



# 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 RECESSED REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, SEPTEMBER 8, 1998, 7:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER

**PRESENT:** Mayor Jack Powell  
Commissioner Carolyn Cobb  
Commissioner Beth Rose  
Commissioner Gene Sheffield  
Commissioner Jack Stanier

Sam A. Karr, Acting Town Manager

### CALL TO ORDER

Mayor Powell called the meeting to order at 7:00 p.m.

### INVOCATION

Commissioner Carolyn Cobb gave the invocation.

### AGENDA ITEM

Mayor Powell requested an item be added on the agenda to consider another patrolman position in the Lake Lure Police Department.

Commissioner Cobb moved, seconded by Commissioner Rose, to add an item on the agenda for consideration of an additional patrolman position in the Lake Lure Police Department. The vote of approval was unanimous.

### CONSIDERATION OF AN ADDITIONAL LAKE LURE PATROLMAN POSITION

Mayor Powell announced he had contacted the North Carolina Justice Academy about a preliminary report on staffing the Lake Lure Police Department. Powell said the Academy recommended that the Town add an additional experienced police officer.

## Page 2 - Minutes of the September 8, 1998 Recessed Council Meeting

After discussion, Commissioner Stanier moved, seconded by Commissioner Sheffield, to approve an additional patrolman position in the Lake Lure Police Department. The vote of approval was unanimous.

Mayor Powell said the Town currently has a reserve officer in training. In addition, Police Chief Mike Bustle is in the process of employing a police officer with approximately eight years experience as patrolman. Powell said hopefully this officer will be hired fairly soon.

<p style="text-align: center;"><b>DISCUSS &amp; SCHEDULE A PUBLIC HEARING ON REVISIONS TO THE LAKE STRUCTURES ORDINANCE</b></p>
---

Commissioner Cobb moved, seconded by Commissioner Stanier, to hold a public hearing at the next regular Town Council Meeting on Tuesday, October 20, 1998 at 7:00 p.m. or thereafter in the Council Meeting Room of the Lake Lure Municipal Center to consider amendments to the Lake Structures Ordinance. Commissioners Cobb, Stanier and Rose voted in favor of the motion. Commissioner Sheffield voted against the motion. Therefore, the motion carried with a vote of three to one.

Mayor Powell read aloud the following prepared statement in order to correct any misconceptions:

**Last week I voted, breaking a tie, to accept the recommendation of the Zoning and Planning Board which is "to allow administrative approval of structures above the 15 foot height limit, provided they meet specific standards and do not obstruct the view of neighbors (with the proviso that specific standards can be agreed on as acceptable by the Town Council). The development of specific standards was referred to the Zoning Administrator and the Zoning and Planning Board to bring to Council for consideration at this meeting. Let me clarify my position on this issue and on this specific vote.**

**In my opinion, there are two separate issues involved as to structures above 15 feet. First, is the question of dealing with those structures that were built after December 15, 1992 in violation of the current ordinance. When I took office, I swore to uphold the laws of the Town of Lake Lure and the State of North Carolina. I do not take this obligation lightly. Accordingly, I am committed to either having the Town carry out the penalty provisions of the existing ordinance or to develop an alternative penalty, perhaps monetary, if the amended ordinance provides for structures over 15 feet and these illegal structures meet the standards adopted by Council, with a reasonable time to bring them into conformity. I am working with the Institute of Government, the Town's legal counsel, Chris Callahan, and Zoning Administrator Chuck Place to effect this approach.**

The other issue, of course, is whether structures over 15 feet should be allowed in the future. I will support this amendment if (1) the standards are reasonable and the provision regarding materially obstructing the view of the lake from any adjacent or nearby properties can be effectively administered and (2) a way can be devised to penalize those who built structures after 1992 in violation of the existing ordinance without requiring them to remove the structure.

Commissioner Cobb read the following into the record:

**Bill of Rights, December 15, 1791**

**Article I**

**RELIGIOUS ESTABLISHMENT PROHIBITED, FREEDOM OF SPEECH, OF THE PRESS AND RIGHT TO PETITION.**

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."

**Be it Federal, State or Municipal Government: The People are the government. The People's taxes pay salaries, travel, medical and many other expenses for most elected officials.**

**Article X**

**RIGHTS OF STATES UNDER CONSTITUTION.**

"The powers not delegated to the United States by the Constitution, not prohibited by it to the States, are reserved to the States respectively, or to the people."

Let us bring this on to deal with Municipalities. Elected officials have a duty to uphold laws and ordinances. People do indeed make policy (or at least eventually), if they so desire. Ignorance of actions by elected officials has often precluded change. "People, of the people, by the people and for the people." This is what we are all about. Not just one corner of the lake, nor just one lot variance in the valley, nor whether just one road qualifies for Powell Bill monies to be paved and maintained. It is the overall picture we must see. And I would hope we will be able to see this with not only a sense of justice, seasoned with at least a modicum of wisdom, but also balanced with compassion. People...ALL peoples..VOX POPULI. The Voice of the People.

