



Incorporated 1927

Town of Lake Lure

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

MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, FEBRUARY 9, 1999, 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

J. Christopher Callahan, Town Attorney
Sam A. Karr, Acting Town Manager

ABSENT: N/A

CALL TO ORDER

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

INVOCATION

Attorney Callahan gave the invocation.

AGENDA ITEMS

After discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield, to add an item on the agenda (under other new business) to discuss the productivity of Town Council Workshop meetings. The vote of approval was unanimous.

PUBLIC HEARING: ZONING REGULATIONS AMENDMENT TO AM-98-5 (CREATION OF NEW COMMERCIAL AND GOVERNMENT DISTRICTS)

Notices of the Public Hearings were duly given within the legal classified section of the issue of the Forest City Daily Courier newspaper.

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Zoning Administrator Chuck Place reviewed and read into the record excerpts of the proposed Ordinance No. 99-02-09.

Commissioner Cobb moved, seconded by Commissioner Rose, to enter into the Public Hearing for the purpose of discussing Zoning Regulations amendment to AM-98-5 (Creation of New Commercial and Government Districts). The vote of approval was unanimous.

Mayor Powell invited citizens to speak during the public hearing. No one requested to speak during the hearing.

With no further items for discussion, Commissioner Rose moved, seconded by Commissioner Sheffield to come out of the public hearing and re-enter the regular session of the meeting. The vote of approval was unanimous.

Commissioner Stanier moved, seconded by Commissioner Cobb, to adopt the following Ordinance No. 99-02-09 as presented. The vote of approval was unanimous.

ORDINANCE NO. 99-02-09

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWN OF LAKE LURE

WHEREAS, the Town of Lake Lure Zoning and Planning Board, after due consideration, has recommended creation of three new commercial zone districts for the purpose of allowing for and regulating commercial land use in a manner more consistent with the area surrounding these districts, said recommendation including a new definition of "marina" and amended sign standards; and,

WHEREAS, the Town of Lake Lure Zoning and Planning Board, after due consideration, has recommended creation of a new government use zone district for the purpose of allowing for and regulating land owned by governmental agencies and used for public purposes; and,

WHEREAS, the Lake Lure Town Council, after due public notice, conducted a public hearing on the 16th day of February, 1999, upon the question of amending the zoning ordinance in this respect;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF COUNCILMEN VOTING IN THE AFFIRMATIVE:

SECTION ONE: Amend § 92.005, Definitions, to add:

"§ 92.005 DEFINITIONS

Marina. An establishment with a lake front location for the rental of boat slips or dock space; rental, sale or repair of boats, boat motors and accessories; and the sale of marine fuel and lubricants, bait and fishing equipment and the like."

SECTION TWO: Add a new § 92.031A, CN District, as follows:

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"§ 92.031A CN COMMERCIAL, NEIGHBORHOOD DISTRICT

- (A) Intent. These districts are intended to apply to areas where selected businesses may be appropriately located to serve one or more residential neighborhoods within convenient traveling distance. CN districts are not highway oriented commercial districts; therefore gasoline service or filling stations, vehicle repair or sales, and the like are prohibited. Because these commercial districts are located within or adjacent to residential neighborhoods and are subject to the public view, which is a matter of important concern to the whole community, they should provide an appropriate appearance, ample parking, controlled traffic movement and suitable landscaping.
- (B) Permitted Uses. Within the CN Neighborhood Commercial District buildings or land shall be used only for the following purposes:
- (1) Medical and dental services or clinics.
 - (2) Real estate, financial institutions, business and professional offices.
 - (3) Post offices and libraries.
 - (4) Retail sales such as grocery stores, drug stores, gift shops, convenience stores, video sales and rentals, and the like.
 - (5) Consumer services such as restaurants, dry cleaning drop-off and pick-up stores, coin laundries, tailoring shops, barber and beauty shops, and the like.
- (C) Conditional use permit. The following uses require a conditional use permit subject to a finding by the Board of Adjustment that all applicable provisions of §§ 92.045 through 92.048 and 92.080 through 92.088 have been met:
- (1) Convenience stores with accessory sale of motor vehicle fuels and lubricants.
 - (2) Produce stands.

This section specifically excludes outside display of merchandise for sale or open storage of vehicles, motorized equipment, wrecked vehicles, inoperable vehicles, discarded tires, auto parts, and machinery and construction equipment; boat storage facilities; businesses which sell, rent, or display obscene materials as defined in the town's code of ordinances; tattoo parlors; residential uses, including mobile homes; moveable storage facilities; and manufacturing employing ten or more persons.

- (D) Site Requirements. All lots must have a minimum of 10,890 square feet, provided the maximum area of all contiguous lots zoned CN shall not exceed 2 acres. No neighborhood commercial area (lot or group of contiguous lots zoned CN) shall be located within one-half mile of any other area so zoned.
- (E) Front, Rear, and Side Yard Requirements.
- (1) For lots which abut the street, the building setback shall be not less than 10 feet from the street.
 - (2) For lots which abut the lake, the building setback shall be not less than 35 feet from the lake shoreline.
 - (3) Side yards shall be not less than 10 feet in depth, provided the side yard shall be 20 feet in depth where adjacent to land zoned or, in fact, used for residential purposes.

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- (4) Rear yards shall be not less than 15 feet in depth, provided the rear yard shall be 20 feet in depth where adjacent to land zoned or, in fact, used for residential purposes.
- (5) Where the lot abuts upon property used for residential purposes, a buffer strip shall be provided along the side and/or rear lot line of such abutting residential use(s). If a fence or wall is used, such fence or wall shall be opaque and not less than eight feet in height. If a planted buffer is used, such buffer strip shall be not less than eight feet in width and shall be composed of evergreen trees or shrubs which at planting will be at least four feet high and at maturity will be not less eight feet high. This requirement may be modified by the Board of Adjustment where sufficient natural buffering exists.
- (F) (1) Ingress/Egress. All uses in this district abutting the major thoroughfares, being U.S. Highway 64/74, N.C. Highway 9, or Buffalo Creek Road, shall have access only from such thoroughfares and shall be allowed only one means of ingress/egress for each 150 feet of frontage or fraction thereof. All ingress/egress openings, for both one-way or two-way traffic, shall be a minimum of 15 feet wide and a maximum of 30 feet wide, measured at the road right-of-way line, unless otherwise required by the N.C. Department of Transportation.
- (2) Landscaping. Landscaped traffic delineators are required within the front yard of the commercial site extending the full width of the front yard excepting to allow for entrances and exits. Delineators shall begin at the edge of the right-of-way or six feet from the edge of the pavement, whichever is greater, and shall extend a minimum of two feet toward the front of the structure. The area shall be planted and maintained with grass, flowers, and/or shrubs not high enough to obstruct a driver's view of traffic.
- (G) Frontage. All lots must have 50 feet of frontage on a street. For purposes of this section, all sites that are double frontage lots or corner lots shall be deemed to have frontage on all such streets. All fronts must adhere to ingress/egress requirements.

SECTION THREE: To add a new § 92.031B, CTC District, as follows:

“§ 92.031B CTC COMMERCIAL, TOWN CENTER DISTRICT

- (A) Intent. This district is intended to apply to the area bounded by Pool Creek, the lots abutting the west side of Avenue “C”, US Highway 64/74A and Second Street. The CTC district is not a highway oriented commercial district; therefore gasoline service or filling stations, vehicle repair or sales, and the like are prohibited. Because this commercial district is the focal point of commerce in Lake Lure and is subject to the public view, which is a matter of important concern to the whole community, it should provide an appropriate appearance, ample public parking, controlled traffic movement and suitable landscaping.
- (B) Permitted Uses. Within the CTC Commercial, Town Center District buildings or land shall be used only for the following purposes:
 - (1) Medical and dental services or clinics.
 - (2) Real estate, financial institutions, business and professional offices.
 - (3) Post offices, fire stations, libraries, art galleries, museums, churches, public and private schools, and other similar cultural, civic and governmental buildings.
 - (4) Retail sales such as appliance stores, florist shops, book stores, clothing stores, sporting goods and equipment stores, jewelry stores, hardware stores, grocery stores, drug stores, musical instruments,

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and video sales and rentals, but not excluding other similar uses.

- (5) Consumer services such as restaurants, dry cleaning stores, coin laundries, tailoring shops, barber and beauty shops, indoor theaters, indoor game rooms, and indoor exercise physical fitness facilities, but not excluding other similar uses.
- (6) Hotels, motels, and inns.
- (7) Conference and meeting facilities.
- (8) Existing (but not new) single family dwellings.
- (9) Multi-family dwellings located above the first floor of any structure.

This section specifically excludes outside display of merchandise for sale or open storage of vehicles, motorized equipment, wrecked vehicles, inoperable vehicles, discarded tires, auto parts, and machinery and construction equipment; boat storage facilities; businesses which sell, rent, or display obscene materials as defined in the town's code of ordinances; tattoo parlors; mobile homes; moveable storage facilities; and manufacturing employing ten or more persons.

- (C) Conditional use permit. The following uses require a conditional use permit subject to a finding by the Board of Adjustment that all applicable provisions of §§ 92.045 through 92.048 and 92.080 through 92.088 have been met:

- (1) None

- (D) Site Requirements. All lots must have a minimum of 10,000 square feet.

- (E) Front, Rear, and Side Yard Requirements.

- (1) Front yards are not required.
- (2) Side yards may be 0 feet with approved fire walls or not less than 10 feet in depth, provided the side yard shall be 20 feet in depth where adjacent to land zoned or, in fact, used for residential purposes.
- (3) Rear yards shall be not less than 15 feet, provided the rear yard shall be 20 feet in depth where adjacent to land zoned or, in fact, used for residential purposes.
- (4) Where the lot abuts upon property used for residential purposes, a buffer strip shall be provided along the side and/or rear lot line of such abutting residential use(s). If a fence or wall is used, such fence or wall shall be opaque and not less than eight feet in height. If a planted buffer is used, such buffer strip shall be not less than eight feet in width and shall be composed of evergreen trees or shrubs which at planting will be at least four feet high and at maturity will be not less eight feet high. This requirement may be modified by the Board of Adjustment where sufficient natural buffering exists.

- (F) (1) Ingress/Egress. All uses in this district abutting U.S. Highway 64/74 shall be allowed only one means of ingress/egress to that highway for each 150 feet of frontage or fraction thereof. All ingress/egress openings, for both one-way or two-way traffic, shall be a minimum of 15 feet wide and a maximum of 30 feet wide, measured at the road right-of-way line, unless otherwise required by the N.C. Department of Transportation.

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- (2) Landscaping. Landscaped traffic delineators are required adjacent to all rights-of-way excepting to allow for entrances and exits. Delineators shall begin at the edge of the right-of-way or six feet from the edge of the pavement, whichever is greater, and shall extend a minimum of two feet toward the front of the structure. The area shall be planted and maintained with grass, flowers, and/or shrubs not high enough to obstruct a driver's view of traffic.
- (G) Frontage. All lots must have 50 feet of frontage on a street. For purposes of this section, all sites that are double frontage lots or corner lots shall be deemed to have frontage on all such streets. All fronts must adhere to ingress/egress requirements.
- (H) Parking. All parking and loading must be in compliance with §§ 92.102 through 92.104, provided that public on-street and off-street parking spaces may be counted to meet the number of spaces required so long as such spaces are located within 900 feet, via pedestrian routing, from the entrance of the property to be served; and further provided that the number of spaces required shall be as follows:

(1) Multiple family dwellings	One space for each dwelling unit
(2) Hotels, motels and the like	One space for each accommodation
(3) All other uses	One space for each 400 square feet of gross floor area

Public parking spaces may be used to meet the requirements of more than one use at the same time.
- (I) Building Height. Notwithstanding the provisions of § 92.040 concerning building height, no structure shall exceed a height of 45 feet as measured from the average finished grade at building foundation line."

SECTION FOUR: To add a new § 92.031C, CG District, as follows:

“§ 92.031C CG, COMMERCIAL GENERAL

- (A) Intent. These commercial districts are established as districts in which the principal use of land is for retail sales and services to the consumer. The districts are intended to be located in high traffic areas along major thoroughfares. Because these commercial districts are located on the major thoroughfares of the Town and are subject to the public view, which is a matter of important concern to the whole community, they should provide an appropriate appearance, ample parking, controlled traffic movement and suitable landscaping.
- (B) Permitted Uses. Within the CG Commercial, General District buildings or land shall be used only for the following purposes:
- (1) Medical and dental services or clinics.
 - (2) Real estate, financial institutions, business and professional offices.
 - (3) Post offices, fire stations, libraries, art galleries, museums, churches, public and private schools, and other similar cultural, civic and governmental buildings.
 - (4) Retail sales such as appliance stores, florist shops, book stores, clothing stores, sporting goods and equipment stores, jewelry stores, hardware stores, grocery stores, drug stores, musical instrument sales, and video sales and rentals, but not excluding other similar uses.
 - (5) Consumer services such as restaurants, dry cleaning stores, coin laundries, tailoring shops, barber and beauty shops, indoor theaters, indoor game rooms, and indoor exercise physical fitness facilities.

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but not excluding other similar uses.

- (6) Hotels, motels, and inns.
- (7) Single and multi-family dwellings.

This section specifically excludes outside display of merchandise for sale or open storage of vehicles, motorized equipment, wrecked vehicles, inoperable vehicles, discarded tires, auto parts, and machinery and construction equipment; boat storage facilities; businesses which sell, rent, or display obscene materials as defined in the town's code of ordinances; tattoo parlors; mobile homes; moveable storage facilities; and manufacturing employing ten or more persons.

(C) Conditional use permit. The following uses require a conditional use permit subject to a finding by the Board of Adjustment that all applicable provisions of §§ 92.045 through 92.048 and 92.080 through 92.088 have been met:

- (1) Gasoline service or filling stations, including accessory auto repair in completely enclosed buildings.
- (2) Produce stands.
- (3) Automobile and/or boat sales lots for the retail sale of new and used automobiles and/or boats, but excluding wholesale sales lots of any description and vehicle fix-up shops.
- (4) Outdoor recreational facilities, excluding campgrounds.
- (5) Planned unit developments.
- (6) All telecommunications tower requirements listed in § 92.026(C)(7).
- (7) Marinas.

(D) Site Requirements. All sites must have a minimum of 21,780 square feet.

(E) Front, Rear, and Side Yard Requirements.

- (1) For lots which abut the street, the building setback shall be not less than 10 feet from the street.
- (2) For lots which abut the lake, the building setback shall be not less than 35 feet from the lake shoreline, provided that buildings for marinas shall be set back not less than ten feet from the lake shoreline.
- (3) Side yards shall be not less than 12 feet in depth.
- (4) Rear yards shall be not less than 15 feet.
- (5) Where the lot abuts upon property used for residential purposes, a buffer strip shall be provided along the side and/or rear lot line of such abutting residential use(s). If a fence or wall is used, such fence or wall shall be opaque and not less than eight feet in height. If a planted buffer is used, such buffer strip shall be not less than eight feet in width and shall be composed of evergreen trees or shrubs which at planting will be at least four feet high and at maturity will be not less eight feet high. This requirement may be modified by the Board

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of Adjustment where sufficient natural buffering exists.

- (F) (1) **Ingress/Egress.** All uses in this district abutting the major thoroughfares, being U.S. Highway 64/74, N.C. Highway 9, or Buffalo Creek Road, shall have access only from such thoroughfares and shall be allowed only one means of ingress/egress for each 150 feet of frontage or fraction thereof. All ingress/egress openings, for both one-way or two-way traffic, shall be a minimum of 15 feet wide and a maximum of ~~50~~ 30 feet wide, measured at the road right-of-way line, unless otherwise required by the N.C. Department of Transportation.
- (2) **Landscaping.** Landscaped traffic delineators are required within the front yard of the commercial site extending the full width of the front yard excepting to allow for entrances and exits. Delineators shall begin at the edge of the right-of-way or six feet from the edge of the pavement, whichever is greater, and shall extend a minimum of two feet toward the front of the structure. The area shall be planted and maintained with grass, flowers, and/or shrubs not high enough to obstruct a driver's view of traffic.
- (G) **Frontage.** All lots must have 100 feet of frontage on a street. Lots which abut the lake must have 100 feet of frontage on the lake. For purposes of this section, all sites that are double frontage lots or corner lots shall be deemed to have frontage on all such streets. All fronts must adhere to ingress/egress requirements.
- (H) **Parking.** All parking and loading must be in compliance with §§ 92.102 through 92.104."

SECTION FIVE: To add a new § 92.039, GU District, as follows:

§ 92.039 GU GOVERNMENT USE DISTRICT.

- (A) **Intent.** These districts are intended to apply to those lands where national, state or local governmental activities are conducted and where governments hold title to such lands. Any lawful governmental activity is permitted in these districts. It is not intended to classify all lands owned by governments into this district, but only those lands particularly and peculiarly related to public usage.
- (B) **Permitted Uses Within the GU Government Use District buildings and land shall be used only for the following purposes:**
 - (1) Parks, playgrounds, and recreation areas.
 - (2) Government administrative, meeting, and support facilities.
 - (3) Public facilities such as schools, hospitals and libraries.
 - (4) Other public facilities of a like nature.
 - (5) Those uses designated on a master plan adopted by Town Council for any publicly owned property.
- (C) **Development Criteria.** As determined by Town Council."

SECTION SIX: To amend § 92.040, Building Site--Minimum Dimensional Requirements, to add the following:

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ZONING CLASSIFIC.	LOT AREA	LOT WIDTH AT BLDG. SITE	FRONT YARD SETBACK	SIDE YARD SETBACK	REAR YARD SETBACK	REAR YARD OPEN SPACE % OF LOT
CG	21,780 sf	100 ft	10 ft	12 ft	15 ft	None
CN	10,890 sf	50 ft	10 ft	10 ft	15 ft	None
CTC	10,000 sf	50 ft	0 ft	0 ft or 10'	15 ft	None
GU	As determined by Town Council					

SECTION SEVEN: To amend § 92.156, Signs Prohibited, to add the following:

§ 92.156 SIGNS PROHIBITED.

- (D) Banners, pendants, flags and balloons, except as otherwise allowed.

SECTION EIGHT: To amend § 92.157, Signs Permitted, to add the following:

§ 92.157 SIGNS PERMITTED AND REGULATED.

- (A) Residential.

- (1) All residential districts:

- (c) Up to two decorative non-advertising flags of not more than three feet by five feet in size shall be permitted as accessory to any residential structure. Said flags shall be exempt from the permit requirements of this chapter.

- (B) Business, commercial and industrial districts.

- (6) Signs in this division (B) may be located within required front yards so long as no portion of any sign encroaches into any right-of-way and further provided that signs within 50 feet of any property zoned residential shall be no closer than ten feet to the right-of-way.
- (7) Up to two decorative flags of not more than three feet by five feet in size shall be permitted for each 50 feet of street frontage as accessory to any business. Said flags may include art work depicting the products and services available from the business and shall be exempt from the permit requirements of this chapter.

SECTION NINE: The Zoning Administrator shall make all the necessary corrections and additions to the zoning ordinance so as to implement the provisions of this ordinance and shall henceforth enforce the ordinance as hereby amended.

SECTION TEN: This ordinance shall be effective upon its adoption.

Adopted this 9th day of February, 1999.

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

Jack Powell, Mayor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

**HEARING -- APPEAL FROM THE DECISION OF THE LAKE STRUCTURES
APPEALS BOARD (APPEAL LSA-8, CAPT. ED DITTMER)**

Mayor Powell opened the meeting regarding the appeal from the decision of the Lake Structures Appeal Board (Appeal LSA-8, Capt. Ed and Kay Dittmer). The Mayor read the following notice:

Capt. Ed and Kay Dittmer are seeking a variance from the provisions of § 94.05 (the Design and Construction Standards of the Lake Structures Regulations) to allow an existing decktop accessory structure to remain. The structure currently fails to meet those standards as pertains to the requirement that all sides shall be open. The Dittmer's property is located at 1136 Memorial Highway (Tax Map 549, Block 1, Lot 6).

Next, Mayor Powell requested Capt. Ed and Kay Dittmer come forward to be sworn in by the Town Attorney Callahan and then make a brief statement describing the basis for the original application and the basis for the appeal.

After Capt. Ed and Kay Dittmer were sworn in by Attorney Callahan, Capt. Dittmer stated he and his wife are not really looking forward to being here tonight before Council members again. He said Town Council is probably tired of the whole situation, but he felt they needed to follow this to the end. Capt. Dittmer believed the lattice work on his gazebo meets all the criteria of the ordinance. On December 8, 1998, Capt. Dittmer and his wife requested a variance to allow an existing gazebo on their boathouse deck (meets all but one of the standards for such structures adopted by Town Council last October, 1999). Capt. Dittmer said the only standard not fully met in the opinion of the Zoning Administrator Chuck Place was the Design and Construction Standard defined in section 94.05 (2)c (which states "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"). He explained their gazebo was open to view inside from all sides through 38 inches of lattice above the 42 inch line to the roof line on three sides which is completely open on the front side facing their house. He believes they were in compliance with the intent of the ordinance and did not materially block any adjoining property owners view. Capt. Dittmer stated none of his neighbors had voiced any objection to their lattice work. He said his neighbors agreed the lattice work is attractive and materially adds to the surroundings.

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Capt. Dittmer mentioned Town Council had in their packets letters from his neighbors attesting to that fact. He stated the Town notified him that a variance would be required for the 38 inches of lattice work which is above the 42 inches allowed up to their roof line of 8 inches. Capt. Dittmer said he and his wife appeared before the Lake Structures Appeals Board on December 8, 1998 for a variance to allow the 38 inches of lattice with intent not to destroy the architectural effect and/or the attractiveness of their gazebo. Also, to provide maximum sun protection for a sun sensitive family member who is severely handicapped with cerebral palsy (wife is the legal guardian); and to allow for a limited degree of privacy (because of the uniqueness of their exposed location on Highway 64/74-A) which he believes would be allowable under the definition of open. Captain Dittmer explained his gazebo location is not obstructing anyone of his neighbors view of the lake because the 38 inches of lattice work (either now or in the future). He said the gazebo is an attractive enhancement to the lake side structures permitted by the new ordinance. Capt. Dittmer said they were hopeful of obtaining the variance based on merits, but instead they were faced with a hostile attack from the majority of the Lake Structures Appeals Board who were mostly upset with them for building the structure in the first place without their approval. Then, the Lake Structures Appeals Board had requested Council to relook at the ordinance which disallowed such structures and they were successful in getting the ordinance changed. Capt. Dittmer said he believed these individuals were actually in the forth run of those few who actively opposed changing the ordinance to allow such structures and even voted not to hear variances for such shade structures. Captain Dittmer stated he didn't think they would get an unbiased hearing. He said they had over 250 Lake Lure property owners who believed as they did, and signed a petition circulated stating "as long as open structures and other shade structures which are constructed on top of boathouses do not obstruct the adjoining property owners view, we oppose the removal of all boathouse structures built after 1992". He said Town Council had valid reasons for such structures and allowed them under the new ordinance. Capt. Dittmers stated they appealed the decision of the Lake Structures Appeals Board denying the retention to keep 38 inches of lattice work. He stated that the unprofessional, angry display, personal attack, and ridicule against town residents by any member of a town board was out of place. Capt. Dittmer stated bringing up matters not pertinent to the hearing was personally degrading to him and his wife. He said the majority of the Lake Structures board dismissed their basis for a variance which included the uniqueness of their location, and the consideration of health, safety, and welfare of the general public as required by section 94.16(a) of the Lake Structures Regulations. Also, he stated no determination was made regarding obstruction to his neighbors view, and the ability to construct or alter the lake structures within his projected boundaries impaired. He said the Lake Structures Appeals Board did not give any consideration to a compromise on this situation or to the fact they would face a fine of \$500.00 (punishment for constructing the gazebo in the first place without a permit). He felt the majority of the Lake Structures Appeals Board treated them poorly. He said anyone who had heard the tape (recorded as a record of that hearing) would have agreed they were treated poorly. Capt. Dittmer said that concluded the basis for their appeal and they hoped for a favorable consideration from Town Council.

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Mayor Powell then proceeded to ask Councilmembers if they had any questions? Hearing none, he called on Mr. Dick Lorenzen, a representative from the Lake Structures Appeal Board to come forward to be sworn in by Attorney Callahan.

The Mayor asked Mr. Lorenzen after being sworn in by Attorney Callahan, to state the basis for denial of Capt. Ed Dittmer's and Kay Dittmer's variance. Mr. Lorenzen said he was asked by the Lake Structures Appeals Board to represent them tonight. Mr. Lorenzen stated he didn't lose his temper, nor did he say anything inappropriate regarding the hearing for the Dittmer's. Mr. Lorenzen admitted to saying that Capt. Dittmer's and Mrs. Dittmer's actions were "cavalier" (definition meaning "I don't give a care"). Mr. Lorenzen explained the reasons for the denial of the variance. He said the motion for the denial of a variance for Capt. Dittmer and Mrs. Dittmer by the Lake Structures Appeals Board carried with a vote of 4 to 1. The opinion by the Lake Structures Appeals Board was that Captain Dittmer did something not acceptable which had to do with the lattice work. Mr. Lorenzen stated the lattice work hides the view either in /or out of the gazebo; it is not a fine lattice work that you can see through; and it was done before any approval was requested from the Town. Mr. Lorenzen said the Dittmer's then requested permission from the Town only after the lattice work was done. He explained Lake Lure's Town Ordinance mentions that the Lake Structures Appeals Board must approve a variance in the case where criteria for the variance are met. Mr. Lorenzen said the main reason for Capt. Dittmer's denial of the variance was based on the standards referred to in section 94.05(2)c (shall be completely open on sides except for partial walls not more than 42 inches in height above the surface of the rooftop deck and insect screens) was not met. Mr. Lorenzen said the Lake Structures Appeals Board listened to all of the discussion that was given by Captain Dittmer and Mrs. Dittmer. He stated the board tried to be as fair as they could about it, but just felt the lattice work was unallowable particularly in a situation where the building was near the road and could be viewed by everyone. Mr. Lorenzen said that is probably one of reasons the Dittmer's wanted the lattice work. He stated the Lake Structures Board felt strongly about the Town; trying to get things done the right way; and making as few exceptions as possible (except when they are necessary).

Mayor Powell asked Councilmembers if they had any questions for Mr. Lorenzen? The Mayor asked Mr. Lorenzen if the minutes (provided in the packets for review) of the Lake Structures Appeals Board have been formally approved? Mr. Lorenzen answered yes. Mayor Powell also asked did the Lake Structures Appeals Board give consideration to the variance sections particularly 94.16(a) which states the "board may grant a variance in special situations if the board believes equity so demands and no neighbor (adjoining property owner or other land owner whose projected boundary lines are affected) will have his view of the lake from his house obstructed or the ability to construct or alter lake structures within his projected boundaries impaired? Mr. Lorenzen said he and other board members did address section 94.16(a) of the Lake Structures Regulations.

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Commissioner Rose asked for a clarification on the definition of the term "equity" referred to in Section 94.16(a) regarding variances. Attorney Callahan said the term "equity" referred to in this section means fairness ("what you as a boardmember think is fair").

The Mayor asked Zoning Administrator Chuck Place to address the question what is equity as referred to regarding the zoning laws? Mr. Place said he agrees with the definition Attorney Callahan gave stating that equity means being fair, and treating everyone equally. Mr. Place also explained why the Town created a variance process for the Lake Structures Regulations.

After discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield, to close the hearing. The vote of approval was unanimous.

Mayor Powell said Blaine Cox, Board member of the Lake Structures Appeals Board, made a video tape of Captain Dittmer's property and Dr. Stewart's property. He said the December 8, 1998 minutes of the Lake Structures Appeal Board indicated that visibility is not an issue, however, it is evident the openness rule had been violated.

With no further discussion, Commissioner Sheffield moved, seconded by Commissioner Rose, to uphold the decision of the Lake Structures Appeals Board to deny the variance request of Captain Ed Dittmer and Kay Dittmer. Commissioners Sheffield, Rose, and Stanier voted in favor of the motion. Commissioner Cobb voted against the motion. Therefore, the motion carried with a vote of 3 to 1.

<p>HEARING -- APPEAL FROM THE DECISION OF THE LAKE STRUCTURES APPEALS BOARD (APPEAL LSA-9, DR. STEVE STEWART)</p>
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Zoning Administrator Chuck Place announced he had received a call this afternoon from Dr. Stewart. He explained Dr. Stewart will not be able to attend the hearing tonight because of patient conflicts in his medical practice. Mr. Place said that Dr. Stewart asks for forgiveness and requests that Town Council continue this hearing at the next Town Council meeting in March.

Commissioner Sheffield suggested not to delay the hearing because of the stipulation stated in the Town Ordinance which requires that a hearing take place on the record within 45 days of the appeal. Commissioner Cobb agreed.

Commissioner Stanier moved to consider Dr. Stewart's request to postpone the hearing until the March 9, 1999 Regular Town Council meeting in order that Dr. Stewart may attend the hearing before Town Council. The motion was not seconded, therefore, the motion did not pass.

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Mayor Powell opened the meeting regarding the appeal from the decision of the Lake Structures Appeal Board (Appeal LSA-9, Dr. Steve Stewart). The Mayor read the following notice:

Dr. Steve Stewart is seeking a variance from the provisions of Section 94.05 (the Design and Construction Standards of the Lake Structures Regulations) to allow an existing decktop accessory structure to remain. The structure is 14.5 feet high and fails to meet those standards as pertains to the requirement that the structure may not exceed a height of 10 feet above the deck. Dr. Stewart's property is located at 314 Snug Harbor Circle (Tax Map 511, Block 1, Lot 165).

The Mayor asked if there was a representative present to speak on behalf of Dr. Stewart during his absence of this meeting. Hearing none, the Mayor called on Mr. Dick Lorenzen, a representative from the Lake Structures Appeal Board to come forward and be sworn in by Attorney Callahan.

Mayor Powell asked Mr. Lorenzen after being sworn in by Attorney Callahan, to state the basis for denial of the variance. Mr. Lorenzen said Dr. Stewart had admitted he was at fault and built the structure without getting prior permission. Mr. Lorenzen stated the main purpose of his board is to protect the Town based on the ordinances. He said the Town should not grant variances, unless there is a really important reason for making an exception. Mr. Lorenzen said Dr. Stewart's variance was denied at the Lake Structures Appeals Board meeting on December 8, 1998 with a vote of 3 to 2. Mr. Lorenzen stated the board felt Dr. Stewart should have asked for prior permission before constructing the gazebo. He explained that even if Dr. Stewart had requested prior approval of the gazebo before construction, it would not have made a difference. Mr. Lorenzen said the board felt the structure did not meet all of the standards required in the regulations and there was not sufficient reason to grant a variance.

The Mayor asked Council members if they had any questions for Mr. Lorenzen? Hearing none, he asked for a motion to close the hearing for Dr. Stewart's appeal. Commissioner Rose moved, seconded by Commissioner Sheffield, to close the hearing of Dr. Stewart's appeal. The vote of approval was unanimous.

Mayor Powell asked Council members if they had any further questions regarding the case? Hearing none, he asked for a motion to approve or disapproved the variance.

Commissioner Sheffield moved, seconded by Commissioner Cobb, to uphold the decision made by the Lake Structures Appeals Board to deny Dr. Steve Stewart's variance request because it exceeds the height specified in the ordinance by 4.5 feet. The vote of approval was unanimous.

PUBLIC FORUM

Mayor Powell invited the audience to speak on any non-agenda item. Marcia Hardy, President of the Hickory Nut Gorge Kiwanis Club requested to speak about their new service project providing teddy bears to the Fire Departments, Hickory Nut Gorge EMS, and the Lake Lure Police Department. Mrs. Hardy explained the purpose of the teddy bears are to comfort a small child during a traumatic situation. She said teddy bears will be placed in each fire truck, emergency vehicle, and Lake Lure Police car. Mrs. Hardy stated that the club hopes this project will show they care about the small children in the community.

Mrs. Hardy presented Police Chief Mike Bustle with four teddy bears for the Lake Lure Police Department. She said the club will provide more bears as needed.

CONSENT AGENDA

Mayor Powell presented the consent agenda and asked if any item should be removed before calling for action.

Commissioner Cobb moved, seconded by Commissioner Stanier, to approve the consent agenda items as presented. Therefore, the consent agenda, incorporating items was unanimously approved:

- a. **Approved Minutes of December 22, 1998 (Closed Session Meeting), January 4, 1999 (Closed Session Meeting), January 12, 1999 (Regular/Closed Session Meeting), January 19, 1999 (Special/Closed Session Meeting), and January 28, 1999 (Special Closed Session Meeting); and**
- b. **Approved the Dixie Rodders Car Club request to hold a 15th annual car show on June 11-12, 1999; rent the Lake Lure Community Center along with the grass lot behind/adjacent to the building which extends toward the Lake Lure Marina; suspended the Town's peddling ordinance in order to allow the club to sell T-shirts and other vendors sell food/car parts; suspended the Town's alcohol ordinance on Friday, June 11, 1999 from 12:00 noon until 12:00 midnight; suspended the Town's alcohol ordinance on Saturday, June 12, 1999 from 8:00 a.m. until 4:00 p.m. (Dixie Rodders will not be selling or serving alcoholic beverages during the show, but would like to give the participants an opportunity if they wish to bring/consume alcohol during the hours and dates of the show. Those who participate will be asked to use discretion during daytime hours in public. Alcohol will not be permitted in the play ground area or the Marina).**

End of Consent Agenda

OLD BUSINESS

a. REPORT ON STREET LIGHTING FOR THE TOWN CENTER AREA

Mr. Chuck Place said that he had spoken with Doug Ledbetter from Duke Power engineering last week and asked him if the quoted price of \$13.00 per month was the best that they could do for a municipality and if there were any other fixtures that would serve the Town's purpose. On February 1, 1999, Mr. Place said that Mr. Ledbetter informed him after consulting with sales representatives that the \$13.00 figure was the best price available. Mr. Ledbetter said this was the least expensive fixture having a low head (to project the light under instead of into the trees) and all other less expensive lights are intended to mount on power poles of 20 to 30 feet high.

Commissioner Cobb moved, seconded by Commissioner Rose, to approve a service agreement between the Town of Lake Lure and Duke Power Company for additional street lighting including seven light poles/fixtures at a cost of \$13.00 per each totalling \$91.00 per month. Commissioners Cobb, Rose, and Stanier voted in favor of the motion. Commissioner Sheffield voted against the motion. Therefore, the motion carried with a vote of 3 to 1.

NEW BUSINESS

**a. PRESENTATION ON THE WASTEWATER TREATMENT SYSTEM
EVALUATION THROUGH MUNICIPAL COMPLIANCE INITIATIVES
(MCI) PROGRAM**

Felton E. Johnson, P.E., NCDENR, Division of Water Quality, presented a report on the performance evaluation of the Town of Lake Lure Wastewater Treatment Plant which was prepared by construction grants and loan section (Division of Water Quality). Mr. Johnson offered suggestions/recommendations and answered various questions regarding the report. (Copy of report attached).

NEW BUSINESS

**b. REQUESTS FROM POLICE CHIEF TO ADD AN ADDITIONAL
POSITION FOR A CLERICAL POSITION AND TO FILL A POLICE
DEPARTMENT VACANCY FOR A PATROLMAN**

Police Chief Mike Bustle stated that on Friday, January 29, 1999, the Police Department received a letter of resignation from Patrolman Darren H. Hodge, which was formally accepted

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on Monday, February 1, 1999. Chief Bustle asked Town Council to suspend the current moratorium on hiring personnel to allow the replacement of Patrolman Hodge.

Commissioner Sheffield moved that Council members amend the motion regarding the moratorium on hiring of Town personnel be only suspended to replace the patrolman. There was no second to the motion. Therefore, the motion did not carry.

After discussion, Commissioner Cobb moved, seconded by Commissioner Stanier, to rescind the moratorium on hiring of Town personnel which was formally adopted on December 16, 1997. 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 3 to 1.

Chief Bustle also requested that Town Council consider approving a position of Police Department Receptionist/Administrative Assistant. He explained during the absence of clerical personnel, secretarial duties must be performed by patrol officers and administrative officers, thus interfering with their assigned duties in our communities. Chief Bustle said that according to the current Town pay scale, a "receptionist/administrative assistant" would have a starting yearly salary of \$14,998.00, which translates to a rate of \$7.21 per hour. A current benefit package would include \$2,192.16 for health insurance, \$719.90 for retirement, and \$1,147.35 for Social Security.

