



Incorporated 1927

Town of Lake Lure

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MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, MARCH 16, 1999, 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
H. M. Place III, Town Manager

ABSENT: N/A

CALL TO ORDER

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

INVOCATION

Commissioner Cobb gave the invocation.

AGENDA ITEM

After discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield, to add an item on the agenda (under other new business) to consider a request from Cpl. Gary M. Owens, Rutherford County Sheriff's Department to adopt a resolution recommending continued funding for the community service officer of the western section in Rutherford County as currently exists through the Rutherford County Sheriff's Department. The vote of approval was unanimous.

**PUBLIC HEARING: PROPOSED AMENDMENT TO THE LAKE
STRUCTURES REGULATIONS TO AMEND SECTION 94.14
REGARDING MARINAS (ADDING A SECTION TO LIMIT THE
NUMBER OF MARINAS ON THE LAKE)**

Notices of the Public Hearings were duly given within the legal classified section of the issue of the Forest City Daily Courier newspaper.

Commissioner Rose moved, seconded by Commissioner Sheffield, to enter into the Public Hearing for the purpose of discussing amendment to the Lake Structures Regulations to amend section 94.14 regarding marinas (adding a section to limit the number of marinas on the lake). The vote of approval was unanimous.

Mayor Powell turned the meeting over to Mayor Pro-tem Cobb in order to make a presentation. He discussed the following in his presentation:

1. The use of the Lake, a limited resource.
 - a. The primary use of the lake is for recreation.
 - b. Growth is inevitable and should be controlled.
 - c. Growth will continue to reduce the useable area.

2. Who are the users (stakeholders) and what are the uses?

Pleasure: (activities - cruising, running boats, drifting, water skiing, towing tubes etc., fishing and swimming)

- a. Individual property owners:
 - * Lake front owners (individual lot owners vs. condominium owners)
 - * Non-lake front owners
- b. Non-property owners/non-residents

Commercial: (Activities - lake cruises, water skiing instruction and activity, wave boarding, boat rentals and fishing guides. Same user groups as for pleasure.)

3. How do we allocate the use of the lake among the various users?
 - a. What legal rights does each user have?
 - b. Do lake front owners have greater legal or inherent (not granted by the Town) rights to use the lake than non-lake front owners?
 - c. Should non-resident use be eliminated or restricted in some manner?
 - d. Should some or all commercial activity be more restrictive or eliminated?

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4. When is boat density a problem and how does the number of boats on the lake affect safety?
 - a. Generally, approximately 30 days (weekends and holidays between Memorial Day and Labor Day) has been observed to be a critical period of excess boating activity.
 - b. Per "Outline for a Lake Management Plan, Recreation and Special Events" released last month by the Lake Advisory Committee:

"The lake is an underutilized recreation facility 9 months a year. The Town should encourage the Hickory Nut Gorge Chamber of Commerce and other organizations to plan events around the lake based on activities with help and input from LAC."
 - c. The use of the lake is not addressed by the Strategic Planning Committee in their preliminary subcommittee reports.
 - d. How does the number of boats on the lake correlate with the safety issue?
 - e. Is there a reliable method to determine a so called "saturation point" as to how many boats and what type of boats should be allowed on the lake at any point in time?
5. How can we control boat density, now and in the future?
 - a. Are the present regulations, which were designed to control the number of boats on the lake by limiting slips, effective and equitable?

"Always question preconceived notions, especially your own!"
 - b. Rather than or in addition to controlling the number of slips, should we limit the number of boats per household or entity? (Table attached of 1998 boat permits)
 - c. Is the restriction of the number of boats on the lake the proper approach to allocating the use of the lake among various users?
 - d. As space becomes more limited, should we consider "time zoning" over "space zoning"?
 - e. Should certain activities be restricted or eliminated?
6. Why should we have a classification for Marinas?
 - a. The Marina classification allows additional slips in a limited number of areas for better utilization of available space (average boats per household).
 - b. It allows of better regulation of activities in the designated areas (via special agreements as a condition to approval).

Observations:

- a. The ordinance does not automatically confer the right to 5 slips per feet of shoreline since Council must approve the location configuration.

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- b. Marinas should not project into the lake in areas that would restrict boat traffic or interfere unreasonably with neighboring residences.
 - c. The number of Marinas should be limited, probably to three.
 - d. The "funnel effect" that was considered by the Lake Advisory Committee in recommending the regulations allowing 3 boat slips per 100+ ft. individual lot (and the cluster mooring provisions) does not address the equity of the allocation of lake usage to its equitable owners, the taxpayers of the Town.
7. Desirability of a Long-range Study.
- a. Is a study necessary to make an informed and intelligent decision on the Fairfield request?
 - b. Should a long-term study be undertaken to address the use of the lake? If so, who should perform the study?
 - c. Should we consider a moratorium on the addition of all new boat slips and perhaps on the sale of boat permits to all non-residents and non-property owners until a study can be completed?

After Mayor Powell's presentation, the meeting was resumed by him.

Mayor Powell invited citizens to speak during the public hearing. He asked each speaker to identify their selves and tell how many boats permits were issued to them in 1998. The following persons requested to speak during the hearing.

