

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL  
HELD TUESDAY, NOVEMBER 9, 2010, 7:00 P.M. AT THE LAKE LURE MUNICIPAL  
CENTER**

**PRESENT:** Mayor Bob Keith  
Commissioner John W. Moore  
Commissioner Mary Ann Dotson Silvey  
Commissioner Linda Turner

Christopher Braund, Town Manager  
J. Christopher Callahan, Town Attorney

**ABSENT:** Commissioner Wayne Hyatt

**CALL TO ORDER**

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

**INVOCATION**

Attorney Callahan gave the invocation.

Mayor Keith introduced newly elected County Commissioners Bill Eckler and Bo Richard. County Commissioners Eckler and Richard spoke briefly at the meeting and offered their services to Lake Lure Town Council members and citizens.

**APPROVE THE AGENDA**

After discussion, Commissioner Turner made a motion to approve the agenda as presented. Commissioner Moore seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING - UPDATED RUTHERFORD COUNTY MULTI-JURISDICTIONAL  
HAZARD MITIGATION PLAN**

Mayor Bob Keith opened the public hearing to receive comments on proposed Resolution No. 10-11-09. Ron Morgan, Fire/Emergency Coordinator, gave a brief overview and answered questions with regards to proposed Resolution No. 10-11-09.

Mayor Bob Keith invited citizens to speak during the public hearing. No one requested to speak at this hearing.

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

<p><b>CONSIDER ADOPTION OF RESOLUTION NO. 10-11-09 AN UPDATED RUTHERFORD COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN</b></p>
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Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Moore made a motion to adopt Resolution No. 10-11-09 as presented. Commissioner Turner seconded the motion and the vote of approval was unanimous.

**TOWN OF LAKE LURE**

**RESOLUTION NO. 10-11-09  
ADOPT THE RUTHERFORD COUNTY  
MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN**

**WHEREAS**, the federal Disaster Mitigation Act of 2000 (DMA2K) requires that all county and municipal jurisdictions nationwide create and adopt a Hazard Mitigation Plan; and

**WHEREAS**, North Carolina Senate Bill 300 (SB300) requires that all county and municipal jurisdictions within the State of North Carolina adopt a Hazard Mitigation Plan; and

**WHEREAS**, Rutherford County and the municipalities of Forest City, Rutherfordton, Spindale, Lake Lure, Chimney Rock, Ruth, Ellenboro and Bostic, along with other pertinent volunteers, groups and organizations, participated in a planning process to satisfy the requirements of DMA2K and SB300, and created the Rutherford County Multi-Jurisdictional Hazard Mitigation Plan (RCMJHMP) in 2005; and

**WHEREAS**, Rutherford County and the municipalities of Forest City, Rutherfordton, Spindale, Lake Lure, Chimney Rock, Ruth, Ellenboro and Bostic participated in a planning process as required to update the RCMJHMP and during 2010.

**NOW THEREFORE, BE IT RESOLVED**, after holding a public hearing, the Town Council of the Town of Lake Lure hereby adopts the updated Rutherford County Multi-Jurisdictional Hazard Mitigation Plan.

Adopted on this 9<sup>th</sup> day of November, 2010.

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Attest:

\_\_\_\_\_  
Mary A. Flack, MMC  
Town Clerk

\_\_\_\_\_  
Bob Keith  
Mayor

Approved as to Form:

\_\_\_\_\_  
J. Christopher Callahan  
Town Attorney

**PUBLIC HEARING - PROPOSED ORDINANCE NO. 10-11-09 CONCERNING THE REGULATION OF NOISE; AMENDING THE TOWN CODE OF ORDINANCES BY REPEALING SECTION 84.04 THEREOF AND ENACTING A NEW CHAPTER 84A**

Mayor Bob Keith opened the public hearing to receive comments on proposed Ordinance No. 10-11-09. Town Manager Braund, gave a brief power point presentation and answered questions with regards to the noise ordinance.

Mayor Bob Keith invited citizens to speak during the public hearing. Wolfgang Richter, Eddie Davis, James Able, Carmen Thompson, and Patricia Maringer expressed their concerns with regards to restrictions and enforcement of the noise ordinance.

Police Chief Eric Hester spoke in favor of the proposed ordinance and explained how his department would enforce the noise regulations.

