

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, JULY 8, 2003, 7:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER**

PRESENT: Mayor Jim Proctor
Commissioner Blaine Cox
Commissioner Lea Hullender
Commissioner Dick McCallum
Commissioner George Pressley

H. M. Place III, Town Manager

ABSENT: J. Christopher Callahan, Town Attorney

CALL TO ORDER

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

INVOCATION

Commissioner McCallum gave the invocation.

APPROVE AGENDA

Commissioner Pressley made a motion to approve the agenda as amended adding an item under 12. to hold a closed session regarding personnel matters. Commissioner Hullender seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING - CONSIDER PROPOSED AMENDMENT TO CHAPTER 85,
SECTION 85.53: REGULATIONS REGARDING OPERATIONS OF BOATS OF THE
CODE OF ORDINANCES**

Public notices were duly given and published in the Forest City Daily Courier newspaper.

Mayor Proctor opened the public hearing regarding the proposed amendment to Chapter 85, Section 85.53: Regulations Regarding Operations of Boats and invited citizens to speak during the hearing.

Rick Coley, President of Lake Lure Tours, Inc. asked for a clarification on the language regarding the proposed amendment.

After discussion, Commissioner Cox made a motion to close the public hearing. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

ADOPT ORDINANCE NO. 03-07-08 AMENDING CHAPTER 85, SECTION 85.53 (REGULATIONS REGARDING OPERATION OF BOATS) OF THE CODE OF ORDINANCES

After review, Commissioner Cox made a motion to approve Ordinance No. 03-07-08 as presented. Commissioner Pressley seconded the motion and the vote of approval was unanimous.

ORDINANCE 03-07-08

AN ORDINANCE TO AMEND CHAPTER 85, SECTION 85.53 OF THE CODE OF ORDINANCES

WHEREAS, effective December 23, 2002, the United States Coast Guard published Interim Rule June 24, 2002, in the Federal Register, which requires all children under 13 years of age to wear Coast Guard approved life jackets while aboard recreational vessels underway, except when the children are below decks or in an enclosed cabin; and

WHEREAS said Interim Rule affects only those States that have not established requirements, by statute or rule, for children to wear life jackets, and North Carolina is a state with no current regulation for mandatory life jacket wear by children; and

WHEREAS Interim Rule June 24, 2002 is presently codified in 33 Code of Federal Regulations 175.15; by amendments designated 33 CFR 175.15 (c) (1) and (2) and 33 CFR 175.25; and

WHEREAS the Board of Commissioners of the Town of Lake Lure, North Carolina, upon recommendation and advice of the Lake Advisory Committee, and after due deliberation, deems it in the best interest of the health, safety and welfare of the Town to enact a certain amendment to Chapter 85 of the existing ordinance entitled "Lake Regulations" as hereinafter set forth; and

WHEREAS it would seem beneficial for enforcement and regulatory purposes to have a local ordinance for enforcement purposes than citations issued under federal regulations;

NOW, THEREFORE, be it ordained by the Town of Lake Lure, North Carolina, meeting in regular session and with a majority of Councilmen voting in the affirmative, as follows:

Section 1: To amend Section 85.53 Regulations Regarding Operation of Boats of the Town of Lake Lure's Code of Ordinances by inserting additional subsections (H) and (I) [§ 85.53 (H), §85.53(I)] which read as follows:

- (H) No person may operate a recreational vessel under way with any child under 13 years old aboard unless each such child is either—
 - (1) Wearing an appropriate Personal Flotation Device (PFD) approved by the Coast Guard; or
 - (2) Below decks or in an enclosed cabin.
- (I) Commercial vessels are exempt from Subsection H above, except that rental of a vessel for private recreational use shall constitute a recreational vessel for

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purposes of Subsection H above.

Section 2: Enforcement of this Ordinance shall be as set forth in § 85.99 Enforcement; Penalties.

This ordinance shall become effective upon its adoption.

