



Incorporated 1927

Town of Lake Lure

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MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, APRIL 13, 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

Town Manager H. M. Place, III
J. Christopher Callahan, Town Attorney

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 ITEMS

After discussion, Commissioner Stanier moved, seconded by Commissioner Cobb, to add an item on the agenda (under other new business) to discuss a memorandum of April 13, 1999 regarding commercial use of the lake. The vote of approval was unanimous.

PUBLIC HEARING: PROPOSED AMENDMENT TO THE ZONING ORDINANCE REGARDING ADULT ENTERTAINMENT ESTABLISHMENTS

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

Page 2 - Minutes of the April 13, 1999 Regular Council Meeting

Commissioner Cobb moved, seconded by Commissioner Sheffield, to enter into the Public Hearing for the purpose of discussing a proposed amendment to the Zoning Ordinance regarding adult entertainment establishments. The vote of approval was unanimous.

Town Manager Place read excerpts from his memorandum of February 26, 1999 to Town Council regarding regulation of adult entertainment establishments. (Copy of memo attached).

Mayor Powell invited citizens to speak during the public hearing. No one requested to speak during the hearing.

With no further 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.

Commissioner Sheffield moved, seconded by Commissioner Cobb, to adopt the following Ordinance No. 99-04-13 as presented. The vote of approval was unanimous.

ORDINANCE NO. 99-04-13

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

WHEREAS, the Town of Lake Lure desires to regulate the location and extent of sexually oriented businesses for the purpose of reducing the proven adverse impacts of these businesses on residential neighborhoods and places of worship, and to prevent a concentration of these businesses within the town boundaries; and,

WHEREAS, the North Carolina General Assembly has enacted legislation, specifically G.S. §160A-181, to clarify the options available to local governments regarding regulation of sexually oriented businesses; and,

WHEREAS, the Town of Lake Lure Zoning and Planning Board, after due consideration, has recommended amendments to Chapter 92 of the Code of Ordinances (the Zoning Regulations), to add a definition for "adult entertainment establishments" and to provide for these uses in the C-1 and CG zone districts and to establish appropriate standards for these uses; and,

WHEREAS, the Lake Lure Town Council, after due public notice, conducted a public hearing on the 13th day of April, 1999, 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: To amend § 92.004, Word Interpretations, to add the following definition:

"Adult Entertainment Establishment. Any business or other activity which, in order to comply with North Carolina G.S. 14-190.14 or 14-190.15 and amendments or supplements thereto, is required to limit its patronage or attendance to persons over the age of eighteen."

Page 3 - Minutes of the April 13, 1999 Regular Council Meeting

SECTION TWO: To amend § 92.031(G), Conditional Uses in the C-1, General Commercial, zone district to add a new subsection (7) as follows:

- (7) Adult entertainment establishments, provided no such use shall be located on property which lies within:
 - (a) 1000 feet, as directly measured, of any property on which there is any other adult entertainment establishment;
 - (b) 1000 feet, as directly measured, of any property used as a school or place of worship;
 - (c) 400 feet, as directly measured, of any property zoned for residential purposes.

SECTION THREE: To amend § 92.031C (C), Conditional uses in the CG, General Commercial, zone district to add a new subsection (8) as follows:

- (8) Adult entertainment establishments, provided no such use shall be located on property which lies within:
 - (a) 1000 feet, as directly measured, of any property on which there is any other adult entertainment establishment;
 - (b) 1000 feet, as directly measured, of any property used as a school or place of worship;
 - (c) 400 feet, as directly measured, of any property zoned for residential purposes.

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

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

Adopted this 13th day of April, 1999.

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

Jack Powell, Mayor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

PUBLIC FORUM

Mayor Powell invited the audience to speak on any non-agenda item. William Breen, Jr., owner of Lake Lure Realty, requested to speak. Mr. Breen said he was unable to attend last month's Town Council meeting at which a decision was made to add additional slips at Fairfield Mountains. Mr. Breen stated he wanted to set the record straight on one item. Mr. Breen said

Page 4 - Minutes of the April 13, 1999 Regular Council Meeting

he was informed about a letter being presented at the previous Town Council meeting by Commissioner Cobb to a Charles Ohmste which stated William Breen, the developer supported some action to get underway for us to have additional boat slips in Fairfield Mountains. Mr. Breen said he did not make this request to Commissioner Cobb and would like the record set straight.

