



Incorporated 1927

Town of Lake Lure

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MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, SEPTEMBER 24, 1996, 7:30 P.M. AT THE MUNICIPAL CENTER

PRESENT: Mayor Max E. Lehner
Commissioner Bill Bush
Commissioner Carolyn Cobb
Commissioner Beth Rose
Commissioner Bud Schichtel

John R. Strutner, Town Manager
Chris Callahan, Town Attorney

ABSENT: N/A

CALL TO ORDER

Mayor Lehner called the meeting to order at approximately 7:30 p.m.

INVOCATION

Town Attorney Chris Callahan gave the invocation. Mr. Strutner requested a moment of silent prayer in memory of David Reynolds, Executive Director of the North Carolina League of Municipalities, who had died of pancreatic cancer earlier that day.

AUDIENCE OF CITIZENS

Nancy Wait expressed her appreciation by commending the citizens for their heartfelt response to the need of the community and the North Carolina Department of Transportation for their repair efforts from the damage which occurred during the September 4-5 flood in the Hickory Nut Gorge area.

APPROVAL OF MINUTES

Commissioner Cobb moved, seconded by Commissioner Bush, to approve the minutes of the September 10, 1996 regular Council meeting as written and presented by the Town Clerk. The vote of approval was unanimous.

INTRODUCTION OF NEWLY HIRED POLICE OFFICER

Chief of Police Jake Gamble introduced Eric Hester as a new addition to the Police Department. Eric worked approximately 4-1/2 years as Deputy with the Rutherford County Sheriff's Department. Mayor Lehner, on behalf of Council and staff, welcomed Eric to the Police Department.

Mayor Lehner expressed appreciation to all the volunteers, including the fire departments and the EMS, as well as all the paid personnel for an outstanding job during the flooding situation.

OLD BUSINESS:

**a. Presentation by Andy Givens,
Cardinal Energy Systems**

Andy Givens of Cardinal Energy Systems gave a presentation on the completion of Phase I of the Power Sales Contract for the Town's Power Plant. Mr. Givens presented five specific recommendations which he feels are relevant at this time. The recommendations were as follows:

- (1) In order to eliminate the possible adverse impact of the 30 month notice provision in the current contract, Lake Lure should send a letter to Duke to do the following:
 - a. Confirm that the Town is exploring its options.
 - b. Acknowledge the upcoming changes in the avoided cost rates.
 - c. State the Town's interpretation of the notice requirements, and
 - d. Set a date of July 1997 as the time for future discussions.
- (2) Monitor the avoided cost hearings at the North Carolina Utilities Commissioner (NCUC) in Docket E-100, Sub 79. Cardinal Energy Service receives copies of filings and orders in that case and will keep the Town aware of events until an order is issued. The Town may choose to get more involved by intervening in the case, either alone or with other generators, in an effort to protect the rights of independent power producers.
- (3) Postpone further consideration of the power sales contract until June 1997. At that time the following changes will have occurred:

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- a. The NCUC avoided cost hearings will be complete and a better understanding of the rates from Duke will be available.
 - b. Rutherford EMC will know the status of its own power supply contract and its ability to participate in the market for power.
 - c. The wholesale transmission market will be better defined with the implementation of FERC Order 888.
 - d. The operation of power marketers will provide greater information concerning the true market value of the Lake Lure Power.
- (4) In June 1997, resume consideration of the contract discussions in anticipation of the April 1998 termination of the current contract. At that time the following items must be done:
- a. Review the 1997 avoided cost rates approved by NCUC for Duke.
 - b. Make formal inquiry to Duke concerning continued service.
 - c. Open discussions with Rutherford EMC concerning power sales.
 - d. Review the market for power by further contact with power marketers who are active in the area.
- (5) The Town should plan and budget for a 50% reduction in the revenue received from the sale of power, beginning April, 1998.

With no further discussion, Commissioner Bush moved, seconded by Commissioner Schichtel, that the Town Manager sign and mail the following letter to Mr. Ken Keels, Duke Power Company, as drafted by Cardinal Energy Service, Inc. The vote of approval was unanimous.

Mr. Ken Keels
Resource Acquisition Dept.
Duke Power Company
422 S. Church Street
P. O. Box 1006 (EC03U)
Charlotte, NC 28201-1006

Dear Mr. Keels:

The Town of Lake Lure sells power from the Lake Lure Dam to Duke Power Company under a 15 year contract dated April 21, 1983. The original term of this contract ends on April 20, 1998.

