

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, OCTOBER 9, 2012, 7:00 P.M. AT THE LAKE LURE MUNICIPAL
CENTER**

PRESENT: Mayor Bob Keith
Commissioner John W. Moore
Commissioner Mary Ann Silvey
Commissioner Bob Cameron
Commissioner Diane Barrett

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

ABSENT: N/A

CALL TO ORDER

Mayor Bob Keith called the meeting to order at 7:15 p.m.

INVOCATION

Attorney Chris Callahan gave the invocation.

PLEDGE OF ALLEGIANCE

Council members led the pledge of allegiance.

APPROVE THE AGENDA

Commissioner Bob Cameron made a motion to approve the agenda as amended, moving items 12 and 13 (staff reports and council liaison reports) down on the agenda to follow item 16a (consideration of a request from Fairfield Mountains Volunteer Fire Department regarding funds for Fiscal Year 2012-2013). Also, removing item 16c (consideration of directing the Zoning and Planning Board to draft potential amendments to the Zoning Regulations regarding off premise signs) from the agenda.

Commissioner Diane Barrett seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING PROPOSED ORDINANCE NO. 12-10-09 AMENDING §92.039 AND
§92.005 OF THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE**

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PERTAINING TO USES AND DEFINITIONS RELATIVE TO THE GU ZONING DISTRICT

Mayor Bob Keith opened the public hearing regarding proposed Ordinance No. 12-10-09 and invited citizens to speak during the public hearing; no one requested to speak.

Council members agreed to close the public hearing.

CONSIDER ADOPTION OF ORDINANCE NO. 12-10-09 AMENDING §92.039 AND §92.005 OF THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE PERTAINING TO USES AND DEFINITIONS RELATIVE TO THE GU ZONING DISTRICT

Public notices were duly published in the Daily Courier newspaper.

Community Development Director Shannon Baldwin gave a brief overview of proposed Ordinance No. 12-10-09.

After discussion, Commissioner John Moore made a motion to adopted Ordinance No. 12-10-09 as presented. Commission Diane Barrett seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 12-10-09

AN ORDINANCE AMENDING §92.039 and §92.005 OF THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE PERTAINING TO USES AND DEFINITIONS RELATIVE TO THE GU ZONING DISTRICT

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 is consistent with the Town of Lake Lure 2007-2027 Comprehensive Plan, specifically with Objective SF-1-1; and

WHEREAS, the Town Council of the Town of Lake Lure finds that this ordinance furthers the public welfare by providing increased flexibility in the ways in which land can be classified and developed for public purposes; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 9th day of October, 2012, upon the question of amending the Zoning Regulations in this respect and, after further consideration, found the amendments to be consistent with the Town of Lake Lure 2007-2027 Comprehensive Plan.

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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. This ordinance is enacted pursuant to authority granted by N.C.G.S. 160A-381, et seq. Throughout this ordinance additions to text are designated by underlining; whereas, deletions are designated by the use of strike-through.

SECTION TWO. §92.039, entitled “GU GOVERNMENT USE DISTRICT”, is hereby amended to read as follows:

§92.039 GU GOVERNMENTAL – INSTITUTIONAL USE DISTRICT

(A) Intent. These districts are intended to apply to those lands where to which national, state, county or local municipal governmental governments, or institutions activities are conducted and where governments hold title to such lands and where public, educational, or charitable facilities are used for public purpose. Any lawful governmental activity is permitted in these districts. It is not intended to classify all lands owned by governments or institutions into this district, but only those lands particularly and peculiarly related to public usage.

(B) Within the GU Governmental-Institutional Use District buildings and land shall be used only for the following purposes:

(1) Indoor and outdoor recreation facilities such as, but not limited to, parks, playgrounds, gyms, ball fields, trail networks, and other recreation areas.

(2) Government administrative, meeting, and support facilities.

(3) Public Facilities such as daycares, public or private schools, colleges, hospitals and libraries and their respective accessory uses and support facilities.