1. Alan Moore, owner of the Lake Lure Dam Marina, said that he has a conflict of interest here because of his operation on the lake. Mr. Moore said that he had recently applied and filed with the Town of Lake Lure in compliance with the October 1998 amended ordinance (94.14 Marina). Mr. Moore said that he had applied for his share of five boat slips for every 100 ft. of the Dam Marina. He explained this would be basically adding on another 30 boat slips, if issued by the Town. He said that he has also filed for a permit in Tryon Bay. Mr. Moore stated that he came before Town Council in 1994 to obtain a Marina status in for that property located in Tryon Bay between Larkin's and Camp Lure Crest. Mr. Moore said the Town basically out-lawed all commercial boat storage in Lake Lure. Mr. Moore said according to his count, there are 32 existing commercial boat slips located at the west end of the lake (24% of the total slips in Lake Lure). At the east end of the Lake and the Dam Marina there are 20 boat slips (15% of the 15% of the total slips in Lake Lure). At the northern end of the lake, Fairfield Mountains there are 79 boat slips presently (60% of total boat slips in Lake Lure. Mr. Moore explained there is currently a total of 131 boat slips in Lake Lure, and contingent upon approval of marina requests could increase the total boat slips to about 246 (87% increase). Mr. Moore made comments about the Lake Lure Lake Density Report. He was concerned about the equitable

distribution; the use of the lake; and boat traffic. Mr. Moore said the Town didn't consider Lake Lure Village Resort regarding the boat slips. He also stated that the Town needs a study on undeveloped property in Lake Lure. Mr. Moore said that he opposes any increase of boat density on the lake on summer weekends. Mr. Moore said that he is not "anti-Fairfield". Mr. Moore asked Town Council before voting on any changes to the ordinance, to consider having the Local Government Commissioner determine if there are any conflicts of interests in this matter. He said that it has come to his attention recently, there may be some members of the POA (Property Owners Association) who may have a conflict of interest and/or financial interest. Mr. Moore said that all legal aspects of this matter should be considered. Mr. Moore believes there has been selective enforcement regarding the town's ordinances. He asked if some individuals were being discriminated, while others were given favorable treatment in the town. Mr. Moore asked if there was a compromise in safety regarding the proposal. He suggested that a Federal State official expert be brought in to study this matter and make recommendations. In addition, Mr. Moore reported that he had seven boats.

2. Bob Washburn, Chairman of the Lake Advisory Committee, distributed a memorandum to Town Council regarding law enforcement issues. (Copy of memorandum attached). Mr. Washburn stated the Lake Advisory Committee recommended that Town Council table the proposed amendment to section 94.14 of the Lake Structures Ordinance regarding marinas and postpone any action granting marina status to any property owners until the long-term effects of the marina section can be evaluated as part of a study determining maximum load capacity for the lake. Mr. Washburn said, if there is any reluctance on the part of Town Council and/or Citizens of the Town to allow the Lake Advisory Committee to perform this study, then they suggest the Town employ an outside Lake Management consultant to perform a complete unbiased evaluation of the shoreline development and the boat density capacities of the town. Also, Mr. Washburn stated he had seven boats.
3. Paul Nealon, President of the Fairfield Property Owners Association, stated that no one had made any deals with the Town of Lake Lure nor any financial interests have been made with the Town. Mr. Nealon, said that he would like to clear up any rumors that have circulated about their request. He explained the POA is not a profit organization. Mr. Nealon stated he does have a problem with commercial use of the lake having priority over taxpayers use of the lake.
4. Chuck Ross, a Lake Lure resident of Chapel Point Road, said he is a lake front property owner and he owns two boats. Mr. Ross said the Town needs to determine how many boats need to be on the lake, before approving more marinas.

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5. Fred Noble, a Lake Lure resident of Hawthorne Drive, said he owns two boats. Mr. Noble said he had no opposition to the Fairfield Mountains POA Marina request. Mr. Noble said Town Council should look at the entire situation; pay attention to the total number of boats on the lake; and then, try to be fair to everyone involved.
6. Junie White, resident of Spartanburg, South Carolina, said that he has two boats. Mr. White asked what are the town's guidelines now regarding undeveloped property? He wanted to know why to town increased the fees on the lake?
7. Dick Grow, a Lake Lure resident of Allen Drive, said he owns two boats. Mr. Grow said that he has been an advocate of more usage on the lake during the week.
8. George Pressley, a Lake Lure resident of Tryon Bay, said he purchased one boat permit during 1998. Mr. Pressley said he wanted to reemphasize the Tryon Bay safety issue. He expressed his concern about the Tryon Bay area being one of the narrowest part of the lake. Mr. Pressley said he was concerned about swimmers/skiers, and others. He said the town should do a long-term impact study on the use of the lake.
9. Barbara Bagwell, a Lake Lure resident of Tryon Bay, said that she had two boats. Mrs. Bagwell agreed with Mr. Pressley's comments about the safety issues in Tryon Bay. She mentioned that the Fairfield Property Owners were not the only ones who did not have lake front access, but also other Lake Lure property owners. Mrs. Bagwell also suggested that residents consider using boat storage areas.
10. Larkin Hammond, a Lake Lure resident, said she had no boats. Mrs. Hammond commented about long-range studies. She also explained the distinction of Fairfield Property Owners versus those property owners who own property off the lake.
11. Lynn Smith, a Lake Lure resident, said he has two boats. Mr. Smith stated that he believes in fairness and equity for all taxpayers in Lake Lure. He talked about rights as a taxpayer to use the lake.
12. Bill McNary, a Lake Lure resident of Sunset Cove, said he has one boat. Mr. McNary recommends a boat density study before increasing the number of boats on the lake.

