

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, AUGUST 12, 2003, 7:00 P.M. AT THE LAKE LURE MUNICIPAL
CENTER**

PRESENT: Mayor Jim Proctor
Commissioner Blaine Cox
Commissioner Lea Hullender
Commissioner Dick McCallum
Commissioner George Pressley

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

ABSENT: N/A

CALL TO ORDER

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

INVOCATION

Commissioner McCallum gave the invocation.

APPROVE AGENDA

Commissioner Hullender made a motion to approve the agenda as amended tabling item 7b (consider request from Gordon Blackwell to replace sand on his lake shore property). Commissioner McCallum seconded the motion and the vote of approval was unanimous.

PUBLIC FORUM

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

CONSENT AGENDA

Mayor Proctor presented the consent agenda and asked if any item should be removed before calling for action. A motion was made by Commissioner Cox to approve the following consent agenda items as presented and Commissioner McCallum seconded the motion. Therefore, the consent agenda, incorporating the following items was unanimously approved:

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- a. minutes of July 8, 2003 (regular meeting and closed session), and July 16, 2003 (recessed regular meeting and closed session);
- b. request from Jake Grove and Stella Creager to suspend the town alcohol ordinance in order to serve beer, wine, and champagne during a wedding reception inside the Community Hall of the Lake Lure Municipal Center on June 4, 2004, from 9:30 a.m. until 9:00 p.m.; and
- c. request from Stanley Long to: (1) hold the Annual F-100 Truck Show "Run to the Rock" on town property adjacent to the Lake Lure Community Center on September 19-21, 2003; (2) town provide a Mayor's choice trophy and (3) suspend the town's peddling ordinance in order that food, t-shirts, truck parts, and other items may be sold on site during the show.

End of Consent Agenda

NEW BUSINESS:

a. Clarification on a Request from Terry Cole Regarding Christian Music Festival to be Held on Town Property, September 26-27, 2003

Town Manager Place verified approval for a request from Terry Cole, Vice President of Lake Lure Tours, Inc., regarding a Christian Music Festival being held on town property on September 26-27, 2003 for exclusive use of the town beach, meadow, Memorial Point and the Community Hall.

NEW BUSINESS

b. Consider Request from Gordon Blackwell to Replace Sand on His Lake Shore Property

After discussion, Council members agreed to table a request from Gordon Blackwell to replace sand on his Lake Shore property.

NEW BUSINESS:

c. Consider Funding for the North Carolina GreenPower Program

Town Manager Place read into the record his memorandum of July 22, 2003 regarding the North Carolina GreenPower Program. (Copy of memorandum of July 22, 2003 attached). Mr. Place distributed to Council members a copy of a memorandum of August 7, 2003 from Andy Givens, Cardinal Energy Service, Inc., pertaining to joint qualifications package regarding the North Carolina GreenPower Program. (Copy of memorandum of August 7, 2003 attached).

After discussion, Commissioner McCallum made a motion to approve a budget amendment of \$1,250.00 to be transferred from the hydro-electric fund (account #394300.9100 contribution to fund balance) to the hydro-electric fund (account #394300.0400 professional services) to cover the cost of Cardinal Energy Service, Inc. to prepare a package for the Town of Lake Lure to participate in the North Carolina GreenPower Program funding. Commissioner Pressley seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

d. Adopt Resolution No. 03-08-12 Approving the Agreement for Project E-4819, the Town Center Pedestrian Walkway, and Authorizing the Mayor and Town Clerk to Sign and Execute Said Agreement

Town Manager Place read into the record his memorandum of August 8, 2003 regarding the NCDOT Enhancement Project Agreement. (Copy of memorandum attached).

After review, Commissioner Cox made a motion to approve Resolution No.03-08-12 (approving the agreement for Project E-4819, the town center pedestrian walkway, and authorizing the Mayor and Town Clerk to sign and execute said agreement) as presented. Commissioner Hullender seconded the motion and the vote of approval was unanimous. (Copy of Enhancement Agreement for Project E-4819 attached).

RESOLUTION NO. 03-08-12

**COPY OF A RESOLUTION PASSED BY THE TOWN COUNCIL
OF THE TOWN OF LAKE LURE, NORTH CAROLINA**

A motion was made by Commissioner Blaine Cox and seconded by Commissioner Lea Hullender for the adoption of the following Resolution, and upon being put to a vote was duly adopted:

WHEREAS, the Municipality has requested enhancement funding for the construction of a pedestrian system utilizing asphalt paths that will parallel Memorial Highway (US 64/74A) in Lake Lure, Rutherford County, North Carolina; and,

WHEREAS, the Department of Transportation has programmed funding in the 2002-2008 Transportation Improvement Program, as revised, for said construction under Project E-4819, Rutherford County; and

WHEREAS, the Municipality proposes to enter into an Agreement with the North Carolina Department of Transportation for said improvements as described in said Agreement; and,

WHEREAS, under the proposed Agreement and subject to the Agreement provisions, the Department shall reimburse the Municipality for the approved eligible costs covered under this Agreement up to the maximum federal award of \$118,501; and,

WHEREAS, the Municipality shall provide at least twenty percent (20%) matching funds and all costs that exceed the federal award of \$118,501; and,

WHEREAS, the Municipality, as of this date, was designated by the Department of Commerce as being in a Tier II county; therefore, the appraised value of the project right of way will be used to meet the local matching funds requirement. If the appraised value of the project right of way does not equal \$29,625 (20% of the estimated project costs of \$148,126), then the Municipality will be required to contribute a cash match for the balance of the required matching funds.