(4) Other public facilities of a like nature.

(5) Those uses designated on a master plan adopted by Town Council for any publicly owned property. Penalty, see § 92.999

(C) Development Criteria. As determined by Town Council in compliance with all town regulations.

SECTION THREE. §92.005 of the Zoning Regulations of the Town of Lake Lure, entitled “Definitions”, is hereby amended to add three new definitions as follows:

Institution: An organization, establishment, foundation, society, or the like, devoted to the

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promotion of a particular cause or program of public, educational, or charitable character.

Institutional Use: A non-profit, religious, or public use, such as a church, library, public or private school, hospital, or government owned or operated building, structure, or land used for public purpose.

Recreation Facility: A place designed and equipped for the conduct of sports and leisure time activities.

SECTION FOUR. Any person violating the provisions of this ordinance shall be subject to the penalties and remedies set forth in §92.999 of the Zoning Regulations.

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

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

Adopted this 9th day of October, 2012.

PUBLIC HEARING PROPOSED ORDINANCE NO. 12-10-09A AMENDING THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE TO CLARIFY THE NATURE OF QUASI-JUDICIAL HEARINGS FOR A VARIANCE, CONDITIONAL USE PERMIT, OR APPEAL PETITION

Mayor Bob Keith opened the public hearing regarding proposed Ordinance No. 12-10-09A and invited citizens to speak during the public hearing; no one requested to speak.

Council members agreed to close the public hearing.

CONSIDER ADOPTION OF ORDINANCE NO. 12-10-09A AMENDING THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE TO CLARIFY THE NATURE OF QUASI-JUDICIAL HEARINGS FOR A VARIANCE, CONDITIONAL USE PERMIT, OR APPEAL PETITION

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Public notices were duly published in the Daily Courier newspaper.

Stephen Webber, Chairman of the Town of Lake Lure Board of Adjustment/Lake Structure Appeals Board, gave a brief overview of Ordinance No. 12-10-09A.

After discussion, Commissioner Bob Cameron made a motion to adopt Ordinance No. 12-10-09A as presented. Commissioner Mary Ann Silvey seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 12-10-09A

AN ORDINANCE AMENDING THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE TO CLARIFY THE NATURE OF QUASI-JUDICIAL HEARINGS FOR A VARIANCE, CONDITIONAL USE PERMIT, OR APPEAL PETITION

WHEREAS, quasi-judicial hearings are open to the public for observation but, unlike public hearings, a participant must have standing to testify during the hearing; and

WHEREAS, the Board of Adjustment has requested that the Zoning Regulations be amended to accurately reflect the nature of a quasi-judicial hearing; and

WHEREAS, the Lake Lure Zoning and Planning Board has recommended modifications to Zoning Regulations regarding quasi-judicial hearings; and

WHEREAS, the Lake Lure Town Council finds that the proposed ordinance is reasonable and in the public interest and that the proposed ordinance is neither consistent nor inconsistent with the Town of Lake Lure 2007-2027 Comprehensive Plan; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 9th day of October, 2012, 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. This ordinance is enacted pursuant to authority granted by N.C.G.S. 160A-381, et seq. Throughout this ordinance additions to text are designated by underlining; whereas, deletions are designated by the use of strike-through.

SECTION TWO. §92.005 of the Town of Lake Lure Zoning Regulations, entitled “Definitions”, is hereby amended as follows:

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Notice: A formal legal notification of either a public hearing on a proposed zoning amendment, whether a map or text amendment, or a quasi-judicial hearing on a variance, conditional use permit, or appeal petition.

SECTION THREE. §92.046 (B) (3) of the Town of Lake Lure Zoning Regulations, concerning Board of Adjustment review procedures for conditional use permit requests is hereby amended as follows:

(3) Board of Adjustment. The Board of Adjustment shall hold a public hearing no later than 65 days from the date the application was reviewed by the Development Review Committee. The Board of Adjustment shall neither deny nor approve any application solely on the basis of a recommendation from the Development Review Committee or Zoning and Planning Board. The Board of Adjustment may or may not incorporate the recommendations from the Development Review Committee or Zoning and Planning Board in its decision regarding the conditional use permit application.