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13. Ronald Kentral, a Lake Lure resident, said he has one boat. He said that he was on the Fairfield Mountains POA waiting list for a boat slip. Mr. Kentral said that he does not live on the lake. Mr. Kentral asked to be treated fair.
14. Bill Beeson, a resident of Gastonia, North Carolina, said he has two boats. Mr. Beeson made comments regarding boat density. He stated that he could remember skiing through Fairfield Mountains years ago when it was a lily pad. He suggested that Town Council take in consideration the future of the lake with regards to boat density.
15. Trueman Cobb, a Lake Lure resident of Sheepnose, said that he has been coming the lake since the 1930s. Mr. Cobb said the lake is not a town lake, but a lake owned by the citizens of Lake Lure. He said everyone deserves to be heard and served.

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

Commissioner Rose moved, seconded by Commissioner Sheffield, that the town not add any marinas until a comprehensive study is made. This study should determine the safe and enjoyable recreational opportunities while protecting the natural resources. This study is to be undertaken by the Lake Advisory Committee with financial support to them for an outside consultant. After discussion, Commissioners Rose and Sheffield voted in favor of the motion. Commissioners Cobb and Stanier voted against the motion. Mayor Powell voted against the motion. Therefore, the motion did not carry with a vote of 3 to 2.

Commissioner Rose requested her following comments be recorded in the minutes:

Is there a need for one marina, let alone four? Since its adoption on October 23, 1998, the Town's Marina and the Dam Marina facilities do not meet the current regulations of five slips per 100 feet. Nor has either entity been declared as a marina. They are marinas in name only. We are being asked to designate a marina near the dam, Buffalo Bay, and Tryon Bay. Does that mean we are telling the Dam Marina that it is now a marina? What if the owner does not want to adhere to the marina ordinance? Are we telling the owner that his entity can no longer be called a "Marina"? Are we prepared to designate another place as a marina near the dam? We are including the Town Marina as a marina but, it too does not have the official title of marina. If they had, we would never have had to put in a new category called marina in our Lake Structures Ordinance.

1. Why are we doing this agenda item without a study?

* To decide whether or not we should allow gazebos took nine months of study; four committees were tasked to study/make recommendations; and one sub-committee made up of representatives from the four committees were also to make a final recommendation to this Council.

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2. As of noon today, March 16, 1999, the Council had received correspondence from ninety-four property owners. Many of these letters received asked for a study.

* There were sixty-four letters against the marina. All of the sixty-four letters stressed the need for safety. A study would show if there was a safety issue. There were twenty-seven letters for the Fairfield Marina which were all POA members. Five of those twenty-seven are on a list for slips. Four of them already have boats in the existing cluster mooring. Mr. Nealon has told Council that he has over seventy names on a waiting list. We heard from five. A study would show if our lake is underutilized and whether it could handle four marinas. There needs to be a way that allows progress to be made which can satisfy most of our residents. A study will give Council the tools to make a sound, rational and logical decision. We, as Council, are charged under the Lake Structures Ordinance, that the location of a structure will not be adverse to navigation and boating safety or any nearby residential area. A study will aid us in making the decision whether marinas will or will not adversely affect navigation and boating safety. The Council does have before it letters from lake front property owners in the nearby residential area objecting to the location of the proposed marina. A couple of those owners have been promised certain considerations in return for not objecting to the Fairfield Marina. This commitment is unfair to the Council. The Council has the power to decide where a marina will be designated. The Council can agree or disagree with a plan submitted to it. The Council's decision has to be followed by the applicant. I ask the members of this Council to give careful thought towards what I am asking. Take the time to study the Lake as it now, tomorrow, and future tomorrow's. We have lived without marinas this long. Do we grant one marina and then slam the door after the horse is gone? Is that the reputation we want? Or do we want to continue the practice of the last year and a half studying a controversy and reach a fair and impartial decision? I hope you, my colleagues, will vote yes on this motion.

After discussion, Commissioner Stanier moved, seconded by Commissioner Cobb, to adopt the following Ordinance No. 99-03-16 as amended. Commissioners Stanier and Cobb voted in favor of the motion. Commissioners Rose and Sheffield against the motion. Mayor Powell voted in favor of the motion. The motion did not carry because it was the first reading and required a two-thirds vote of all the members of the Council to carry.

ORDINANCE NO. 99-03-16

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

WHEREAS, the Town Council of the Town of Lake Lure has determined that there should be a limitation on the number of marinas on Lake Lure for the purpose of limiting the potential number of boats on the lake; and,

WHEREAS, the Lake Lure Town Council, after due public notice, conducted a public hearing on the 16th day of March, 1999, upon the question of amending the lake structures regulations in this respect; and,

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:

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SECTION ONE: Amend Chapter 94 (the Lake Structures Regulations) to add a new subsection 94.14 (F) as follows:

"(F) There shall be not more than three marinas allowed on the lake; one near the head of the lake, one near the dam, and one in Buffalo Bay."

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

Adopted this 16th day of March, 1999.

ATTEST:

Mary A. Flack, CMC/AEE
Town Clerk

Jack Powell, Mayor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

Town Attorney Callahan explained that in order for an ordinance to pass on the first reading, it requires two-thirds of the majority of all the members of Council to carry. He said the ordinance could pass on the second reading with a majority vote of all members.

Following discussion, Commissioner Cobb moved, seconded by Commissioner Stanier, to place a moratorium on processing any marina applications received subsequent to the motion to take this to public hearing which was February 16, 1999 until such time as the question on limitations can be resolved at our next meeting. The vote of approval was unanimous.

