



Town of Lake Lure

P. O. Box 255 • Lake Lure, NC 28746-0255 • 704/625-9983 • FAX 704/625-8371

Incorporated 1927

MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, FEBRUARY 14, 1995, 9:30 A.M. AT THE LAKE LURE COMMUNITY CENTER

PRESENT: Mayor Max E. Lehner
Mayor Pro-tem Bud Schichtel
Commissioner Bill Bush
Commissioner Bill Church
Commissioner Jack Donovan

John R. Strutner, Town Manager
Sam Karr, Finance Director
J. Christopher Callahan, Town Attorney

ABSENT: N/A

CALL TO ORDER

Mayor Lehner called the meeting to order at approximately 9:30 a.m.

INVOCATION

Attorney Callahan gave the invocation.

AUDIENCE OF CITIZENS

No persons signed up to speak.

REVIEW WATER SYSTEM STUDY

Gary McGill and M. Keith Webb, McGill Associates, P. A., Consulting Engineers of Asheville, NC, presented the results of the water system study to Council.

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Gary McGill said that the Town needs to seek out additional water sources and recommended drilling new wells because groundwater is plentiful around Lake Lure and cheaper to treat than surface water. Mr. McGill explained that three underground wells currently provide water for the Town.

Commissioner Donovan suggested that the Town look into using the water from the Lake and said that by using treated lake water would give the Town enough capacity to provide water service to other areas nearby such as Chimney Rock and Fairfield Mountains.

Gary McGill argued the costs of treating surface water would make it a less desirable option.

Council requested that Mr. McGill come up with a cost estimate for treating surface water versus groundwater, and submit a report showing comparisons.

After much discussion, Council identified the following items as needing to be addressed:

1. Upgrading the Town's computer program for the water system.
2. Install new well meters to accurately gauge the amount of water being drawn.
3. Revamp the well that isn't working and begin the search for additional well sites.
4. Budget a meter testing bench in the next Capital Improvements Budget.

<p>REVIEW FAIRFIELD MOUNTAINS VOLUNTEER FIRE DEPARTMENT CONTRACT</p>

Attorney Chris Callahan explained that the Board of Directors of the Lake Lure Fire Protection Association, Inc. at its meeting on January 17, 1995 adopted a resolution which served to dissolve the corporation pursuant to G. S. 55A-44(a) (2) and to turn over all assets of the corporation to the Town of Lake Lure pursuant to corporation's agreement with the Town of Lake Lure dated July 1, 1994. Callahan said that there is in effect an agreement dated July 1, 1994 for fire protection between the Town of Lake Lure and the Fairfield Mountains Volunteer Fire

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Department and that the Lake Lure Town Council at its regular meeting on January 24, 1995 authorized the Town Manager to negotiate and execute a temporary extension to the current agreement.

Attorney Callahan reviewed the following proposed agreement between the Town and the Fairfield Mountains Volunteer Fire Department, Inc.:

**NORTH CAROLINA
RUTHERFORD COUNTY**

AGREEMENT

THIS AGREEMENT, made and entered into as of the 14th day of February, 1995, by and between the TOWN OF LAKE LURE, hereinafter referred to as the Town, and the Fairfield Mountain Volunteer Fire Department, Inc., hereinafter referred to as the Fire Department:

W I N E S S E T H:

WHEREAS, North Carolina General Statute 160A-20.1 provides that Municipalities may provide for fire protection in a fire protection district by contracting with any incorporated nonprofit volunteer or community fire department; and

WHEREAS, the Fire Department is a nonprofit corporation organized to furnish fire protection to the citizens of its district; and

WHEREAS, the Town and the Fire Department desire to enter into this agreement for the Fire Department to furnish fire protection for and within the District; and

WHEREAS, the Board of Directors of the Lake Lure Fire Protection Association, Inc. at its meeting on January 17, 1995 adopted a resolution which served to dissolve the corporation pursuant to G. S. 55A-44(a)(2) and to turn over all assets of the corporation to the Town of Lake Lure pursuant to Paragraph 8 of that corporation's Agreement with the Town of Lake Lure dated July 1, 1994; and

