

MINUTES OF THE MEETING OF THE BOARD OF COMMISSIONERS OF
THE TOWN OF LAKE LURE
Tuesday, December 10, 1968

The regular meeting of the Board of Commissioners was held in the Town Hall at 7:30 o'clock P. M. on December 10, 1968. The following members of the Board were present:

J. Paul Wilson, Mayor
Robert B. Jones, Commissioner

Woodrow Price, Commissioner, was absent.

Hollis M. Owens, Jr., Town Attorney, was present.

Mayor, J. Paul Wilson, called the meeting to order and the clerk read the minutes of the last meeting. The minutes were approved as written.

Mayor Wilson opened the meeting for a discussion of the lease of the property of the Town of Lake Lure to the Western North Carolina Scenic Railroad, Inc. The Board was advised by the Town Clerk and Treasurer and the Town Attorney that the lease has been broken in several respects. After discussion, Commissioner Jones moved, seconded by Mayor J. Paul Wilson, that the following resolution be adopted:

WHEREAS, by that certain lease agreement dated the 1st day of April, 1966, and recorded in the office of the Register of Deeds for Rutherford County, in Deed Book 290, pages 621 through 626, the Town of Lake Lure leased and rented to Western North Carolina Scenic Railroad, Inc., a tract of land containing 30 acres, more or less, which was conveyed to the Town of Lake Lure by Carolina Mountain Power Corporation by deed dated July 22, 1965 and of record in Deed Book 285 at page 651, Rutherford County Registry; and

WHEREAS, it is provided in paragraph two of said lease that each annual rental for said premises shall be not less than \$2,400.00 payable not less than \$200.00 per month; and

WHEREAS, it is provided in paragraph four of said lease that upon the failure of the lessee to pay the specified rent when due, or within 15 days thereafter, the Lessor, at its option, has the right, upon notice to the Lessee, to declare the lease cancelled, without legal proceedings, and to re-enter and take possession of the premises; and

WHEREAS, it is provided in paragraph six of said lease that

"In the event bankruptcy or state of insolvency proceedings shall be filed and sustained against the Lessee, its successors or assigns, in any federal or state court, it shall give the right to said lessor, its successors or assigns, at their option, to immediately declare this agreement null and void, and to at once resume possession of the property"; and

WHEREAS, it is provided in paragraph seven of said lease that

"The Lessee shall furnish Public Liability Insurance specifically protecting the Lessor in the amount of not less than \$300,000. with some reliable company approved by said Lessor, and the policy shall be placed in the hands of the said Lessor with premium fully paid before the operation of the Railroad, Amusement Devices and Concessions, or any portion of same shall be opened to the public or put in use. It is further agreed that each annual payment of the premiums shall be made on or before 10 days prior to the expiration of the policy and the receipt and renewal of policies shall be furnished the Lessor in order to provide Insurance coverage at all times."; and

WHEREAS, the rent for September, 1968, has not been paid and is more than 15 days overdue; the rent for October, 1968 has not been paid and is more than 15 days overdue; the rent for November, 1968, has not been paid and is more than 15 days overdue; and the rent for December, 1968 has not been paid and is now due; and

WHEREAS, by Order of W. R. Shepard, Judge of the General County Court of Henderson County, North Carolina, dated and filed on June 17, 1968, the Western North Carolina Scenic Railroad, Inc. was found to be insolvent and F. V. Hunter of Hendersonville, North Carolina, was appointed as Temporary Receiver of the Western North Carolina Scenic Railroad, Inc.; and

WHEREAS, the Public Liability Insurance Policy called for by paragraph seven of the Lease was cancelled on the _____ day of _____, 1968, for non-payment of premiums.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Lake Lure does hereby exercise its right pursuant to paragraph four of said lease, and does declare the said lease cancelled; and does hereby exercise its right pursuant to paragraph six of said lease and does hereby declare the said lease null and void.

BE IT FURTHER RESOLVED that J. Paul Wilson, Mayor of the Town of Lake Lure, and Hollis M. Owens, Jr., Attorney for the Town of Lake Lure, be and they are hereby authorized and directed to take whatever legal steps and to give whatever notices they deem advisable and expedient to give effect to this resolution, and to acquire possession of the real property described in said lease, together with all permanent improvements located thereon.

The following Commissioners voting in the affirmative:

Robert B. Jones, Commissioner
J. Paul Wilson, Mayor

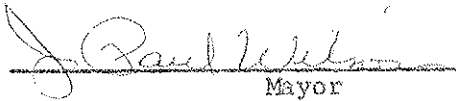
The following Commissioners voting in the negative:

None

Upon motion made, seconded and passed, the Clerk was instructed to notify C. H. Stanley, President of Western North Carolina Scenic Railroad, Inc., and F. V. Hunter, Receiver for the said Railroad that the lease has been breached by the railroad and is null and void and to include a copy of the foregoing Resolution in said notices.

The proposed Sewage Disposal Plant was discussed at length, but no decisions were made.

There being no further business, the meeting adjourned at 10:00 o'clock P. M.



Mayor



Town Clerk