Alan Moore requested to speak and stated that he would like to be on the record stating that in 1994 a request was made by him for a Tryon Bay marina. He also asked to have an opportunity to come again before Town Council in a public hearing to match/compare the merits of the Tryon Bay or a third marina with Fairfield Mountains. Mr. Moore stated he felt his proposal was less intrusive.

Mayor Powell stated that Council was deferring action until they decide whether or not to limit marinas.

**PUBLIC HEARING -- RECEIVE CITIZEN COMMENTS REGARDING
A REQUEST FROM THE FAIRFIELD MOUNTAINS POA FOR A
LAKE STRUCTURE PERMIT REGARDING A MARINA**

Mayor Powell read the following the following into the record:

Notice is hereby given that a public hearing will be held by the Lake Lure Town Council in the Council meeting room at the Lake Lure Municipal Center on the 9th

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day of March, 1999, at 7:00 p.m. or shortly thereafter for the purpose of considering approval of a "marina" designation for the existing "cluster mooring facility." Under the lake structures regulations, the Zoning Administrator shall determine that all requirements of the code relating to marinas are met. Council then must approve or deny permits for marinas based on the report of the administrator and a determination that the location will not be adverse to navigation and boating safety or any nearby residential area.

The Mayor stated this hearing had been rescheduled due to bad weather from the March 9, 1999 Town Council meeting until March 16, 1999 Town Council meeting.

A motion was made by Commissioner Cobb and seconded by Commissioner Stanier to enter into the Public Hearing for the purpose of receiving citizen comments regarding a request from the Fairfield Mountains POA for a Lake Structure permit regarding a marina. Commissioners Cobb, Rose and Stanier voted in favor of the motion. Commissioner Sheffield voted against the motion. The motion carried with a vote of 3 to 1.

Attorney Callahan explained the moratorium that Town Council had just recently passed, covered a moratorium on processing applications for marinas to the town effective February 16, 1999 until the next regular monthly Town Council meeting. He said the marina application being considered now in this public hearing had been previously presented to the town on February 6, 1999 which was prior to the date that the moratorium was passed by Town Council.

Mayor Powell invited Paul Nealon, president of the Fairfield Mountains Property Owners Association, to make his presentation regarding the request from the Fairfield Mountains POA for a lake structure permit for a marina. Mr. Nealon stated they would like to change the original request formally made to Town Council. He said these changes being made have been filed with the town. Mr. Nealon said they were originally seeking a request for 129 marina slips and have reduced that number down to 125 slips based on a 2,500 ft. frontage. Mr. Nealon said they also reduced the length of the docks from 192 ft. to 168 ft. He explained that adjacent homeowners to Fairfield Mountains were contacted either by telephone and/or in a meeting asking them what needed to be done to their original plan submitted to the town. Mr. Nealon said these homeowners asked that (1) the length of the marina dock be reduced; (2) relocate the dock currently known as the "commercial existing dock" to the west side; (3) concern about lights shining toward homes, noise control, and safety; (4) omit covers over the dock areas; and (5) support no-wake zone areas (Mr. Nealon said they would support a no-wake zone as far as the town wants to go); and (5) concern about docking visitors. Mr. Nealon said that changes have been made regarding the above mentioned concerns.

Town Manager Place stated that the application for the marina filed for the POA by Mr. Nealon had a drawing which showed an extension out in the lake no more than 30 ft. He said that was consistent with the town's regulations. Mr. Place said this is what they are asking for approval at this time. He said to get the additional language will require Town Council's

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consideration of an appeal. Mr. Place pointed out that these are two separate requests. He said one is for use the property for marina and the allowance of five boats per 100 ft. The second request is to allow the extension of a lake structure for whatever it is to be used for beyond the 30 ft. point.

George Raftis, Fairfield Mountains POA member, made a presentation comparing the differences of running pleasure boats versus ski boats.

Bob Washburn, Chairman of the Lake Advisory Committee, commented about Mr. Raftis's opinion regarding ski boats. He questioned the accuracy of the information being presented by Mr. Raftis.

Mayor Powell stated that Fairfield Mountains POA did not set no-wake zones on the lake. He said normally the Lake Advisory Committee goes out to identify the problem areas and set the no-wake zones.

The Mayor invited citizens to speak regarding this hearing.

Mr. Chuck Ross, a Lake Lure resident, stated that the town should first protect the lake and there should be a study of the lake made before approving another marina. He suggested that the town do a survey.

Town Attorney Callahan explained that this public hearing is only on designating what Fairfield Mountains POA has as a marina. He said it has nothing to do with a 192 ft. boat slips.

Commissioner Stanier made a motion to come out of Public Hearing and seconded by Commissioner Cobb. The vote of approval was unanimous.

A motion was made by Commissioner Cobb to approve the request as presented from the Fairfield Mountains POA to become a marina with the proviso that it does not extend out more than 30 ft. (as indicated in the ordinance); and that the Fairfield Mountains POA make the changes which they have committed to such as the problems indicated by the adjacent homeowners including the elimination of lights shining toward homes, remedies for noise control/safety, omission of covers over the dock areas, relocation of the dock to the west side, implementing a system to control the boats during peak times on the lake, and others mentioned.

Commissioner Rose stated that she would like the town to do a study before making a decision on this request.

After discussion, Commissioners Cobb and Stanier voted in favor of the motion as stated above. Commissioners Rose and Sheffield voted against the motion. Mayor Powell voted in favor of the motion breaking the tie vote. The motion carried with a vote of 3 to 2.