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The Town recognizes that the electric utility market has changed greatly over the last 5 years, and that there will be further evolution between now and April 1998. For this reason we have employed Mr. Andrew C. Givens of Cardinal Energy Service, Inc., to assist us in reaching a new power sales agreement.

By the summer of 1997, the avoided cost rates in NCUC Docket E-100, Sub 79 should be established, the power markets will be more developed, and the wheeling rates required under FERC order 888 will be implemented. Therefore, it is appropriate to wait until June, 1997 to begin power sales contract talks with Duke and other parties. This will give us 10 months for discussions prior to the end of the current contract. We hope to have an agreement by the end of January 1998. Considering the fact that Lake Lure has not received a capacity credit for this power, and that the original term of the contract will be fulfilled, the Town will have no obligation to sell the power to Duke, or to utilize or pay for the existing facilities beyond April 20, 1998. We believe that this schedule is consistent with all notice and termination provisions of the current contract, and appropriate for the current market. While we hope to reach a mutually beneficial contract with Duke, it is important to clarify this aspect of our contract at this time.

We ask that you concur with our interpretation of the notice provisions and our understanding concerning the obligations beyond April 20, 1998, by signing below. If you have any questions concerning the contract, please contact Mr. Andrew Givens at 919-834-0909.

Sincerely,

John R. Strutner
Town Manager

Duke Power Company concurs with the above interpretation of the notice requirements and obligations of the Town of Lake Lure.

Duke Power Company

JRS/at

Copy: Andrew Givens

<p>OLD BUSINESS: b. Other Old Business</p>
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There was no further old business for discussion.

NEW BUSINESS:

- a. Request to Suspend the Town of Lake Lure
Code of Ordinance -- Section 63.01
(Consumption of Malt Beverages and
Unfortified Wine, Spirituous Liquors,
or Mixed Beverages)**

Commissioner Cobb moved, seconded by Commissioner Rose, to suspend Section 63.01 of the Town of Lake Lure Code of Ordinance (Consumption of Malt Beverages and Unfortified Wine, Spirituous Liquors, or Mixed Beverages), at the Lake Lure Community Hall located inside the Municipal Center on Friday, October 11, 1996 from 3:30 - 5:15 p.m. for a cheese and wine constituents update. The vote of approval was unanimous.

NEW BUSINESS:

- b. Discuss Proposed Amendments to the Zoning Ordinance**

Dick Washburn, Chairman of the Zoning and Planning Board, presented Council with a memorandum and presentation of proposed amendments to the Town's Zoning Ordinance. The memorandum read as follows:

TO: Lake Lure Town Council
FROM: Zoning and Planning Board
DATE: 9/17/96
SUBJECT: Amendment to the Zoning Ordinance

The Zoning and Planning Board has been discussing possible amendments to the Zoning Ordinance. The Board is proposing the following changes:

- **Change "building line" to "building foundation line" in the definition of building height in Article IV, Section 401 (pg. 3) of the Zoning Ordinance. This addition should also be made in Article VII in the first paragraph under the chart (pg. 25).**

The Zoning and Planning Board feels the word foundation should be added to clarify the exact location of the building line.

- **Change "finished grade" to "average finished grade" in Article VII, the first paragraph under the chart (pg. 25) to match the building height definition on page 3.**

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This change is made simply to keep the Zoning Ordinance consistent throughout the entire document.

- **Delete the second sentence in Article VII, the first paragraph under the chart (pg. 25) which reads "may be exceeded only where depth of front and total width of minimum required side yards are increased one (1) foot for each additional foot of building height".**

The Zoning and Planning Board feels the 35 foot maximum height from the average finished grade is sufficient, and no structure should be able to exceed the 35 feet.

The Zoning and Planning Board also recommends changes to the Town's Sign Regulations (Article XIII, pg. 59) of the Zoning Ordinance. These changes are as follows:

- "Any sign in this subsection shall not exceed a height of 16 feet" be added to Section 1311, Part 2 (pg. 72) of the above article. This addition could be entered into the Sign Regulations as Section 1311, Part 2(e).
- Delete "in existence on the date of the adoption of this ordinance" and "such date" from Section 1315, Part 3(c) (pg. 77). Also, change the amortization period from three (3) years to seven (7) years in the same section.

The sentence will then read "any nonconforming sign shall either be eliminated or brought into compliance within seven (7) years of the date it became nonconforming."