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

**CONSIDER ADOPTION OF ORDINANCE NO. 10-11-09 CONCERNING THE REGULATION OF NOISE; AMENDING THE TOWN CODE OF ORDINANCES BY REPEALING SECTION 84.04 THEREOF AND ENACTING A NEW CHAPTER 84A**

Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Turner made a motion to adopt Ordinance No. 10-11-09 as presented. Commissioner Moore seconded the motion and the vote of approval was unanimous.

**ORDINANCE NO. 10-11-09**

**AN ORDINANCE CONCERNING THE REGULATION OF NOISE; AMENDING THE TOWN CODE BY REPEALING SECTION 84.04 THEREOF AND ENACTING A NEW CHAPTER 84A**

**WHEREAS**, N.C.G.S. 160A-174 authorizes municipalities to enact ordinances protecting the public health, safety and welfare; and

**WHEREAS**, N.C.G.S. 160A-184 authorizes municipalities to regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens; and

**WHEREAS**, the Lake Lure Town Council finds that the existing noise ordinance (84.04) has a number of deficiencies that have been articulated by the Police Chief (current and former), Town Manager (current and former), the former Mayor and Commissioners, local resort operators and citizens; and

**WHEREAS**, the deficiencies identified include ambiguity, subjectivity, the lack of specific quiet hours, extraneous language and lack of provisions to address vehicle-related noise nuisances of improperly muffled motorcycle exhaust and engine compression braking; and

**WHEREAS**, the Town Council wishes to enact clearer noise regulations that are easier to enforce and correct the deficiencies identified; and

**WHEREAS**, the Lake Lure Town Council finds that the regulations contained within this ordinance are necessary to regulate noise disturbance and thereby protect the public health, safety and welfare; and

**WHEREAS**, the Lake Lure Town Council, after due notice, conducted a public hearing on the 9th day of November, 2010, upon the question of amending the Town Code 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 THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE:**

**SECTION ONE.** Section 84.04 of the Code of Ordinances of the Town of Lake Lure, entitled "Unreasonable Noise", is hereby repealed.

**SECTION TWO.** Chapter 84A of the Code of Ordinances of the Town of Lake Lure, entitled "Noise Regulation", is hereby enacted to read as follows:

**CHAPTER 84A: NOISE REGULATION**

**§ 84A.01 SCOPE.**

This chapter shall apply to all sound, sound vibration, and noise originating within the corporate limits of the Town of Lake Lure. Nothing in this chapter shall be construed to limit or prevent the Town or any person from pursuing any other legal remedies for damages or the abatement of noises in the Town.

**§ 84A.02 DEFINITIONS.**

The words and phrases defined in this section shall have the meaning indicated when used in this article unless otherwise specifically provided, or unless otherwise clearly required by the context:

*Amplified sound.* Any sound or noise, including the human voice, that is increased in volume or intensity by means of mechanical and / or electrical power.

*Construction.* The erection, repair, assembly, alteration, landscaping, or demolition of any building or building site.

*Decibel (dB).* A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

*Motorized vehicle.* Any vehicle as defined in G.S. 20-4.01(49) including, but not limited to:

- (1) Excursion passenger vehicles as defined in G.S. 20-4.01(27)a.
- (2) Common carriers of passengers as defined in G.S. 20-4.01(27)c.
- (3) Motorcycles and mopeds as defined in G.S. 20-4.01(27)d. and d.1.
- (4) Truck tractors as defined in G.S. 20-4.01(48).
- (5) Farm tractors as defined in G.S. 20-4.01(11).

*Noise disturbance.* Any sound or noise which:

- (1) Endangers or injures the health or safety of humans or animals;
- (2) Endangers or injures personal or real property; or
- (3) Disturbs a reasonable person of normal sensitivity or interferes with normal human activity.

Except as otherwise provided herein, for purposes of this ordinance, a sound will be considered a noise disturbance if it exceeds the decibel level thresholds established by zoning district and time of day.

*Person.* Any individual, association, firm, partnership, corporation, or business entity.

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*Sound.* Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by reasonable persons of normal sensitivity.

*Sound level meter.* An ANSI standard S1.4 Type 0, I or II class instrument which includes a microphone, amplifier, RMS detector, integrator or time average (LEQ as defined below), output meter, and weighting network used to measure sound pressure levels.

### **§ 84A.03 GENERAL REGULATION.**

Except as allowed in this article, no person shall willfully engage in any activity within the Town, whether on private or public property, which activity produces or constitutes a noise disturbance on occupied neighboring premises or public area.

### **§ 84A.04 EXCEPTIONS.**

Sound or noise associated with the following are excepted from the application of this article:

- (1) Construction activity performed by an agency of government provided that all equipment is operated in accordance with manufacturer's specifications and is equipped with all noise-reducing equipment in proper condition;
- (2) Construction or repair work and regulated activities of utilities regulated by the North Carolina Utilities Commission;
- (3) Construction activities associated with home improvements between the hours of 7:00 a.m. and 9:00 p.m. Monday through Sunday.
- (4) Lawnmowers and turf management equipment operated between the hours of 6:00 a.m. and 9:00 p.m. when operated in accordance with manufacturer's specifications and with all standard noise reducing equipment in place and in proper condition;
- (5) Refuse collection vehicles operating during daylight hours.
- (6) Safety signals, warning devices, emergency pressure relief valves, and church bells.
- (7) Outdoor entertainment events only to the extent authorized in a special event permit issued by the Town.

*Person.* Any individual, association, firm, partnership, corporation, or business entity.

*Sound.* Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by reasonable persons of normal sensitivity.

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*Sound level meter.* An ANSI standard S1.4 Type 0, I or II class instrument which includes a microphone, amplifier, RMS detector, integrator or time average (LEQ as defined below), output meter, and weighting network used to measure sound pressure levels.

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- (4) Lawnmowers and turf management equipment operated between the hours of 6:00 a.m. and 9:00 p.m. when operated in accordance with manufacturer's specifications and with all standard noise reducing equipment in place and in proper condition;
- (5) Refuse collection vehicles operating during daylight hours.
- (6) Safety signals, warning devices, emergency pressure relief valves, and church bells.
- (7) Outdoor entertainment events only to the extent authorized in a special event permit issued by the Town.
- (8) Regularly scheduled athletic events at Town parks, athletic facilities, and public or private schools;
- (9) Film and video production activities for which permits have been issued by the Town; provided all equipment such as generators are properly muffled;
- (10) Lawful fireworks;

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- (11) Properly equipped aircraft operated in accordance with applicable federal rules and regulations; and
- (12) Governmental emergency vehicles and firearms in the course of the performance of official duties.

### **§ 84A.05 DECIBEL STANDARDS.**

It shall be presumed that a noise disturbance in violation of this Article has occurred whenever any noise or sound is projected from one property in the Town onto another or onto a public area if such sound, measured in accordance with §84.06, below, exceeds the following decibel standards. The zoning classification of the property where the sound originates will be used to determine which standards apply.

- (1) Residential Districts - R-2, R-4, L-1, M-1, S-1 and the various R-1 districts:
  - (a) 7:00 a.m. to 11:00 p.m. – 65 dBA.
  - (b) 11:00 p.m. to 7:00 a.m. – 55 dBA.
- (2) Resort, Commercial and all other zoning districts:
  - (a) 7:00 a.m. to 11:00 p.m. – 65 dBA..
  - (b) 11:00 p.m. to 7:00 a.m. – 55 dBA.

### **§ 84A.06 METHOD OF MEASURING DECIBEL STANDARDS.**

Except as qualified by §84.08, below, when measuring vehicular noise, this section describes acceptable methods and techniques for the measurement and reporting of noise for the purpose of determining compliance with the allowable noise levels listed above.

- (1) *Measurement location.* Measurement of sound shall be made at any point beyond (outside) the property line of the property where the noise originates; provided, however, when sound *Person.* Any individual, association, firm, partnership, corporation, or business entity.

*Sound.* Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by reasonable persons of normal sensitivity.

*Sound level meter.* An ANSI standard S1.4 Type 0, I or II class instrument which includes a microphone, amplifier, RMS detector, integrator or time average (LEQ as defined below), output meter, and weighting network used to measure sound pressure levels.

### **§ 84A.03 GENERAL REGULATION.**



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Except as allowed in this article, no person shall willfully engage in any activity within the Town, whether on private or public property, which activity produces or constitutes a noise disturbance on occupied neighboring premises or public area.

### **§ 84A.04 EXCEPTIONS.**

Sound or noise associated with the following are excepted from the application of this article:

- (1) Construction activity performed by an agency of government provided that all equipment is operated in accordance with manufacturer's specifications and is equipped with all noise-reducing equipment in proper condition;
- (2) Construction or repair work and regulated activities of utilities regulated by the North Carolina Utilities Commission;
- (3) Construction activities associated with home improvements between the hours of 7:00 a.m. and 9:00 p.m. Monday through Sunday.
- (4) Lawnmowers and turf management equipment operated between the hours of 6:00 a.m. and 9:00 p.m. when operated in accordance with manufacturer's specifications and with all standard noise reducing equipment in place and in proper condition;
- (5) Refuse collection vehicles operating during daylight hours.
- (6) Safety signals, warning devices, emergency pressure relief valves, and church bells.
- (7) Outdoor entertainment events only to the extent authorized in a special event permit issued by the Town.
- (8) Regularly scheduled athletic events at Town parks, athletic facilities, and public or private schools;
- (9) Film and video production activities for which permits have been issued by the Town; provided all equipment such as generators are properly muffled;
- (10) Lawful fireworks;
- (11) Properly equipped aircraft operated in accordance with applicable federal rules and regulations; and
- (12) Governmental emergency vehicles and firearms in the course of the performance of official duties.

**§ 84A.05 DECIBEL STANDARDS.**

It shall be presumed that a noise disturbance in violation of this Article has occurred whenever any noise or sound is projected from one property in the Town onto another or onto a public area if such sound, measured in accordance with §84.06, below, exceeds the following decibel standards. The zoning classification of the property where the sound originates will be used to determine which standards apply.

- (1) Residential Districts - R-2, R-4, L-1, M-1, S-1 and the various R-1 districts:
  - (a) 7:00 a.m. to 11:00 p.m. – 65 dBA.
  - (b) 11:00 p.m. to 7:00 a.m. – 55 dBA.
- (2) Resort, Commercial and all other zoning districts:
  - (a) 7:00 a.m. to 11:00 p.m. – 65 dBA..
  - (b) 11:00 p.m. to 7:00 a.m. – 55 dBA.

**§ 84A.06 METHOD OF MEASURING DECIBEL STANDARDS.**

Except as qualified by §84.08, below, when measuring vehicular noise, this section describes acceptable methods and techniques for the measurement and reporting of noise for the purpose of determining compliance with the allowable noise levels listed above.

- (1) *Measurement location.* Measurement of sound shall be made at any point beyond (outside) the property line of the property where the noise originates; provided, however, when sound is measured on Town property, the point of measurement shall be at least 50 yards from the property line of the property where the sound originates.
- (2) *Calibration.* All sound level measuring devices shall be calibrated by a certified agency, at a minimum once each year.
- (3) *Sound level meter.* Sound level measurement shall be made with a sound level meter using the A-weighting scale, set on "slow" response.
- (4) *Use of sound level meters.* Sound level meters shall be at least Type II meeting American National Standard Institute (ANSI S1.4-1983) requirements. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement equipment.
- (5) *Measurement procedures.* The following procedures shall be followed to obtain representative sound level measurements:

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- (a) Measurement location shall be at least three feet above the ground and not more than ten feet above ground.
  - (b) Measurement shall be taken with line of sight to the noise source if possible.
  - (c) Measurements shall be made with the sound level meter set for "A" weighting and "slow" response.
- (6) *Data documentation.* A record of all sound level measurements shall be completed and signed by the person making the measurements. The record sheet should include the following:
- (a) Date.
  - (b) Time of measurement.
  - (c) Location (street address if possible).
  - (d) Noise source.
  - (e) Make, model and serial number of sound level meter, date of last certification/calibration.
  - (f) Field calibration results.
  - (g) Name of complainant (if provided).

### **§ 84A.07 QUIET HOUR PROHIBITIONS**

In addition to the general prohibition set forth above, the following quiet hours are established that further restrict noise-generating activities in order to support the community's expectation of a quiet sleeping period.

The following activities are prohibited:

- (1) Construction activities associated with home improvements between the hours of 9:00 p.m. and 7:00 a.m. Monday through Sunday.
- (2) Lawnmowers and turf management equipment operated between the hours of 9:00 p.m. and 6:00 a.m.
- (3) With the exception of construction activities associated with home improvements, which are addressed in paragraph (1), above, the excavation, grading and/or the erection demolition, alteration or repair of any building or other structure within 500 feet of a residential district

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as established pursuant to the Town zoning ordinance, between the hours of 7:00 p.m. and 7:00 a.m. Monday through Saturday, except by permit from the Town Manager when, in his opinion, such work will not adversely affect other persons. Following the issuance of such a permit, if the Town Manager shall determine that the building operations are adversely affecting others, he shall be authorized to modify or revoke the permit. The Town Manager may permit emergency work in the preservation of public health or safety at any time.

- (4) Operation of outdoor amplified music or public address systems between the hours of 11:00 p.m. and 7:00 a.m.

**§ 84A.08 VEHICULAR NOISE**

The following shall be prohibited as a public nuisance under this chapter:

- (1) Operation of any motor vehicle so as to cause the tires to squeal or screech unnecessarily.
- (2) Operation within the Town limits a motorcycle manufactured after 31 December 1982 that is not equipped with an exhaust muffler bearing the Federal EPA required labeling compliance applicable to the motorcycle's model year, as set out in the Code of Federal Regulations.
- (3) Operation within the Town limits any type of motor vehicle that exceeds a measured noise level of 89 decibels on the sound meter when measured 20 inches from the exhaust pipe at a 45-degree angle while the engine is operating at idle.
- (4) Operation of any motor vehicle of any size and regardless of the year of manufacture that meets one or more of the following criteria:
  - (a) It is not equipped with an adequate muffler in constant operation, free of defects and modifications, that prevents the escape of any excessive or unusual noise;
  - (b) It has a muffler system that is equipped with a straight pipe exhaust system (regardless of the presence of baffles);
  - (c) It has a hollow core muffler;
  - (d) It has a muffler that is labeled for off-road course competition use;
  - (e) It has a muffler system that has a cut-out, bypass, or similar device designed or so installed so that it can be used continually or intermittently to bypass or otherwise reduce or eliminate the effectiveness of a muffler or muffler system;

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- (f) It has a muffler system that has been modified in a manner which will amplify or increase the noise emitted by the exhaust.
- (5) Operation of any motor vehicle within the city limits so as to make any loud or unnecessary noise that results from any one or more of the following actions by the operator:
  - (a) Misuse of acceleration or braking power that exceeds tire traction limits, sometimes known as "burn-outs", "burning rubber", "laying down rubber" or "peeling rubber".
  - (b) Excessive acceleration or deceleration while in motion where there is no emergency need.
  - (c) Racing or revving of engines by manipulation of the accelerator, gas pedal, or carburetor in applying fuel to the engine in a greater amount than is necessary whether the vehicle is either in motion or standing still.
  - (d) Use of an engine braking system which is in any way activated or operated by the compression of the engine of any motor vehicle or any part thereof, except in cases of emergency for the protection of persons and / or property. Such braking systems are commonly referred as "compression brakes" or "jake brakes".

**84A.09 ANIMAL NOISES**

Animal noises, may constitute a noise disturbance even though they do not exceed the decibel levels established in §84.05, above. Accordingly, the keeping of any dog which by prolonged or habitual barking, howling or whining or any other animal that frequently or for long periods of time makes noises which disturb the comfort or repose of any persons in the vicinity shall constitute a noise disturbance.

**§ 84A.10 NON-EXCLUSIVITY.**

Nothing in this article shall be construed to prevent or limit any person from seeking any remedy available in law or equity for activities that are or may be subject to regulation by this chapter, or from pursuing said remedy simultaneously with proceedings under this chapter, nor shall any of the procedures specified herein be a condition precedent to the initiation of any legal action.

**§84A.11 ENFORCEMENT.**

- (A) Violations of the provisions of this article shall be subject to the criminal and civil penalties set forth in § 10.99 of this Code. In addition to the penalties set forth therein, second or subsequent violations of the provisions of this article by the same person for the same activity occurring within one year of the first such violation shall be subject to civil penalties as follows:

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First violation (per Town Code § 10.99). . . . . \$50.00.  
Second violation . . . . . 100.00.  
Third violation . . . . . 200.00.  
Fourth or subsequent violation, per offense . . . . . 300.00.

- (B) In addition to the penalties provided for above, the Town may enforce the provisions of this Chapter by appropriate equitable remedies.
- (C) This article may be enforced by the Town of Lake Lure Police Department and by other employees of the Town as designated by the Town Manager. Employees of an animal control agency working under contract with the Town for the enforcement of animal control ordinances and who have been designated by the Chief of Police may enforce the provisions of this article relating to animals and animal noises.

**SECTION THREE.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION FOUR.** If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

**SECTION FIVE.** The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing violations.

**SECTION SIX.** This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 9<sup>th</sup> day of November, 2010.

ATTEST:

\_\_\_\_\_  
Mary A. Flack, MMC  
Town Clerk

\_\_\_\_\_  
Bob Keith  
Mayor

Approved as to content and form:

\_\_\_\_\_  
J. Christopher Callahan  
Town Attorney

**PUBLIC FORUM**

Mayor Keith invited the audience to speak on any non-agenda item and/or consent agenda topics. Boyce Abernathy informed town council and the audience to the upcoming property revaluation. He also distributed fliers with instructions for downloading property information card from the Rutherford County GIS system. Pat Mitchell and Pam Keith also mentioned concerns regarding the upcoming property evaluation and the appeal process.

**STAFF REPORTS**

Town Manager Christopher Braund read into the record the town manager's report dated November 9, 2010. (Copy of the town manager's report is attached).

Mr. Braund congratulated Lake Lure Lieutenant/Detective Chris Francis on his position with Rutherford County as the newly elected sheriff.

**COUNCIL LIAISON REPORTS & COMMENTS**

Commissioner Turner reported on the activities of the Parks and Recreation Board.

Commissioner Moore reported on the activities of the Zoning/Planning Board and the Board of Adjustment/Lake Structures Appeals Board.

Commissioner Silvey reported on the activities of the Lake Advisory Board and the Lake Lure ABC Board.

**CONSENT AGENDA**

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

Commissioner Moore moved, seconded by Commissioner Turner, to approve the consent agenda items as presented. Therefore, the consent agenda, incorporating the following items were unanimously approved and adopted:

- a. minutes of the October 12, 2010 (regular meeting);
- b. Resolution No. 10-11-09A approving the Rutherford County Solid Waste Plan;

**TOWN OF LAKE LURE**

**RESOLUTION NO. 10-11-09A  
APPROVE THE RUTHERFORD COUNTY  
SOLID WASTE PLAN**

**WHEREAS**, better planning for solid waste will help protect public health and the environment, provide for an improved solid waste management system, better utilize our natural resources, control the cost of solid waste management; and

**WHEREAS**, NC General Statute 130A-309.09A(b) requires each unit of local government, either individually or in cooperation with other units of local government, to develop a 10-year comprehensive solid waste management plan; and

**NOW THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Lake Lure hereby approves the Rutherford County Comprehensive Solid Waste Management Plan.

Adopted on this 9<sup>th</sup> day of November, 2010.

ATTEST:

\_\_\_\_\_  
Mary A. Flack, MMC  
Town Clerk

\_\_\_\_\_  
Robert Keith  
Mayor

- c. a request from Mary Ann Ransom on behalf of Shepherd's Care, to use the Community Hall Room in the Lake Lure Municipal Center each Friday year round through December 31, 2011 from 9:45 a.m. until 2:00 p.m. regarding a program for senior citizens in the community, with the stipulation that town business takes precedent for use of the Community Hall; also, waive the rental fees for use of the Community Hall during these events; and
- d. Resolution No. 10-11-09B amending the personnel plan regarding use of comp time.

**RESOLUTION NO. 10-11-09B  
AMENDING THE PERSONNEL POLICY  
OF THE TOWN OF LAKE LURE  
REGARDING USE OF COMPENSATION TIME**

**WHEREAS**, the Mayor and Council Members of the Town of Lake Lure recognizes the importance of its municipal employees in meeting the service needs of Town residents; and

**WHEREAS**, it is the desire of the Mayor and Council to maintain a municipal work force composed of qualified, competent, dedicated employees; and

**WHEREAS**, the Mayor and Council recognize the necessity of equitable rates of pay and



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reasonable conditions of employment in the maintenance of such a work force; and

**WHEREAS**, it is the desire of the Mayor and Council to maintain a system of personnel administration that will assure equity of compensation and fair and reasonable employee treatment;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF LAKE LURE** that the following sentence be added to the Town of Lake Lure Personnel Policy, Article V. The Pay Plan, Section 10. (c), 1. The maximum compensatory time that may be accrued by any non-exempt employee shall be 480 (320 overtime hours worked) for public safety and 240 (160 overtime hours worked) hours in all other Town positions. Employees are required to take accrued compensatory time before using accrued vacation and/or sick leave.

{ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~}

This amendment shall apply to all current as well as future employees.

Adopted this 9<sup>th</sup> day of November, 2010.