Mayor Powell stated that he agrees a study needs to be done regarding boat usage on the lake. The Mayor said he will ask Councilmembers to consider having a study of the lake use and also schedule a joint meeting with the Lake Advisory Committee.

**HEARING -- APPEAL FROM THE DECISION OF THE LAKE
STRUCTURES APPEALS BOARD (APPEAL LSA-99-1, FAIRFIELD
MOUNTAINS PROPERTY OWNERS ASSOCIATION, INC.)**

Mayor Powell opened the meeting regarding the appeal from the decision of the Lake Structures Appeal Board (Appeal LSA-99-1, Fairfield Mountains Property Owners Association, Inc.). The Mayor read the following notice:

Paul Nealon, as president of the Fairfield Mountains Property Owners Association, is seeking a variance from the provisions of § 94.05 (the Design and Construction Standards of the Lake Structures Regulations), subsection (B) to allow construction of three new piers 192 ft. into the lake, a variance of 162 ft. from 30 ft. maximum length allowed by that subsection. The property is located at the Fairfield beach area, near the Lake View Restaurant (Tax Map 528, Block 1, Lot 18G).

Next, Mayor Powell requested Paul Nealon, president of the Fairfield POA, to come forward to be sworn in by the Town Attorney Callahan and then make a brief statement describing the basis for the original application and the basis for the appeal.

After Paul Nealon was sworn in by Attorney Callahan, he read into the record the following memorandum of February 26, 1999 submitted to Town Council on behalf of the Fairfield Mountains Property Owners Association.

As president, I formally appeal the decision of the Lake Structures Variance Committee for the following reasons:

1. The Committee's decision was based on the premise that a variance would increase the boat density on the lake to unsafe levels. In fact, nearly an hour has been spent discussing this point; including testimony from the Lake Advisory Committee Chairman, Robert Washburn, detailing this matter and a study of density on Fall Lake north of Lake Norman. The study Mr. Washburn cited, states the desirable ratio of boats per acre is 5:1. Assuming that Lake Lure is 700 acres and applying this ratio, reasonable density could be 3,500 watercrafts. Slightly over 1,200 residential watercrafts were registered last year. Accordingly, density does not appear to be an issue.

It is our understanding that determination of boat density is the Council's responsibility and, that in proposing a marina classification, the Council had addressed this issue.

2. At least one member of the Committee expressed, without contradiction, that the Council, in creating the marina classification, had the responsibility to address and establish the parameters to determine the length of the docks. It appeared that the Committee was not prepared to grant the variance so as not to

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set a precedent for future marinas. This would lead us to conclude that the Committee did not believe the 30 foot limitation should be applied to the marina classification.

3. After considering the comments at the hearing and following input from owners of lake front properties in the vicinity of the proposed marina, we have agreed to:

Relocate the proposed docks to the west and create a minimum of 400 feet between the closest dock and the nearest boathouse. This relocation will move the boat traffic from our docks away from the east shore of the lake, thereby reducing the potential for an accident involving boating and swimming from the docks of the lake front residences.

Enforce measures, as part of our Marina Policy, to control noise levels that appear to be a major objection to the increase in the number of slips.

Change lighting, redesign lighting on the existing docks and design lighting on the new docks to eliminate the problem through sensitivity zones and redirection of light beams. Low lighting will also be installed where possible. This should alleviate a problem that has been raised by residents on the east shore opposite the existing and proposed docks.

Support requests that the "no wake zone" be expanded to a point well beyond all POA docks. This will enhance the safety for all users of Buffalo Creek Cove.

In making this appeal, we hereby amend the application as filed on February 3, 1999. This amendment reduces the length of the docks from the originally requested 192 feet to 168 feet and extends the existing docks to accommodate 12 of the additional slips. It also relocates the proposed docks and beach. A new drawing is provided herewith.

This change of classification to marina was recommended by the Zoning Administrator in his memorandum dated February 3, 1999, subject to the approval of a seawall variance. This variance was requested of and approved by the Lake Structures Variance Committee on February 23, 1999.

Thank you for your consideration of our appeal.

Mr. Nealon asked Councilmembers to consider their appeal as presented.

Mayor Powell then proceeded to ask Councilmembers if they had any questions? Hearing none, he called on Mr. Riley Hardy, Vice Chairman of the Lake Structures Appeal Board, to come forward to be sworn in by Attorney Callahan.

The Mayor asked Mr. Hardy after being sworn in by Attorney Callahan, to state the basis for denial of Paul Nealon's variance. Mr. Hardy explained the reasons for the denial of the variance. Mr. Hardy said one the reasons for the denial was not being designated as a marina. Another reason for the denial was based on the extension of the boat dock length from 30 ft. to 192 ft. He stated that LSA Boardmembers also had a problem of adding an extra 500 ft. of no wake zone into the lake.

Mayor Powell asked Councilmembers if they had any questions for Mr. Hardy? Hearing none, the Mayor asked Councilmembers to make a decision regarding the appeal.

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After discussion, Commissioner Cobb moved, seconded by Commissioner Stanier, to close the hearing. The vote of approval was unanimous.

A motion was made by Commissioner Cobb and seconded by Commissioner Stanier, to over turn the decision of the Lake Structures Appeals Board to deny the variance request of Paul Nealon. Commissioners Cobb, Rose, and Stanier voted in favor of the motion. Commissioner Sheffield voted against the motion. Therefore, the motion carried with a vote of 3 to 1.