Commissioner Stanier moved, seconded by Commissioner Rose, to approve the hiring of a full-time position as "Police Department Receptionist/Administrative Assistant" (with the understanding that this position will also assist the Town Manager/Administration Department when requested, as coordinated by supervisor and as time and workload permits) at a salary of \$14,998.00 and a current benefit package would include \$2,192.16 for health insurance, \$719.90 for retirement, and \$1,147.35 for Social Security. Commissioners Stanier, Rose, and Cobb voted in favor of the motion. Commissioner Sheffield vote against the motion. Therefore, the motion carried with a vote of 3 to 1. (Copy of job description attached).

NEW BUSINESS

**c. REQUEST FOR LAKE STRUCTURE PERMIT FOR A MARINA FROM
THE FAIRFIELD MOUNTAINS PROPERTY OWNERS ASSOCIATION,
INC.**

After reviewing the request from Fairfield Mountains Property Owners Association, Inc. regarding a Lake Structure permit for a marina, Commissioner Cobb moved, seconded by Commissioner Rose, to table this item until the next Town Council Workshop meeting (February 16, 1999) for further discussion. The vote of approval was unanimous. Mr. Place was asked to notify Paul Nealon, President of the Fairfield Mountains POA about the meeting.

NEW BUSINESS

**d. LAKE MANAGEMENT PLAN OUTLINE FROM THE LAKE
ADVISORY COMMITTEE**

Lake Advisory Chairman Bob Washburn presented copies to Council members of an outline for a Lake Management Plan developed by the Lake Advisory Committee. Mr. Washburn briefly reviewed some of the documents included in the outline for a Lake Management Plan. Mr. Washburn said that with Town Council's permission this will be put forth as an outline original draft to the North Carolina Lake Management Society which is coming to town on February 22-23, 1999.

Mayor Powell thanked Mr. Washburn and the Lake Advisory Committee for developing an outline for a Lake Management Plan.

OTHER NEW BUSINESS

e. DISCUSS THE PRODUCTIVITY OF COUNCIL WORKSHOP MEETINGS

Council members discussed the advantages/disadvantages of Town Council Workshop Meetings. After discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield, to revise the Town Council meeting schedule by removing the scheduled Town Council Workshop meetings (third Tuesdays of the month at 9:30 a.m.) beginning March 1999. The vote of approval was unanimous.

STAFF REPORTS

Sam Karr, Acting Town Manager, reported he contacted Rutherford County about the E-911 maps. Mr. Karr was informed the maps still had errors, but he convinced them to send the maps anyway. Town staff members will try to make corrections to these maps. In addition, Mr. Karr asked Council to make a motion to approve a budget amendment from the contingency fund in order to purchase/install street signs.

Commissioner Cobb moved, seconded by Commissioner Rose, to amend the budget for a line item in the amount of \$30,000.00 (transfer from the contingency line item) to purchase/install street signs. Commissioners Cobb, Rose, and Stanier voted in favor of the motion. Commissioner Sheffield vote against the motion. Therefore, the motion carried with a vote of 3 to 1.

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Mr. Karr announced there would be a meeting tomorrow morning with the Town's engineers regarding water/sewer grants and the lift station. He also mentioned that Mr. Andrew Givens, Cardinal Energy Services, Inc., would be at the February 16, 1999 Town Council Workshop meeting to give a report regarding negotiations of the new power sales contract.

COUNCIL COMMENTS

Mayor Powell announced the Town Boards/Committees dinner will be held on Saturday, March 20, 1999 at the Lake Lure Inn.

**CLOSED SESSION - EVALUATE CANDIDATES INTERVIEWED FOR
TOWN MANAGER POSITION (G.S. 143-318.11(A) 6) & ATTORNEY
CLIENT PRIVILEGE/LEGAL CLAIMS (G.S. 143-318.11 3)**

Commissioner Rose moved, seconded by Commissioner Sheffield, to enter into closed session at 9:50 p.m. in order to continue evaluating candidates interviewed for the Town Manager position (G.S. 143-318.11(a) 6) and Attorney Client Privilege/Legal Claims regarding Mr. Dick Grow (G.S. 143-318.11(a) 3). The vote of approval was unanimous.

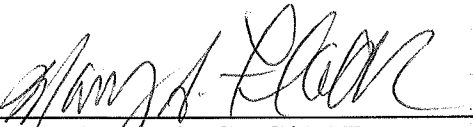
With no further discussion in closed session, Commissioner Rose moved, seconded by Commissioner Sheffield at 11:10 p.m., to come out of the closed session and re-enter the regular session of the meeting. The vote of approval was unanimous.

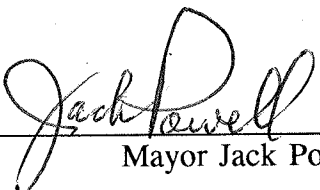
While in closed session, Council voted to seal the minutes of the closed session meeting in order to avoid frustrating the purpose of the closed session.

ADJOURNMENT

With no further items of discussion, Commissioner Rose moved, seconded by Commissioner Sheffield, to adjourn the Town meeting at 11:10 p.m. The vote of approval was unanimous.

ATTEST:


Mary A. Flack, CMC/AAE
Town Clerk


Mayor Jack Powell