#### Page 4 - Minutes of the September 8, 1998 Recessed Council Meeting

Commissioner Rose commented on a petition (regarding boathouse structures) previously submitted by Edward Dittmer on August 28, 1998 during the recessed regular Town Council meeting. Rose said she was in favor of petitions, if they were accurate and done properly. However, she was concerned about inaccurate/or misleading petitions. Rose said some of the signatures on the petition presented to Town Council by Mr. Dittmer were not readable, and did not include all addresses for those who had signed. She questioned whether or not the petition was a valid document? Commissioner Rose also contacted several individuals whose name appeared on this petition. According to Rose, some of these individuals indicated they were under the impression structures built during 1982 and forward would be required to be torn down. In addition Rose, pointed out a discrepancy on the petition received by Mr. Dittmer regarding the year quoted in the following excerpt. Rose said the year quoted in the petition should have been "1992 forward" instead of "after 1982".

**"We do not even object to a reasonable height limitation and/or future architectural controls, but we do vehemently oppose the removal of all boathouse structures built after 1982."**

Commissioner Sheffield stated the Town already had on record a Lake Structures Ordinance governing boathouses. He explained if the Town does not uphold their adopted ordinances, the doors are being left open for building violations. Sheffield said that if an ordinance is to be changed, it should not be made to accommodate those structures in violation.

Commissioner Stanier said the Planning/Zoning Board and the Board of Adjustment/Lake Structure Appeals Board had spent a great deal of time reviewing revisions to the draft Lake Structures Ordinance. Stanier suggested that Council members review the standards as presented by the Zoning/Planning Board.

Zoning Administrator Chuck Place presented draft standards for "gazebos" recommended by the Zoning/Planning Board including his suggestions. Place said the Zoning/Planning Board is working toward insuring visibility. Place also read into the record a revision made to the draft standards (section 94.05, subsection P) as follows:

**(P) All structures built above the roof of a boathouse, including decks and decktop accessory structures, shall require, prior to issuance of a town permit, certification by a competent professional that the boathouse structure is capable of supporting the dead and live load of the rooftop structure.**

Mayor Powell opened the floor for discussion asking individuals to limit remarks to specific standards developing rather than their own personal factors.

Edward Dittmer, resident of Memorial Highway, presented to Town Council another petition (additional 70 signatures) regarding boathouse structures. Dittmer said this particular petition was drafted by Attorney Robert Mebane in Rutherfordton. He explained the names on

**Page 5 - Minutes of the September 8, 1998 Recessed Council Meeting**

his petition presented to Town Council had been obtained from lakefront owners with the understanding structures built prior to 1992 were grandfathered structures.

Steve Stewart, resident of Lake Lure for approximately 15 years, spoke on behalf of gazebos. Stewart said he built a gazebo without a permit from the Town because he had seen others doing the same.

Zoning Administrator Place said the word "gazebo" does not exist in the revised draft Lake Structures Ordinance and the term used is "*decktop accessory structures*".

After discussion, Commissioner Cobb moved, seconded by Commissioner Stanier, to incorporate into the draft Lake Structures Ordinance the following section 94.05 (F) Height, subsection (2) for Council's consideration at the public hearing scheduled on October 20, 1998. Commissioners Cobb, Stanier, and Rose voted in favor of the motion. Commissioner Sheffield voted against the motion. Therefore, the motion passed with a vote of three to one.

- (2) **Accessory structures to be used for protection from direct sun and rain may be erected above rooftop decks provided they meet the following standards and are approved by the Lake Structures Appeals Board.**
  - (a) **Shall not exceed a height of ten feet above the surface of the rooftop deck.**
  - (b) **Shall not exceed 50% of the area of the rooftop deck or 150 square feet, whichever is less.**
  - (c) **Shall be completely open on all sides except for partial walls not more than 42 inches in height above the surface of the rooftop deck and insect screens.**
  - (d) **Shall be located abutting the shoreward end of the rooftop deck and not extend towards the lake beyond the midpoint of the deck.**
  - (e) **Shall not include any sanitary facilities.**
  - (f) **May include one storage container not more than 42 inches in height to store deck furnishings.**

Following discussion, Commissioner Cobb moved, seconded by Commissioner Rose, to incorporate into the draft Lake Structures Ordinance the following section 94.05 (F) Height, subsection (3) for Council's consideration at the public hearing scheduled October 20, 1998.

**Page 6 - Minutes of the September 8, 1998 Recessed Council Meeting**

Commissioners Cobb, Rose, and Stanier voted in favor of the motion. Commissioner Sheffield voted against the motion. Therefore, the motion passed with a vote of three to one.