Commissioner Cobb made a motion, seconded by Commissioner Stanier, to approve the plan submitted on the record tonight from the Fairfield Mountains POA. Commissioners Cobb and Stanier voted in favor of the motion. Commissioners Rose and Sheffield voted against the motion. Mayor Powell voted in favor of the motion breaking the tie vote. Therefore, the motion carried with a vote of 3 to 2.

PUBLIC FORUM

Mayor Powell invited the audience to speak on any non-agenda item. No one requested to speak.

CONSENT AGENDA

Mayor Powell presented the consent agenda and asked if any item(s) should be removed before calling for action.

Commissioner Stanier moved, seconded by Commissioner Cobb, to approve the consent agenda items as presented. The vote of approval was unanimous. Therefore, the consent agenda, incorporating the following items was unanimously approved:

- a. Approved Minutes of February 9, 1999 (Regular/Closed Session Meeting), and February 16, 1999 (Town Workshop Meeting); and
- b. Scheduled a public hearing (amending the zoning ordinance regarding adult entertainment establishments) to be held at the next regular Town Council meeting on Tuesday, April 13, 1999, 7:00 p.m. or thereafter, at the Lake Lure Municipal Center Town Council meeting room;
- c. Adopted Resolutions No. 99-03-16; No. 99-03-16A; and No. 99-03-16B (authorization agreements between the Town of Lake Lure and Lincoln Bank of North Carolina (Copies of resolutions attached);
- d. Adopted Resolution No. 99-03-16C as follows:

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**RESOLUTION NO: 99-03-16C
OF
TOWN OF LAKE LURE**

Town of Lake Lure, at a regular meeting of its governing body, the Council, on the 16th day of March, 1999, adopted and recorded the following Resolution:

RESOLVED, that in accordance with North Carolina General Statutes Section 143-128, Town of Lake Lure confirms its practice of earnestly striving to recruit minority businesses for participation in contracts for the erection, construction, alteration or repair of any buildings or improvements for Town of Lake Lure. Particularly, Town of Lake Lure **RESOLVES** that it shall have a verifiable ten percent (10%) goal for participation by minority businesses (as defined in N.C.G.S. Section 143-128) in total value of work for each building project. This verifiable percentage goal shall apply in separate prime contract systems, alternative contracting systems authorized by State Building Commission under N.C.G.S. Section 143-26.26(9), and shall apply in single-prime contract systems and shall be binding on any prime contractor connected with such single-prime contract systems.

The following are the guidelines adopted as those actions that will be taken to ensure a good faith effort in recruitment and selection of minority businesses for participation in contracts awarded under N.C.G.S. Section 143-128:

1. Advertisement of request for bids shall be placed in the major newspapers (i.e. newspaper with the largest circulation) of Asheville, North Carolina; Charlotte, North Carolina; and, Greenville, South Carolina.
2. Advertisement of request for bids shall be placed in at least one newspaper which has a circulation primarily composed of minority owned contractor businesses.
3. Submission of plans and specifications to at least one major "Plan Room" such as the F.W. Dodge Plan Room and/or Associated General Contractors, where plans are available for public viewing without discrimination, and where information regarding obtaining specifications and plans for submission of bids is supplied.

Adopted this 16th day of March, 1999

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

Mayor Jack Powell

APPROVED AS TO FORM

J. Christopher Callahan
Town Attorney

e. Adopted Resolution No. 99-03-16D as follows:

RESOLUTION NO: 99-03-16D

WHEREAS, The Federal Clean Water Amendments of 1987, Federal Safe Drinking Water Act Amendments of 1996, and the North Carolina Clean Water Revolving Loan and Grant Act of 1987 have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems and

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WHEREAS, The Town of Lake Lure has need for and intends to construct water and wastewater system improvements for 1999, and

WHEREAS, The Town of Lake Lure intends to request grant assistance for the project,

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

That Town of Lake Lure will arrange financing for all remaining cost of the project, if approved for a grant award.

That Town of Lake Lure will adopt and place into effect on or before completion of the project a schedule of fees and charges which will provide adequate funds for proper operation, maintenance and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of Town of Lake Lure agrees to include in the loan a provision authorizing the State Treasurer, upon failure of the Town of Lake Lure to make scheduled repayment of the loan, to withhold from the Town of Lake Lure any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That Town of Lake Lure will provide efficient operations and maintenance of the project on completion of construction thereof.

That Jack Powell, Mayor, and successors titled, is hereby authorized to execute and file an application on behalf of Town of Lake Lure with the State of North Carolina for a grant to aid in the construction of the project described above.

That Jack Powell, Mayor, and successors titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application of the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That Town of Lake Lure has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this 16th day of March, 1999 at the Town of Lake Lure, North Carolina.

ATTEST:

Mary A. Flack, CMC/AEE
Town Clerk

Mayor Jack Powell

APPROVED AS TO FORM

J. Christopher Callahan
Town Attorney

- f. Approved the request from the Crafty Tarheels to hold craft shows on July 3-4, 1999 and September 4-5, 1999 on town property (grassy area from the Community Center to the Lake); suspended the Town's peddling ordinance in order to sell crafts/food; approved the use of the Community Center kitchen area to be used to provide some food during the craft show; The Crafty Tarheels will carry insurance (one million dollars) which covers members and the public;

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- g. Approved the requests by the Finance Director for a motion to transfer \$56,938.89 from Fund Balance-Reserve for streets (Powell Bill) to Public Works Department - Streets (105600.5800); approved a motion to transfer \$55,000 from Water/Sewer Fund Balance (Fund Equity) to the Wastewater Treatment Department;
- h. Approved the request for the Hickory Nut Gorge Dogwood Festival to be held on April 17-18, 1999 on town property in front of the Lake Lure Arcade Building; approved the use of the Lake Lure Community Center and Town Bathrooms located at the Marina, Visitor Center and Beach; Police participation for the parade on Sunday; suspended Town's peddling ordinance in order to sell crafts and food during the festival; and
- i. Approved the request from the Lake Lure Republicans to suspend the peddling ordinance on May 8, 1999 for a community lawn sale from 2:00 p.m. until 5:00 p.m. This is a non-profit organization.