WHEREAS, at its regular meeting on January 24, 1995 the Town Council of the Town of Lake Lure adopted a resolution terminating its Agreement with the Lake Lure Volunteer Fire Protective Association, Inc. (also called the Lake Lure Volunteer Fire Department and the Lake Lure Volunteer Fire Department, Inc. in said Agreement); and

WHEREAS, there is in effect an Agreement dated July 1, 1994 for fire protection between the Town of Lake Lure and the Fairfield Mountains Volunteer Fire Department, Inc.; and

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WHEREAS, at its regular meeting on January 24, 1995 the Town Council of the Town of Lake Lure authorized the Town Manager to negotiate and execute a temporary amendment to the aforesaid current Agreement between the Town of Lake Lure and the Fairfield Mountains Volunteer Fire Department, Inc. (hereinafter referred to as the "Fire Department") authorizing the Fire Department to act as the successor to the Lake Lure Volunteer Fire Department and to assume the responsibility for providing fire protection for and within the District by operating and maintaining all property, equipment and facilities formerly administered and operated by the dissolved Lake Lure Volunteer Fire Department until such time as a formal Agreement can be executed between the Town of Lake Lure and the Fire Department; and

WHEREAS, the Town Council by this Agreement ratifies the temporary Agreement between the Town and the Fairfield Mountains Volunteer Fire Department, Inc., and sets forth a new Agreement,

NOW, THEREFORE, in consideration of the premises and of other good and valuable considerations, the parties hereto contract and agree as follows:

- 1. The Fire Department shall assume responsibility for providing fire protection in the District, and for the operation and maintenance of the property, equipment and facilities formerly controlled and operated by the Lake Lure Volunteer Fire Department.**
- 2. That the Town hereby leases to the Fire Department the use of all property, equipment and facilities turned over to the Town by the Board of Directors of Lake Lure Fire Protection Association, Inc. for a fee of \$1.00 (One Dollar) per annum, subject to the Board of Directors of the Lake Lure Fire Protection Association, Inc. finding it necessary to sell any or all of this equipment or property to which it has legal claim to satisfy its creditors as part of the ongoing process of dissolving that corporation.**
- 3. This Agreement shall supersede and replace the temporary Agreement dated January 27, 1995 and this Agreement shall expire July 1, 1995.**
- 4. Town of Lake Lure agrees that it will provide a portion of the funds, until July 1, 1995, which had been previously budgeted by the Town for the Lake Lure Volunteer Fire Protection Association, Inc.**
- 5. The Funds shall be paid to the Fire Department through July 1, 1995 as agreed to by the Fire Department and the Town Manager. Payments shall not exceed the amount budgeted by the Town Council for the remainder of the fiscal year for fire protection with the Town for the area formerly covered by the Lake Lure Volunteer Fire Protection Association, Inc.**

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6. The Fire Department shall furnish adequate fire protection within the Town and shall provide the necessary equipment, personnel, water, and all things necessary for furnishing adequate fire protection in the Town. The services shall be in accordance with minimum standards set forth by the Rutherford County Fire Marshall and the North Carolina Insurance Services Office. The Fire Department shall provide workmen's compensation insurance coverage applicable to all Fire Department personnel, regardless of status, at least to the extent required by law. The Fire Department shall furnish said fire protection without charge to all persons and property located in the Town limits in an efficient and workmanlike manner. Upon the failure of the Fire Department to meet the standards set forth herein, no further funds shall be paid by the Town to said Fire Department until said minimum standards are re-established. The Fire Department shall discharge its obligations in a timely manner.

7. All funds paid to the Fire Department by the Town of Lake Lure shall be used to provide fire protection within the Town of Lake Lure except as may be otherwise provided through mutual aid agreements.

8. The Town may inspect all the books and records of the Fire Department at any time. The Fire Department shall further provide such additional information as the Town may reasonably request from time to time. The Fire Department agrees that it will supply such records, information or verification relating to expenditures of the funds or the operations of the Fire Department as may reasonably be requested by the Town. The Fire Department shall maintain sufficient written accounting system which provides adequate documentation of all of its receipts and disbursements including those related to the funds subject to this agreement.

9. The Fire Department shall provide to the Town of Lake Lure a financial statement, signed by the President and the Treasurer, upon request by the Town.

10. In the event the Fire Department fails to continue to render fire protection, no further funds shall be paid by the Town to the Fire Department, even though previously budgeted by the Town.

11. The Fire Department shall use the funds subject to this agreement in accordance with the annual Budget of the funds which is approved and adopted by the Town Council, which is incorporated automatically herein by reference each year. No change or alteration in the amount of money budgeted by the Town may be made without the express approval of the Town Council. The Budget detail may be amended with the approval of the Town Manager, within the funds made available by this agreement.

12. The Fire Department will maintain its current rating or better with the North Carolina Insurance Services Office as well as its present nonprofit corporation status pursuant to Chapter 55A of the North Carolina General Statutes and/or Section 501 (c) (3)

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of the Internal Revenue Code. The Fire Department shall continuously comply with all applicable laws, ordinances and regulations. The bylaws of the Fire Department shall have reasonable provisions enabling citizens of the Fire District to participate in the affairs of the Fire Department.

13. This Agreement shall become effective as of February 14, 1995.

14. This Agreement may not be transferred or assigned by the Fire Department without the written consent of the Town.

15. This Agreement does not replace but is in addition to and supplemental to the Agreement between these parties date July 1, 1994.

IN TESTIMONY WHEREOF, the Town has caused this instrument to be executed by the Mayor and Town Council and attested by the Town Clerk, and the Fire Department has caused this instrument to be signed in its name by its President, attested by its Secretary and its corporate seal hereto affixed all by authorization of its Board of Directors duly given, this 14th day of February, 1995.

Town of Lake Lure

By: _____
Mayor

ATTEST:

Town Clerk

(SEAL)

FAIRFIELD MOUNTAINS VOLUNTEER
FIRE DEPARTMENT, INC.

By: _____
President

ATTEST:

Secretary

Commissioner Bush moved, seconded by Commissioner Schichtel to approve the agreement between the Town and the Fairfield Mountains Volunteer Fire Department as presented by Attorney Chris Callahan and to authorize the Town Manager to negotiate and execute the agreement. The vote of approval was unanimous.

OTHER OLD BUSINESS

Attorney Callahan explained that the Phoenix Cable Inc. (Mountains Cable Vision Co.) franchise contract expires on August 24, 1997 and suggested that Town Council set a public hearing date for the purpose of discussing the following:

1. Future cable television needs of the Town.
2. Listen to comments from Town citizens.
3. Evaluate the performance of Phoenix Cable Inc. (Mountains Cable Vision Co.) franchise.

After much discussion, it was the consensus of Town Council to set up a meeting with representatives of Phoenix Cable and the town for the purpose of setting a public hearing date sometime in March. Council also requested that a public hearing notice be published in the Lake Lure newsletter.

**REVIEW PROPOSED CONTRACT FOR
TOUR BOAT SERVICE**

Richard Coley, Lotus Enterprises, Inc., presented Council with a two-year proposal to operate a scenic passenger boat ride service on Lake Lure known as the "Lake Lure Tours" for approval.

Town Manager Strutner stated that the following advertisement for proposals from owners/operators to provide scenic passenger boat ride service on Lake Lure was published in the Daily Courier Thursday, January 19, 1995 and Friday, January 20, 1995:

The Town of Lake Lure, N.C., invites proposals from interested boat owners/operators to provide scenic passenger boat ride service on Lake Lure operating out of two boat slips located at the Town Marina. Proposals should state type of boats to be used, general hours of operations, time of year service provided, that the operator will provide liability insurance of not less than One Million (\$1,000,000) Dollars per occurrence to protect operator and Town of Lake Lure, and a proposed percent of gross receipts or other method of payment as rental for the premises and use of Lake, and be willing to accept other reasonable stipulations as required by Lake Lure Town Council.

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Proposals will be received at Town Hall until 4:30 p.m. February 1, 1995, after which they will be distributed to Town Council Members who will decide which operators to interview for a possible working agreement. The Town shall reserve to the Town Council the right to reject any or all proposals. Mailing address is Town of Lake Lure, P.O. Box 255, Lake Lure, NC 28746. For further details you may contact the Town Manager at 704/625-9983.