Adopted this 8th day of July, 2003.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor James Proctor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

PUBLIC FORUM

Mayor Proctor invited the audience to speak on any non-agenda item.

Rick Coley, President of Lake Lure Tours, Inc. and Terry Cole, Vice President of Lake Lure Tours requested that Town Council consider approving a contemporary Christian Music Festival event on September 26-27, 2003 being held on town property (exclusive use of the town's Memorial Point, town's Gazebo, the accompanying recreational area adjacent to the basketball courts, as well as the town marina and beach on those days in order to conduct the festival). Also, suspend the town's peddling ordinance for this event.

After discussion, Commissioner Pressley made a motion to amend the town meeting agenda to add an item under new business as 9b. to consider the request from Rick Coley and Terry Cole regarding the Christian Music Festival. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

Ron Levine requested to speak concerning the town's marina boat slip rental policy. Mr. Levine asked for a clarification on the interpretation of the order of ranking applicants. Mr. Levine expressed his concerns on how this new policy would effect him.

Commissioner McCallum suggested that Mr. Levine address his concerns in a letter to the town and have the town manager respond to his concerns.

CONSENT AGENDA

Mayor Proctor presented the consent agenda and asked if any item should be removed before calling for action. A motion was made by Commissioner Hullender to approve the following consent agenda items as presented and Commissioner Cox seconded the motion. Therefore, the consent agenda, incorporating the following items was unanimously approved:

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- a. minutes of June 10, 2003 (regular meeting), June 19, 2003 (special meeting), June 24, 2003 (special meeting), and June 27, 2003 (special meeting);
- b. request from Charles Bowen and Anne Stepp to suspend the town alcohol ordinance in order to serve beer and wine during a wedding reception inside the Community Hall of the Lake Lure Municipal Center on July 26, 2003, from 12:00 noon until 5:00 p.m.;
- c. request from David C. Wheeler, Jr. and Amber Buckner to suspend the town alcohol ordinance in order to serve beer, wine, and Champagne during a wedding reception inside the Community Hall of the Lake Lure Municipal Center on September 6, 2003, from 3:00 p.m. until 9:00 p.m.; and
- d. request from Camp Care (camp for children with cancer) to waive the fees for three motorized boat permits from June 16-21, 2003.

End of Consent Agenda

UNFINISHED BUSINESS:

a. Approve Capital Improvements Program

After discussion, Commissioner McCallum made a motion to approve the five year Capital Improvements Program (Fiscal Year 2003/2004 through Fiscal year 2008/2009) as presented by Town Manager Place. Commissioner Hullender seconded the motion and the vote of approval was unanimous. (Copy of CIP attached).

NEW BUSINESS

a. Approve Fabric Structure Permit for the Pediatric Brain Tumor Foundation "Ride for Kids" Fund Raiser Event

After review, Commissioner Hullender made a motion to approve the fabric structure permit furnished by David Smith for the Pediatric Brain Tumor Foundation "Ride for Kids" fund raiser event. Commissioner Cox seconded the motion and the vote of approval was unanimous. (Copy of permit attached).

NEW BUSINESS:

b. Consider a Request from Terry Cole to Hold a Christian Music Festival on Town Property

Rick Coley, President of Lake Lure Tours, Inc. and Terry Cole, Vice President of Lake Lure Tours requested that Town Council approve a contemporary Christian Music Festival event on September 26-27, 2003 being held on town property (exclusive use of the town's Memorial Point, town's Gazebo, the accompanying recreational area adjacent to the basketball courts, as well as the town marina and beach on those days in order to conduct the festival). Mr. Cole asked that the town's peddling ordinance be suspended for this event.