End of Consent Agenda

OLD BUSINESS

a. OTHER OLD BUSINESS

There was no other old business.

NEW BUSINESS

**a. REQUEST PERMISSION TO RENT THE LAKE LURE PAVILION
AREA FOR PERFORMING A CONTEMPORARY GOSPEL SINGING**

After discussion, Commissioner Rose moved, seconded by Commissioner Cobb, to approve the request by Mr. Butch Kelly, Director of Herald Music, to hold gospel singing concerts and rent the Lake Lure Pavilion area from 7:00 p.m. until 9:00 p.m. (dates: July 4th, July 10th, July 17th, July 24th, July 31st, August 7th, and August 14th). The vote of approval was unanimous.

NEW BUSINESS

**b. REQUESTS FROM THE LAKE LURE TOURS REGARDING
1999 SANDBOX INVITATIONAL (MAY 14-16, 1999),
CONCESSION STANDS ON THE BEACH, & LAKE LURE
TOURS CONTRACT**

Rick Coley, President of the Lake Lure Tours, presented a letter of February 26, 1999 to Town Council regarding requests for a 1999 Sandbox Invitational event on May 14-16; concession stands on the Town beach; and the Lake Lure Tours contract. (Copy of letter attached).

Town Manager Place stated he had concerns about concession stand(s) being on the town beach with regards to the zoning codes. Mr. Place said he would have to find out if they were allowed or not.

A motion was made by Commissioner Sheffield to approve the request from Lake Lure Tours to have 1999 Sandbox Invitational event on May 14-16, 1999 and concession stands on the beach (subject to the Town Manager and the Town Attorney's approval regarding the legality). Commissioner Stanier seconded the motion and the vote of approval was unanimous.

Commissioner Rose made a motion to table the discussion regarding the Lake Lure Tours contract until the next regular Town Council meeting. Commissioner Sheffield seconded the motion and the vote of approval was unanimous.

NEW BUSINESS

**c. APPOINTED H. M. "CHUCK" PLACE III AS TOWN MANAGER
(EFFECTIVE FEBRUARY 11, 1999)**

A motion was made by Commissioner Rose to appoint H. M. Place III as Town Manager (effective February 11, 1999) with an annual salary of \$45,000 with normal town benefits. Commissioner Stanier seconded the motion and the vote of approval was unanimous.

Mayor Powell stated he and Councilmembers were pleased to have Mr. Place as their Town Manager.

Mr. Place was sworn in as Town Manager by Town Clerk Mary Flack.

NEW BUSINESS

d. ADOPT RESOLUTION NO. 99-03-16E (A POLICY FOR MUTUAL ASSISTANCE WITH OTHER LAW ENFORCEMENT AGENCIES)

Police Chief Bustle presented/recommended the adoption of resolution no: 99-03-16E approving a policy for mutual assistance with other law enforcement agencies.

After review, Commissioner Rose made a motion, seconded by Commissioner Cobb, to approve Resolution No. 99-03-16E as presented by Police Chief Mike Bustle. The vote of approval was unanimous.

RESOLUTION NO: 99-03-16E

**ADOPTING A POLICY FOR MUTUAL ASSISTANCE
WITH OTHER LAW ENFORCEMENT AGENCIES**

WHEREAS, pursuant to North Carolina General Statutes Section 160A-288, the governing body of a city may adopt appropriate guidelines for the purpose of mutual assistance with other municipal and county law enforcement agencies; and

WHEREAS, pursuant to said laws, the law enforcement assistance to be rendered authorizes lending officers to work temporarily with officers of the requesting agencies, including in an undercover capacity, and lending equipment and supplies; and

WHEREAS, it is deemed to be in the best interest of the citizens of Lake Lure to adopt a reasonable policy and guidelines whereby reciprocal law enforcement assistance can be both rendered to and obtained from other governmental jurisdiction; and

WHEREAS, such reciprocal assistance is necessary for effective law enforcement for the protection of the citizens of Lake Lure;

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

1. The Chief of Police is hereby authorized to enter into mutual assistance arrangements with other municipal and county law enforcement agencies, provided that the head of the requesting law enforcement agency makes such a request in writing.
2. The Chief of Police is hereby authorized to permit officers of the Lake Lure Police Department to work temporarily with officers of the requesting agency, including in an undercover capacity, and the Chief of Police may lend such equipment and supplies to requesting agencies as he deems advisable.
3. All such request and authorizations shall be in accordance with North Carolina General Statutes Section 160A-288, as applicable.
4. While working with a requesting agency, and officer shall have the same jurisdiction, powers, rights, privileges, and immunities (including those relating to the defense of civil

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actions and payments of judgments) as the officers of the requesting agency in addition to those the officer normally possesses.

5. While on duty with the requesting agency, an officer shall be subject to the lawful operational commands of the officer's superior officers in the requesting agency, but the officer shall for personnel and administrative purposes, remain under the control of the officer's own agency, including for purposes of pay. An officer shall furthermore be entitled to worker's compensation and the same benefits to the extent as though he were functioning within the normal scope of the officer's duties.
6. The Chief of Police is hereby authorized to enter into mutual assistance agreements with other law enforcement agencies in accordance with such reasonable arrangements, terms and conditions as may be agreed upon between the respective heads of the law enforcement agencies.

Upon motion duly made by Commissioner Rose, and duly seconded by Commissioner Cobb, the above resolution was duly adopted by the Lake Lure Town Council at the meeting held on the 16th day of March, 1999, in the Lake Lure Municipal Center.

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

Adopted this the 16th day of March, 1999.

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

Mayor Jack Powell

APPROVED AS TO FORM

J. Christopher Callahan
Town Attorney

OTHER NEW BUSINESS

- e. CONSIDER A REQUEST BY CPL. GARY M. OWENS, RUTHERFORD COUNTY SHERIFF'S DEPARTMENT TO ADOPT A RESOLUTION RECOMMENDING CONTINUED FUNDING FOR THE COMMUNITY SERVICE OFFICER OF THE WESTERN SECTION IN RUTHERFORD COUNTY AS CURRENTLY EXISTS THROUGH THE RUTHERFORD COUNTY SHERIFF'S DEPARTMENT**

Police Chief Mike Bustle presented a request by Cpl. Gary M. Owens, Rutherford County Sheriff's Department to adopt a resolution recommending continued funding for the community service officer of the western section in Rutherford County as currently exists through the Rutherford County Sheriff's Department.

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A motion was made by Commissioner Stanier, and seconded by Commissioner Cobb, to approve Resolution No. 99-03-16F as presented by Cpl. Gary M. Owens. The vote of approval was unanimous.

RESOLUTION NO. 99-03-16F RECOMMENDING CONTINUED FUNDING FOR THE COMMUNITY SERVICE OFFICER FOR THE WESTERN SECTION OF RUTHERFORD COUNTY AS CURRENTLY EXISTS THROUGH THE RUTHERFORD COUNTY SHERIFF'S DEPARTMENT

WHEREAS, a continued Law Enforcement presence is conducive to a lower crime rate and a sense of security for our citizens, and

WHEREAS, the philosophy of Community Policing is beneficial to all citizens by encouraging Community involvement and problem solving, and

WHEREAS, a continued law enforcement presence that is responsive to the needs of the community and available when needed contributes to an improved quality of life in the community.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Lake Lure as follows:

1. That this Council recommends the continued funding of the Community Service Officer position by the Rutherford County Commissioners.
2. That this Council recommends the continued placement of a Community Service Officer by the Sheriff in this area.
3. That this resolution is effective upon its adoption.

Adopted this 16th day of March, 1999.

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

Mayor Jack Powell

APPROVED AS TO FORM

J. Christopher Callahan
Town Attorney

STAFF REPORTS

Town Manager Place reported the town budget process was underway. Mr. Place stated the town is currently in the process of removing solid wastes from the plant.

COUNCIL COMMENTS

Councilmembers agreed to schedule a Town Council Retreat on April 7, 1999, 9:00 a.m., Lake Lure Conference Center at the Lake Lure Arcade Building.

**CLOSED SESSION - ATTORNEY CLIENT PRIVILEGE/LEGAL
CLAIMS (G.S. 143-318.11 (a) 3)**

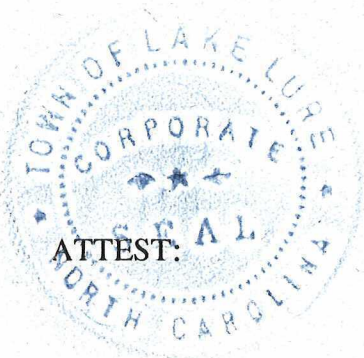
Commissioner Rose moved, seconded by Commissioner Cobb, to enter into closed session at 12:15 a.m. in order to discuss Attorney Client Privilege/Legal Claims (G.S. 143-318.11(a) 3) regarding the Powers/Moore case; Dick Grow's delinquent sewer account; and Ken Nelon's delinquent sewer accounts. The vote of approval was unanimous.

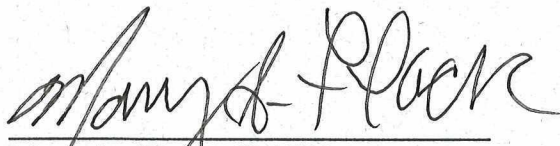
With no further discussion in closed session, Commissioner Rose moved, seconded by Commissioner Cobb, to come out of the closed session and re-enter the regular session of the meeting at 1:00 a.m. The vote of approval was unanimous.

While in closed session, Council voted to seal the minutes of the closed session meeting in order to avoid frustrating the purpose of the closed session.

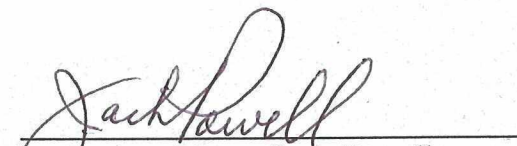
ADJOURNMENT

With no further items of discussion, Commissioner Rose moved, seconded by Commissioner Cobb, to adjourn the Town meeting at 1:00 a.m. The vote of approval was unanimous.





Mary A. Flack, CMC/AE
Town Clerk



Mayor Jack Powell