

LAKE LURE TOWN COUNCIL REGULAR MEETING PACKET

Tuesday, October 14, 2014



Mayor Bob Keith

Commissioner John Moore

Commissioner Mary Ann Silvey

Commissioner Diane Barrett

Commissioner Bob Cameron



REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL

October 14, 2014

6:00 p.m.

Lake Lure Municipal Center

AGENDA

1. Call to Order Mayor
Bob Keith
2. Invocation (*Please rise and remain standing*) Attorney
Chris Callahan
3. Pledge of Allegiance
4. Approve the Agenda Council
5. Public Forum: *The public is invited to speak on any non-agenda and/or consent agenda topics. Comments should be limited to less than five minutes.*
6. Staff Reports
7. Council Liaison Reports & Comments
8. Public Hearing – Proposed Ordinance No. 14-10-14 Amending the Zoning Regulations of the Town of Lake Lure Concerning Microbreweries
9. Consider Adoption of Ordinance No. 14-10-14A Amending the Zoning Regulations of the Town of Lake Lure Concerning Microbreweries
10. Public Hearing – Proposed Ordinance No. 14-10-14A Amending the Zoning Regulations of the Town of Lake Lure Concerning Signs for a Commercial Center
11. Consider Adoption of Ordinance No. 14-10-14A Amending the Zoning Regulations of the Town of Lake Lure Concerning Signs for a Commercial Center
12. Consent Agenda:
 - a. Approve Minutes of the September 9, 2014 Regular Meeting and the September 4, 2014 Special Meeting
 - b. Amend the Approved Fee Schedule to Include the Fees for Outside Sewer Rates

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- c. Approve a Budget Amendment Concerning Police Department Funds from a Facebook Technology Grant
- 13. Unfinished Business
 - a. Update on Ordinance No. 14-05-13B
 - b. Discuss the Zoning and Planning Board's Review of the a De-annexation Request
 - c. Discuss and Consider Approval of Staff Compensation Recommendations
- 14. New Business:
- 15. Adjournment

Agenda Items: 8 & 9

NOTICE OF PUBLIC HEARING

Notice is hereby given that at 7:00 p.m., on 14 October 2014, at the Lake Lure Municipal Center, 2948 Memorial Highway, Lake Lure, North Carolina, the Lake Lure Town Council will hold public hearings with regard to the following matters:

Ordinance #14-10-14: An ordinance amending the Zoning Regulations concerning microbreweries.

Ordinance #14-10-14A: An ordinance amending the Zoning Regulations concerning signs for a commercial center.

The public is advised that it has the right to appear at said public hearings and present information with regard to this matter. Copies of the proposed ordinances are available for public inspection at the Lake Lure Municipal Center, 2948 Memorial Hwy, 8:00 a.m. until 5:00 p.m., Monday through Friday, holidays excepted.

MEMORANDUM

To: Honorable Mayor and Commissioners

From: Michael Egan, Community Development Attorney
Shannon Baldwin, Community Development Director

Date: 30 September 2014

Subject: Ordinance Concerning Breweries, Distilleries & Wineries

PROJECT HISTORY

Breweries, wineries, and distilleries are now not only a part of the tourism based economy of Western North Carolina but also add to the quality of life for residents where they operate. The number of entrepreneurs opening craft breweries and distilleries in the region is increasing. Asheville, Black Mountain, and Hendersonville are a few of the locations where these types of business are flourishing. These businesses serve both the residents and visitors. Lake Lure has even had some experience with these uses in this past. A microbrewery operated in the space that is now El Lago in the Arcade years ago. However, the Town of Lake Lure Zoning Regulations do not specifically include distilleries, wineries, or breweries as allowable uses in any commercial district. In short, the Town of Lake Lure should consider amending the Zoning Regulations to create space in Lake Lure for these emerging craft industries in support of the Town's desire to become more business friendly and facilitate additional economic opportunity. Town Staff generated the initial position paper. Council read the paper and recommended the Zoning and Planning Board study the issue and forward a recommendation relative to an ordinance concerning these uses. They have done so.

ANALYSIS

The Ordinance Concerning Breweries, Distilleries & Wineries would recognize these uses, along with their smaller corollaries. The primary concern associated with such uses identified by staff and the Zoning & Planning Board is the potential impact on the

Town's wastewater treatment plant. The wastewater discharges from breweries, distilleries and wineries typically have very high bio-chemical oxygen demand (BOD) levels which are likely to stress the ability of the plant to treat them and remain in compliance with water quality standards. The wastewater treatment plant for the City of Brevard, for instance, where the Oskar Blues regional brewery recently began operation, has repeatedly been in violation of these standards, and it is now operating under a letter of consent. This issue has been addressed in the attached draft by requiring any of these facilities to first obtain a sewer use permit from the Town prior to issuance of a certificate of zoning compliance or a conditional use permit. The Town's recently-enacted Sewer Use Ordinance allows the Town to require pre-treatment by the facility operator to the degree necessary to protect the Town's wastewater treatment plant.

Following is an analysis, by section, of the draft ordinance.

SECTION ONE. Recites the statutory authority for the ordinance.

SECTION TWO. Provides definitions for each of the new uses to be recognized by the Zoning Regulations: brewery, brewpub, distillery, micro-brewery, micro-distillery, micro-winery, nano-brewery, regional brewery, winery.

SECTIONS THREE – ELEVEN. Make the new uses defined above either conditional uses or permitted uses subject to special requirements in various zoning districts. In each case, the use is made subject to the special requirement set forth in Section Twelve of the Ordinance, which is briefed below.

SECTION TWELVE. Reorganizes §92.042 of the Zoning Regulations which currently contains the standards for *residential vacation rentals*. This section of the regulations would now be entitled "Special Requirements for Certain Uses" and would serve to house special requirements for *residential vacation rentals* and *breweries, distilleries and wineries*, as well as any special requirements which may be generated in the future for other uses. The requirements pertaining to *residential vacation rentals* are unchanged but now are listed as Paragraph (A) of §92.042. The special requirement for *breweries, distilleries and wineries* appears in Paragraph (B).

SECTION THIRTEEN. Adds language to Section 92.046(D)(1) to make it clear that the applicant for a conditional use permit must demonstrate compliance with any special requirements contained in Section 92.042 of the Zoning Regulations.

RECOMMENDATION OF THE ZONING & PLANNING BOARD

At its regular meeting of 16 September 2014 the Zoning & Planning Board found the Ordinance Concerning Breweries, Distilleries and Wineries to be consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan for the reasons set forth in the introduction to such Ordinance and voted unanimously to recommend its enactment.

RECOMMENDATION FROM TOWN STAFF

After the Planning Board recommended approval, Town Staff realized having the definition of "site" would assist in the implementation of said Ordinance in addition to clarifying other issues in the Zoning Regulations. Staff recommends approval of the Ordinance per the Planning Board's recommendation but also adding the word "site" and its corresponding definition to Section 92.005 of the Zoning Regulations.