Commissioner Cobb stated that she did talk with Mr. Breen about the letter. She said the letter was intended for the POA board and Mr. Breen's name was not used at any meeting. Commissioner Cobb explained that she had talked to several realtors who indicated support for additional boat slips. Commissioner Cobb apologized for any misunderstanding.

Mr. Breen said he hoped the public was aware that four of five Council members are also members of the POA and in his opinion would have a financial interest in the decision of additional boat slips. He asked if the public was made aware of this fact and in his opinion, it is considered a conflict of interest. Mr. Breen also mentioned that Mayor Powell had stated in the April issue of the Lake Lure newsletter that democracy is practiced in Lake Lure. He said democracy should be practiced and asked Town Council to recall the vote regarding the additional boat slips. Mr. Breen said he agreed with Commissioner Rose's opinion that a further study is needed. Mr. Breen stated that he was not for or against the additional boat slips in Fairfield Mountains.

Mayor Powell said he would like to address the question about four of five Council members being members of the Fairfield Mountains POA. The Mayor pointed out that all five Council members are also members of the Lake Lure Lakefront Owners Association. Mayor Powell asked what financial interests does the Town Council have by being either a member of the Fairfield Mountains POA or the LLLOA? He stated that in his opinion, Town Council has no financial interests and/or conflict of interest regarding their memberships. The Mayor asked Attorney Callahan to give his legal opinion regarding this matter.

Attorney Callahan said prior to the previous Town Council meeting, he was asked by two Council members and the Town Manager brought to his attention that four of the five Council members were members of the POA and the question was asked of him, did that create a conflict of interest disqualifying them from voting on the matters regarding the Fairfield Mountains POA request for additional boat slips. In his opinion, there was no conflict of interest based on the information given to him. Mr. Callahan explained the law on this subject is in North Carolina G.S. 160A-75 which says "no member shall be excused from voting except upon matters involving the consideration of his own financial interest or official conduct." Mr. Callahan said he was informed that none of the four Council members were employees of the POA, and therefore, receiving salaries, none of the four Council members or spouses were officers in the POA, and he was advised that none of the four Council members anticipated in any way that their decision would make a financial difference to them. Based upon that information given to him, in his opinion there was no conflict of interest.

Page 5 - Minutes of the April 13, 1999 Regular Council Meeting

Commissioner Cobb said she would like to address the POA membership per se. Commissioner Stanier is an owner of the Lodge on Lake Lure and is a member of the POA because his wife wanting to use the swimming facilities and just socialize. She said Commissioner Rose's membership had been grandfathered in with the POA and Commissioner Rose thought it would be an adverse effect and not a political gain. Commissioner Cobb said she believed the Powells joined for social reasons. Commissioner Cobb stated she was not solicited by anyone on the POA board. She explained her reason for supporting more boat slips. She said that in her opinion, it was the right thing that needed to be done and thought it would serve the whole community well.

Attorney Callahan stated that just being a member of an organization, doesn't mean that you have a conflict as for voting. It's when you have a direct substantial financial interest.

The Mayor said based on Attorney Callahan's opinion, the Town Council does not have a conflict of interest or any financial gain.

CONSENT AGENDA

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

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

- a. Approved Minutes of March 16, 1999 (Regular Meeting/Town Workshop Meeting/Closed Session Meeting);
- b. Approved the Hickory Nut Gorge Chamber of Commerce request to hold a fireworks display on Sunday, July 4, 1999 at the Lake Lure Town Pavilion area; and authorized the Lake Lure Police Department and Fire Coordinator to assist during this event;
- c. Approved the Lake Lure Lakefront Owners Association to reserve the Lake Lure Community Hall in the Municipal Building on July 7, 1999 to hold their annual meeting from 5:30 p.m. until 8:30 p.m. and suspend the Town ordinance prohibiting alcoholic beverages during the time of this meeting; and
- d. Awarded bid to Whelen Engineering Company as vendor for siren systems in the amount of \$96,184 (FEMA monies).