All signs within the Town of Lake Lure should be in compliance with the Town's sign regulations. The addition of the sign height requirement would put one sign out of compliance (the Exxon station sign). The Board feels it would be unfair to insist the sign be replaced within three years, therefore, it is suggested the seven year amortization period replace the three year period.

The Zoning and Planning Board also recommends a change in the Town's subdivision regulations.

- Add "Alleys may be provided to residential lots provided all such lots front on a public or private street" to Article VII, Section 704 (pg. 22).

This addition would provide access to more than one lot, provided that those lots front a public or private street. In certain situations, it is difficult to access the road to each house due to terrain restrictions.

The Zoning and Planning Board respectfully submits these recommendations to the Town Council.

Dick Washburn, Chairman

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Council expressed concern using the term "alley". They felt that, in order to avoid confusion, the term alley should possibly be changed to shared driveway. The Town Attorney suggested a more defined definition of alley to specify how many houses, how many lots, what length, what grade, etc.

After much discussion, Commissioner Bush moved, seconded by Commissioner Schichtel, to hold a public hearing during the October 24 Town Meeting on the several changes to the Zoning and Subdivision Ordinances, recommended by the Zoning and Planning Board and described above. In preparation for these hearings, Council instructed Town Attorney Callahan, Town Manager John Strutner, Interim Zoning Administrator Britt Bernhardt, and Zoning and Planning Board Chairman Dick Washburn to work together on clarifying and expanding the changes recommended for the Subdivision Ordinance regarding "alleys". The vote of approval was unanimous.

NEW BUSINESS:

c. Adopt Resolution of Appreciation

Commissioner Rose moved, seconded by Commissioner Bush, to adopt the following Resolution of Appreciation. The vote of approval was unanimous.

RESOLUTION OF APPRECIATION

WHEREAS, the Town of Lake Lure and the entire Hickory Nut Gorge area of Rutherford County and Henderson County was impacted adversely by a massive rainstorm during the late night and early morning of September 4-5, 1996; and

WHEREAS, as a result of the flooding precipitated by this storm along the Broad River and Lake Lure, many areas in the Hickory Nut Gorge sustained damage to individual, business and public property; and

WHEREAS, during this flooding incident, and in the hours and days immediately following, numerous organizations, agencies and individuals, both public and private, rendered valuable assistance in securing and protecting life and property, as well as aiding in recovery and clean-up operations within the Town of Lake Lure and throughout the Hickory Nut Gorge; and

WHEREAS, the Town of Lake Lure wishes to express its sincere gratitude to the various agencies, individuals and organizations who contributed their time, energies, talents and abilities so unselfishly during the flooding and in its aftermath;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Lake Lure, North Carolina that the Town of Lake Lure hereby expresses officially its most sincere gratitude and appreciation to the following organizations, agencies, and individuals for their

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assistance and cooperation during the aforementioned flooding incident and in the aftermath of same:

American Red Cross
Bat Cave Volunteer Fire Department
BellSouth Company
Bill's Creek Volunteer Fire Department
Bi-Lo Inc., of Rutherfordton
Brandt's Little New Orleans Restaurant
Chalet Club
Chimney Rock Grill
Chimney Rock Volunteer Fire Department
Christ School of Arden (2 faculty & 20 Students)
Colony Lake Lure Resort
Crackers Oyster Bar & Pub
El Greco's
Esmeralda Inn
Duke Power Company
Fairfield Mountain's Volunteer Fire Department, Stations 1 & 2
Fletcher Volunteer Fire Department
Greenhill Volunteer Fire Department
Hardee's Restaurant
Helping Neighbors
Hickory Nut Gorge Chamber of Commerce
Hickory Nut Gorge EMS
Hickory Log Barbecue
Jimmy's Original Seafood & Steak
Lake Lure Inn
Lake Lure Lake Advisory Committee Chairman, Bob Washburn,
and all others
who volunteered their watercraft and time to remove debris
from the lake
Lake Lure Marina Manager, Bill Henson
Lake Lure Police Department
Lake Lure Public Works Department
Lake Lure Tours
Lake Lure Town Employees
Lake Lure Village Resort
Lamars Restaurant
Lakeside Pizza
Lakeview Store
Lodge on Lake Lure
McGill & Associates
North Carolina Crime Control

*North Carolina Department of Transportation
North Carolina Department of Environment, Health & Natural
Resources
North Carolina Highway Patrol
North Carolina State Senator, Dennis Davis
North Carolina State House Representatives, John Weatherly &
Debbie Clary
North Carolina Wildlife Officer, Fred Weisbecker
Point of View Restaurant
Russco Drug & Food
Rutherford Correctional Center, David Mitchell, Assistant
Superintendent
Rutherford County Building Inspector, Marshall Atchley
Rutherford County Chamber of Commerce
Rutherford County Commissioners
Rutherford County Crime Control
Rutherford County Emergency Coordinator, Barry Davis
Rutherford County Maintenance Director, Barry Jones
Rutherford County Fire Marshal, Roger Hollifield
Rutherford County Sheriff's Department, Dan Good
Rutherford County Tourism Development Authority
Sam's Club of Asheville
SDO Volunteer Fire Department
Sunnyview Fire & Rescue
Thelma's Mountain Store
Town of Forest City
Various churches for meals
Volunteer Forest City Citizen, Debbie Tavernia
Volunteer Lake Lure Citizen, Bob Freck
Volunteer Lake Lure Citizen, Jo Burch Freck
Volunteer Lake Lure Citizen, Gene Whitesides
. . . . and other unknown citizens who provided assistance *and those*
who may have been inadvertently left off this listing.*

BE IT FURTHER RESOLVED that the Town Clerk is hereby directed to transmit a copy of this Resolution of Appreciation to those individuals, agencies and organizations recognized above.

Adopted and approved this 24th day of September 1996.

Max E. Lehner, Mayor

ATTEST:

Anita H. Taylor, CMC/AAE
Deputy Town Clerk

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Mr. Strutner agreed to investigate the cost of placing a copy of the resolution in the Daily Courier.

Mayor Lehner, on behalf of the Town Council, presented Town Manager Strutner with a Certificate of Appreciation for the extra time and hard work he endured during the flooding situation.

NEW BUSINESS:
d. Discussion Regarding United Way

Town Manager Strutner informed Council that Mary Ann Ransom wrote a letter apologizing for scheduling the wrong date to meet with the departmental people about United Way's Employee Campaign Drive. She will not be requesting to place a United Way Campaign sign up this year because they are planning on doing the campaign a little different and in a shorter time frame.

NEW BUSINESS:
e. Other New Business

There was no further new business for discussion.

STAFF REPORTS

Town Manager John Strutner reported that the Town has been declared eligible for public assistance with problems resulting from the flood of September 4-5. The Town has incurred damage to the sewer line and manholes, tree removal, etc.

On behalf of Bob Washburn, Chairman of the Lake Advisory committee, the Town Manager gave a brief report on lake clean-up activities in the aftermath of the recent flood. According to Washburn, who had coordinated the volunteer effort to remove debris from the lake, most debris had been cleared and a concerted volunteer effort was probably no longer needed. The major problem area was large trees mired in the main channel; these will be removed by Town crews and Lake Advisory Committee members as soon as possible. Further clean-up activities will be on an ad hoc basis much like what took place after the 1995 flood. Any debris picked up on the lake or along the shore can be deposited at the usual drop-off location at Shakespeare Point. Another alternative is to remove the debris, pile it on your dock, telephone the Municipal Center and report same, and then Town personnel will collect the debris as soon as possible. Those persons who have large items wedged under their docks or boathouses may either wait until the lake is lowered later this year and then remove it, or telephone the Municipal Center and Town personnel/Lake Advisory Committee members will attempt to remove it as soon as possible.

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Mr. Strutner also announced that he will be interviewing for the position of Zoning Administrator Friday, September 27, 1996. He has narrowed the applications down to three applicants.

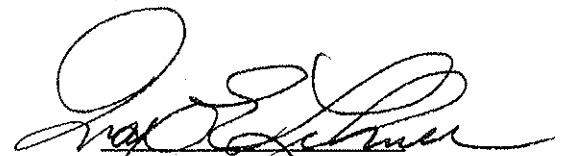
COUNCIL COMMENTS

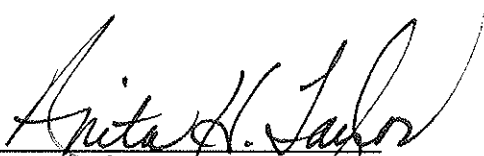
There were no further comments for discussion.

ADJOURNMENT

With no further items of discussion, Commissioner Cobb moved, seconded by Commissioner Rose, to adjourn. The vote of approval was unanimous.




Mayor Max E. Lehner


Anita H. Taylor, CMC/A&E
Deputy Town Clerk