

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL  
HELD TUESDAY, MAY 10, 2011, 7:00 P.M. AT THE LAKE LURE MUNICIPAL  
CENTER**

**PRESENT:** Mayor Pro Tem Linda Turner  
Commissioner Wayne Hyatt  
Commissioner John W. Moore  
Commissioner Mary Ann Dotson Silvey

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

**ABSENT:** Mayor Bob Keith

**CALL TO ORDER**

Mayor Pro Tem Turner called the meeting to order at 7:00 p.m.

**INVOCATION**

Attorney Callahan gave the invocation.

**APPROVE THE AGENDA**

Commissioner Hyatt made a motion to approve the agenda as presented. Commissioner Silvey seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING ORDINANCE NO. 11-05-10 AMENDING THE SUBDIVISION  
REGULATIONS OF THE TOWN OF LAKE LURE REGARDING THE DEFINITIONS  
FOR MAJOR AND MINOR SUBDIVISIONS**

Community Development Director Shannon Baldwin gave a brief overview and answered questions pertaining to Ordinance No. 11-05-10 regarding the definitions for major and minor subdivisions.

Mayor Pro Tem Turner opened the public hearing regarding proposed Ordinance No. 11-05-10 and invited citizens to speak during the public hearing; no one requested to speak.

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

<b>CONSIDER ADOPTION OF ORDINANCE NO. 11-05-10 AMENDING THE SUBDIVISION REGULATIONS OF THE TOWN OF LAKE LURE REGARDING THE DEFINITIONS FOR MAJOR AND MINOR SUBDIVISIONS</b>
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Public notices were duly given and published in the Forest City Daily Courier newspaper.

Commissioner Hyatt made a motion to adopt Ordinance No. 11-05-10 as presented, amending Section 91.06 of the Lake Structure Regulations of the Town of Lake Lure regarding the definitions for major and minor subdivisions. Commissioner Moore seconded the motion and the vote of approval was unanimous.

**ORDINANCE NUMBER 11-05-10**

**AN ORDINANCE AMENDING §91.06 OF THE SUBDIVISION REGULATIONS OF THE TOWN OF LAKE LURE CONCERNING THE DEFINITIONS FOR MAJOR AND MINOR SUBDIVISIONS**

**WHEREAS**, the Zoning and Planning Board has recommended modifications to the Subdivision Regulations of the Town of Lake Lure as noted in the title of this ordinance; and

**WHEREAS**, the Zoning and Planning Board finds that the proposed ordinance, being administrative in nature, is neither consistent nor inconsistent with the Town of Lake Lure 2007-2027 Comprehensive Plan; and

**WHEREAS**, the Town Council of the Town of Lake Lure finds that this ordinance is in the public interest inasmuch as it clarifies the difference between major subdivisions and minor subdivisions; and

**WHEREAS**, the Lake Lure Town Council, after due notice, conducted a public hearing on the 10<sup>th</sup> day of May, 2011, upon the question of amending the Subdivision Regulations 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.** §91.06 of the Subdivision Regulations of the Town of Lake Lure, concerning the definitions of major subdivisions and minor subdivisions, is hereby amended as follows:

**Major Subdivision:** Any subdivision of a tract of land ~~greater than five acres in area~~ into more than five lots, or any subdivision requiring the extension of public utilities and/or development or dedication of new streets.

**Minor Subdivision:** Any subdivision of a tract of land ~~of five acres or less in area~~ into five or fewer lots and involving no new public or private streets or roads, right-of-way dedication, easements, or utility extensions.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

**SECTION TWO.** Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 91.99 of the Subdivision Regulations.

**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 zoning violations.

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

Adopted this 10<sup>th</sup> day of May, 2011.

<b>PUBLIC HEARING ORDINANCE NO. 11-05-10A AMENDING TITLE IX, CHAPTER 92, OF THE ZONING REGULATION OF THE TOWN OF LAKE LURE REGARDING NONCONFORMING SIGNS</b>
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Community Development Director Shannon Baldwin gave a brief overview and answered questions pertaining to Ordinance No. 11-04-12A amending Section 92.161(C)(2) of the Zoning Regulations of the Town of Lake Lure concerning nonconforming signs.