NOW, THEREFORE, BE IT RESOLVED that the Agreement for Project E-4819, in

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Rutherford County is hereby formally approved by the Town Council of the Town of Lake Lure, and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the required Agreement with the Department of Transportation.

I, Mary A. Flack, Clerk of the Town of Lake Lure, do hereby certify that the foregoing is a true and correct copy of excerpts from the Minutes of the meeting of the Town Council duly held on the 12th day of August, 2003.

WITNESS, my hand and the official seal of said Municipality on this 12th day of August, 2003.

(MUNICIPAL SEAL)

Walter Gilbert, resident of Yacht Island Drive, said he was in favor of the town center pedestrian walkway. However, he would like for the Town Council to consider providing more boat slips on an existing town dock near the walkway across from the Lake Lure Inn for citizens to park their boats temporarily. Mr. Gilbert said in the past, this dock provided more slips before the last flood.

Commissioner McCallum stated that the town provides docking behind the Lake Lure Town Hall and near the Lake Lure ABC Store. Citizens are allowed to park their boats at these docks temporarily.

NEW BUSINESS:

e. Discussion Regarding Lowering of the Lake Level

Commissioner Pressley reviewed a memorandum of August 11, 2003 from the Lake Advisory Committee outlining their recommendations regarding the lowering of the lake level. (Copy of LAC memorandum attached). The Lake Advisory Committee recommends that the lake be lowered as quickly as possible beginning December 1, 2003 (December 8, 2003 if the Christmas boat parade cannot be rescheduled) and raised as quickly as possible ten weeks later in the hope that it will be back to full pond by March 1, 2004.

Mayor Proctor stated that the Hickory Nut Gorge Chamber of Commerce has already spent money advertising the boat parade.

After discussion, Commissioner Pressley made a motion to begin lowering the lake level effective December 8, 2003 after the annual Christmas boat parade and raising the lake level back to full pond by March 1, 2004. Also, authorize the town manager to determine up to a three week grace period at his discretion. Commissioner Cox seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

f. Consider Merit Pay Policy

Town Manager Place read into the record his memorandum of August 5, 2003 regarding a Merit Pay Policy and a proposed amendment to the personnel policy. (Copy of memorandum and

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proposed amendment to the personnel policy attached).

Town Manager Place said that he would like to have a merit pay policy in effect this year.

After discussion, Council members agreed to appoint Mayor Proctor and Commissioner Pressley to work with the Town Manager to draft a revised amendment to the personnel policy regarding merit pay and bring it back for consideration at the next town council meeting on Tuesday, September 9, 2003.

STAFF REPORTS

Town Manager Place reported on the following:

1. The town staff has continued to test the water in the vicinity of the beach and marina area. The latest test shows that all areas except one are well below the town's self-imposed threshold of 200 fecal coliform colonies per 100 ml of water. Mr. Place said that one area is just 30 points high and was very low in previous tests, leading him to believe this test is an anomaly. Town staff are testing every other day for the rest of the week and will continue to monitor the swimming area through the rest of the swimming season.
2. Mr. Place said he is continuing to collect information regarding House Bill 273 entitled *Adverse Reactions to Smallpox Vaccination* which was signed into law last month. Mr. Place said this new law will require that local and state government will have to adopt a policy that will exempt employees who become ill as a result of smallpox inoculations from being charged for sick time. The town will have until September 10 to modify their policies. Mr. Place will submit a draft at the next town meeting for approval.
3. An arrangement has been made with GDS to supply a dumpster for large events held in Morse Park. Mr. Place explained the cost will be \$90 for a three day weekend (Friday through Sunday). He said this \$90 will be an additional fee charged for all park area reservations made holding events which include vendors. Mr. Place asked Town Council to approve this additional fee.

After discussion, Commissioner Cox made a motion to require renters of events held on town property including vendors to provide their own dumpster during the event. If the town provides a dumpster for the event, an additional fee charge for the dumpster will be added at a rate of actual cost to the town instead of the \$90. Commissioner Pressley seconded the motion and the vote of approval was unanimous.