SUGGESTED MOTION

I move Council to find that the Ordinance Concerning Breweries, Distilleries and Wineries is in the public interest and is consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan for the reasons stated in the introduction to the Ordinance, and I further move enactment of such Ordinance with the following definition added to Section 92.005 of the Zoning Regulations:

"Site: Any plot or parcel of land or combination of contiguous lots or parcels of land. "

ORDINANCE NUMBER 14-10-14

AN ORDINANCE CONCERNING MICROBREWERIES

WHEREAS, N.C.G.S. 160A-381 authorizes municipalities to adopt zoning ordinances regulating, among other things, “the location and use of buildings, structures, and land”; and

WHEREAS, breweries, wineries, and distilleries have become a part of the tourism based economy of Western North Carolina and add to the quality of life of the residents in the communities in which they operate; and

WHEREAS, Town Council finds that this amendment is consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan in that it will help facilitate a diversified economy (ED Goal 1) by encouraging businesses that are desired but non-existent within Lake Lure’s jurisdiction to locate in the town center and other commercial service areas (Objective ED-1-3; Policy ED-1-3.1); and

WHEREAS, Town Council further finds that enactment of this Ordinance is reasonable and in the public interest in that it will allow for the development and operation of breweries, wineries and distilleries within appropriate zoning districts and subject to appropriate requirements; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 14th day of October 2014, 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 the grants of authority contained in Section 160A-381 of the North Carolina General Statutes.

SECTION TWO. Section 92.005 of the Zoning Regulations of the Town of Lake Lure, entitled “Definitions”, is hereby amended by adding the following definitions to be inserted in alphabetical order:

Brewery: A facility that brews and packages beer or other fermented malt beverage for distribution locally and / or regionally. A brewery may include areas for demonstration, education, tasting and other uses permitted in the district, in accordance with state and local laws.

Brewpub: A restaurant-brewery that brews small quantities of craft beer, ale, porter or other fermented malt beverages and sells at least 75% of it on site along with food in accordance with state and local laws.

Distillery: A facility that manufactures and distributes spirituous beverages. A distillery may include areas for demonstration, education, tasting and other uses permitted in the district, in accordance with state and local laws.

Micro-Brewery: An independently-owned facility that brews craft beer, ale, porter or other fermented malt beverages in quantities up to 15,000 barrels per year with at least 75% of its product sold off-site. A micro-brewery may include areas for demonstration, education, tasting and other uses permitted in the district, in accordance with state and local laws.

Micro-Distillery: An independently-owned artisan facility that produces up to 30,000 gallons of craft spirituous beverages per year. A micro-distillery may include areas for demonstration, education, tasting and other uses permitted in the district, in accordance with state and local laws.

Micro-Winery: An independently-owned artisan facility that produces up to 30,000 gallons of craft wine, cider, or other fermented fruit beverage per year. A micro-winery may include areas for demonstration, education, tasting and other uses permitted in the district, in accordance with state and local laws.

Nano-Brewery: An independently-owned facility that brews craft beer, ale, porter, or other fermented malt beverages in quantities up to 1,000 barrels per year in accordance with state and local laws for on-site consumption and where food is not necessarily provided.

Regional Brewery: A facility that brews beer, ale, porter, or other fermented malt beverages in quantities up to 60,000 barrels per year.

Winery: A facility where wine, cider or other fermented fruit beverages are produced and distributed. A winery may include areas for demonstration, education, tasting and other uses permitted in the district, in accordance with state and local laws.

SECTION THREE. Paragraph (B) of Section 92.031 of the Zoning Regulations of the Town of Lake Lure, listing the permitted uses for the C-1 General Commercial District, is hereby amended by adding the following new permitted uses:

- (12) Brewpubs, micro-breweries, micro-distilleries, micro-wineries, and nano-breweries subject to special requirements contained in §92.042, below.

SECTION FOUR. Paragraph (G) of Section 92.031 of the Zoning Regulations of the Town of Lake Lure, listing the conditional uses for the C-1 General Commercial District, is hereby amended by adding the following new conditional uses:

- (11) Distilleries, regional breweries, and wineries.

SECTION FIVE. Paragraph (B) of Section 92.031A of the Zoning Regulations of the Town of Lake Lure, listing the permitted uses for the CN Commercial Neighborhood District, is hereby amended by adding the following new permitted uses:

- (9) Brewpubs and nano-breweries subject to special requirements contained in §92.042, below.

SECTION SIX. Paragraph (C) of Section 92.031A of the Zoning Regulations of the Town of Lake Lure, listing the conditional uses for the CN Commercial Neighborhood District, is hereby amended by adding the following new conditional uses:

- (5) Micro-breweries, micro-distilleries, and micro-wineries.

SECTION SEVEN. Paragraph (B) of Section 92.031B of the Zoning Regulations of the Town of Lake Lure, listing the permitted uses for the CTC Commercial, Town Center District, is hereby amended by adding the following new permitted uses:

- (13) Brewpubs, micro-breweries, micro-distilleries, micro-wineries, and nano-breweries subject to special requirements contained in §92.042, below.

SECTION EIGHT. Paragraph (C) of Section 92.031B of the Zoning Regulations of the Town of Lake Lure, listing the conditional uses for the CTC Commercial, Town Center District, is hereby amended by adding the following new conditional uses:

- (4) Distilleries, regional breweries, and wineries.

SECTION NINE. Paragraph (B) of Section 92.031C of the Zoning Regulations of the Town of Lake Lure, listing the permitted uses for the CG Commercial General District, is hereby amended by adding the following new permitted uses:

- (11) Brewpubs, micro-breweries, micro-distilleries, micro-wineries, and nano-breweries subject to special requirements contained in §92.042, below.

SECTION TEN. Paragraph (C) of Section 92.031C of the Zoning Regulations of the Town of Lake Lure, listing the conditional uses for the CG Commercial General District, is hereby amended by adding the following new conditional uses:

- (14) Distilleries, regional breweries, and wineries.

SECTION ELEVEN. Paragraph (B) of Section 92.031D of the Zoning Regulations of the Town of Lake Lure, listing the permitted uses for the CSC Commercial Shopping Center District, is hereby amended by adding the following new permitted uses:

- (5) Brewpubs, distilleries, micro-breweries, micro-distilleries, micro-wineries, nano-breweries, regional breweries, and wineries subject to special requirements contained in §92.042, below.

SECTION TWELVE. Section 92.042 of the Zoning Regulations of the Town of Lake Lure is hereby retitled "Special Requirements for Certain Uses" and is amended as follows:

§92.042 Residential-Vacation-Rentals Special Requirements for Certain Uses. The special requirements contained in this section apply to the named uses whenever they are identified as conditional uses or as permitted uses subject to special requirements..