Town Manager Strutner said that there were no other proposals submitted to the Town for the scenic boat ride service.

After much discussion, Commissioner Bush moved, seconded by Commissioner Donovan, to approve a two-year ~~contract-lease~~ **boat concessions** (correction 2/28/95 Regular Council Meeting) agreement between the Town and Lotus Enterprises, Inc. to operate a scenic passenger boat ride service on Lake Lure and authorize the Town Manager to negotiate and execute the contract. The vote of approval was unanimous. (Contract agreement attached)

**REQUEST PERMISSION TO HOLD A CAR SHOW
ON TOWN OWNED PROPERTY**

Norris Snellings, Secretary/Treasurer of the Dixie Rodders, submitted to Town Council the following request:

The name of our club is the Dixie Rodders. We have 17 active members. Most of our members live in and around Shelby. Some are from Forest City and Kings Mountain. We have been having a show for the past 10 years.

We are a non-profit club. We charge for people to register their cars. The money we charge is used to pay for trophies, food, and items that will be given away at the show. We award trophies to the Top 20 Cars, plus a dash plaque to all registered rodders. Any money made above expenses is donated to a charity.

On Fridays, we usually start around 11:00 or 12:00, registering cars as they come. On Friday night, we cook hamburgers and hot dogs for registered rodders. Their registration fee covers their meal on Friday night.

One of our club members has a sound system and we usually have a dance after the cookout on Friday night.

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There are usually 100-200 cars at our show, depending on the weather. Clear skies mean more cars. Rain keeps them away.

On Saturdays, we start around 8:00 registering cars and do so until around 1:00. We are usually finished by 5:00 p.m. on Saturday.

We are a family-oriented group and would like to use the Civic Center if possible. Dates we need it are May 12 and 13, 1995. The areas we need is the community building, and the grassy area between the Police Department and the Marina.

We will not be serving any alcoholic beverages.

We also need to know, if we have someone serving food on Saturday (hamburgers/hotdogs, etc.), do we need a permit or will they have to get one.

Town Manager Strutner stated that there were no municipal permit required for serving food.

After discussion, Commissioner Schichtel moved, seconded by Commissioner Church, to:

1. Approve Norris Snellings request to hold a Dixie Rodders car show as written.
2. Suspend the ordinance titled, Peddling prohibited (Section 61.01) and penalty (Section 61.99), on May 12 and 13, 1995 for the purpose of selling truck parts and clothing.
3. Require a \$100 deposit for clean-up plus fee for rental of Community Center.
4. Request that Mr. Snellings notify applicants that no alcoholic beverages will be allowed on Town property and that anyone caught violating the ordinance governing consumption of alcohol will be charged and strictly enforced.

The vote of approval was unanimous.

REQUEST TO PURCHASE TWO PATROL VEHICLES

Police Chief Jake Gamble presented Council with the following request regarding the purchase of two patrol vehicles:

We are looking at implementing a vehicle replacement schedule for phasing out two patrol vehicles each year with the replacement of two new patrol vehicles. This will enable us to replace the vehicles with the highest mileage therefore avoiding the high cost of maintenance.

The following is a list of the current vehicles and mileage:

- #1 - (707) 94 Ford Explorer 7,000 miles
- #2 - (704) 94 Ford Explorer 10,000 miles
- #3 - (705) 94 Chevy Caprice 12,000 miles
- #4 - (702) 93 Chevy Caprice 30,500 miles
- #5 - (706) 93 Chevy Caprice 32,500 miles
- #6 - (700) 92 Ford Crown Vic. 53,000 miles
- #7 - (703) 92 Ford Crown Vic. 46,000 miles
- #8 - (708) 91 Jeep Cherokee 85,000 miles
- #9 - (701) 90 Jeep Cherokee 101,000 miles

Vehicles #8 and #9 will be rotated out with vehicle #8 being retained as a spare vehicle and vehicle #9 being sold or turned over to the town to be used.

The estimated cost in replacing the two vehicles will be \$41,000 (This will include equipment, set-up, etc.).

Commissioner Donovan moved, seconded by Commissioner Bush, to include a request of \$41,000 to purchase two new patrol vehicles in the 1995-96 budget and authorize Police Chief Jake Gamble to file a letter of intent to purchase vehicles. The vote of approval was unanimous.

OTHER NEW BUSINESS

There was no other new business.

STAFF REPORTS

Finance Director Sam Karr reported that the Town's major expense for the month of January was \$9,750 to Robert C. Koone for audit work for F. Y. 1993-94. The Town's major revenue for the month was \$17,286.13 from sewer charges. All things being equal, the budget should be at 58% spent/collected. The expenditures and revenues are with that range.

Town Manger Strutner reported on the following:

1. Municipal Building Update -- Based upon billings processed 16% of the General contractors work is complete, 2% of the Electrical contractors work is complete, and 2% of the mechanical contractors work is complete. In addition, because of the moisture content of the soil on-site, the contractor was forced to go off-site to obtain fill material in order to meet the soil compaction requirements. This happened twice -- once in late November and early December when the contractor had excavated the entire building site to 3 feet below the footings and was attempting to backfill, and then again late last month when he was attempting to bring the building pad up to grade before the gravel course was laid prior to concrete pouring. The amount of fill in the first case was 1,690 cubic yards and 516 cubic yards in the second. The Town's architect and the inspection lab have both confirmed the necessity for these actions. Because the original intent was to use soil on-site, these additional charges will be handled under the contingency allocation of \$35,000 included as part of the approved project budget. I have authorized the architect to prepare the appropriate change orders. The charge will be the verified haul bill + 15% for normal overhead and profit margin which is reasonable and customary. I have yet to see these change orders, but the total charges for both change orders would be on the order of \$20,000.

2. Correctional Center clean-up of 74A -- the orange bags along the road have been picked up by the Town's Public Works Department.

3. Terry Brothers have completed the piping modifications at the Waste Water Treatment facilities which McGill Associates is now preparing the contracts for additional work which Town finds necessary. We've received quotes for both

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construction/materials and inspection services (\$12,392) which is well under the \$20,000 budgeted.

4. The North Carolina League of Municipality advises the Intangibles Tax has been repealed by the Senate and expects the House to pass similar legislation. Only drawback to Senate bill is the lack of a growth factor in the annual reimbursement to local governments to cover the lost revenue. Reimbursement will be calculated on revenue received in August 1994. Town has budgeted \$21,700 this fiscal year and actual receipts to-date equal \$18,900.

5. Work has begun on the irrigation system at the golf course.

6. Budget calendar has been distributed to all department heads. Budget requests are due April 7. Budget workshops to commence in May.

COUNCIL COMMENTS

After much discussion, it was the consensus of Council to authorize Town Manager Strutner and Commissioner Bush to talk to Southern Bell about using fiber optics in the new Government Center.

Commissioner Donovan addressed Council with the problem of Dan Zemel, Security & Land Mobile Company, in Campobello, South Carolina, regarding the Lake Lure communications system contract of \$19,241.25 not being fulfilled. Mr. Zemel was hired on March 1, 1993 to build a new radio communications system for the Lake Lure Police Department and Public Works Department.

Commissioner Donovan moved, seconded by Commissioner Church, to authorize Attorney Callahan to file charges against Dan Zemel, Security & Land Mobile Co., for not fulfilling the Lake Lure communication system contract to build a radio communications system for the Lake Lure Police Department and Public Works Department. The vote of approval was unanimous.

**CLOSED SESSION
PROPERTY ACQUISITION**

Commissioner Bush moved, seconded by Commissioner Church, to enter into closed session for the purpose of discussing property acquisition for the Town.

After discussion within closed session, Commissioner Church moved, seconded by Commissioner Schichtel, to come out of the closed session and re-enter the regular session of the meeting. The vote of approval was unanimous.

Attorney Callahan presented Council with the following draft agreement between the Town of Lake Lure and Donald F. Ward and Josephine Ward:

STATE OF NORTH CAROLINA

COUNTY OF RUTHERFORD

AGREEMENT

THIS agreement made and entered into this ___ day of February, 1995, by and between the TOWN OF LAKE LURE, NORTH CAROLINA, a municipal corporation organized and existing under any and by virtue of the General Statutes of the State of North Carolina, hereinafter referred to as buyer, and DONALD F. WARD, and wife, JOSEPHINE WARD, hereinafter referred to as seller.

WITNESSETH:

THAT whereas buyer desires to purchase and seller desires to sell, certain real property more particularly described in Schedule "A" attached hereto, and;

THAT each of the parties desires to set forth in this agreement the terms and conditions of said sale.

NOW, THEREFORE, in consideration of Ten Dollars, the receipt of which is hereby acknowledged, and other good and valuable consideration, and the further consideration of the mutual promises and covenants hereinafter agreed to be done, the parties do hereby agree as follows:

1. That the purchase price of the real property more particularly described in Schedule "A" attached hereto is \$65,000.00 and shall be payable as follows:

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- a) \$20,000.00 in cash or equivalent upon execution of this agreement
- b) the balance of \$45,000.00 on or before December 31, 1995.

2. That upon payment of the balance of \$45,000.00 seller will convey by Warranty Deed all that real property described in Schedule "A" attached hereto. This Warranty Deed will allow for Seller to have a right of first refusal in the event the buyer elects to sale or otherwise dispose of said property in the future.

3. That, in the event buyer shall elect not to purchase said real property or fail to pay the balance of the purchase price as set forth in 1.b) above, all sums previously paid pursuant to this agreement shall be forfeited by buyer.

4. That buyer, as the municipal government governing zoning of the real property described in Schedule "A" and as the governing body empowered to grant seller a "zoning compliance certificate," agrees that, in the event that buyer elects not to proceed with the purchase of said real property described in Schedule "A" attached hereto, buyer shall immediately grant to seller a zoning compliance certificate, authorizing seller to begin construction within six months of the date of said certificate, and proceed with construction to completion, of that structure as shown on a plat by Professional Surveying Services heretofore submitted to buyer for approval.

5. In the event buyer purchases said real property as described in Schedule "A" attached hereto, buyer shall be responsible for the payment of the real property taxes for the current year.

This the _____ day of February, 1995

TOWN OF LAKE LURE

ATTEST:

_____(Seal)
Clerk-Treasurer

By: _____(Seal)
Mayor

DONALD F. WARD

JOSEPHINE WARD

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

I, _____, a Notary Public of the County and State aforesaid, certify that DONALD F. WARD and wife, JOSEPHINE WARD, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

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Witnessed my hand and official stamp or seal, this ____ day of February, 1995.

SEAL/STAMP

Notary Public
My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

I, _____, a Notary Public of the County and State aforesaid, certify that _____ personally came before this day and acknowledged that he is _____ Clerk of Town of Lake Lure, a municipal corporation organized and existing under and by virtue of the General Statutes of the State of North Carolina, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ Mayor, sealed with its corporate seal and attested by _____ as its _____ Clerk.

Witness my hand and official stamp or seal, this ____ day of February, 1995.

SEAL/STAMP

Notary Public
My Commission Expires: _____

Commissioner Bush moved, seconded by Commissioner Schichtel, to approve the following:

1. Town purchase property described in agreement (Schedule "A") as presented by Town Attorney Callahan in the amount of \$65,000 and shall be payable as follows: a) \$20,000.00 paid out of the Capital Reserve Fund (account number #604200.7402 titled Town Hall Holding). b) pay the balance of \$45,000.00 on or before December 31, 1995.

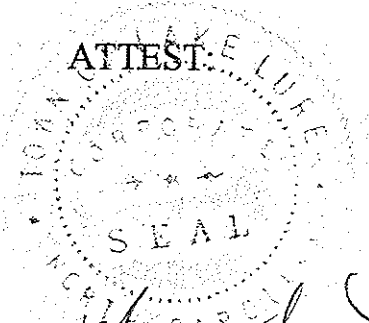
2. Amend paragraph #2, on page 1, by adding the words "*for commercial purpose*". The revised paragraph would read: 2. That upon payment of the balance of \$45,000.00 seller will convey by Warranty Deed all that the real property described in Schedule "A" attached hereto. This Warranty Deed will allow for Seller to have a right of first refusal in the event the buyer elects to sale or otherwise dispose of said property in the future *for commercial purpose*.

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The vote of approval was three (3) to one (1). Commissioner Bush, Commissioner Church, Commissioner Schichtel voted yes. Commissioner Donovan voted no.

ADJOURNMENT

With no further items of discussion, Commissioner Bush moved, seconded by Commissioner Church, to adjourn the meeting. The vote of approval was unanimous.



Mary A. Flack
Mary A. Flack, CMC/AAE
Town Clerk

Max E. Lehner
Mayor Max E. Lehner

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD
TOWN OF LAKE LURE

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT, made this the 1st day of April, 1995 by and between: THE TOWN OF LAKE LURE, Lake Lure, North Carolina, a Municipal Corporation, hereinafter called "TOWN"; and Lotus Enterprises, Incorporated, a North Carolina Corporation, 1210 Greenville Highway, Hendersonville, North Carolina, hereinafter called "CONCESSIONER":

WITNESSETH:

That for and in consideration of the concession fee to be paid by the Concessioner to the Town as hereinafter set out, the Town has this day granted unto the Concessioner, the right to use the waters of Lake Lure for the purpose of operating a concession for carrying on and conducting a scenic passenger boat ride service and for such a business and for no other purpose or purposes, for the term beginning April 1, 1995 and ending on the 31st day of March, 1997.

And it is stipulated and agreed that Concessioner is to pay to the Town as a concession fee for the concession hereinbefore described and for the term hereinbefore specified ten (10%) percent of gross receipts, including all ticket sales, refreshments and retail sales which concession fee shall be paid in monthly installments. Town shall have the right to inspect the books, including daily receipts, of said business kept by Concessioner at any time upon reasonable notice to Concessioner. In addition Concessioner agrees to and shall donate 20% of its annual, pre-tax profits to the following worthy causes: 10% to George Bond Memorial Health Center, 2% to Chimney Rock Volunteer Fire Department, 4% to Fairfield Mountain Volunteer Fire Department, 2% to Hickory Nut Gorge EMS and 2% to Hickory Nut Gorge Chamber of Commerce;

AND IT IS FURTHER STIPULATED AND AGREED:

(1) That the Concessioner, at their own cost and expense, shall comply with all rules, regulations, and requirements of the State of North Carolina and Rutherford County Governments or of the

Governments of the United States or any of the Departments or Bureaus thereof applicable to operation of a scenic passenger boat ride business, and that Concessioner shall moreover comply with all ordinances, rules and regulations of the Town of Lake Lure. Concessioner shall not operate any voice amplification system upon the passenger boats operated by Concessioner.

(2) That Concessioner will be allowed to use Town dock space for tie up of two (2) pontoon passenger boats at an area designated by the Town Manager. Concessioner will pay \$600 in slip rent for each dock space per year. This slip rent for 1995 shall be payable upon execution of this concession agreement, and for 1996 it shall be payable on April 1, 1996. Concessioner shall be responsible for proper cleaning and maintenance of their dockage area. Concessioner will also be allowed to continue to use Town property near Town dock and the portable ticket booth which was constructed thereon during the 1994-95 season. Location and color of this ticket booth is to be approved by Town Manager. A small directional sign may also be installed on Town property. This directional sign and location shall be approved by Town Manager.

(3) That Concessioner shall not assign this Agreement or permit any business or purpose deemed disreputable in any manner, or for any purpose or purposes other than the purpose or purposes designated above, and it is hereby specifically understood and agreed that Concessioner will not employ any persons under the age of sixteen (16) years to drive or operate the boats used in said passenger scenic boat ride business;

(4) That Concessioner shall maintain liability insurance coverage in the operation of said business of not less than One Million (1,000,000) Dollars, per occurrence, to protect them and the Town of Lake Lure for damages because of bodily injury, including death, which may arise from and during operations under this Agreement, whether such operations be by Lotus Enterprises, Incorporated, or by anyone directly or indirectly employed by them, a copy of current insurance coverage shall be issued to the Town,