End of Consent Agenda

OLD BUSINESS

- a. 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. Second Reading.**

Mayor Powell said the proposed ordinance no. 99-04-13A regarding marinas was presented at the last regular Town Council meeting and it was voted on the first reading. The Mayor explained this ordinance received a majority of the votes, but did not pass on the first reading because it required a two-thirds vote of all the members of Council in order to carry. He said, Council will be revoting on the proposed ordinance amendment on its second reading. Mayor Powell read the proposed amendment which states: "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."

Commissioner Rose moved, seconded by Commissioner Sheffield, to table the proposed ordinance amendment until a comprehensive study has been made and this study should be undertaken by the Lake Advisory Committee with financial support to them for an outside consultant.

Town Manager Place explained the effect of the motion to be considered. At this time, there is no limitation on the number of marinas that individuals can apply for; they can apply for marinas any place zoned R-3 or commercial. He explained the proposed amendment would limit the number of marinas to three. Mr. Place stated there are already three marinas at this time. He said if Council tables the adoption of this amendment, then anyone can apply for a marina, unless Council extends the moratorium. Mr. Place stated there was a moratorium in place, but it was only for 30 days to allow time to reconsider the ordinance amendment once again. He said the intent of the ordinance was not to open it up, but to restrict it.

Attorney Callahan stated that if the proposed ordinance amendment is passed tonight limiting the number of marinas to three which would prohibit additional marinas, then Council could also vote to do a study. He said they could come back after the study and do away with this ordinance (perhaps changing the number of marinas to 4, 5, or so on).

Town Manager Place suggested the current motion made by Commissioner Rose be amended.

After discussion, Commissioner Rose withdrew her previous motion. Commissioner Rose restated her motion to read "there shall not be more than three marinas allowed on the lake; and that a study be made on the use of the lake". Commissioner Sheffield seconded the motion.

Commissioner Stanier stated he did not think there was any objection or question with regards to the fact the town needs a study made on the use of the lake (whether it be for

Page 7 - Minutes of the April 13, 1999 Regular Council Meeting

marinas, number of boats, permits, fishing & etc). Commissioner Stanier said he did not think it was necessary to combine the study in the amended motion with regards to three marinas being allowed on the lake. He recommended addressing the study issue separate.

Commissioner Cobb agreed with Mr. Stanier that the Town do a study on the use of the lake. She said everyone agreed at the last Town Council meeting there was a need for a study.

Mayor Powell stated that after the last town meeting he had talked with Clyde Lusk, retired coast guard admiral. He said Mr. Lusk had dealt with safety/boating issues all of his life. The Mayor said he had asked Mr. Lusk to review a packet of public information regarding lake issues. Since, then Mr. Lusk had responded by memorandum on April 12, 1999 regarding a proposed use of the lake study. (copy of memo attached). The Mayor distributed copies of Mr. Lusk's memorandum to Council members for review. He also read aloud the following conclusion from Mr. Lusk's memo.

At the end of two years you should have an enormous amount of data that has both empirical and subjective parts, results of trials of several of the safety suggestions obtained in your initial effort, and the attention and confidence of your whole constituency, many of whom have participated. That will be time to charter your full use of the lake study. By then you'll even have figured who you want on the study group.

The Mayor said it would be inappropriate for Council to make a decision on this study at this time. He explained this is a long range proposition and there is no use for the town to decide how to do it or who to do it, without looking at all of the alternatives.

Commissioner Sheffield said he had read Mr. Lusk's memorandum. He recommends that a study be done now before any more damage.