4. Nick Stove, Northland Cable's Regional Manager, informed Mr. Place this morning that the problem with the reception quality has been fixed and should be operating normally again. There was a problem with an amplifier on Young's Mountain.
5. Clint Calhoun started work as the new Erosion Control Specialist. Mr. Calhoun will be officially introduced to the Upper Broad River Watershed Protection Committee at their next meeting being held this Friday at 9:00 a.m. Mr. Place said everyone is invited to attend this meeting.
6. Hydro Plant Operator William Grimes informed Mr. Place that the town is still generating money at the power plant. Mr. Place distributed copies of a report prepared by him showing

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monthly income from power generation since July 2001. He explained that this report shows how dramatic the change has been since Lake Lure started getting rains on a regular basis again. For example, the town made more money during the months of May and June than in all of fiscal year 2001/2002. Mr. Place said the income from the final three months of the last fiscal year exceeded the budget projection for the entire year, and this July's income was over five times that of last July! (Copy of monthly income from power generation report attached).

<p style="text-align: center;">COUNCIL COMMENTS</p>
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Commissioner Cox stated that the Planning and Zoning Board preferred requests from Town Council to be presented to them in writing from the Mayor. Commissioner Cox requested that the zoning and planning board, the zoning administrator, and the town manager be asked to develop regulations for the following items: (1) metal and fabric structures being placed along the main highway through Lake Lure, and (2) clear cutting of trees on properties along a scenic highway. Commissioner Cox said he was concerned about the appearance and design of structures along the main thorough fares in Lake Lure whether they are metal, fabric, or other material. He is also concerned with the appearance of clear cutting of trees.

Town Manager Place agreed to help develop regulations addressing these concerns mentioned by Commissioner Cox.

Commissioner Cox suggested that Town Council set a time frame (within 90 days) for the zoning and planning board to develop regulations addressing the issues mentioned by him and council members.

Mayor Proctor agreed to write the letter to the zoning and planning board asking them to develop regulations addressing the concerns mentioned by town council members.

Commissioner Pressley reported on recommendations from the Lake Advisory Committee. He said the LAC stated in their memorandum of August 11, 2003 that while there was a significant improvement in the patrol activities on the lake over July 4th week, lake front residents are reporting a recent increase in violations of the "slow - no wake" speed after dark ordinance on the weekend nights. The LAC suggests that a visible patrol presence and the issuance of citations to offenders would quickly correct this safety issue. Commissioner Pressley said he has personally witnessed an incident involving a ski boat with lights off and skiing late at night around 10:00 p.m. near Larkins Restaurant.

Police Chief Mike Bustle responded to recommendations suggested by the Lake Advisory Committee. He asked that individuals report incidents when they occur to the Lake Lure Police Department so they can respond immediately.

Commissioner Pressley said the LAC recommends that council review the current Lake Structures Regulations with regard to structure certification. In light of the recent collapse of a boat house that had a massive deck on top of it, LAC suggest that the town's legal council review the regulations to make sure that the town is not assuming any liability by performing or not performing the certification inspections. Initially the inspections were to take place every three years beginning in 1994. It was then changed to every five years. Based on LAC's knowledge, no re-certification inspections have occurred in the past nine years.

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Town Attorney Callahan agreed to prepare an opinion in writing regarding any potential liability that might accrue to the town for either issuing or failing to issue a lake structure permit under the current regulations.

Commissioner Pressley asked Town Manager Place to report on the status of the lake structures certification program.

Town Manager Place said currently there is a staffing problem with regards to the lake structures certification program. He said perhaps the Lake Advisory Committee or volunteers could help with this program.

Commissioner Pressley suggested that the certifications program be addressed further at a later date to work out details on this program.

Commissioner McCallum stated that he received calls from several citizens complimenting town employees including Betty Hinson, Ron Morgan, and William Grimes.

Mayor Proctor announced the "Ride for Kids" event sponsored by the Pediatric Brain Tumor Foundation was being held on August 24, 2003. The Mayor mentioned that he was accepting donations for this event.

The Mayor named candidates running for the upcoming election in November. He presented to Chuck Watkins, a candidate for commissioner, a copy of the "Rules of Procedure for Lake Lure Town Council."

Mayor Proctor reported on Senate Bill 89 (an act to establish the Lake Lure Marine Commission). He asked Council members to adopt a resolution calling for a public hearing at the next town council meeting to establish a Lake Lure Marine Commission.

A motion was made by Commissioner McCallum to adopt Resolution No. 03-08-12A calling for a public hearing to be held at the next regular council meeting on Tuesday, September 9, 2003, at 7:00 p.m. or thereafter, at the Council meeting room in the Municipal Center to consider adopting an ordinance to establish a Lake Lure Marine Commission as presented by Town Attorney Callahan. Commissioner Hullender seconded the motion and the vote of approval was unanimous. (Copy of Resolution No. 03-08-12A attached).

Mayor Proctor asked Town Attorney Callahan to provide a memorandum to Town Council describing the town's ownership rights in the lake and to the land up to the 995 foot contour line within the next couple of months.

Town Attorney Callahan outlined the process of establishing a marine commission.

Commissioner Pressley suggested that the Lake Advisory Committee be asked to review their Lake Management Plan prepared by them once again regarding lake density in order to update their report and present their recommendations to Town Council for consideration. Then, schedule a joint workshop meeting to discuss lake density issues.

ADJOURNMENT

With no further items of discussion, Commissioner Cox made a motion to adjourn the

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meeting at 9:00 p.m. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor