MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, JULY 11, 2017, 6:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER

PRESENT: Mayor Bob Keith
Commissioner Mary Ann Silvey
Commissioner Bob Cameron
Commissioner John W. Moore
Commissioner Stephen M. Webber
Ron Nalley, Town Manager

William Morgan, Jr., Town Attorney

ABSENT: N/A

CALL TO ORDER

Mayor Bob Keith called the meeting to order at 6:00 p.m. and gave the invocation. Council members led the pledge of allegiance.

APPROVE THE AGENDA

Commissioner Stephen Webber suggested that a Closed Session in accordance with G.S. 143-318.11(a) (3) for attorney client privilege be added to the Agenda following New Business. Commissioner Bob Cameron made a motion to approve the Agenda as amended. Commissioner Mary Ann Silvey seconded and the motion carried 4-0.

MAYOR COMMUNICATIONS

Mayor Bob Keith read Resolution No. 17-07-11 and presented a copy of the Resolution to MaLee Keller. Commissioner Stephen Webber made a motion to adopt Resolution No. 17-07-11 honoring the memory of William Oliver Keller. Commissioner John Moore seconded and the motion carried 4-0.

RESOLUTION NO. 17-07-11
HONORING THE MEMORY OF
William Oliver Keller

WHEREAS, William Oliver Keller was born July 2, 1925, in Gilkey, North Carolina; and

WHEREAS, in 1943 Mr. Keller joined the US Navy and went on to become a Seaman First Class and a Normandy D-Day survivor; and

WHEREAS, William Oliver Keller was a lifetime member of the VFW and the American Legion and under the sponsorship of the American Legion, he was instrumental in establishment of the first fire department in the Lake Lure area; and

WHEREAS, William Oliver Keller was a successful businessman in Lake Lure and surrounding communities, working for Chimney Rock Lumber and Chimney Rock Park, owner and operator of Valley Hand Crafts and Woodland Picnic Park and Souvenir Shop, co-owner of Little Beaver Camp Ground, and as an associate of Keller's Real Estate, and then retiring as the Lake Lure Postmaster in the 1980s after 20 years of service; and

WHEREAS, William Oliver Keller was active in the Lake Lure Civic club and served on various Town boards and committees, including the Lake Lure ABC Board and Lake Lure Town Council where as Police Commissioner Mr. Keller helped to obtain the Lake Lure Police Department's first radio system.

NOW, THEREFORE, BE IT RESOLVED that the Lake Lure Town Council desires to honor the memory of William Keller for his contributions to the Town of Lake Lure and to recognize his place in the history of the Town.

Adopted by unanimous vote of the Town Council on the 11th day of July, 2017.

TOWN MANAGER COMMUNICATIONS

- Dam Operator Donnie McCraw gave an update on the Hydro Plant and Town Manager Ron Nalley provided an update concerning potential changes to State legislation affecting small hydro operations, including capacity credits and contract terms.
- Town Manager Ron Nalley provided an update on the Lake Lure Classical Academy Improvements Agreement and stated that there will be a meeting in August to discuss the Agreement.
- Town Manager Ron Nalley stated that staff is working on completing an agreement with Point Broadband for placement of an antenna on the Town's water tower. The draft agreement has been sent to the Town Attorney for review and should be ready to present to Town Council at their August meeting.

- Town Manager Ron Nalley stated that the Yacht Island sewer project has been put on hold due to the higher than anticipated construction estimates. The project will remain on hold unless fifty percent of the property owners in the area agree to the proposed project.
- Town Manager Ron Nalley thanked the Town's Emergency Service staff and Public Works staff for their work during 4th of July weekend events.

PRESENTATION

A. TRANSFORMING TOMORROW TOGETHER PRESENTATION – ZEB WEAVER, CONSULTANT, RUTHERFORD COUNTY ECONOMIC DEVELOPMENT COMMISSION

Mayor Bob Keith gave a brief background on the Rutherford County Economic Development Commissioner (RCEDC) and introduced Zeb Weaver, Rutherford County Economic Development Commission Consultant. Mr. Weaver described the *Transforming Tomorrow Together: The Spurring of Economic Development in Rutherford County* capital campaign that will fund the newly-created private-public nonprofit organization charged with accelerating economic development. Transforming Tomorrow Together will result in an investment in the future of Rutherford County and will allow the newly structured organization to implement proven strategies for economic development that will create prosperity and strengthen the quality of life for the citizens of the County.

COUNCIL LIAISON REPORTS & COMMENTS

Commissioner Stephen Webber reported the activities of the Parks and Recreation Board and the Board of Adjustment. Commissioner Webber stated that Michael Gray, a Lake Lure resident who had a variance case reviewed at the last BOA meeting, suggested that Council task the Zoning and Planning Board to study the definition of "structure" and the definition of "retaining wall" in the Town's Zoning Regulations to determine if any changes may be needed. Commissioner John Moore made a motion to task the Zoning and Planning Board to study the definition of "structure" and how it compares to the definition of "retaining wall" in the Town's Zoning Regulations to determine if any amendment is needed. Commissioner Bob Cameron seconded and motion carried 4-0.

Commissioner John Moore reported the activities of the Zoning and Planning Board.

Commissioner Mary Ann Silvey reported the activities of the Lake Lure ABC Board and stated that Council will appoint a member to fill the remainder of William Keller's term on the ABC Board at the August 8, 2017 Town Council Meeting. Commissioner Silvey also reported the activities of the Lake Advisory Board.

Commissioner Bob Cameron reported the activities of the Utility Advisory Board.

PUBLIC FORUM

Mayor Bob Keith invited the audience to speak during public forum. No one requested to speak at this time.

CONSENT AGENDA

Mayor Bob Keith presented the Consent Agenda and asked if any items should be removed before calling for action. Commissioner Stephen Webber stated that the Town Clerk sent Council a revision to the June 13, 2017 Regular Town Council minutes prior to the meeting. Council acknowledged the revision and Commissioner Webber made a motion to approve the Consent Agenda as amended including the revisions to the June 13, 2017 Regular Town Council Meeting Minutes. Commissioner Bob Cameron seconded and the motion carried 4-0. Therefore, the Consent Agenda incorporating the following items was unanimously approved and adopted:

A. The May 24, 2017 Special Meeting Minutes, May 31, 2017 Special Meeting Minutes, June 7, 2017 Special Meeting Minutes, June 13, 2017 Regular Meeting Minutes as amended, and the June 27, 2017 Special Meeting Minutes.

B. Budget Amendment 205.

C. Declare the Sargent and Greenleaf bank vault door surplus and no longer necessary for conducting public business and to authorize the Town Manager to dispose of the surplus property in accordance with NCGS 160A-266.

UNFINISHED BUSINESS:

A. DUKE ENERGY FRANCHISE RENEWAL – FIRST READING

Town Manager Ron Nalley introduced Craig DeBrew, Local Government and Community Relations Manager with Duke Energy. Mr. Nalley explained that the Town's Franchise Agreement with Duke Energy was approved in December of 1957 for a period of sixty years. Recently, Duke Energy contacted the Town to discuss the renewal of the franchise for an additional sixty year term. The Ordinance will require two readings. Commissioner Bob Cameron asked for clarification concerning the proposed sixty year term for the agreement and stated that the Town's current contract with Duke Energy expires in 2022 and has a ten year term. Mr. DeBrew explained that the Town's agreement with Duke for power purchase has a ten year term, but it is separate from the proposed franchise agreement which has a sixty year term.

Commissioner Bob Cameron made a motion to adopt Ordinance 17-07-11 granting a franchise to Duke Energy Carolinas, LLC.

ORDINANCE 17-07-11
GRANTING A FRANCHISE
TO DUKE ENERGY CAROLINAS, LLC

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS (Governing body) OF THE TOWN OF LAKE LURE, as follows:

I. DEFINITIONS

1.1 As used in this Ordinance, the following terms, words and phrases shall have the meanings respectively ascribed to them in this section:

"Duke Energy" shall mean Duke Energy Carolinas, LLC; a North Carolina limited liability company organized under the laws of the State of North Carolina and authorized to do business in the State of North Carolina and any assignee of or successor in interest to Duke Energy Carolinas, LLC; under this franchise Ordinance.

'Town" or "Town of Lake Lure" shall mean the Town of Lake Lure, a municipal corporation located in Rutherford County, North Carolina; the area within the territorial Town limits of the Town of Lake Lure and within the extraterritorial area surrounding the Town to the extent it may be lawfully included as presently or hereafter fixed by law or ordinance; or the Board of Commissioners or any officer or agent duly authorized in acting on behalf of the Town as a municipal corporation, as indicated by the context by which the term is used.

"Board of Commissioners" shall mean the governing body of the Town of Lake Lure.

II. FRANCHISE GRANTED

2.1 Duke Energy is hereby granted the right to construct, operate and maintain an electrical utilities system, including such communications infrastructure as is necessary and convenient for the electrical utility's purpose, within the Town and within the extraterritorial area surrounding the Town, to the extent the Town may lawfully do so, for the generation, transmission, distribution and sale of electricity to consumers and users within the Town and to the Town and any and all agencies and departments thereof. Duke Energy is also given permission to do all acts necessary or helpful for the purposes enumerated hereinabove or hereinafter; and assent, and permission is hereby given and granted to Duke Energy, its successors and assigns, to exercise all powers, right and privileges which Duke Energy under and by the terms of its charter, or otherwise is authorized, empowered or permitted to conduct, carry on, exercise, do or transact including, without limitation, the power, right and privilege to use, lease, sell, convey and transmit power by electricity for manufacturing, lighting, heating, motive power or other purpose or purposes and for the doing of an electrical business generally.

2.2 Duke Energy is hereby granted the right, authority, and privilege to construct and install, operate, maintain, renew, replace and repair electrical and communications facilities including but not limited to lines, cables, towers, poles, conduits, transformers, connections and services thereto, in, though, across, along and under streets, avenues, roads, public alleys, lanes, parks, squares, and other public places and ways in the Town for the generation, transmission, distribution and sale of electricity, its communications purposes and for any and all other approved purposes, subject to the terms and conditions hereinafter set forth in this Ordinance; provided, however, that nothing in this Ordinance shall authorize or permit the construction of a cellular tower or similar facility within the public areas described herein without further approval of the Town.

2.3 If the Town determines that it is necessary to expand, widen, or improve a road or other public way, the Town may require Duke Energy to relocate its facilities that are in conflict with such expansion, widening or improvement. If the Town requests such a relocation, it will provide an acceptable alternate location for Duke Energy's facilities at no cost to Duke Energy. If Duke Energy's facilities are, or were originally, located on private property, the Town shall pay for the cost of relocation. If, however, Duke Energy's facilities were originally located within the existing public right-of-way which is being, expanded, widened or improved, Duke Energy shall bear the expense of relocating its facilities. If any street improvement project is to be funded in whole or in part by the State of North Carolina or the federal government, or an agency thereof, the Town will cooperate with Duke Energy in obtaining reimbursement for its relocation cost to the extent allowable under state and federal law. Such reimbursement, when received, shall be an offset against the cost of relocation to be paid by the Town. The relocation cost and reimbursement for relocation costs for facilities installed to provide electric service to the Town, including street and area lighting and traffic signals wherever located, shall be determined and paid by the Town in accordance with the Applicable Rate Schedules and Service Regulations of Duke Energy on file with the North Carolina Utilities Commission, as the same now exist or as they or any of them may be hereafter amended, modified, changed or annulled in accordance with the laws and regulations pertaining thereto.

2.4 Whenever Duke Energy shall cause any opening, excavation or alteration to be made in any street, lane or public place within the Town in the

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construction, operation or maintenance of any of its electrical and communications facilities including but not limited to lines, cables, towers, poles, conduits, transformers, connections and services owned or used by it, Duke Energy shall cause such portions of said street, lane or public place to be restored to the same condition in which it found them as nearly as practicable. Additionally, if Duke Energy shall fail to restore the area to its approximate former condition within a reasonable period of time, but no less than thirty working days after notification by the Town, the Town shall proceed to restore such streets, lanes and public places as nearly as practicable to their original condition and the Town shall submit a statement of the costs for this restoration to Duke Energy. Duke Energy agrees to pay the Town for these costs within thirty days.

2.5 Pursuant to N.C.G.S. 160A-319(a) this franchise is granted for a term of sixty (60) years beginning August 8, 2017, and ending at midnight August 7, 2077, and thereafter it shall renew and continue in force on a year to year basis unless terminated by either party upon ninety days written notification to the other. Notwithstanding the foregoing, in the event that the electric industry in North Carolina is deregulated or restructured by state or federal legislation or regulation, or state or federal judicial action which affects retail distribution to the extent that the inhabitants of the Town may choose their electric supplier, then upon the date when such legislative, regulatory or judicial action has the force and effect of law, this franchise may be at any time thereafter terminated by either party upon ninety days written notification to the other. This franchise supersedes any and all former rights or franchises of Duke Energy to operate an electrical utilities system in the Town with respect to all acts and things done or admitted to be done, on or after August 8, 2017.

Town Clerk

2.6 Duke Energy is hereby granted the right during the existence of this franchise to mortgage or hypothecate this franchise, together with all rights and privileges hereunder and any right or interest therein, as security for indebtedness, subject to acceptance by any legal successor in interest of the obligations, duties, liabilities, limitations and prohibitions set out herein and subject to approval by the North Carolina Utilities Commission or other government agency whose approval is required by law. Duke Energy may not assign or transfer its rights under this franchise agreement without the express consent of the Board of Commissioners and such consent shall not be unreasonably withheld, provided, however, that this provision shall not require Duke Energy to obtain permission from the Board of Commissioners prior to assigning its rights hereunder to any new entity created in any corporate reorganization or merger in which Duke Energy is a party.

2.7 Duke Energy shall save the Town, Mayor, Board of Commissioners, and the Town's officers, agents, servants and employees, harmless from all loss against any and all claims, suites, actions, liability, and judgments for damages (including but not limited to costs and expenses for reasonable legal fees and disbursements and liabilities assumed by theTown in connection therewith) sustained by the Town or the Mayor or the Board of Commissioners, or the Town's officers, agents, servants or employees, on account of any suit, judgment, execution, claim, or demand whatsoever resulting or in any manner arising from sole negligence on the part of Duke Energy, its officers, agents, servants and employees in the construction, erection, operation and maintenance of its electric distribution system or the conduct of its business, such negligence having been determined by final order of a court of competent jurisdiction, not subject to appeal.

III. ACCEPTANCE OF FRANCHISE

This Ordinance shall take effect from the day of its passage, but only after it has been accepted in all its terms and revisions by Duke Energy, in writing, within sixty days after its passage otherwise, the same shall be null and void and of no effect.

This Ordinance was passed by a majority vote of the Board of Commissioners of the Town of Lake Lure, at the regular meeting of the Board of Commissioners held in the Town of Lake Lure, North Carolina the 11th day of July, 2017 and was again passed by a majority vote of the Board of Commissioners of the Town of Lake Lure for the second time at the regular meeting held in the Town of Lake Lure North Carolina, on the 8th day of August, 2017.

NEW BUSINESS:

A. AMEND SALARY SCHEDULE TO INCLUDE HOURLY PAY RATE FOR PART-TIME POSITIONS

Town Manager Ron Nalley reported that during the June 13, 2017 meeting, Town Council implemented a salary schedule for all full-time classified work positions. The Town's auditor has requested that staff provide a salary schedule for the Town's part-time positions. Hourly pay rates for current part-time positions in the past, have been determined by the department head and approved as part of the budget process. In order to comply with the auditor's request and provide consistency with the salary schedule, a revised salary schedule has been developed which includes hourly rates for each part-time position. Staff has worked closely with David Hill, President of HR Essentials Consulting, to develop an hourly pay schedule for the Town's part-time positions.

Commissioner Bob Cameron made a motion to adopt the Revised Salary Schedule for the Town of Lake Lure. Commissioner Mary Ann Silvey seconded and the motion carried 4-0.

NEW BUSINESS:

B. COMMUNICATIONS SPECIALIST JOB DESCRIPTION

Town Manager Ron Nalley stated that during the adoption of the Fiscal Year 2017-2018 Budget, Town Council approved funding for a part-time Communication Specialist position. Working with examples from other municipalities, staff drafted a job description outlining the distinguishing features of the class; illustrative examples of work; the knowledge, skills and abilities needed for the position; and the education and experience requirements. Staff prepared a proposed job description for the part-time Communication Specialist position and, upon review of available salary information through the North Carolina League of Municipalities, determined that the position should be placed on Salary Grade 27 of the Salary Schedule. Commissioner Stephen Webber asked if "Communication Specialist" is the best title for the position. Mr. Nalley stated that staff believes Communication Specialist comes closest to accomplishing what Council asked for in the position. Commissioner Bob Cameron made a motion to approve the job description of Communication Specialist for the Town of Lake Lure. Commissioner Mary Ann Silvey seconded and the motion carried 4-0.

NEW BUSINESS:

C. THE CHAMBER OF HICKORY NUT GORGE DIRTY DANCING FESTIVAL

Commissioner Stephen Webber explained that last year he was surprised that the Town's parking lot was blocked off and people were being charged for parking during the Dirty Dancing Festival. Commissioner Webber further stated that he wanted to confirm that the practice was legally permissible and after speaking with the Town Attorney concerning the matter and reading the letter from Kevin Cooley on behalf of the Chamber, his concerns have been addressed.

Kevin Cooley, President of the Chamber, explained that the Chamber of Hickory Nut Gorge has become the host organization for the annual Dirty Dancing Festival, now in its 8^{th} year. This year, the event will be held August 18^{th} and August 19^{th}. Mr. Cooley described efforts being made to control traffic for the event and provided Council with other information about the event.

NEW BUSINESS:

D. MORSE PARK RECREATION PLAN - PROFESSIONAL SERVICES CONTRACTS

Community Development Director Shannon Baldwin stated that the Parks and Recreation Board solicited professional assistance from Vital Clarity and Equinox Environmental Consultation & Design, Inc. for developing a new Morse Park Recreation Plan. This plan will be used as a guide in the placement of public restrooms and new recreation facilities in addition to making recommendations for the redevelopment of various existing facilities. Parks and Recreation Board members Jim Walters and Ed Dittmer described the Plan and stated that, based on the cost of the pickleball courts, it was determined that a plan should be created for the Park prior to spending funds on the courts. Mr. Dittmer explained plans similar to the proposed Morse Park Plan are now required for grant providers and that the Parks and Recreation Board unanimously recommended Town Council approve both contracts since the Town has been satisfied with services previousli provided by Vital Clarity and Equinox Environmental.

Mr. Baldwin introduced Kathleen Osta with Vital Clarity and Fred Grogan with Equinox Environmental Consultation & Design. Ms. Osta and Mr. Grogan briefly described their part in the process and answered questions relating to the proposed Morse Park Plan.

Commissioner Stephen Webber made a motion to approve contracts with Vital Clarity in the amount of $6,200, and Equinox Environmental Consultation & Design, Inc. in the amount of $12,500, including a revised schedule and authorize the Town Manager to execute all necessary documents. Commissioner Bob Cameron seconded and the motion carried 4-0.

NEW BUSINESS:

E. ABC STORE WALKWAY – CONSTRUCTION CONTRACT & BUDGET AMENDMENT

Community Development Director Shannon Baldwin stated that a Request for Proposals (RFP) was released for construction of approximately 485 linear feet (6.5' x 4") of stamped colored concrete extending from Jack London Road to the parking lot of Hickory Nut Gorge Outreach parallel to US Highway 64/74A. A bid summary sheet summarizing the responses to the RFP was provided to Town Council. Mr. Baldwin explained that in Fiscal Year 2016-2017 $30,000 was budgeted for extending the walkway. Following surveying and other miscellaneous expenses, $27,675 remained at the end of the fiscal year. This project is now ready for construction. The project cost is projected to be under $45,000. Mr. Baldwin reviewed potential options for reducing the cost of the project including eliminating a custom concrete stamp from the project and using a standard stamp instead and removing the colored concrete from the project. In response to a question from Commissioner Webber, Mr. Baldwin explained that if a plain concrete sidewalk was requested, the project would need to be rebid. Commissioner Mary Ann Silvey inquired as to what the cost would be if brick pavers were used for the proposed walkway expansion to make the addition match what is currently in place and increase the longevity of the sidewalk. Mr. Baldwin stated that based on a bid received from the contractor who worked on the original walkway, using pavers for the proposed extension would cost approximately $55,000. Mr. Baldwin described the stamped, colored concrete as middle ground between plain concrete and brick pavers. Commissioner John Moore suggested that a new RFP be sent out asking for three proposal levels: a proposal for use of plain concrete, a proposal for colored concrete stamped with a standard stamp and a proposal for using brick pavers.

Following discussion, Commissioner Bob Cameron made a motion to reject the bids for construction of the ABC Store Walkway and ask staff to be rebid the project and ask for proposals for: plain concrete, colored concrete stamped with a standard stamp and brick pavers. Bidders may, but are not required to, submit bids for all three proposal options. Commissioner John Moore seconded the motion carried 4-0.

CLOSED SESSION

Commissioner Stephen Webber made a motion to enter into closed session in accordance with G.S. 143-318.11(a) (3) for attorney client privilege. Commissioner Bob Cameron seconded and the motion carried 4-0. While in closed session Council members and the Town Attorney discussed litigation between the Town of Lake Lure and Eisenbrown, Self, Jones, et. al. concerning the Lodge of Lake Lure.

Commissioner Stephen Webber made a motion to leave closed session. Commissioner Bob Cameron seconded and the motion carried 4-0.

ADJOURN THE MEETING

With no further business, Commissioner Bob Cameron made a motion to adjourn the meeting at 8:07 p.m. Commissioner Mary Ann Silvey seconded and the motion carried 4-0.

ATTEST:

Andrea H. Calvert, Town Clerk	Mayor Bob Keith

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