ATTEST:

\_\_\_\_\_  
Mary A. Flack, MMC  
Town Clerk

\_\_\_\_\_  
Mayor Bob Keith

**End of Consent Agenda.**

<p><b>UNFINISHED BUSINESS:</b> <b>A. OTHER UNFINISHED BUSINESS</b></p>
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There was no other unfinished business.

<p><b>NEW BUSINESS:</b> <b>A. CONSIDER ADOPTION OF RESOLUTION NO. 10-11-09C PURCHASING 200 ACRES FOR PARKLAND AND DONATING A CONSERVATION EASEMENT</b></p>
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Town Manager Braund reviewed and read excerpts from proposed Resolution No. 10-11-09C pertaining to the purchase of 200 acres of parkland and donating a conservation easement. He also introduced Rebekah Robinson, a representative of the Carolina Mountain Land Conservancy, who

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answered questions pertaining to the proposed request being considered for approval. Ms. Robinson informed council members that the easement could be written to include certain provisions reserving rights for the town.

After discussion, Commissioner Silvey made a motion to adopt Resolution No. 10-11-09C purchasing 200 acres for parkland. Also, authorize the town manager to negotiate and execute a conservation easement. Commissioner Turner seconded the motion and the vote of approval.

### **RESOLUTION NO. 10-11-09C**

#### **PURCHASING 200 ACRES FOR PARKLAND AND DONATING A CONSERVATION EASEMENT**

**WHEREAS** the Town of Lake Lure (the “Town”) was awarded a reimbursement grant from the North Carolina Parks and Recreation Trust Fund to purchase 200 acres from Carolina Mountain Land Conservancy (“CMLC”) for a new Town park (the “Parkland”); and

**WHEREAS**, CMLC received a grant award (Contract #2010-098) from the North Carolina Clean Water Management Trust Fund (“the Fund”) to encumber 1,527 acres, more or less, including the Parkland, with a conservation easement; and

**WHEREAS**, encumbering the Parkland with a conservation easement will permanently protect the property from conversion to uses inconsistent with public recreation, and

**WHEREAS** encumbering the Parkland with a conservation easement will permanently protect water quality of more than five miles of headwaters streams that flow into Buffalo Creek, Bald Mountain Lake, Lake Lure, and the Broad River; and

**WHEREAS** encumbering the Parkland with a conservation easement will enable CMLC to permanently protect water quality of more than twenty miles of headwaters streams that flow into Buffalo Creek, Bald Mountain Lake, Lake Lure, and the Broad River; and

**WHEREAS** encumbering the Parkland with a conservation easement will enable CMLC to develop complementary recreational amenities on the 1,327 acres adjoining the Parkland; and

**WHEREAS** the Board of Commissioners for the Town of Lake Lure desires to grant said conservation easement in order to maintain permanently the recreational, scenic, open and natural character of the property, and to prevent any use of the property that will significantly impair or interfere with the recreational or conservation values of the property.

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**NOW, THEREFORE, BE IT RESOLVED:**

1. That the Town of Lake Lure will diligently proceed with the purchase of 200 acres and subsequent donation of a conservation easement.
2. That Town staff and officers are hereby authorized to negotiate and execute the documents for the purchase of 200 acres and subsequent donation of a conservation easement.

Adopted on this 9<sup>th</sup> day of November, 2010.

ATTEST:

\_\_\_\_\_  
Mary A. Flack, MMC  
Town Clerk

\_\_\_\_\_  
Robert Keith  
Mayor

**NEW BUSINESS:**

**B. BOARD APPOINTMENT - ZONING AND PLANNING BOARD**

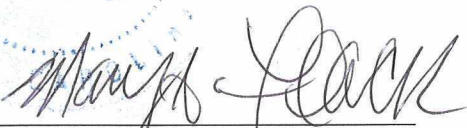
Council members voted by ballot and the town manager announced the following result:


Chris Corr was appointed to serve on the Zoning and Planning Board filling the remainder of Rick Coley's term expiring on December 31, 2012.

**ADJOURN THE MEETING**

With no further items of discussion, Commissioner Turner made a motion to adjourn this meeting at 9:15 p.m. Commissioner Silvey seconded the motion and the vote of approval was unanimous.

ATTEST:

  
\_\_\_\_\_  
Mary A. Flack, MMC  
Town Clerk

  
\_\_\_\_\_  
Mayor Bob Keith