After discussion, Mayor Powell called for a vote on Commissioners Rose's motion as stated. Commissioners Rose and Sheffield voted in favor of the motion. Commissioners Cobb and Stainer voted against the motion. Mayor Powell voted against the motion breaking the tie vote. Therefore, the motion did not carry with a vote 2 to 3.

Mayor Powell called for another motion which was made by Commissioner Stainer, seconded by Commissioner Cobb, to approve Ordinance No. 99-04-13A as presented. Commissioners Stanier and Cobb 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 majority vote of 3 to 2 on the second reading.

ORDINANCE NO. 99-04-13 A

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

Page 8 - Minutes of the April 13, 1999 Regular Council Meeting

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:

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 13th day of April, 1999.

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

Jack Powell, Mayor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

OLD BUSINESS
b. Lake Lure Tours Contract

Rick Coley, President of Lake Lure Tours, asked Council members to consider extending the concession agreement for the scenic passenger boat service until December 1, 2003 (5-years) with an option to cancel the contract after December 1, 2000 with a 12-month advance notice. Mr. Coley said the concession agreement between LLT and the town expires in December 2000. The concession agreement was renewed at the December 1998 town meeting. He explained that a 12-month notice would give LLT the ability to create and implement a reasonable exit strategy in closing a business.

Attorney Callahan said there is a good reason for treating the Lake Lure Tours totally different than the beach and marina. He explained the Lake Lure Tours is a nonexclusive concession to operate a scenic passenger boat service out on the waters of Lake Lure. Mr. Callahan said he did not have a problem with the town entering into a five year concession agreement with the Lake Lure Tours for the scenic boat service. Mr. Callahan recommended the town not combine the beach and marina agreement together with the boat service concession agreement.

Page 9 - Minutes of the April 13, 1999 Regular Council Meeting

Commissioner Stanier moved, seconded by Commissioner Cobb, to extend the concession agreement for the Lake Lure Tours scenic passenger boat service for five years (December 1, 2003) with a one year termination clause to cancel the contract which would begin on January 1, 2000; details for the contract are to be worked out between Rick Coley, Lake Lure Tours Pres., and the Town Manager; and then the contract be resubmitted to Council for approval. The vote of approval was unanimous.

NEW BUSINESS

a. Report from the Strategic Planning Steering Committee

Mayor Powell presented a slide show presentation of the Lake Lure Strategic Planning Steering Committee members and supporting staff members.

Chairman Jack Mowat presented a report on the recommendations from the Strategic Planning Steering Committee. This report was made available for the public to review. (Copy of report attached). Mr. Mowat said this report is divided into four sections (finance and infrastructure; environmental issues; economic potential; and quality of life) of subcommittees recommendations. Blaine Cox, SPSC member, reported on the recommendations from the finance and infrastructure subcommittee. Bob Washburn, SPSC member, reported on the recommendations from the environmental issues subcommittee. Fred Noble, SPSC member, reported on the recommendations from the economic potential subcommittee. Jack Mowat, SPSC Chairman, reported on the recommendations from the quality of life subcommittee.

Town Manager Place praised the SPSC members for their dedication to the community and for the excellent work done by this committee. Mayor Powell said Town Council also shares the same appreciation of the SPSC.

Mayor Powell suggested that Council members consider having a public hearing at the May 11th regular Town Council meeting and the June 8th regular Town Council meeting in order to receive citizen comments regarding the Strategic Planning Steering Committee report and recommendations. The Mayor announced he would post the SPSC report/recommendations on the Town's website.

Commissioner Cobb moved, seconded by Commissioner Rose, to schedule two consecutive public hearings at the regular scheduled Town Council meeting on May 11th and June 8th to be held at 7:00 p.m. or thereafter, in the Municipal Center building for the purpose of receiving citizen comments about the Strategic Planning Committee report and recommendations. The vote of approval was unanimous.

Carolyn Cobb, said as Mayor Protem, she would like to take this opportunity to thank Mayor Powell for his contribution to the SPSC.

Page 10 - Minutes of the April 13, 1999 Regular Council Meeting

The Mayor stated that Council members at their Town Council retreat meeting last week, discussed the question of how to deal with the Strategic Plan now. He named two other documents which included the Lake Management Outline and the Land Use Plan which contained various suggestions. Mayor Powell explained that a matrix would be set up using these three documents mentioned, because there are some duplications. Next, he said items of suggestions/recommendations would be prioritized in the order they need to be addressed first and then, perhaps schedule these items into a long-term plan so that action plans can be adopted. The Mayor invited everyone to attend the upcoming meetings to come and share their input.

Jack Mowat, SPSC Chairman, was publicly thanked by the Mayor for his work and dedication to the SPSC.

<p style="text-align: center;">NEW BUSINESS</p> <p>b. Request by Gale Wilson to use Town Property for a Bi-Annual Conference Event</p>
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Gale Williams Wilson, a representative of Hermann International, presented a letter of March 30, 1999 addressed to the Town Manager, requesting permission to use Town property for a bi-annual conference event to be held on May 19-21, 1999 including a program called the "Labyrinth" facilitated by Joe Miguez on Thursday night, May 20th. Mrs. Wilson said the event is an actual maze laid out on the ground in which participants go through a self-directed journey and using problem solving skills to emerge on the other side. She explained the components of a labyrinth include about 1,500 small shingling type nails which go about three inches into the ground to hold the canvas walls down. She said the only other sign of the labyrinth is the pathway where participants walk. Approximately 40-50 adults are expected to attend this event. Setup takes around 4 hours and about 20 minutes to take down. The dimensions of the labyrinth are 44 feet in diameter with 18 inches of pathway including walls of approximately 15-16 feet in height. Mrs. Wilson said arrangements have been made to hold the labyrinth event at the Lake Lure Conference Center should it rain.

The Town Manager stated that the staff has no objection to this proposal.

Commissioner Cobb moved, seconded by Commissioner Sheffield, to approve Mrs. Wilson's request for Hermann International to hold a "Labyrinth" event on May 20, 1999 to use the ball field area owned by the Town. The vote of approval was unanimous.

<p style="text-align: center;">NEW BUSINESS</p> <p>c. Request to Construct a Town Hall Dock</p>

Police Chief Mike Bustle submitted to Council members a memorandum of March 24, 1999 regarding the construction of a town hall dock. Chief Bustle said the construction of a

dock at the rear of town hall, near the police department would facilitate a more efficient patrol of the lake. He said this dock would expedite police officers response to lake patrol duties by allowing quick access to the police boat and the department by lake patrol personnel. Chief Bustle explained this dock could also serve the Lake Lure citizenry as boat access to the town hall and services therein. The Chief presented to Council members three different proposals for their approval concerning the design and construction of a boat dock for the municipal complex at Lake Lure.

Mayor Powell asked Council members to state whether or not they were conceptually in favor of approving the construction of a town hall dock. Commissioners Cobb, Rose, and Stanier said they were in favor of a town hall dock.

After discussion, Commissioner Sheffield moved, seconded by Commissioner Rose, to table the request to construct a town hall dock until the next regular Town Council meeting on May 11, 1999. The vote of approval was unanimous.

NEW BUSINESS

d. Adopt Proclamation Designating The First Thursday in May, 1999 as "A Day of Prayer in Lake Lure"

Mayor Powell read into the record the proclamation no 99-1 designating the first Thursday in May, 1999 as "A Day of Prayer in Lake Lure".

PROCLAMATION NO. 99-1

WHEREAS, Civic Prayers and national days of prayer have a long and venerable history in our constitutional republic, dating back to the First Continental Congress in 1775; and

WHEREAS, The Declaration of Independence, our first statement as Americans of national purpose and identity, made "the Laws of Nature and Nature's God" the foundation of our United States of America and asserted that people have inalienable rights that are God-given; and

WHEREAS, The Supreme Court has affirmed the right of state legislatures to open their sessions with prayer and the Supreme Court and the U.S. Congress themselves begin each day with prayer; and