- (A) **Residential Vacation Rentals.** ~~Use-Recognized.~~ Residential vacation rentals are hereby recognized as a use within the planning jurisdiction of the Town of Lake Lure. Except as provided herein, on and after 1 January 2010, it shall be a violation to operate a residential vacation rental without a vacation rental operating permit from the Town.

- (1) **Exceptions.** The following activities and / or uses shall not be deemed residential vacation rentals and the requirements of this section shall not apply to them.

- (a) Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total annual rental period for both rentals does not exceed two weeks.
- (b) Rentals of property in any hotel, lodge, motel, bed & breakfast establishment, or boarding & rooming house, with a valid certificate of zoning compliance.

- (2) **Vacation Rental Operating Permits.** Every residential vacation rental not excepted as above shall require a vacation rental operating permit issued pursuant to the regulations contained herein. The vacation rental operating permit may also function as a certificate of zoning compliance for a residential vacation rental. Any Vacation Rental Operating Permit issued prior to 28 February 2012 is recognized as having a vested status to operate under the ordinance as amended on 28 February 2012. Additionally, anyone that can establish via Tourism and Development Authority tax records or other suitable proof that they were engaged in vacation rental activity at their home prior to January 1, 2010 (the effective date of the ordinance) would also have vested status. Any future revisions and amendments to this Ordinance shall not apply to those vested residences. This status is transferable; although, a new vacation rental operating permit must be obtained in the name of the new owner. This status is forfeited if there is no vacation rental activity at the home for a period of five years.

- (a) *Application.* In order to obtain a vacation rental operating permit the owner or the operator shall submit an application for each such residential vacation rental which complies with the requirements of §92.042(D), below, and shall pay all applicable fees in accordance with the Town's adopted fee schedule.
 - (b) *Procedure.* From and after the effective date of this Ordinance, applications for a vacation rental operating permit shall be deemed in the nature of a conditional use permit and shall be processed in accordance with §92.046 of these Zoning Regulations except that no sketch plan conference shall be necessary.
- (3) ***Contents of Application:*** The application for a vacation rental operating permit shall contain the following information.
 - (a) The address of the property.
 - (b) Name and contact information for the owner of the property.
 - (c) Name and contact information for the operator if other than the owner.
 - (d) A site plan showing the off-street parking area(s) for the property.
 - (e) The number of bedrooms on the property intended to be used for occupancy.
 - (f) If the property is served by the Town's sewer system, a certificate from a qualified licensed professional that the connection to the Town's system is operational and free of detectable leaks.
 - (g) If the residential vacation rental includes the use of a boat on Lake Lure, proof of a valid Town commercial boat license.
 - (h) Proof that the property is registered with the Rutherford County Tourism Development Authority or, for a new business, that an application has been submitted, and that all room occupancy and tourism development taxes for the prior year have been paid.
 - (i) A copy of the standard rental agreement used for the residential vacation rental which contains information required by this section.

- (j) An acknowledgment that the applicant is aware of the occupancy restrictions on the use of the property as a residential vacation rental and the applicant's agreement to abide thereby.
- (k) A statement by the operator, under oath, that the information in the application is correct.
- (4) **Inspections:** In conjunction with an application for a vacation rental operating permit, the Town shall conduct an initial inspection to confirm compliance with the requirements of this section.
- (5) **Operational Requirements:** The following operational requirements shall apply to all residential vacation rentals.
 - (a) **Occupancy Limits.** On those occasions when the property is being utilized for vacation rental activity, the overnight occupancy shall not exceed two persons per bedroom plus four additional persons. For any permits issued subsequent to 28 February 2012, occupancy shall be the lesser of the total determined by the foregoing formula or twelve persons. Bedrooms used in calculating occupancy limits shall be taken from the application as affirmed by the owner/manager.
 - (b) **Signs.** In the R-1, R-1A, R-1B, R-1C, R-1D and M-1 zoning districts, residential vacation rental properties shall not have any signs visible from the exterior of the premises which advertise the use of the property as a residential vacation rental, other than as required by this section. In the remaining zoning districts, residential vacation rental properties may have signage as authorized by Article 10 of these regulations.
 - (c) **Display of Contact Information.** Residential vacation rental operators shall prominently display on the exterior of the residential vacation rental property the name and 24-hour per day, 365 days-per-year telephone number for the residential vacation rental operator who will take and resolve complaints regarding operation of the residential vacation rental property and its occupants and guests. The Town will prescribe the form of this display which shall also include a telephone number to report violations of this section to the Zoning Administrator.
 - (d) **Parking.** Occupants or guests of any residential vacation rental property shall not park vehicles on the property other than within parking area(s) designated on the application for the residential vacation rental. Vehicles parked in undesignated areas, or in the street so as to violate the town's

street ordinances, shall be subject to towing at the vehicle owner's expense.

- (e) *Trash Disposal.* Household trash must be bagged and disposed of in trash receptacles. Trash receptacles shall be the size and number authorized by existing refuse contracts and shall be animal resistant.
- (6) *Contract Addendum.* Every residential vacation rental contract shall contain an addendum, in a form prepared by the Town, setting forth the requirements of this section and other applicable provisions of law. The operator shall obtain a signed acknowledgment from the renter(s) that they have received such addendum prior to delivering possession of the residential vacation rental property. This requirement shall be deemed satisfied if the provisions of the addendum are included as part of the rental contract.
- (7) *Duties of the Operator to Respond to Complaints.* To assure prompt response to complaints and issues concerning a residential vacation rental, the operator shall comply with the following:
 - (a) Maintain a call center that is staffed by a live person and fully responsive at any time that the property is used as a Residential Vacation Rental.
 - (b) Continuously maintain on file with the Town the operator's current address, telephone number, and facsimile number and/or email address.

(B) **Breweries, Distilleries and Wineries.** An applicant seeking authorization to develop and/or operate a brewery, brewpub, distillery, micro-brewery, micro-distillery, micro-winery, nano-brewery or winery shall obtain a sewer use permit for the facility prior to issuance of such authorization, whether it be a certificate of zoning compliance or a conditional use permit.

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

SECTION THIRTEEN. Subparagraph (D)(1) of Section 92.046 of the Zoning Regulations of the Town of Lake Lure, concerning the standards for issuance of conditional use permits, is hereby amended as follows:

- (1) *Application.* The application is complete, and the applicant has demonstrated the proposed use complies with all applicable standards of these Zoning Regulations, including any special requirements in §92.042, above.

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

SECTION FIFTEEN. 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 SIXTEEN. 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 SEVENTEEN. This ordinance shall be in full force and effect from and after its enactment.

Enacted this _____ day of _____, 2014.