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After discussion, Commissioner Cox made a motion to: (1) authorize the town manager to negotiate an agreement with Lake Lure Tours, Inc. regarding the Christian Music Festival event on September 26-27, 2003 being held on town property on a trial basis; (2) instruct the town manager to make sure the town is protected by security and financially; and (3) suspend the town peddling ordinance for this event. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

STAFF REPORTS

Town Manager Place reported on the following:

1. Dredging in the Snug Harbor Cove area has been completed.
2. Hydro Plant Operator William Grimes informed Mr. Place that the power plant is generating lots of power due to a lot of rain fall.
3. The town has received an agreement with the Department of Transportation regarding the town center pedestrian walkway enhancement project. It is currently being reviewed by town staff and engineers. Construction is expected to start this fall contingent upon final approval.
4. House Bill 273 entitled *Adverse Reactions to Smallpox Vaccination* was signed into law last month. This new law requires that local and state governments adopt a policy that will exempt employees who become ill as a result of smallpox inoculations from being charged for sick time. The town has until September 10, 2003 to modify policies to comply with this mandate. Mr. Place will draft a policy and present it for adoption prior to this deadline.
5. The cleanup from the wind storm during the month of May went well. However, there were insufficient funds to complete the entire project. Mr. Place has asked Jerry Nelson to give an estimate of time and cost to complete this cleanup project. Mr. Place will present this information to Town Council for consideration. He said the town has received complimentary comments pertaining to the cleanup efforts.
6. Clint Calhoun has been hired to replace Erosion Control Specialist Pam Pyles. Mr. Calhoun, former Chimney Rock Park Naturalist, has extensive knowledge of the Lake Lure area as well as the gorge. The town will be reimbursed 100% for all costs resulting from Mr. Calhoun's employment with the town.
7. Vincent Tomaino, employed with DENR, visited Lake Lure and inspected the new Chimney Rock water system recently. Mr. Tomaino informed Mr. Place that DENR staff members made their final recommendations to the board regarding the applications received. Mr. Place said the town was almost assured of a loan and the town would have a good chance for at least a partial grant. Mr. Tomaino informed Mr. Place that the town has a very good application and project.

COUNCIL COMMENTS

After discussion, Council members agreed that Mayor Proctor, Commissioner McCallum, and the town manager would attend a mediation meeting on behalf of the town scheduled on July 25, 2003 regarding a pending lawsuit with Fairfield Mountains, Inc. vs the Town of Lake Lure.

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Commissioner Pressley said he would like to get a clarification on a question asked at the Lake Advisory Committee meeting. Is the town expanding the current water system to include Snug Harbor Circle and/or is the town just upgrading what it already has in place? Town Manager Place said there will be funds from grant monies to upgrade the current water system as well as expanding the lines to Snug Harbor.

Commissioner Pressley stated that he was informed by Dr. William Burch that there were very dangerous sink holes located just off of 64/74A on Dr. Steve Stewart's property and these sink holes have been reported to the state. Commissioner Pressley said the state has not made any efforts to fix them.

Mayor Proctor asked the town manager to follow up on this problem and contact the appropriate individuals to fix these sink holes.

Mayor Proctor reported on the status of Senate Bill 89 (an act to establish the Lake Lure Marine Commission). He said this bill has already passed on the second and third readings.

Commissioner McCallum complimented the Lake Lure fireworks show. Commissioner Cox thanked everyone who participated in the cleanup after the fireworks show.

CLOSED SESSION

A motion was made by Commissioner Hullender to enter into closed session, after a short break, to discuss personnel matters pursuant to G.S.143-318.11(a)(6). Commissioner Cox seconded the motion and the vote of approval was unanimous.

With no further discussion in closed session, Commissioner Hullender moved, seconded by Commissioner Pressley, to come out of the closed session meeting and re-enter the regular session of the meeting. The vote of approval was unanimous.

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

RECESSED MEETING

After discussion, Commissioner Hullender made a motion to recess the meeting at 9:20 p.m. until Wednesday, July 16, 2003, 9:00 a.m., at the council meeting room of the Lake Lure Municipal Center. Commissioner Pressley seconded the motion and the vote of approval was unanimous.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor