

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, SEPTEMBER 14, 2004, 7:00 P.M. AT THE LAKE LURE MUNICIPAL
CENTER**

PRESENT: Mayor Jim Proctor
Commissioner Blaine Cox
Commissioner Lea Hullender
Commissioner Dick McCallum
Commissioner Chuck Watkins

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

Town Attorney Callahan gave the invocation.

APPROVE THE AGENDA

After discussion, Commissioner Hullender made a motion to approve the agenda as amended by adding an item under new business as 10 d. (award bid for the town's water system improvements project). Commissioner McCallum seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING - PROPOSED ORDINANCE NO. 04-09-14 AMENDING THE ZONING
MAP OF THE TOWN OF LAKE LURE TO REZONE 1.79 ACRES OF PROPERTY FROM
R-1 (RESIDENTIAL) to CG (COMMERCIAL, GENERAL) REGARDING PETITION RZ-04-
03 REDMOND**

Mayor Proctor opened the public hearing regarding the proposed amendment to the zoning map of the Town of Lake Lure to rezone 1.79 acres of property from R-1 (Residential) to CG (Commercial, General) regarding petition RZ-04-03 Redmond.

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Town Manager Place read into the record his memorandum dated September 10, 2004 regarding Jody Redmond's petition to rezone 1.79 acres of property from R-1 (Residential) to CG (Commercial, General). (Copy of memorandum attached).

Jody Redmond asked town council to approve his petition to rezone his property.

Mayor Proctor invited citizens to speak during the public hearing. Lake Lure residents Pat Mitchell, Joyce Brackett and Dr. Steve Stewart asked town council to not approve Mr. Redmond's petition to rezone his property.

After discussion, Commissioner Cox made a motion to close the public hearing. Commissioner Hullender seconded the motion and the vote of approval was unanimous.

Adopt Ordinance No. 04-09-14 Amending the Zoning Map of the Town of Lake Lure to Rezone 1.79 Acres of Property From R-1 (Residential) to CG (Commercial, General) Regarding Petition RZ-04-03 Redmond

After discussion, Commissioner Hullender made a motion to deny approval of Jody Redmond's petition RZ-04-03 and to not adopt Ordinance No. 04-09-14. Commissioner Cox seconded the motion and the vote of approval was unanimous.

HEARING - APPEAL FROM THE DECISION OF THE LAKE STRUCTURES APPEALS BOARD (CASE NUMBERS LSA-04-02 & LSA-04-03 MICHAEL & DAYNA COLE

Mayor Proctor opened the meeting regarding the appeal from the decision of the Lake Structures Appeals Board (case numbers LSA-04-02 and LSA-04-03 Michael and Dayna Cole). The Mayor said as per the Lake Structures Regulations for the Town of Lake Lure, this is a hearing of record to discuss the decision of the Lake Structures Board for case number LSA-04-02.

The Mayor invited Attorney Robert Mebane, who is speaking on behalf of Michael and Dayna Cole to come forward, and state his name for the record. Attorney Mebane briefed council members on his clients position with regards to the dispute regarding lake structure permits issued by the town to his clients for boat docks. Attorney Mebane passed around copies of photos and drawings of Michael and Dayna Cole's boat docks. Attorney Mebane stated that his clients did everything they were asked to do by the town. He explained his clients submitted to the town a complete set of surveyed drawings with the proposed docks and these docks were built according to those drawings. Attorney Mebane said his clients have invested a lot of money on their property building retaining walls and boat docks based on the town's approval for their Lake Structures permits LSP-03-26 and LSP-03-27. Attorney Mebane asked town council to grant his clients a variance based on the fact his clients acted in good faith with the town and done only what was authorized on their permits with the town.

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Town Manager Place stated that Mr. and Mrs. Cole were issued lake structures permits in error by a former town zoning administrator. Mr. Place explained that the Cole's were not at fault and had submitted all the appropriate information on their permits. Mr. Place stated that the Cole's were asked to stop construction based on the fact these permits were issued in error by the town's former zoning administrator and that the Cole's lots for these boat docks had less than the minimum shoreline width required.

Mayor Proctor invited Council members to speak regarding this hearing. After discussion, Commissioner McCallum made a motion to close the hearing and Commissioner Cox seconded the motion. The vote of approval was unanimous.

After reviewing the facts presented regarding the appeal from the decision of the Lake Structures Appeals Board case numbers LSA-04-02 and LSA-04-03, Commissioner Cox made a motion to grant variances to Michael and Dayna Cole contingent upon certain stipulations to be outlined by the town manager to the Cole's including: (1) allowing a variance for the shoreline width required for both lake structures permits (LSA-04-02 and LSA-04-03); (2) do not allow cluster moorings on these properties; and (3) limit no more than two boat slips per lot (maximum 4 slips on combined properties). 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. The following individuals requested to speak.

Bill Bush, a Lake Lure resident, asked town council to consider revising the town's ordinance to regulate the use of four wheeler ATV's in Lake Lure because of the noise and environmental damage to property caused by them. Town Attorney Callahan stated that there is no state statute restricting the use of ATV's. Mr. Callahan said if someone was trespassing on their property with these ATV's to notify the police department. Town Manager Place suggested that Mr. Bush contact nearby property owners asking them to post no trespassing signs and notify the police department in writing of these properties posted.

Joan Zipeto, business owner of the Bookworm's Hole in Lake Lure, asked town council to give her authorization to provide horse carriage rides in Lake Lure during certain months to raise funds for charities. Town Council requested that Ms. Zipeto put her request in writing including insurance coverage and resubmit her proposal for approval.

John Wisniewski, a Lake Lure resident, asked town council to authorize certain street lights in town be turned back on in the Fairfield Mountains area for safety reasons. Town Council requested that the town manager identify these street lights and follow up on Mr. Wisniewski's request.

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Mike Weaver asked for an update on what the town was doing with regards to cleanup of debris in the lake and offered help with cleanup. Town Manager Place gave a brief report on the cleanup of debris in the lake. Mr. Place said the lake was still under restrictions of use at this time and he was preparing for the next storm.

CONSENT AGENDA

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

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

- a. minutes of August 10, 2004 (regular meeting) and August 31, 2004 (recessed regular meeting and closed session); and
- b. budget amendments totaling \$15,500.00 as submitted by the finance director to cover the cost of computer support with Diverse Corporate Technologies for various town departments including: administration, police, fire, public works, hydro-electric, and golf course. Transfer \$14,762 from the contingency fund (#109100.1000) to a breakdown per department as follows: \$7,750.00 Adm.-Contractual Services account (#104200.4500); \$4,428.60 Police-Contractual Services (#105100.4500); \$738.10 Fire-Contractual Services (#105300.4500); PW-Contractual Services (#105600.4500); and G.C.-Contractual Services (#106200.4500). Transfer \$738.00 from the Hydro-electric fund balance to Contractual Services (#394300.4500).

End of Consent Agenda

NEW BUSINESS:

a. Consider Request from Charles Talbert, III for Assistance with a Sewer Maintenance Bill

Mr. Talbert, III presented his letter dated August 16, 2004 asking town council for assistance with his sewer maintenance bill in the amount of \$1,521.97. (Copy of letter attached).

After discussion, town council members agreed to deny assistance for Mr. Talbert's sewer maintenance bill.

Mayor Proctor stated that the town was looking into installing more sewer manholes

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throughout the town and that the town was not ready to start taking over individual sewer systems.

NEW BUSINESS:

b. Consider Request from Russell Womack to Purchase Certain Town Property

Town Manager Place read into the record a letter from Russell Womack requesting on behalf of Jay Juliano to purchase certain town property (adjacent to Island Creek Road). (Copy of letter attached).

After discussion, Commissioner Cox made a motion to declare a portion of town property referenced as Map 520, Block 1, Lot 5 on the Rutherford County Tax Map as surplus property and authorize the town manager to advertise the offer of \$1,500.00 for an upset bid. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

c. Review Proposed Water Tap Fee Schedule

Town Manager Place read into the record a memorandum dated September 8, 2004 from Customer Services Supervisor Linda Ward regarding proposed water tap fee schedule. (Copy of letter attached).