Mayor Pro Tem Turner opened the public hearing regarding proposed Ordinance No. 11-04-12A and invited citizens to speak during the public hearing; no one requested to speak.

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

<b>CONSIDER ADOPTION OF ORDINANCE NO. 11-05-10A AMENDING TITLE IX, CHAPTER 92, OF THE ZONING REGULATION OF THE TOWN OF LAKE LURE REGARDING NONCONFORMING SIGNS</b>
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Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Hyatt made a motion to adopt Ordinance No. 11-05-10A amending Title IX, Chapter 92, Section 92.161(C)(2) of the Zoning Regulations of the Town of Lake Lure regarding nonconforming signs. Commissioner Silvey seconded the motion and the vote of approval was unanimous.

**ORDINANCE NUMBER 11-05-10A**

**AN ORDINANCE AMENDING §92.161(C)(2) OF THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE CONCERNING THE MAINTENANCE OF NONCONFORMING SIGNS**

**WHEREAS**, the Zoning and Planning Board has recommended modifications to Zoning Regulations of the Town of Lake Lure as noted in the title of this ordinance; and

**WHEREAS**, the Zoning and Planning Board finds that the proposed ordinance, being administrative in nature, is neither consistent nor inconsistent with the Town of Lake Lure 2007-2027 Comprehensive Plan; and

**WHEREAS**, the Town Council of the Town of Lake Lure finds that this ordinance is in the public interest inasmuch as it provides a reasonable means of business identification in those instances when new businesses replace existing businesses; and

**WHEREAS**, the Lake Lure Town Council, after due notice, conducted a public hearing on the 10<sup>th</sup> day of May 2011, upon the question of amending the Zoning Regulations 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.** Paragraph (C)(2) of §92.161 of the Zoning Regulations of the Town of Lake Lure, concerning the maintenance of nonconforming signs, is hereby amended as follows:

- (2) All nonconforming signs shall be maintained in accordance §92.159 but shall not be:
  - (1) Changed or replaced with another nonconforming sign except that ~~copy may be changed on~~ an existing sign may be replaced to reflect a change in business

identification so long as the replacement sign is in the same general location and the size of the replacement sign face does not exceed that of the existing sign;

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

**SECTION TWO.** Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 92.999 of the Zoning Regulations.

**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 zoning violations.

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

Adopted this 10<sup>th</sup> day of May, 2011.

#### **PUBLIC FORUM**

Mayor Pro Tem Turner invited the audience to speak on any non-agenda item and/or consent agenda topics. No one requested to speak during public forum.

#### **STAFF REPORTS**

Town Manager Christopher Braund presented the town manager's report dated May 10, 2011. (Copy of the town manager's report is attached)

#### **COUNCIL LIAISON REPORTS & COMMENTS**

Commissioner Moore reported on the activities of the Zoning/Planning Board.

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

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

Commissioner Hyatt reported on the activities of the Lake Lure Board of Adjustment/Lake Structures Appeal Board.

<b>CONSENT AGENDA</b>
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Mayor Pro Tem Turner presented the consent agenda and asked if any items should be removed before calling for action.

Commissioner Moore moved, seconded by Commissioner Silvey, 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 April 12, 2011 (Regular Meeting), April 29, 2011 (Special Meeting) and unseal minutes of closed session meeting held on March 25, 2011;
- b. Resolution No. 11-05-10 amending Resolution No. 92-03-24 changing the term of appointment for the Lake Advisory Board from two years to three years and adding a provision for attendance;

**RESOLUTION NO. 11-05-10**

**A RESOLUTION TO AMEND RESOLUTION NO. 92-03-24 WHICH  
CREATED THE LAKE ADVISORY BOARD; CHANGE TERM OF  
BOARD MEMBER APPOINTMENT; ADD A PROVISION FOR  
ATTENDANCE**

**WHEREAS**, the aforesaid Resolution No. 92-03-24 was duly adopted by the Town Council of Lake Lure, North Carolina on March 24, 1992 creating a Lake Advisory Committee which is now referred to as the Lake Advisory Board (board name amended by Resolution No. 08-01-08A) ; and

**WHEREAS**, at the recommendation of the Lake Advisory Board, the Town Council finds it desirable to change the terms for Lake Advisory Board members and add a provision for attendance; and

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

**SECTION 1.** That section 4: of Resolution No. 08-01-08A be amended to read:

**Section 4:** That the term of appointment of each member shall be for ~~two~~ three years, and terms of all members shall not expire at the same time.

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

**SECTION 2.** That section 10 shall be renumbered as "Section 11" and new section 10 be added as follows:

**Section 10:** Attendance requirement: any board member who is absent from three consecutive regularly scheduled meetings in a calendar year, and/or a total of four meetings in a calendar year may be subject to removal off the Lake Advisory Board by Town Council.

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

**SECTION 3:** Effective date.

This resolution shall be effective upon its adoption.

Adopted this the 10<sup>th</sup> day of May, 2011.

- c. a contract with Carter, P.C. for audit services for fiscal year July 1, 2011 through June 30, 2012 as submitted by Finance Director Sam Karr; Also, authorize the mayor and finance officer to sign this contract on behalf of the town;
- d. a mutual aid agreement between Lake Lure Fire & Rescue and Rutherford county fire departments as submitted by Fire Chief Ron Morgan; Also, authorize the mayor, fire chief and town clerk to sign this contract on behalf of the town; and
- e. a mutual aid agreement between Lake Lure Fire & Rescue and Sunny View Fire Department as submitted by Fire Chief Ron Morgan; Also, authorize the mayor, fire chief and town clerk to sign this contract on behalf of the town.

**End of Consent Agenda.**

**UNFINISHED BUSINESS:**

**a. OTHER UNFINISHED BUSINESS**

There was no other unfinished business.

**NEW BUSINESS:**

**a. CONSIDER A REQUEST FROM TOM MCKAY FOR APPROVAL OF "DRAGON DUCKY DERBY" BEING HELD ON MAY 21, 2011**

Manager Braund read a letter from Tom and Carole McKay requesting permission to have a Dragon Ducky Derby alongside the Dragon Boat Festival being held on May 21, 2011. The letter from the McKays stated that they will make certain that all duckies are removed from the water as soon as the race is complete.

After discussion, Commissioner Moore made a motion to approve a request from Tom McKay to hold the Dragon Ducky Derby event on May 21, 2011. Commissioner Silvey seconded the motion and the vote of approval was unanimous.

**NEW BUSINESS:**

**b. DISCUSSION REGARDING ENFORCEMENT PROCEDURES FOR RESIDENTIAL VACATION RENTALS (RVRs) OPERATING WITHOUT A VACATION RENTAL OPERATING PERMIT (VROP) OR PENDING APPEAL**

Community Development Director Shannon Baldwin stated that to date 183 Residential Vacation Rentals (RVRs) have been identified. Four of those properties advertised as RVRs have failed to return staff attempts to contact them to gain compliance with the regulations. An additional three properties identified as not being in compliance have appealed to Rutherford County Superior Court and are pending hearing. The hearings are currently scheduled for June 13, 2011. Mr. Baldwin stated that the date for the hearings continues to be pushed out and suggested that the community development department set a definite date and move forward with enforcement on that date.

Attorney Callahan described the appeals court process and stated that it could take at least another year for the cases that are pending appeal in Rutherford County Superior Court to complete the appeals process. He suggested that community development staff pursue enforcement of the town's vacation rental regulations.

Zoning Administrator Sheila Spicer reviewed a letter that she sent out in July of 2010 and stated that there were only four owners of properties identified as noncompliant RVRs that had not responded to the letter.

Town council agreed that community development staff should establish a date and move forward with enforcement of the residential vacation rental regulations as they are written. Town council agreed with Community Development Director Shannon Baldwin that the established date would be set at 60 days prior to this meeting.

**NEW BUSINESS:**



**c. CONSIDER A REQUEST FROM THE 1927 LAKE LURE INN AND SPA TO RENT THE TOWN'S GAZEBO TO LAKE LURE PROPERTIES, LLC IN GROUP BLOCKS DURING THE MONTHS OF MARCH THROUGH NOVEMBER 2012 (EXCLUDING TIMES FOR PUBLIC EVENTS SUCH AS THE DRAGON BOAT FESTIVAL AND THE DIRTY DANCING FESTIVAL)**

Lake Lure Inn and Spa's Events Sales Manager Heather Alley and Event Department Manager Patrick Bryant answered questions regarding a request from the 1927 Lake Lure Inn and Spa to rent the town's gazebo to Lake Lure Properties (LLP) for 23 Saturdays and 3 Sundays during the months of March through November 2012 at the gazebo's regular rental rate of \$300 per day. (Copy of request from Heather Alley and Patrick Bryant is attached)

Lake Lure Inn staff also requested to make payment of 50% (\$3,900.00) of the total reservation fee (26 dates X \$300 = \$7,800.00) immediately upon approval and remit the remaining balance (\$3,900.00) by January 10, 2012. Any additional dates reserved by Lake Lure Inn in 2011 or during 2012 would be paid in full at the time of reservation.

After discussion, Commissioner Hyatt made a motion to approve the request from the 1927 Lake Lure Inn and Spa to rent the 26 dates listed in the request from Lake Lure Inn and to allow Lake Lure Properties, LLC to pay 50% of the rental fee immediately and the remaining 50% by January 10, 2012. Commissioner Moore seconded the motion and the vote of approval was unanimous.

**NEW BUSINESS:**  
**D. BOARD APPOINTMENT – ZONING & PLANNING BOARD**

Mayor Pro Tem Turner stated that there were three candidates to fill the remainder of Dick Washburn's term on the Zoning and Planning Board. She invited the audience to make additional nominations and asked if anyone would like to speak on the topic.

One of the candidates, Ric Thurlby, introduced himself to council.

Vice-Chair of the Zoning and Planning Board, Paula Jordan, expressed the importance of continuing the preservation of the Town of Lake Lure in regard to the town's comprehensive plan. She mentioned that Vic Knight has worked along the lines of this comprehensive plan in the past.

After discussion, Council members voted by nominations. Commissioner Hyatt and Commissioner Moore nominated Bruce Barrett to fill the remainder of Dick Washburn's position on the Zoning and Planning Board with a term expiring December 31, 2011. Commissioner Silvey and Commissioner Turner nominated Vic Knight.

Since two candidates received an equal number of town council's votes and Mayor Keith was absent from the meeting and unable to cast the determining vote, no appointment was made.

After discussion Commissioner Hyatt made a motion to table the Zoning & Planning Board appointment until the next regular council meeting being held on June 14, 2011. Commissioner Moore seconded the motion and the vote of approval was unanimous.

### PUBLIC FORUM

Town Council agreed to reopen public forum.

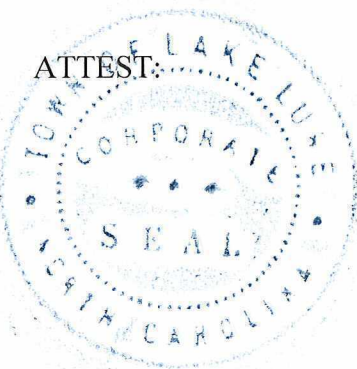
Niels Lausten, owner of the Riverside Pavilion Restaurant requested to speak. He stated that since his comments would take longer than the time allotted for public forum, he had prepared a written letter. Mr. Lausten asked if he could distribute the letter to council members and citizens in the audience.

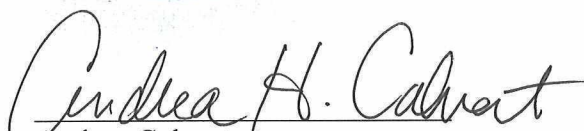
Mr. Lausten complimented the professionalism of Community Development Director Shannon Baldwin and Zoning Administrator Sheila Spicer and then said he would leave the rest of his comments to the letter he provided. (Copy of letter from Niels Lausten dated May 10, 2011 attached)


### ADJOURN THE MEETING

With no further items of discussion, Commissioner Moore made a motion to adjourn this meeting at 8:20 p.m. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

ATTEST:



  
Andrea Calvert  
Town Clerk

  
Mayor Pro Tem Linda Turner