SECTION FOUR. §92.046 (C) of the Town of Lake Lure Zoning Regulations, concerning Board of Adjustment hearings for conditional use permit requests is hereby amended as follows:

(C) Public Hearing. Upon receipt of a complete application for a conditional use permit, the Zoning Administrator shall assign the application a public hearing before the Board of Adjustment and give notice as required by law. At the hearing, the applicant or designated representative shall appear for the purpose of offering testimony and recommendations as to the application, and the Board shall allocate reasonable time for the expression of views by members of the public with standing attending the meeting in person or represented by an attorney. A decision by the Board of Adjustment shall be made within 35 days. The 35 days shall begin on the date the public hearing ends.

SECTION FIVE. §92.082 (D) of the Town of Lake Lure Zoning Regulations, concerning rules of conduct for Board of Adjustment members is hereby amended as follows:

(D) No board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Zoning Administrator or any other member of the board, its secretary or clerk prior to the hearing.

SECTION SIX. §92.082 (G) of the Town of Lake Lure Zoning Regulations, concerning rules of conduct for Board of Adjustment members is hereby amended as follows:

(G) No board member shall vote on any matter that decides an application or appeal unless he has attended the public hearing on that application or appeal.

SECTION SEVEN. §92.086 (D) (1) of the Town of Lake Lure Zoning Regulations, concerning the time decisions of the Board of Adjustment shall be made is hereby amended as follows:

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(1) Time. A decision by the board shall be made within 35 days from the time of hearing. The 35 days shall begin on the date the public hearing ends.

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

SECTION NINE. 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 TEN. 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 ELEVEN. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 9th day of October 2012.

PUBLIC HEARING PROPOSED ORDINANCE NO. 12-10-09B AMENDING CHAPTER 85 OF THE CODE OF ORDINANCES OF THE TOWN OF LAKE LURE ENTITLED "LAKE REGULATIONS"

Mayor Bob Keith opened the public hearing regarding proposed Ordinance No. 12-10-09B and invited citizens to speak during the public hearing; no one requested to speak.

Council members agreed to close the public hearing.

CONSIDER ADOPTION OF ORDINANCE NO. 12-10-09B AMENDING CHAPTER 85 OF THE CODE OF ORDINANCES OF THE TOWN OF LAKE LURE ENTITLED "LAKE REGULATIONS"

Public notices were duly published in the Daily Courier newspaper.

Town Manager Chris Braund gave a brief overview of Ordinance No. 12-10-09B.

After discussion, Commissioner Diane Barrett made a motion to adopt Ordinance No. 12-10-09B as presented. Commissioner Mary Ann Silvey seconded the motion and the vote of approval was unanimous.

ORDINANCE NO. 12-10-09B

AN ORDINANCE CONCERNING THE CODE OF ORDINANCES OF THE TOWN OF LAKE LURE; AMENDING CHAPTER 85 ENTITLED "LAKE REGULATIONS"

WHEREAS, the Lake Lure Town Council has created the Lake Lure Marine Commission as authorized by special act of the General Assembly of the State of North Carolina for the purposes of regulating all activities on Lake Lure; and

WHEREAS, Lake Use Regulations were adopted by resolution on March 9, 2004 by the Lake Lure Marine Commission; and

WHEREAS, the Lake Use Regulations were substantially the same as Chapter 85 of the Town of Lake Lure Code of Ordinances and nullified the necessity of it being part of existing chapter 85; and

WHEREAS, the Lake Lure Town Council finds that it is in the public interest to rescind and replace Chapter 85 of the Town's Code of Ordinances; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 9th day of October 2012, 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. Chapter 85 of the Code of Ordinances of the Town of Lake Lure, entitled "Lake Regulations", is hereby repealed and replaced with a new Chapter 85 entitled, "Lake Regulations". To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions they replace, they shall be considered as continuations thereof and not as new enactments. Particularly, the enactment of this Ordinance shall in no way affect be deemed to render null or impair in any way any existing enforcement actions or existing violations of the Code of Ordinances.