- (3) Decktop accessory structures shall be approved by the Lake Structures Appeals Board upon a finding that the structures meet the standards in this subsection and that they do not materially obstruct the view of the lake from any adjacent or nearby properties.**

In addition, Commissioner Cobb moved, seconded by Commissioner Stanier, to revise the draft standards in the Lake Structures Ordinance (section 94.05, subsection P) as follows:

- (P) All structures built above the roof of a boathouse, including decks and decktop accessory structures, shall require, prior to issuance of a town permit, certification by a competent professional that the boathouse structure is capable of supporting the dead and live load of the rooftop structure.**

Commissioners Cobb and Stanier voted in favor of the motion. Commissioners Rose and Sheffield voted against the motion. Mayor Powell voted in favor of the motion in order to break the tie vote. Therefore, the motion carried with a vote of three to two.

Mayor Powell said individuals with existing gazebos which were not grandfathered after 1992 should be able to retain their structures. However, they should be penalized in some manner, possibly a monetary fine of \$500 up until say July 1, 1999. Then, increase the fine to a substantial amount of possibly \$1,000. Powell agreed to draft a proposal to provide for additional penalty in the form of a fine to section 94.99 of the draft Lake Structures Ordinance. This draft proposal will be presented to Town Council at the next regular Town Council meeting on September 15, 1998 for their consideration.

Robin Robbins, Lake Ridge Drive, told Council she was unaware of breaking the law when her gazebo was constructed. She expressed her concern about being able to keep the gazebo. Robbins explained that she felt her structure would be turned down by the Lake Structures Appeals Board.

Mayor Powell read into the record the following petition received from Mr. Dittmer:

**We, the undersigned Town of Lake Lure property owners, do hereby petition the Town of Lake Lure to consider our opinions of existing and future boathouse gazebos and structures.**

**So long as open gazebos and other shade structures which are constructed on top of boathouses do not obstruct an adjoining property owners' view, we do not feel that some should be disallowed and/or ordered removed. Such tasteful, aesthetic structures do not detract from the natural beauty of Lake**

**Page 7 - Minutes of the September 8, 1998 Recessed Council Meeting**

**Lure but instead enhance the Lake. We do not even object to a reasonable height limitation and/or future architectural controls, but we do vehemently oppose the removal of all boathouse structures built after 1992.** (The date had originally shown 1982, but was corrected).

Gene Whitesides, Lake Structures Appeals Board Chairman, commented that his board reviewed each case differently on an individual basis. Whitesides reported there were only two cases regarding gazebos that have come before his board. He said one request was approved and the other one was disapproved. Whitesides stated he resents the Lake Structures Appeals Board being referred to as a negative board by certain individuals.

Mary Ann Dotson, resident of Lake Lure and previous Board of Adjustment/Lake Structures Appeals Board Chairman, said that she had a great deal of respect for all volunteers of various Town boards. Dotson explained there were angry individuals when requests were approved and/or disapproved. She said if more people know about Town Government, perhaps they will be more understanding about these type situations. Ms. Dotson thanked the Mayor and all of those who were involved working towards a workable solution.

Riley Hardy, resident of Lake Lure and Board of Adjustment/Lake Structures Appeals Board member, said his board met today at 4:00 p.m. for approximately two hours. He reported seven cases were approved and only one was disapproved.

**OTHER NEW BUSINESS**

Sam Karr, Acting Town Manager, said Andy Givens, Cardinal Energy Inc., requested to be placed on the September 15, 1998 regular Town Council meeting agenda in order to report on resumption of hydro-electric power sales, contract negotiations, and project schedule. Mr. Givens told Council he was also planning a meeting on September 16, 1998 with Northbrook Energy.

Mayor Powell asked Council to give serious thought as to whether or not they would want to lose control of the dam and the water level. Powell said Lake Lure is primarily considered a recreational lake and third party operators generally have some authority over controlling water levels.

**COUNCIL COMMENTS**

Commissioner Cobb, Lake Advisory Committee Liason, announced there will be a Lake Advisory Committee meeting on September 14th, 6:30 p.m. at the Lake Lure Municipal Center.

Mayor Powell agreed to contact Bob Washburn, Lake Advisory Committee Chairman, about options pertaining to marina slips.


**Page 8 - Minutes of the September 8, 1998 Recessed Council Meeting**

Commissioner Cobb said in response to questions from citizens and William Breen about the drain problem located between Breen's office and the Town's beach area is scheduled for repair this fall/winter.

**ADJOURNMENT**

With no further discussion, Commissioner Rose moved, seconded by Commissioner Sheffield, to adjourn the Town meeting at 9:10 p.m.. The vote of approval was unanimous.

ATTEST:



*Anita H. Taylor*

Anita H. Taylor, CMC/AAE

Deputy Town Clerk

*Jack Powell*

Mayor Jack Powell