After review, Commissioner Watkins made a motion to approve the proposed water tap fee schedule as amended. Commissioner McCallum seconded the motion and the vote of approval was unanimous. (Copy of revised water tap fee schedule attached).

NEW BUSINESS:

d. Award Bid for the Town's Water System Improvements Project

Town Manager Place read into the record his memorandum of September 14, 2004 regarding bid approval for water system improvements and distributed to town council members copies of a certified bid tabulation. (Copy of memorandum and bid tabulation are attached).

After discussion, Commissioner McCallum made a motion to award a base bid of \$2,047,622.50 plus alternate bid (number 1) totaling \$383,400.00 and alternate bid (number 2) totaling \$43,000.00 to Stepp Construction, Inc. for water system improvements. Also, approve a contract between the Town of Lake Lure and Stepp Construction, Inc for the 2004 water system improvements project contingent upon final review by the state. Commissioner Hullender seconded the motion and the vote of approval was unanimous.

STAFF REPORTS

Town Manager Place reported on the following:

1. Update on status of storms Frances and Ivan.
2. Mr. Place read into the record a letter dated January 13, 2004 received from Curt Jarson on behalf of the Mako Marine International asking town council to waive the boat permit fees and suspend the boat length restriction for three motorized boats (32 ft. SeaCraft, 31 ft. Mako, and 28 ft. Mako) during a boat demonstration to be held on October 13, 2004 and October 18, 2004 for a boat dealership conference.

After discussion, Commissioner Hullender made a motion to approve the request from Curt Jarson on behalf of the Mako Marine International asking town council to waive the boat permit fees and suspend the boat length restriction for three motorized boats (32 ft. SeaCraft, 31 ft. Mako, and 28 ft. Mako) during a boat demonstration to be held on October 13, 2004 and October 18, 2004 for a boat dealership conference. Commissioner Cox seconded the motion and the vote of approval was unanimous.

3. Reviewed a memorandum from the town clerk and deputy town clerk dated September 14, 2004 giving an update on the estimated cost of \$500.00 in regards to hosting the quarterly Rutherford County Elected Officials meeting on Tuesday, October 5, 2004. Mr. Place asked Council members to approve expenditures up to \$500.00 for costs associated with this meeting.

After discussion, Commissioner Cox made a motion to authorize an expenditure not to exceed \$500.00 to cover the cost of hosting the upcoming Rutherford County elected officials quarterly meeting to be held on Tuesday, October 5, 2004, from 11:30 a.m. until 1:00 p.m., at the Lake Lure Municipal Hall. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

4. The new basketball court was completed yesterday with the final color topcoat, striping and backboards.
5. Mr. Place read excerpts from a memorandum received from Bill Tillman, State Demographer detailing the preliminary 2003 Municipal Population Estimates for Lake Lure.

COUNCIL COMMENTS

Commissioner Hullender encouraged citizens and council members to attend the next Rutherford County meeting being held on Monday, October 4, 2004, at 4:00 p.m. and express their support in the hiring of another employee for the Lake Lure library.

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Commissioner Watkins requested that an article be placed in the town newsletter explaining the town's emergency warning system.

Commissioner McCallum announced that he would be going out of town this weekend.

A motion was made by Commissioner Watkins to schedule a special Lake Lure Marine Commission meeting to be held on Wednesday, September 29, 2004, 9:30 a.m., at the Lake Lure Municipal Center for the purpose of discussion with Dr. George Sherk regarding lake issues. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

Council members expressed their appreciation for town staff members for their good work in preparing for storms Frances and Ivan.

Commissioner Cox stated that Sharon Theiss, an employee of the youth center, had recently submitted her letter of resignation. Town Manager Place said Police Chief Mike Bustle was already interviewing candidates for replacement of Mrs. Theiss's position.

Mayor Proctor reminded Council members about the 2004 North Carolina League of Municipalities annual conference being held in Raleigh on October 24-26, 2004.

ADJOURNMENT

With no further items of discussion, Commissioner Cox made a motion to adjourn the meeting at 9:30 p.m. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor