

**MINUTES OF THE SPECIAL MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, AUGUST 30, 2011, 9:00 A.M. AT THE LAKE LURE MUNICIPAL
CENTER**

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

Christopher Braund, Town Manager
J. Christopher Callahan, Town Attorney
Michael Egan, Community Development Attorney

ABSENT: Commissioner Wayne Hyatt

CALL TO ORDER

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

INVOCATION

Attorney Chris Callahan gave the invocation.

APPROVE THE AGENDA

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

PUBLIC HEARING - CONSIDER THE ADOPTION OF A RESOLUTION AUTHORIZING THE TOWN OF LAKE LURE TO ENTER INTO AN INSTALLMENT PURCHASE CONTRACT TO FINANCE THE COST OF SLIP RENOVATION & CONSTRUCTION AT THE TOWN OF LAKE LURE'S MARINA (WASHBURN MARINA)
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Public Notices were duly given and published in the Forest City Daily Courier newspaper.

Mayor Bob Keith opened the public hearing to consider the adoption of a resolution authorizing the Town of Lake Lure to enter into an installment purchase contract of not more than \$650,000 to finance the cost of the slip construction at Washburn Marina.

Page 2- Minutes of the August 30, 2011 Special Council Meeting

Finance Director Sam Karr reviewed and answered questions pertaining to the proposed resolution.

Mayor Bob Keith invited citizens to speak during the hearing; no one requested to speak.

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

AWARD BID TO FINANCE THE COST OF SLIP RENOVATION & CONSTRUCTION AT THE TOWN OF LAKE LURE'S MARINA (WASHBURN MARINA)

Town Council reviewed copies of the financing proposals for the marina project. (Copy of financing proposals attached).

After discussion, Town Council asked Finance Director Sam Karr to contact TD Bank and BB&T to get specific details about their proposals. Town Council agreed to revisit this item later in the meeting.

a. CONSIDER POTENTIAL DATES TO SCHEDULE A HEARING ON THE RECORD FOR TIM FISK'S LAKE STRUCTURE APPEAL

Town Council selected September 8th, 9th, and 13th, 2011 as dates to potentially hold a hearing on the record for Tim Fisk's lake structure appeal case.

CLOSED SESSION – ATTORNEY CLIENT PRIVILEGE

Before entertaining a motion to go into closed session, Mayor Bob Keith stated that in order to establish a common foundation for the closed session, he would like to ascertain if town staff and council members had communicated with the plaintiffs, Attorney Craig Justus, or Judge Bridges since the last hearing regarding the lawsuits to be discussed in closed session.

Community Development Director Shannon Baldwin, Zoning Administrator Sheila Spicer, Town Manager Chris Braund, Commissioner Linda Turner, Mayor Bob Keith, and Commissioner Mary Ann Silvey stated that they had not had communication with the plaintiffs, Attorney Craig Justus, or Judge Bridges since the last hearing. Commissioner John Moore stated that Bee Jones had e-mail him copies of legislation that recently passed and that he had responded back to her email.

Attorneys Chris Callahan and Mike Egan stated that they had numerous communications with Attorney Craig Justus since the hearing. Attorney Chris Callahan advised that discussion regarding offers of compromise in a lawsuit should be discussed during closed session.

Page 3- Minutes of the August 30, 2011 Special Council Meeting

A motion was made by Commissioner Linda Turner to enter into closed session to discuss legal matters and attorney client privilege in accordance with G.S. 143-318.11(a) (3) regarding three Board of Adjustment appeals to Superior Court entitled:

- A. Stephen G. Duncan vs. Town of Lake Lure;
- B. Lou C. Self, et. al. vs. Town of Lake Lure; and
- C. Deborah O. McArthur vs. Town of Lake Lure

Commissioner John Moore seconded the motion.

While in closed session, Council members voted to seal the minutes of the closed session meeting in order to avoid frustrating the purpose of the closed session.

With no further items of discussion in closed session, Commissioner Linda Turner made a motion to come out of the closed session meeting and re-enter the regular session of the town council meeting. Commissioner John Moore seconded the motion and the vote of approval was unanimous.