WHEREAS, In 1988, legislation setting aside the first Thursday in May in each year as a National Day of Prayer was passed unanimously by both Houses of Congress and signed by President Ronald Reagan; and

WHEREAS, The National Day of Prayer is an opportunity for Americans of all faiths to join in united prayer to acknowledge our dependence on God, to give thanks for blessings received, to request healing for wounds endured, and to ask God to guide our leaders and bring wholeness to the United States and her citizens; and

WHEREAS, It is fitting and proper to give thanks to God by observing a day of prayer in The Town of Lake Lure when all may acknowledge our blessings and express gratitude for them, while recognizing the need for strengthening religious and moral values in our State and nation;

Page 12 - Minutes of the April 13, 1999 Regular Council Meeting

Now, therefore, I, Jack Powell, Mayor of the Town of Lake Lure, do hereby proclaim the first Thursday in May, 1999, to be designated as

"A DAY OF PRAYER IN LAKE LURE"

and encourage the citizens of Lake Lure to observe the day in ways appropriate to its importance and significance.

Proclaimed this the 13th day of April, 1999.

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

Mayor Jack Powell

OTHER NEW BUSINESS

e. Discuss Commercial Use of the Lake

Town Manager Place read into the record the following memorandum of April 13, 1999 addressed to Town Council regarding "Commercial Use of the Lake":

Throughout the long discussions regarding the use if the lake and density of use, there has been a continuing thread of concern over commercial activities, in particular commercial water ski operations. To date, two such operations have been proposed and various parties have suggested establishing a moratorium on the approval of these activities.

There are currently no regulations or standards regarding this or any other commercial use upon Lake Lure. As there are no standards, you are limited in your ability to either regulate, refuse to permit or create a moratorium on such operations. While Council may act to create such regulations, this will require amending Chapter 85 (the Lake Regulations), a process which would take upwards of 60 to 90 days.

There is a provision (Section 85.56(A)), however, that states, "Various fees shall be assessed for water vehicle permits for residents, non-residents, dealers, and commercial establishments (both resident and non-resident) and shall be as established by the Board of Commissioners pursuant to a schedule adopted from time to time. A copy of the schedule of current fees shall be kept at all times in the town office."

This means that you have the authority to establish and adopt permit fees for commercial operations at any regular or special meeting of the Council. The fees may be any amount you feel appropriate, however they would have to be paid before receiving a permit. At this point, you would be able to impose a limited moratorium on the issuance of any class of permit you desire. Limited in that you should specify

Page 13 - Minutes of the April 13, 1999 Regular Council Meeting

the basis for the moratorium and the length of time the moratorium will be in effect (just like you did for the adult entertainment).

Even if you elect not to impose a moratorium, I do recommend consideration of a permit requirement, including fee, for commercial operations on the lake. I would further recommend exempting commercial activities that are accessory to (and owned and operated by) resorts, camps, hotels/motels and inns from any moratorium.

Mr. Place said his recommendation mentioned in the last paragraph is consistent with other provisions of the lake regulations. In his closing statement, he asks Council to let him know if they want to pursue this matter.

Mayor Powell asked Council members to share their comments with regards to the suggestions outlined in the Town Manager's memorandum.

Mr. Place said he would like to make a clarification about timing. If it is determined that Council does not wish to impose a moratorium, then there is no urgency to adopt a fee tonight. Council can study this; make what other comparisons they wish to and adopt the fee at some point in the future. On the other hand, if Council does collectively determine that their wish is to impose a moratorium for some period of time to allow for further study, then Council needs to adopt a fee tonight of whatever amount they elect, put that in effect and make it a part of the fees schedule. Then, move to impose a moratorium on the issuance of any permits, until such time a study has been completed.

Mayor Powell said Council was concerned about new activities taking place on the lake and safety issues. The Mayor also voiced his opinion about the effect on the lake with regards to additional commercial water ski operations.

Rick Coley, President of the Lake Lure Tours, talked about the effects of ski boats vs pontoon boats on the lake.

Commissioner Cobb stated there needs to be some type of control on limiting the number of ski school operations on the lake.