Bob Keith, Mayor

ATTEST:

Andi Calvert , Town Clerk

Agenda Items: 10& 11

MEMORANDUM

To: Honorable Mayor and Commissioners

From: Michael Egan, Community Development Attorney

Date: 29 September 2014

Subject: Ordinance Concerning Signage for Business, Commercial and Industrial Districts

PROJECT HISTORY

This project was initiated by the request of Kevin Cooley and Tommy Hartzog for an amendment to the Zoning Regulations to accommodate their desires for signage at the Gateway Center, a commercial center development on Memorial Highway. Council referred their request to the Zoning & Planning Board for a recommendation at to the proposed changes.

ANALYSIS

Section 92.157(B)(1) of the Town's Zoning Regulations limits commercial centers to one freestanding detached sign to identify the commercial center and, if desired, to contain the names of individual businesses located therein. Messrs. Cooley and Hartzog maintain that the Gateway Center does not have sufficient separation from Memorial Highway for erection of a freestanding detached sign and prefer to use the existing bell tower on the structure to host signs containing the name of the commercial center. During the discussion before the Zoning & Planning Board, staff articulated a potential problem with the limitation in Section 92.157(B)(6) that signs are limited to a height of sixteen feet.

Following is an analysis, by section, of the draft ordinance.

SECTION ONE. Recites the statutory authority for the ordinance.

SECTION TWO. Amends Section 92.157(B)(1) of the Zoning Regulations to provide an alternative to the use of a freestanding detached sign for commercial centers. In lieu of the foregoing, a commercial center would be able to use up to three suspended or flush attached signs to identify the center. The draft ordinance would also increase the total maximum size of the sign from 50 square feet to 100 square feet. This section also changes the requirements for individual business identification signs from a "flat" sign to a "projected or flush attached" sign.

SECTION THREE. Amends Section 92.157(B)(6) to restrict the 16-foot height limitation to freestanding detached signs. Provides that any other sign shall not project above the roof of the building to which they are attached.

RECOMMENDATION OF THE ZONING & PLANNING BOARD

At its regular meeting of 16 September 2014 the Zoning & Planning Board found the Ordinance Concerning Signage for Business, Commercial and Industrial Districts to be consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan for the reasons set forth in the introduction to such Ordinance and voted unanimously to recommend its enactment.

SUGGESTED MOTION

I move Council to find that the Ordinance Concerning Signage for Business, Commercial and Industrial Districts is in the public interest and is consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan for the reasons stated in the introduction to the Ordinance, and I further move enactment of such Ordinance.

ORDINANCE NUMBER 14-10-14A

AN ORDINANCE AMENDING THE ZONING REGULATIONS CONCERNING COMMERCIAL CENTER SIGNS

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

WHEREAS, Town Council finds that this amendment is consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan in that it will help facilitate a diversified economy (ED Goal 1) by attracting new businesses to the town center and other commercial service areas (Policy ED-1-3.1); and

WHEREAS, Town Council further finds that enactment of this Ordinance is reasonable and in the public interest in that it will allow for the erection and posting of signs in a commercial center in a manner consistent with the unique natural beauty that distinguishes the town; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 14th day of October, 2014, 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 the grants of authority contained in Section 160A-381 of the North Carolina General Statutes.

SECTION TWO. Section 92.157 of the Zoning Regulations of the Town of Lake Lure entitled Signs Permitted and Regulated, is hereby amended in Subparagraph (B)(1) as follows:

- (1) As this subsection is applied to commercial centers, the commercial center owner shall be responsible for securing permits and maintaining the following signs:
 - (a) ~~Freestanding Detached Signs~~ Commercial Center Signage. Each commercial center, as defined herein, shall be allowed one freestanding, double faced, detached sign, or up to three (3) suspended or flush attached signs, identifying the center. ~~Such A freestanding detached sign may also~~ contain the names of individual businesses located in the commercial center and may be illuminated. The aggregated total sign

~~face area of said signs including the aggregate sign face area of the individual business signs, shall not exceed 50 square feet per sign face; provided, any commercial center with an aggregate building footprint area greater than 50,000 square feet is permitted one freestanding detached sign not to exceed 100 square feet per sign face. Signs listed in Section 92.154, 92.155 and 92.158 shall not be included in the allowable area calculated.~~

- (b) ~~Principal Flat Signs~~ Individual Business Entry Signage. In addition, each individual business in the commercial center having a separate individual outside entrance serving the general public shall be permitted one principal flat projecting or flush attached sign, as defined herein, to identify the principal use of public entrance to that business. Principal flat said business entrance signs shall be positioned ~~on the wall on which the main adjacent to the~~ entrance of said business is located. The total aggregate area of the principal flat business entrance signs shall not exceed 3 percent of the gross area of the frontage wall, nor shall any single sign exceed 240 square feet. The signs may be illuminated. Signs listed in Section 92.154, 92.155 and 92.158 shall not be included in the allowable area calculated.
- (c) Incidental Flat Signs. Incidental flat signs affixed to the exterior side of the building wall on which the main entrance of the business is located, indicating an incidental use such as a pharmacy, garden center, deli or similar accessory use in a commercial center, shall be permitted. In no case shall the total aggregate area of incidental flat signs exceed 2 percent of the gross area of the frontage wall face, as defined herein, nor shall any single sign exceed 160 square feet.

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

SECTION THREE. Section 92.157 of the Zoning Regulations of the Town of Lake Lure entitled Signs Permitted and Regulated, is hereby amended in Subparagraph (B)(6) as follows:

- (6) The maximum height of the any free-standing detached sign shall be 16 feet; all other signs shall not project above the base of the roof of the building to which they are attached.

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

SECTION FIVE. 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 SIX. 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 SEVEN. This ordinance shall be in full force and effect from and after its enactment.

Enacted this 14th day of October, 2014.

Bob Keith, Mayor

ATTEST:

Andi Calvert , Town Clerk

Agenda Item: 12a



**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, SEPTEMBER 9, 2014, 6:00 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 6:00 p.m.

INVOCATION

Attorney Chris Callahan gave the invocation.

PLEDGE OF ALLEGIANCE

Council members led the pledge of allegiance.

APPROVE THE AGENDA

Commissioner Diane Barrett made a motion to approve the agenda as presented noting that the public hearing (new business agenda item number 11) was advertised to take place at 7:00 p.m. or thereafter, so this item will be addressed later in the meeting to ensure compliance.

Commissioner Bob Cameron seconded the motion and the vote of approval was unanimous.

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PUBLIC FORUM

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

Madeane Bradley Hodge, democratic candidate for Rutherford County Clerk of Court, introduced herself and gave a brief overview of her background and why she is running for the office.

Pat Cooke of 163 Seawish Way thanked the town manager and other town staff for their response to her previous request and urged council members to continue to search for ways to make residents' water bills more affordable.

Bruce Stanley explained that he was recently stopped by a town police officer and informed that there is an ordinance that prohibits driving log trucks through town. Mr. Stanley further explained that he only lives about 5 minutes from town and driving his truck another way adds about 3.5 hours to his daily route and that the alternate route is a much harder and more dangerous route.

Council asked Mr. Stanley to meet with the police chief and the town manager to potentially develop a solution for local truckers.

Lake Lure Officer Ryan Bailey explained that the ordinance that Mr. Stanley referenced is a state statute, not a local ordinance, so the state's department of motor vehicles should be involved in review of the situation.

Patricia Maringer of 1491 Memorial Highway explained that she feels that the town is missing out on revenue by not charging vacation rentals the commercial water and sewer rate.

STAFF REPORTS

Town Manager Chris Braund presented the town manager's report dated September, 9 2014. (Copy of the town manager's report is attached.)

COUNCIL LIAISON REPORTS & COMMENTS

Commissioner Diane Barrett reported the activities of the Parks and Recreation Board.

Commissioner John Moore reported the activities of the Zoning and Planning Board and asked to add an item to the agenda asking council to consider directing the Zoning and Planning Board to review a request from Tommy Hartzog and Kevin Cooley concerning the sign regulations. Council agreed to add this item to the new business portion of the agenda.

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

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

CONSENT AGENDA

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

Commissioner Bob Cameron made a motion to approve the consent agenda as presented. Commissioner Mary Ann Silvey seconded the motion and the vote of approval was unanimous. Therefore, the consent agenda incorporating the following item was unanimously approved:

- a. minutes of the August 12, 2014 Regular Meeting; and
- b. appointment of Pamela Buckingham to fill Jack Buckingham's position on the town's Asset Management Task Force.

End of Consent Agenda.

NEW BUSINESS:

- a. **CONSIDER APPROVAL OF THE TOWN FEE SCHEDULE FOR FISCAL YEAR 2014-2015**

Town Manager Chris Braund presented a proposed fee schedule for fiscal year 2014-2015.

Council members discussed a proposed ten percent water rate increase and explained that the proposed increase is an attempt to decrease a shortfall in the water department.

After discussion, Commissioner Bob Cameron made a motion to approve the 2014-2015 Town of Lake Lure Fee Schedule as presented, including an increase of approximately ten percent on Lake Lure water rates. Commissioner Mary Ann Silvey seconded the motion and the vote of approval was unanimous. (Copy of the fiscal year 2014-2015 Town Fee Schedule is attached.)

NEW BUSINESS:

b. CONSIDER ADOPTION OF RESOLUTION NO. 14-09-09 ADOPTING THE LAKE LURE TOWN CENTER SMALL AREA PLAN
--

Community Development Director Shannon Baldwin gave a brief overview of proposed Resolution No. 14-09-09 and introduced Vic Knight representing Knight Strategies and commended Knight Strategies for their work on the Town Center project.

Vic Knight gave a brief presentation outlining the Lake Lure Town Center Small Area Plan.

Commissioner John Moore pointed out that this plan is very long term and the concepts are not intended to be fulfilled in the near future.

After discussion, Commissioner Diane Barrett made a motion to adopt Resolution No. 14-09-09. Commissioner Bob Cameron seconded the motion and the vote of approval was unanimous.

RESOLUTION NO. 14-09-09

**RESOLUTION ADOPTING THE LAKE LURE
TOWN CENTER SMALL AREA PLAN**

WHEREAS, the Town of Lake Lure was in need of a Town Center Small Area Plan ("TC SAP") as identified in 2007-2027 Comprehensive Plan; and

WHEREAS, Town Council commissioned the Lake Lure Planning Board to develop the TC SAP; and

WHEREAS, Planning Board divided the TC SAP in three distinct areas in need of their own respective plans:

- Pedestrian Bridge - Bay Area
- Rocky Broad Gateway
- Main Street

WHEREAS, the Planning Board developed a scope of work and entered into an agreement with Knight Strategies to secure professional services to develop plans for all three areas; and

WHEREAS, the Planning Board solicited input from voters, property owners, business owners, community leaders, and residents of the Town of Lake Lure through stakeholder steering committee meetings and design charettes regarding the future development of all three areas in the Town Center and produced plans as follows:

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- Pedestrian Bridge Bay Area Plan
- Rocky Broad Gateway Plan
- Main Street Master Plan

WHEREAS, these three area plans taken together are the TC SAP; and

WHEREAS, the TC SAP builds on the 1926 Draper Plan and aligns with the previously adopted plans:

- 2007-2027 Comprehensive Plan
- 2011 Chimney Rock State Master Plan
- 2012 Town Center Master Plan, Phase 1
- 2013 Comprehensive Transportation Plan

WHEREAS, the Town of Lake Lure Zoning and Planning Board, at its August 12, 2014 meeting, reviewed the final draft of the Lake Lure TC SAP and the associated slide presentation and recommended approval to the Town Council; and

WHEREAS, Planning Board Chair's September 2, 2014 cover memo and staff's slide presentation are made part of the TC SAP by reference and adopted herewith; and

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA adopts the 2014 Lake Lure Town Center Small Area Plan to serve as a guide for the development of the Lake Lure Town Center over the long term.

Adopted this 9th day of September, 2014.

Town Manager Chris Braund commended the community development department for their work on the project.

NEW BUSINESS:

- c. CONSIDER ADOPTION OF RESOLUTION NO. 14-09-09A ENDORSING DEANNEXATION OF THE EAGLE CAMP, LLC PROPERTY (TAX PIN 1645450)**

Mayor Bob Keith read excerpts from a memo from Community Development Director Shannon Baldwin concerning proposed Resolution No. 14-09-09A endorsing of de-annexation of the Eagle Camp, LLC.

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Community Development Director Shannon Baldwin gave an overview of proposed Resolution No. 14-09-09A and the resident's request to de-annex the Eagle Camp, LLC property.

Russ Pitts and Lynn Carnes Pitts, owners of Eagle Camp, LLC, explained their request and handed out information relating to the request. The Pitts' stated that since a portion of the property is in the Town of Lake Lure and a portion of the property is not in the Town of Lake Lure, there are two jurisdictions on the property and therefore two sets regulations for different portions of the property.

Council members discussed the idea to creating an agricultural zoning district to address some of the concerns outlined by the Pitts'.

Commissioner Mary Ann Silvey, owner of property in the area, gave history concerning the property and pointed out that the property was included on the recently adopted town map. Commissioner Silvey stated that she asked if there were any property owners concerns prior to council's adoption of the town boundary map.

After further discussion, Commissioner John Moore made a motion to direct the Zoning and Planning Board to review the request and give town council a recommendation by the next regular town council meeting.

Community Development Director Shannon Baldwin asked for clarification of as to exactly what council would like for the Zoning and Planning Board to make a recommendation on. Mr. Baldwin stated that in his memo to council he recommended that Council direct the Zoning and Planning Board to consider developing a process for deannexation as well as a possible solution for the district under consideration. Commissioner Moore clarified that his motion is to direct the Zoning and Planning Board to come up with an application for deannexation and a recommendation for the property currently being requested for deannexation. Commissioner Bob Cameron seconded the motion. Commissioner John Moore, Commissioner Bob Cameron and Commissioner Diane Barrett vote in favor of the motion. Commissioner Mary Ann Silvey opposed. The motion carried with a vote of three to one in favor.