AWARD BID TO FINANCE THE COST OF SLIP RENOVATION & CONSTRUCTION AT THE TOWN OF LAKE LURE'S MARINA (WASHBURN MARINA)
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Finance Director Sam Karr stated that he had spoken with representatives from both TD Bank and BB&T and provided handouts to Town Council outlining each bank's proposal.

Commissioner Linda Turner made a motion to award the bid to Branch Banking and Trust Company (BB&T) to finance improvements in accordance with the terms of their proposal at an annual interest rate of 2.31 percent for a 10 year financing term. Commissioner John Moore seconded the motion and the vote of approval was unanimous.

ADOPT RESOLUTION NO. 11-08-30 APPROVING AN INSTALLMENT FINANCING CONTRACT FOR THE COST OF SLIP RENOVATION & CONSTRUCTION AT THE TOWN OF LAKE LURE'S MARINA (WASHBURN MARINA)

After discussion, Commissioner Mary Ann Silvey made a motion to approve Resolution No. 11-08-30 as presented. Commissioner Linda Turner seconded the motion and the vote of approval was unanimous.

RESOLUTION NO. 11-08-30

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LAKE LURE,
NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT**

Page 4- Minutes of the August 30, 2011 Special Council Meeting

WHEREAS, the Town of Lake Lure, North Carolina is a duly and regularly created, organized and validly existing political subdivision of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina;

WHEREAS, the Town has the power, pursuant to North Carolina General Statutes to (I) purchase real and personal property, (II) enter into installment financing contracts in order to finance the purchase of real property used, or to be used, for public purposes, and (III) to finance the construction of fixtures or improvements on real property by contracts that create, in the real property on which such fixtures or improvements are located, a security interest to secure repayment of moneys advanced or made available for such construction;

WHEREAS, the Town Council, of the Town of Lake Lure, North Carolina, hereby determines that it is in the best interest of the Town to receive an advance of funds in an aggregate principal amount of not more than \$650,000 by entering into an installment financing contract with a North Carolina corporation, and a deed of trust or other security agreement related thereto to secure the Town's obligations under the Contract. This financing is new debt of not more than \$650,000 for the purposes of Marina Boat Slips.

Section 1. Ratification of Prior Actions. That all actions of the Town, the Town Manager, the Finance Officer of the Town, and the Town Clerk and their respective designees in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 2. That Town of Lake Lure does hereby approve the financing of the project referenced above, in accordance with the terms of the proposal made by BB&T, a copy of which is attached hereto. The annual interest rate for the Marina Boat Slips is 2.31 percent for 10 years of financing term. The Installment Purchase Contract and the Deed of Trust in connection therewith, which said financing will be valid, legal and binding obligation of the Town of Lake Lure in accordance with their terms. The form and content of the Contract and related documents are in all respects authorized, approved and confirmed and the Town Manager is hereby authorized, empowered and directed to do all such acts to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as approved.

Section 3. That the Town Manager is hereby designated as the Town's representative to act on behalf of the Town in connection with the transactions contemplated hereby and by the Instruments referenced herein, and the Town Manager is further authorized and directed to seek opinions as to matters of law from the Town Attorney, which opinions the Town Attorney is hereby authorized to furnish on behalf of the Town.

The Town Manager is further authorized to execute and deliver for and on behalf of the Town, any and all additional certificates, documents, opinions, or other papers and to perform all other acts as may be required by the instruments or as he and the Town Attorney may deem

Page 5- Minutes of the August 30, 2011 Special Council Meeting

necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

Section 4. That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, then such declaration shall not effect the validity of the remainder of the sections, phrases, or provisions of this Resolution which shall remain and continue in full force and effect.

Section 5. That all motions, orders, resolutions, ordinances and parts thereof which are or may be in conflict herewith are hereby repealed.

Section 6. This Resolution is subject, however, to Town of Lake Lure obtaining approval for the proposed installment purchase financing from the North Carolina Local Government Commission.

Section 7. That this Resolution shall become effective immediately upon its adoption.

WHEREAS, the Town hereby determines that the improvements of the above described project is essential to the Town's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Project will provide an essential use and will permit the Town to carry out public functions that it is authorized by law to perform; and that entering into the Contract is necessary and expedient for the Town by virtue of the findings presented herein.

WHEREAS, the Town hereby determines that the estimated cost of the new improvements in this project is not more than \$650,000 and that such costs exceed the amount that can be prudently raised from currently available appropriations, unappropriated fund balances in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State.

WHEREAS, although the cost of financing the improvements of this project pursuant to the Contract could exceed the cost of financing the renovations of the project pursuant to a bond financing for the same undertaking, the Town hereby determines that the cost of financing the project pursuant to the Contract and the Deed of Trust and the obligations of the Town thereunder are preferable to a general obligation bond financing for several reasons, including but not limited to the following: (I) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; and (II) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of acquiring the project;

WHEREAS, the Town hereby determines that the estimated cost of financing the renovation project pursuant to the Contract reasonably compares with an estimate of similar

Page 6- Minutes of the August 30, 2011 Special Council Meeting

costs under a bond financing for the same undertaking as a result of the findings delineated in the above preamble;

WHEREAS, obligation of the Town to make Installment Payments under the Contract is a limited obligation of the Town payable solely from currently budgeted appropriates of the Town and does not constitute a pledge of a faith and credit of the Town within the meaning of any constitutional debt limitation;

WHEREAS, in order to secure the Town's obligations under the Contract, the Town will enter into the Deed of Trust trustee named for the benefit of the Corporation;

WHEREAS, no property tax increases will be required to pay installment payments falling due under the Contract in any fiscal year during the term of the Contract;

WHEREAS, the Town Attorney will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law and constitute a purpose for which public funds may be expended pursuant to the Constitution and laws of the State;

WHEREAS, no deficiency judgment may be rendered against the Town in any action for its breach of the Contract, and the taxing power of the Town is not and may not be pledged in any way directly or indirectly or contingently to secure any monies due under the Contract;

WHEREAS, the Town is not in default under any of its debt services obligations;

WHEREAS, the Town's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the Town has conformed with generally accepted accounting principles in preparing its Annual Budget Ordinance;

WHEREAS, past audit reports of the Town indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the Town has not been censured by the North Carolina Local Government Commission, external auditors or any other regulatory agencies in connection with such debt management and contract obligation payments policies;

WHEREAS, the Town Council conducted a public hearing with respect to the Marina Boat Slips on August 30, 2011 to receive public comments on the Project, the proposed financing, the Contract and the Deed of Trust for improvements of the Project, and the Town will file an application with the LGC for approval of the LGC with respect to the Town entering into the Contract;

Page 7- Minutes of the August 30, 2011 Special Council Meeting

WHEREAS, the forms of the Contract, upon review of the Town Attorney, the Town proposes to approve, enter into and deliver, applicable, to effectuate the proposed financing at the interest rate and maximum principle amount as specified therein; and

WHEREAS, it appears that the Instrument is in appropriate form and is an appropriate instrument of the purposes intended;

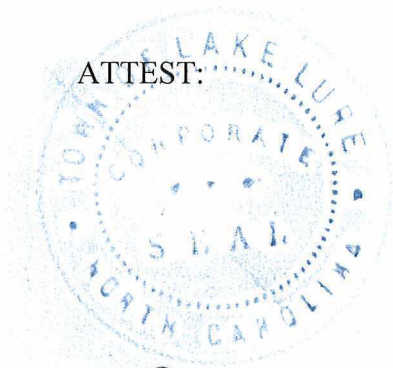
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL, TOWN OF LAKE LURE, NORTH CAROLINA, AS FOLLOWS:

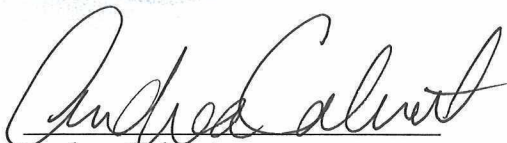
The motion to adopt this Resolution was made by Council Member Mary Ann Silvey ; seconded by Council Member Linda Turner and was passed unanimously by those members present at the meeting of the Town Council, Lake Lure, North Carolina, held on the 30th day of August, 2011.

ADJOURN THE MEETING

With no further items of discussion, Commissioner Mary Ann Silvey made a motion to adjourn this meeting at 11:49 a.m. Commissioner Linda Turner seconded the motion and the vote of approval was unanimous.

ATTEST:




Andrea Calvert
Town Clerk


Mayor Bob Keith