Paul Nealon, President of the Fairfield Mountains POA, said he had just recently received a proposal from Ski Lake Lure, Inc. which is a non-resident operation, to run a ski school operation at Fairfield Mountains. Mr. Nealon stated that Fairfield Mountains POA is not against residents water skiing, but are opposed to any new commercial ski school operations on the lake. He said the POA is concerned about the impact from a safety stand point for boaters and swimmers. Mr. Nealon stated they are also concerned about the noise ski boats make and the ecology of the lake. He said the POA respects the existing ski school operations, but recommends Council immediately stop any new or expanded ski operations until a study has been done. He said new wake zones need to be set and these wake zones could be requested

Page 14 - Minutes of the April 13, 1999 Regular Council Meeting

by the individuals who would be affected. Mr. Nealon said there are individuals in the Buffalo Cove area who would like to see the wake zones moved beyond the condominiums, so that any water skiing activity would not be allowed in that cove. He said they would like to see the town regulate the time and place for all lake use of commercial nature. Also, they would like Council to establish fees especially for those commercial adventures which are not related to Inns, hotels, and other commercial operations existing on the lake. Mr. Nealon said the Fairfield Mountains POA has discontinued their ski boat operation on the lake after a lot of thought and discussion. He said ski boats can be measured, as well as, determining their impact/effect on the lake. Mr. Nealon asked Council to consider taking an action so that no one can expand or add to the existing ski school operations.

Bob Washburn, a resident of Lake Lure and Chairman of the Lake Advisory Committee, said there was confusion about a statement made by the Town Manager about studying times of day that certain things could take place. He explained this was not something which was studied or suggested by the Lake Advisory Committee. Mr. Washburn said the Lake Advisory Committee has totally supported the enjoyment of the lake by everyone involved. He conveyed there has been a spirit of harmony, unity, and respect for everyone who has enjoyed the lake since it was created. Mr. Washburn voiced his concerns about comments being made about the expansion of activities with regard to ski schools such as safety, density, environmental issues, and other theories. He stated just because the Lake Advisory Committee asked for a study to be made, does not mean the LAC has not been constantly monitoring the safety, the health, and well being of everyone on the lake. Mr. Washburn said he had a dedicated committee which put together a Lake Management Plan, and helped develop the first Lake Structures Ordinance. Mr. Washburn said in 1992, the LAC submitted ideas to Town Council about regulating certain types of commercial enterprises on the lake along with a questionnaire. Mr. Washburn stated that in 1997 Council asked the LAC once again to provide a revised questionnaire and after doing so, there was nothing done with it. He stated to impose a moratorium on an activity because it is deemed by some people in the community as being unsafe was unfair. The LAC has reviewed the statistics of what takes place on this lake sometimes every month, and at least every year from police reports. After reviewing these reports, they saw no red flags about water skiing. He said they also reviewed boating statistics from the coast guard and in 1987 there were a total of 9,020 accidents in the United States water ways. He reported there has been a downward trend since getting these reports and in 1996 there were a total of 8,005 accidents. Mr. Washburn said the conscious level of safety that is taking place out there is dramatic. He said the most contributing factor to boating accidents is the failure to look at where you are going. Mr. Washburn said in 1987 there were a total of 818 boating accidents and 1996 there were a total of 376 accidents related to water skiing. He stated safety is a non-issue in comparison to other activities whether it is Lake Lure or elsewhere. Mr. Washburn said there were more people injured falling into boats and boarding/getting out of boats than there were water skiing. As far as the environment is concerned, he said there is a major legal issue in California regarding two cycle engines. He said most of the pontoon boats are powered by two cycle engines. Ski boats are powered by inboard marine engines which are the lowest polluting engines on the water. Mr. Washburn mentioned he had operated a ski boat operation

Page 15 - Minutes of the April 13, 1999 Regular Council Meeting

professionally on the lake for years. He said there is a need to promote boating safety classes. Mr. Washburn informed Council that Danny McClinton, a former employee, has operated a ski school on the lake for two years on his own. Mr. Washburn stated he came to Sam Karr, who was the Acting Town Manager at that time, to let him know about Mr. McClinton's intention of marketing a ski school in Lake Lure. Mr. Karr was asked by Mr. Washburn about fees required by the town for commercial use of the lake in order that they be factored in Mr. McClinton's water ski operation budget. Mr. Washburn stated he didn't think it was fair for statements to be made that the town wants to protect the lake and keep it for the residents. He said this is a resort area and people come here to enjoy the lake.

Mayor Powell responded to Mr. Washburn, by saying there are differences of opinions as to whether Council controls the density on the lake by limiting the numbers of boat slips or allows boat slips. He explained boat slips themselves do not create boat density. The Mayor read the following statement made by Admiral Clyde Lusk regarding boat density. According to Admiral Lusk, "any problems we have regarding boat density are somewhat different from those addressed by studies for the National Park Service, Duke Power Company, and other organizations which are somewhat driven toward providing the public with maximum usage that can be sustained without damaging the resource and jeopardizing the users." The Mayor stated he believes safety is an issue. He said Admiral Lusk also stated the following: "we have reason to be delighted with our excellent safety record, but I see no great reason why we should particularly be proud of it. Some have worked for safety but, simply put, we have been lucky! Residents are aware of days when the lake is far more crowded than they prefer and of times when they intuitively think that it is best to refrain from getting underway . . . I do not suggest that a reduction in boat density would result in decreased accidents, or that an increase in density would necessarily cause more accidents." Mayor Powell said this is the reason why a study is needed, because the town's lake is unique. He emphasized that no one is trying to prohibit the activities that have been in place prior to 1998. The Mayor stated that no one is trying to stop Mr. Danny McClinton's ski school operation if he operated in 1998. He said Council's intent is to stop new activities until there is time to assess their effects. Also, the Mayor questioned what type of maximum density can the lake support? He said activities on the lake have to be looked at (such as, identifying activities; what time of day do they occur, and so forth) to determine how the lake will be used and decide what needs to be done. Mayor Powell stated that sooner or later this lake will be surrounded by development and questioned how many types of activities this lake can support. He said businesses want growth and want to bring in tourists to see the area. Mayor Powell said these are issues which Council needs to address for the citizenry. He said Council is not after anyone. The Mayor stated he is trying to be open minded about these issues and trying to be fair to everyone. He mentioned back in 1933 Town Council recognized when they adopted their lake and boating regulations that there was a difference in commercial activity and residential type activity. These differences were reflected in their boat permit fees (\$25.00 permit fee for all commercial boats and \$4.00 permit fee for residential). Other limitations included not allowing a boat operator under the age of 16 to operate a powered boat. There were hourly restrictions at night from 10:00 p.m. until 8:00 a.m. Mayor Powell explained this item was put on the agenda because of concerns about additional

Page 16 - Minutes of the April 13, 1999 Regular Council Meeting

commercial activities on the lake. He said the town needs some type of mechanism to be able to control commercial activity on the lake.

Commissioner Sheffield stated the Lake Advisory Committee has put in numerous hours and works very hard at what they do. He said in his opinion, Council has been careless to some of the LAC recommendations.

Commissioner Stanier said he doesn't believe Council is planning to put limitations on anyone who had an existing operation on the lake in the past. He said a moratorium is needed in order for a study and to see if the lake can handle additional ski school operations or whatever it might be on the lake. Mr. Stanier emphasized the intent of a moratorium is not to penalize those who are already operating commercial uses on the lake.

Council members agreed the commercial use issue needed to be studied more carefully before making any final decisions.

STAFF REPORTS

No staff reports were given.

COUNCIL COMMENTS

There were no additional comments from Council given.

ADJOURNMENT

With no further items of discussion, Commissioner Sheffield moved, seconded by Commissioner Rose, to adjourn the Town meeting. The vote of approval was unanimous.

ATTEST:



Mary A. Flack, CMC/AAE
Town Clerk


Mayor Jack Powell