Commissioner Diane Barrett made a motion to direct the Zoning and Planning Board to discuss a potential creating an agricultural zoning district and make a recommendation to town council concerning the topic. Commissioner Mary Ann Silvey seconded the motion and the vote of approval was unanimous.

PUBLIC HEARING - PROPOSED ORDINANCE NO. 14-09-09 CONCERNING REVISIONS TO THE TOWN'S SEWER ORDINANCE
--

Mayor Bob Keith opened the public hearing regarding proposed Ordinance No. 14-09-09 updating the Town's sewer ordinance. No one requested to speak.

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Council agreed to close the public hearing.

CONSIDER ADOPTION OF ORDINANCE NO. 14-09-09 CONCERNING REVISIONS TO THE TOWN'S SEWER ORDINANCE

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

Town Manager Chris Braund gave an overview of proposed Ordinance No. 14-09-09.

Commission Mary Ann Silvey explained that when there are breaks in the private sewer lines the person whose property it crosses has to fix it and expressed a need for the town to address this issue. Town Manger Chris Braund explained that the state has authority over broken sewer lines, but cost of repair of lines is a private issue between property owners. Mr. Braund stated that council and staff can discuss potential ways to address Commissioner Silvey's concern in a way allowed by the state.

After discussion, Commissioner Bob Cameron made a motion to adopt Ordinance No. 14-09-09 amending Title V: Town Utilities, Chapter 51- Sewer Systems as presented. Commissioner John Moore seconded the motion and the vote of approval was unanimous. (Copy of the Ordinance No. 14-09-09 is attached.)

NEW BUSINESS:

c. CONSIDER DIRECTING THE ZONING AND PLANNING BOARD TO REVIEW A REQUEST FROM TOMMY HARTZOG AND KEVIN COOLEY CONCERNING THE SIGN REGULATIONS

After discussion, Commissioner John Moore made a motion to direct the Zoning and Planning Board to review and make a recommendation concerning potential amendments to the town's sign regulations presented by Tommy Hartzog and Kevin Cooley. 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 8:45 p.m. Commissioner Mary Ann Silvey seconded the motion and the vote of approval was unanimous.

ATTEST:

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Andrea H. Calvert

Mayor Bob Keith



**MINUTES OF THE SPECIAL MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, SEPTEMBER 4, 2014, 1:00 P.M. AT THE LAKE LURE MUNICIPAL
CENTER**

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

Christopher Braund, Town Manager
Sam Karr, Finance Director
Thadd Hodge, Accountant

ABSENT: J. Christopher Callahan, Town Attorney

CALL TO ORDER

Mayor Bob Keith called the meeting to order at 1:05 p.m.

INVOCATION

Mayor Bob Keith gave the invocation.

DISCUSSION OF STAFF COMPENSATION

Town Manager Chris Braund stated that the purpose of the meeting was to discuss topics mentioned at previous meetings and to direct staff in preparation for the regular town council meeting.

Council members were provided documents outlining the salary range of town staff. Mr. Braund review salary ranges, job pay scales and proposed methods of compensation including longevity pay and bonuses from FY 2013-2014 surplus, and the impacts of the proposals. He informed council that the town's personnel director is working on a study to compare the salary of town staff to the salaries of employees in similar positions in neighboring towns.

Commissioner Bob Cameron and Commissioner Diane Barrett suggested that about one third of the surplus, around \$99,000, be used for a bonus program

Commissioner John Moore asked that council wait to make a decision on a bonus

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program until after the personnel director submits the pay study she is currently gathering information for.

Council members agreed revisit the topic at a later meeting.

DISCUSSION OF WATER AND SEWER RATES
--

Town Manager Chris Braund presented information relating to the town's water and sewer rates.

Council members discussed the water department account's financial shortfall and expressed a desire to increase the water rates incrementally over a few years, as necessary, instead of implementing a large increase in one year.

Staff members agreed to draft a proposed fee schedule based on council's discussion to be considered at the next regular town council meeting.

ADJOURN THE MEETING

With no further items of discussion, Commissioner Diane Barrett made a motion to adjourn the meeting. Commissioner Mary Ann Silvey seconded the motion and the vote of approval was unanimous.

ATTEST:

Andrea H. Calvert

Mayor Bob Keith

Agenda Item: 12b



Town of

Lake Lure

est. 1927

North Carolina

Customer Service Supervisor

MEMORANDUM

TO: Mayor and Town Council

FROM: Linda Ward, Customer Service Supervisor

DATE: September 23, 2014

SUBJECT: Outside Sewer Rates

The Town Council set and approved water/sewer rate increases at the September Town Council Meeting. It appears that inadvertently all of the outside sewer rates were not added except for the large user.

In the past, inside rates were doubled to calculate outside rates. I am asking that council amend the approved fee schedule to include the following fees for outside sewer rates.

Residential -	\$154
Comm. Small User -	\$210
Comm. Med. User -	\$420
Comm. Large User -	\$660
Comm. XLarge User -	\$1450
Comm. XX Large User -	\$2900

Agenda Item: 12c



Finance Director
MEMORANDUM

TO: Town Council

FROM: Sam A. Karr, Finance Director

DATE: October 7, 2014

SUBJECT: Budget Amendment-Police Dept. Technology Grant

As you all were aware, the Lake Lure Police Department received a \$15,000 technology grant from Facebook last December. This was part of a Facebook funded grants program that distributed money to eligible nonprofits in Rutherford County.

At June 30th, we had a balance of 2,394.69 left to be spent on the grant. To fulfill the grant agreement with Facebook, we will need the following budget amendment for police to spend the balance of the grant this fiscal year. To complete the project, **a motion to transfer \$2,394.69 from General Fund fund balance into Capital Outlay (#10-80000-547) Police MDT's is required.**

If you have any questions, please feel free contact me at your convenience.

XC: Sean Humphries, Police Chief
Thadd Hodge, Accountant

Agenda Item: 13b



TOWN OF LAKE LURE *Zoning and Planning Board*

MEMORANDUM

TO: Mayor & Town Council

FROM: Thomas McKay, Chair

DATE: September 24, 2014

RE: Council's Request to Review De-annexation Request and Discuss Creating an Agriculture District

As directed by Town Council, the Zoning and Planning Board reviewed the Eagle Camp, LLC (Mystic Waters Farm) de-annexation request and discussed creating an agricultural district.

After lengthy deliberation incorporating input from town elected officials, property owners, town manager, and community development director, the Zoning and Planning Board offers the following to Town Council regarding the de-annexation request and agriculture districts:

- Recommend no action relative to the de-annexation request. It's not appropriate that the Zoning and Planning Board be looking at a way to effectively diminish the Town's influence and control.
- Recommend engaging in a study whether the Zoning and Planning Board should make recommendations for the zoning code to allow some agricultural uses and related uses that may not be allowed today.

