the end of season activities and their plans for the the future.

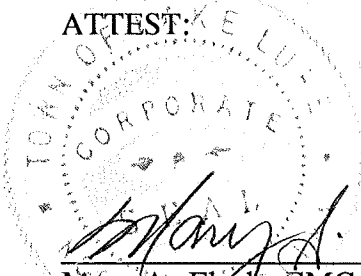
TOWN MEETING FORUM (AT THE PLEASURE OF THE MAYOR)

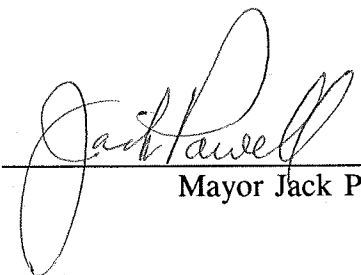
There was no discussion under the Town Meeting Forum.

ADJOURNMENT MEETING

With no further items of discussion, Commissioner Sheffield moved, seconded by Commissioner Stanier, to adjourn the Town meeting at 9:35 p.m. The vote of approval was unanimous.

ATTEST:


Mary A. Flack, CMC/AAE
Town Clerk


Mayor Jack Powell