SECTION TWO. Chapter 85 of the Code of Ordinances of the Town of Lake Lure, entitled "Lake Regulations", is hereby enacted to read as follows:

"Chapter 85 of the Code of Ordinances of the Town of Lake Lure, entitled "Lake Regulations" was transferred to the Lake Lure Marine Commission for enforcement by Marine Commission Resolution 04-03-09 on or after March 9, 2004 and clarified by Ordinance No. 12-09-10."

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

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Adopted this 9th day of October, 2012.

PUBLIC FORUM

Mayor Bob Keith invited the audience to speak on any non-agenda items and/or consent agenda topics. The following requested to speak:

1. Pruett Walden introduced himself and stated that he is running for Rutherford County Commissioner in district 2. Mr. Walden distributed copies of his contact information and asked the audience to feel free to contact him with any questions they may have.
2. Ruth Marsh of 145 Treetops Lane stated that it is her understanding that the Fairfield Mountains Volunteer Fire Department submitted the smallest fire department budget this fiscal year and it was cut by the largest percentage. Mrs. Marsh questioned why town council chose to make this decision.
3. Pat Maringer of 2104 Memorial Highway stated she has used the Fairfield Mountains Volunteer Fire Department three times in the years that she has lived in Lake Lure. Ms. Maringer stated that Fairfield Mountains Volunteer Fire Department is needed and asked council to search for additional funds to support the Fairfield Mountains Volunteer Fire Department.
4. Kevin McFarland, a member of Fairfield Mountains Volunteer Fire Department, questioned why the town has municipal firefighters. Mr. McFarland also asked if the Lake Lure Fire Department has a “five year plan”.
5. Nancy Modzelewski of 224 Highland Heights asked why council does not divide available funds equally among all four fire departments that serve the town. Town Manager Chris Braund explained that the different departments serve different functions and require different supplies.
6. Christy Wilson, a member of the Fairfield Mountains Volunteer Fire Department, described the Fairfield Fire Department as a “family” and stated that the department does not spend money excessively. Ms. Wilson further stated that some members of the Fairfield Mountains Volunteer Fire Department, including herself, are working towards obtaining EMT certification. Ms. Wilson explained that, due to budget constraints, she does not have turnout gear that she needs to adequately serve as a member of the fire department.

CONSENT AGENDA

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

Commissioner Bob Cameron moved, seconded by Commissioner Mary Ann Silvey, to approve the consent agenda items as presented. Therefore, the consent agenda incorporating the following items was unanimously approved:

- a. minutes of the September 11, 2012 regular meeting
- b. a request submitted by Lake Lure Classical Academy to suspend the Town's peddling ordinance in order to sell concessions at school sporting events in Morse Park
- c. the sell of a 2004 Ford Expedition as a surplus vehicle through GovDeals and use of the proceeds to purchase a smaller, more suitable vehicle for site inspections and code enforcement as outlined in memo dated October 4, 2012 (Copy of memo is attached)

End of Consent Agenda.

UNFINISHED BUSINESS:

a. OTHER UNFINISHED BUSINESS

There was no other unfinished business.

NEW BUSINESS:

a. CONSIDER A REQUEST FROM FAIRFIELD MOUNTAINS VOLUNTEER FIRE DEPARTMENT REGARDING FUNDS FOR FISCAL YEAR 2012-2013

Gary Wilson presented a request on behalf Fairfield Mountains Volunteer Fire Department asking the town to allocate additional funds for the Fairfield Mountains Volunteer Fire Department for fiscal year 2012-2013. Mr. Wilson stated that he feels there are misconceptions regarding Fairfield Mountains Fire Department and presented a list of facts in an attempt to clarify these misconceptions.

Town Manager Chris Braund gave an overview of the town's budget process.

After discussion, Commissioner John Moore made a motion to move \$13,000 from Contingency (#10-991000-970) to Fairfield Vol. Fire Dept. (#10-434000-693) as per their

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request letter dated October 1, 2012. Commissioner Diane Barrett seconded the motion and the vote of approval was unanimous.

Mayor Bob Keith recessed the meeting at 8:35 p.m. and reconvened at 8:45 p.m.

STAFF REPORTS

Town Manager Chris Braund presented the town manager's report dated October 9, 2012. (Copy of the town manager's report is attached.)

COUNCIL LIAISON REPORTS & COMMENTS

Commissioner Diane Barrett reported that the Parks and Recreation Board did not meet this month.

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

Commissioner Mary Ann Silvey reported on the activities of the Lake Advisory Board, the Lake Lure ABC Board and the Lake Lure Classical Academy School Board.

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

NEW BUSINESS:

b. CONSIDER ADOPTION RESOLUTION NO. 12-10-09 APPROVING AN AGREEMENT BETWEEN THE NORTH CAROLINA DIVISION OF ARCHIVES AND HISTORY AND THE TOWN OF LAKE LURE FOR MUNICIPAL RECORDS RETENTION AND DISPOSITION

Town Manager Chris Braund gave an overview of proposed Resolution No. 12-10-09.

After discussion, Commissioner Mary Ann Silvey made a motion to adopt Resolution No. 12-10-09 approving an agreement between the North Carolina Department Division of Archives and History and the Town of Lake Lure for records retention and disposition. Commissioner Diane Barrett seconded the motion and the vote of approval was unanimous.

RESOLUTION NO. 12-10-09

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE NORTH CAROLINA DIVISION OF

**ARCHIVES AND HISTORY AND THE TOWN OF LAKE
LURE FOR MUNICIPAL RECORDS RETENTION AND
DISPOSITION**

WHEREAS, the Division of Archives and Records of the North Carolina Department of Cultural Resources has developed a comprehensive records schedule governing the retention and disposition of municipal records, all based upon applicable statutory authority; and,

WHEREAS, the State has requested the acceptance and approval of the newly prepared retention and disposition schedule by the Town of Lake Lure in the form of an agreement between the State and the Town; and,

WHEREAS, it is the desire of the Town Council of the Town of Lake Lure, North Carolina to accept and approve this schedule and the proposed agreement as presented;

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

Section 1. The September 10, 2012 Municipal Records Retention and Disposition Schedule and the Agreement between the North Carolina Division of Archives and Records and the Town of Lake Lure is hereby accepted and approved.

Section 2. The Mayor, Town Clerk and Town Manager are hereby authorized and directed to execute the Agreement described in Section 1 of this Resolution.

Section 3. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this 9th day of October, 2012.

NEW BUSINESS:

c. CLOSED SESSION – LEGAL MATTERS IN ACCORDANCE WITH G.S. 143-318.11(a) (5) TO DISCUSS POSSIBLE REAL ESTATE TRANSACTIONS/ PROPERTY ACQUISITION

Commissioner John Moore made a motion to enter into closed session in accordance with G.S. 143-318.11(a) (5) to discuss possible real estate transactions / property acquisition. Commissioner Diane Barrett seconded the motion and the vote of approval was unanimous.

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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 Diane Barrett made a motion to come out of the closed session meeting and re-enter the regular session of the town council meeting. Commissioner Bob Cameron seconded the motion and the vote of approval was unanimous.

ADJOURN THE MEETING

With no further items of discussion, Commissioner Bob Cameron made a motion to adjourn the meeting at 9:50 p.m. Commissioner John Moore seconded the motion and the vote of approval was unanimous.

ATTEST:

Andrea H. Calvert
Town Clerk

Mayor Bob Keith