Attached are detailed notes from our meeting held September 16, 2014 for your review and consideration.

RESOLUTION ENDORSING
DEANNEXATION OF THE EAGLE CAMP,
LLC PROPERTY (TAX PIN 1645450)

WHEREAS, the landowners do not plan to ask the town to deliver water, sewer or trash services to the parcel;

Resolution No. 14-09-09A

September 9, 2014

Page 2

WHEREAS, until 2011, this property paid no taxes to the Town of Lake Lure due to non-profit use. Taxes to Lake Lure in 2012 were \$992 and 2013 were \$1,076 or 8% of the total property tax bill for the parcel, and is about .05% of the town's total tax base.; and

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA endorses the deannexation of the Eagle Camp, LLC Property (Tax PIN 1645450). See attached survey (Exhibit "A").

Adopted this 9th day of September, 2014.

ATTEST:

Andrea Calvert
Town Clerk

Mayor Bob Keith



TOWN OF LAKE LURE
Community Development Department

MEMORANDUM

TO: ZPB Members

FROM: Shannon Baldwin, Community Development Director 

CC: Planning Board

DATE: September 15, 2014

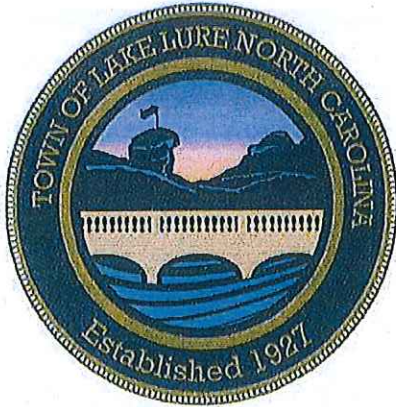
RE: Council Request to Review Deannexation Request

At the September 9, 2014 meeting, Town Council requested the Zoning and Planning Board to develop a deannexation assessment model, apply it to the Mystic Waters Farm property (formerly Girl Scout Camp), and send a recommendation to Town Council whether or not you believe deannexation of this property should be supported by Town Council. The timeframe was originally set for 30 days but seemingly has been expanded a little. We will need to wrap up our work in this by October 21, 2014.

Attached are materials for you review. Anything of value you find in the email exchange leading up to Council's September 9 meeting, please feel free to bring to the meeting as well.

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14-15	Lynn Carnes Pitts & Russ Pitts Memo 9/3/1
16	Property Survey - 1/7/11
17-24	Handouts at Council Meeting - 9/9/14



Deannexation Model Report

Community Development Department

September 15, 2014

Town Council has been asked to consider passing a resolution supporting a request for deannexation of Mystic Waters Farm (formerly the Girl Scout Camp). In short, if Council supports the resolution, the property would be removed from the corporate limits of the Town of Lake Lure by an act of the North Carolina General Assembly.

At the September 9, 2014 meeting, Council requested the Zoning and Planning Board develop a deannexation model, apply it to this property, and send a recommendation to Town Council within 30 days regarding this matter. Since this time, the Mayor has requested additional time so that the Zoning and Planning Board will have more time to carry out Council's wishes. It sounds as if the Mayor would like Council to reach a decision at the November 11, 2014 Meeting.

This small report is meant to give the Zoning and Planning Board and Town Council items to consider as we work through this process. The first objective is to create a deannexation model, and then we will apply it to the Mystic Waters Farm property. Afterward, the Planning Board would need to send a recommendation to Town Council.

In order to prepare for the September 16, 2014 Zoning and Planning Board Meeting, Staff reviewed the annexation process used in North Carolina then reverse engineered it (in general terms) to create a deannexation model. Below is a description of the Annexation Assessment Model in very general terms as well as a proposed Deannexation Assessment Model for discussion purposes.

Annexation Assessment Model

In North Carolina there is (what really amounts to..) a two part test mandated by the General Statutes that must be applied when considering annexation of property into the corporate limits. The first part (Part "A", if you will...) is a non-business assessment of the property's (or properties') characteristics. The second part (Part "B") is the business assessment side of the test. Although the parameters in Part "A" are quantifiable, they are NOT concerned with the revenues (taxes & fees) gained or the costs of services provided by the municipality. Again, this is Part "B." Below is a bulleted summary of Parts "A" & "B" for your general consideration.

Part "A" (Non-Business Assessment) is concerned primarily with two quantifiable characteristics:

- Percent of Property Considered "Urban Development" (State mandates at least 60% has to be classified as urban)
- Percent of Property Boundary "Contiguous" to Town Limits (State mandates at least 12.5% has to be contiguous)

Part "B" (Business Assessment) is concerned primarily with Revenues and Costs.

- Annual Revenues
 - Ad Valorem
 - Personal Property Tax
 - Powell Bill
 - Sales Tax (Telecommunications & Video Programming Services)
 - Utility Franchise (Duke Energy, RC EMC, Telecommunications Companies, etc)
 - Beer and Wine
 - Water Service Fees
 - Sewer Collection Fees
 - Code Enforcement Fees
- Annual Costs (Services Provided)
 - Police Protection
 - Solid Waste/Recycle
 - Street Maintenance
 - Fire & Rescue
 - Water Distribution
 - Sewer Collection
 - Code Enforcement

Annual Revenues should exceed Annual Costs to make annexation feasible. Otherwise a town passes on services costs to other tax payers.

In this assessment process, if a property does not pass Part "A", then a town doesn't apply Part "B" (Business Assessment). The General Statutes do not allow a municipality to annex property if it does not pass the Part "A" side of the equation. In other words.....even if a municipality stands to gain revenue by annexing a given property, the standards in Part "A" still have to be met, otherwise annexation is not permitted by law. It underscores the importance of non-business characteristics of properties. It's not all about the money. However, if the business assessment (Part "B") says, "DON'T ANNEX--REVENUE LOSS" why would a municipality want to annex unless for some other strategic advantage.

Some of the items in the Annexation "Test" are applicable in a Deannexation Test, while some are not. A perfectly reverse engineered model doesn't seem to work well, however some of the principles work great and should be considered in constructing a Deannexation Assessment Model.

Deannexation Assessment Model

According to Senior Planner Karen Smith with the Department of Commerce (Division of Community Assistance in Asheville) a model to evaluate property for deannexation doesn't exist. If it does, it's not commonly used. So, Lake Lure's may be the first. The Asheville office has asked for a copy after we've constructed one. The reason a model doesn't exist is.....

- It is unusual that a town would support a deannexation unless it initiates it for some special reason relative to public purpose
- Towns do not deannex; the General Assembly does via local bill
- Local bills are not usually passed unless a town/community wants them passed (rarely are they initiated for individuals unless the case can be made it serves public purpose)
- It is rare that a town considers a request to evaluate whether or not deannexation is in the town's best interest.

It seems the Town's Part "A" should be the Business Assessment rather than the Non-Business Assessment. This is the reverse of the Annexation Model. The Annexation Model assesses the non-business characteristics mandated by law first, then moves to the business assessment side of the equation (Part "B" above).

Why switch the order? If it does not make business sense (results in a net loss in revenue by deannexing the property), then the Town should NOT continue with Part "B" Non-Business Assessment. However, the Town could allow a petitioner to mitigate the revenue loss with a special arrangement. Specifically, payment in place of lost revenues could be made for a specified number of years. If this arrangement can be made, then the Town could continue with Part "B" of the Deannexation Assessment Model.

The Part "B" Non-Business Assessment standards should be established using quantifiable thresholds so that the Town can accurately measure the characteristics of the property under consideration. The challenge is to establish standards that are relevant and serve to protect the town resources (financial and natural). In question form, these are examples of standards the Town may want to consider for Part "B" only after Part "A" has been satisfied.

Existing Parcel with Acreage Outside of Town Limits

- Is more than XX % of the parcel out of the town limits?
- Has this in/out of town condition existed for more than XX years?
- Did the condition exist prior to current ownership?

Non-Public (Private) Infrastructure

- Are all the means of ingress/egress on the property non-public (private)?
- If driving from Town Hall, does a motorist have to leave the corporate limits to access this property?
- Is the property served by a non-public (private) water source (well, etc.)?
- Is the property served by non-public (private) sewerage (septic system, etc.)?

Adjoining Properties and Natural Resource Protection in Perpetuity

- Is more than XX % of the parcel rural (undeveloped)?
- Are adjoining properties within the town limits protected as a result of conservation easements?
- Are natural resources on the property protected via conservation easement?
- Is the property in the Lake's watershed?
- Is the Lake protected as a result of conservation easements?
- Are scenic views on the property protected by conservation easements?

Population

- Will the town's existing population remain the same?

If Part "A" can be satisfied and all the questions to Part "B" can be answered with "yes", then perhaps the Town should support a local bill to deannex property, thus removing it from the corporate limits. Should the property owners ever want public water, sewer, and liquor by the drink, first priority in a 911 Police emergency, etc. they may want to volunteer to be annexed into the corporate limits.

This small report is meant to give the Zoning and Planning Board and Town Council items to consider as we work through this process. The first objective is to create a

deannexation model, then apply it to the Mystic Waters Farm property, then send Town Council a recommendation. It sounds as if we should wrap this project up by our October 21, 2014 meeting in time for the November 11, 2014 Council Meeting.

Following this report, you will find the following:

Matrix by Lynn Carnes Pitts from meeting with staff September 12, 2014

Shannon Baldwin Memo dated September 5, 2014

Lynn Carnes Pitts & Russ Pitts Memo dated September 3, 2014

Eagle Camp Survey dated January 7, 2011

Lynn Carnes Pitts and Russ Pitts handouts dated 9/9/14

Qualitative issues Issues to Consider

Qualitative Evaluation	Standards/Comparisons	Mystic Waters/ Eagle Camp
Property: size, percent classified as urban development, percent in town, percent not in town	- Current state in Lake Lure: 4 properties have in/out status - Alan Moore, Proctor Drive: 176 Acres - Percent Urban: ? - Percent in town: 95% - John Moore, Bottomless Pools: 122 Acres - Percent urban: ? - Percent in town: 95% - King, 1649990 92 Acres - Percent Urban: ? - Percent in town 95% - King, 1646218 185 Acres - Percent Urban: ? - Percent in town: 80%	- Size: 162 Acres - Percent urban: 0% - Percent in town: 56% - Percent not in town 44%

Qualitative Evaluation	Standards/Comparisons	Mystic Waters/ Eagle Camp
• Uses: types, compatibility with existing town uses, impacts on adjacent in-town properties, perpetual limitations on uses via easements, impacts of possible future uses on in-town properties	o Note: County land borders State of NC land Note: To prevent owners from creating a bisecting line in order to create an "in/out" situation in the future, Z&P could simply require that the bisecting line must have been in place for xx number of years, such as 50 or so.	• Current owners have decided on 100% rural use, and are committed to no development. • 62% (approx.) of the land inside town boundary is perpetually conserved • Impacts of future uses on in town properties are almost nil because the town boundary is bordered by the conservation easement. • Owners are committed to agriculture, personal use and conserving all of the land for the long-term (ie, they have no plans to sell for development)
• Municipal Infrastructure & Services Provided/Available: water, sewer, police, fire, streets, garbage, public works, recreation, code enforcement, etc.		• Currently the only service used by parcel is fire and police • Lake Lure police will respond to dispatched calls for service within the town limits (half of the Mystic Waters Farm). For calls outside of the town limits, the sheriff's department will respond or, in cases of emergency, may request assistance from the Town of Lake Lure PD.
• Accessibility: via town streets, private streets, directly from Town Limits		• Cane Creek runs on the east side of land • Accessible only by going through

Qualitative Evaluation	Standards/Comparisons	Mystic Waters/ Eagle Camp
Contiguity: property abuts town limits versus property is satellite property		county property to get to town property - Parcel abuts three other town properties (Mary Ann Dotson, Ingles, Lake Lure Medical Park) - Where it abuts the town limit, it is also conserved on 100% of that boundary - It abuts no residences
Existing Development: percent developed, distance to other developed ("urban") areas, etc.		- Currently, no "development" inside of town limits - This side of the parcel is mostly wilderness, with a few sheds, open air buildings, a boat house, storage rooms and bathrooms - As a former camp, there are approximately 65 buildings; only 10 are on the town side
Lake Impacts: tributaries, topography, soil types, erosion potential, stormwater run-off, etc.		- Parcel includes a 12 acre lake on a tributary above Lake Lure - The lake acts as a "catch pond" for run-off coming in from the watershed above, which has significant farming activity - Owners have personally undertaken a dredging program since 2011 and have removed tons of silt - The primary two streams on the property (John's Branch and Cane Creek) are within the conservation easement and protected from soil disturbance and timber activity
Population Decrease		- Owners are included in the population of Lake Lure by virtue of their principle residence. - There are no residents (or residences)

Qualitative Evaluation	Standards/Comparisons	Mystic Waters/ Eagle Camp
• Other Health, Safety, or General Welfare Concerns		on the town side of the parcel • Considerations might be the potential for noise, or other ways activities on the parcel could impact the town or residents of the town • Due to the location of the property, it is outside of eyesight or ear shot of other town parcels. • It cannot be seen from Ingles at all (unless you walk to the back fence and look over at the creek-conserved) • Have not been to the other properties to test what can be seen from them • During a recent community festival, neither the music (happening inside the town) nor the sounds of shot guns (happening outside the town) could be heard from Ingles

Agenda Item: 13c

Agenda Item: 14a

Agenda Item: 14b

Agenda Item: 13a