

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, SEPTEMBER 9, 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
J. Christopher Callahan, Town Attorney

ABSENT: N/A

CALL TO ORDER

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

APPROVE AGENDA

Commissioner Attorney Chris Callahan gave the invocation.

APPROVE AGENDA

Commissioner Cox made a motion to approve the agenda as amended: (1) adding an item as 5 to adopt Ordinance No. 03-09-09 to amend Title II, Chapter 23, of the Code of Ordinances to Establish a Lake Lure Marine Commission; (2) adding an item as 7 to introduce Erosion Control Specialist Clint Calhoun and to view a video presentation about the watershed protection program narrated by Bob Calder of Channel 13; (3) removing item 10 d under new business (consider proposed withdrawal of right-of-way agreement regarding a portion of Whitney Avenue) off the agenda (4) adding an item under new business as 10 f to adopt Resolution No. 03-09-09A allocating \$4,494 for the town's share of a \$40,000 grant to update the Section 201 Facilities Plan (Wastewater Master Plan), authorize the town manager to submit this application and to amend the water and sewer budget to transfer \$4,494 from the water and sewer fund balance for the Section 201 Facilities Plan for the design contract with McGill Associates; and (5) adding an item under new business as

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10 g to amend the water and sewer budget to transfer \$67,575 from the water and sewer fund balance for the water system design contract with McGill Associates. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

PUBLIC HEARING - PROPOSED AMENDMENT TO TITLE II, CHAPTER 23 OF THE CODE OF ORDINANCES TO ESTABLISH A LAKE LURE MARINE COMMISSION

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 title II, Chapter 23 of the Code of Ordinances to establish a Lake Lure Marine Commission. He read into the record the following summary written by him regarding the Lake Lure Commission:

The ordinance to create the Lake Lure Marine Commission before us today is a solution to potential problems the Town of Lake Lure faced.

When the town bought the lake in the 1960's, the police and regulatory powers of the town seemed simple and clear. In the last 40 years the town's authority in regard to regulating the lake has been muddied by state statutes, administrative code and court rulings. Our attorney, Chris Callahan, and several other attorneys agreed that the situation could be cleared only by legislation. They went on to inform us that marine commissions had been the solution for other lakes and were indeed the best way to proceed.

I asked Chris to look at the other marine commission statutes in North Carolina and to create one suitable to submit to Senator Dalton. As an attorney, Senator Dalton could easily see what we needed and he submitted NC Senate Bill 89. With only a few changes, the approved Lake Lure Marine Commission is the same as what we submitted to Senator Dalton.

The Lake Lure Marine Commission allows the Town of Lake Lure to continue to regulate the lake as it has done in the past. It does not allow the town to deny access to anyone or in any way "privatize" the lake. Further, the town cannot supersede any state law or wildlife regulation.

Mayor Proctor invited citizens to speak during the hearing and the following requested to speak:

1. William Breen, Jr., a Lake Lure realtor, questioned the process Town Council used to get NC Senate Bill 89 passed. He said several Lake Lure residents were unaware of NC Senate Bill 89.
2. Mailee Keller, a Lake Lure resident, asked for a clarification on the shoreline setback

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described on her property deed. Mrs. Keller said she was concerned about the tax payers burden of paying for expenses created by the Lake Lure Marine Commission. She questioned the police jurisdiction on private property.

3. Alan Moore, a Lake Lure resident, asked for a clarification on the 995 shoreline setback with regards to his property.
4. Jack Horn, a Lake Lure resident, asked how the fishing in Lake Lure would be affected by the Lake Lure Marine Commission? Mr. Horn asked what was the purpose of creating a Lake Lure Marine Commission?
5. Bob Keith, a Lake Lure resident, asked Town Council explain the benefits of creating a Lake Lure Marine Commission?
6. Bob Washburn, Chairman of the Lake Advisory Committee, explained the intent of Town Council creating a Lake Lure Marine Commission. He said the Mayor and Council members should be applauded for their efforts in creating this commission.

Town Attorney Callahan and Town Council members answered questions raised by citizens with regards to creating a Lake Lure Marine Commission and the purpose of this commission.

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

ADOPT ORDINANCE NO. 03-09-09 REGARDING PROPOSED AMENDMENT TO TITLE II, CHAPTER 23 OF THE CODE OF ORDINANCES TO ESTABLISH A LAKE LURE MARINE COMMISSION

After review, Commissioner Hullender made a motion to adopt Ordinance No. 03-09-03 as presented. Commissioner Cox seconded the motion and the vote of approval was unanimous.

ORDINANCE 03-09-09

**AN ORDINANCE TO AMEND TITLE II, CHAPTER 23,
OF THE CODE OF ORDINANCES**

WHEREAS, the North Carolina General Assembly in 2003 adopted Senate Bill 89, which was ratified July 9, 2003 and became law on July 20, 2003; and

WHEREAS Senate Bill 89 authorizes the Town of Lake Lure to adopt an Ordinance establishing a Lake Lure Marine Commission, after adoption of a resolution by the Board of Commissioners of Lake Lure and after due advertising and public hearing; and

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WHEREAS under the authority granted by the General Assembly of the State of North Carolina, and for the public safety and welfare of the public, the Board of Commissioners of the Town of Lake Lure herein proposes to create a Lake Lure Marine Commission.

NOW, THEREFORE, the Board of Commissioners of the Town of Lake Lure, North Carolina, meeting in regular session, and having adopted a resolution on August 12, 2003, calling for a public hearing on September 9, 2003, and after advertisement and public hearing as required by the enabling statute, and with a majority of Councilmen voting in the affirmative, do hereby ordain and enact as follows:

SECTION 1. Title II: Government and Administration of the Code of Ordinances of the Town of Lake Lure is amended by adding the following new sections to Chapter 23: Departments, Boards and Commissions, which shall thereafter read as follows:

§ 23.20 ESTABLISHMENT.

Pursuant to the provisions of Senate Bill 89, effective July 20, 2003, and authority granted by the General Assembly of the State of North Carolina, the Board of Commissioners of the Town of Lake Lure hereby establishes the Lake Lure Marine Commission.

§23.21 DEFINITIONS.

For purposes of this Section:

- (1) "Board" means the Board of Commissioners of the Town of Lake Lure.
- (2) "Commission" means the Lake Lure Marine Commission or its governing board, as the case may be.
- (3) "Commissioner" means a member of the governing board of the Lake Lure Marine Commission.
- (4) Lake Lure Reservoir, known for purposes of this Article as "Lake Lure" or "the waters of Lake Lure", means the body of water along the Broad River in Rutherford County, impounded by the dam at Tumbling Shoals, and lying below the 995 foot contour line above sea level.
- (5) "Shoreline area" means the area submerged by the dam at Tumbling Shoals, lying below 995 feet above mean sea level of the normal full pond elevation of 992 feet above mean sea level, on Lake Lure.
- (6) "Wildlife Commission" means the North Carolina Wildlife Resources Commission.

§ 23.22 POWERS AND DUTIES.

The Commission shall enjoy the powers and have the duties and responsibilities conferred upon it by the Lake Lure municipal ordinance, or any modification, amendment or rescission of any ordinance, subject to the provisions of this Section and the laws of the State of North Carolina.

§ 23.23 GOVERNING BOARD.

The Commission shall have a governing board. The governing board shall, unless otherwise amended by future ordinance, be the Board of Commissioners of the Town of Lake Lure.

§ 23.24 COMPENSATION; BUDGETARY AND ACCOUNTING PROCEDURES.

Any compensation, or separate budgetary and accounting procedures for the Commission shall be as subsequently established by the Board of Commissioners of the Town of Lake Lure, Compensation of consultants and staff members employed by the Commission, and reimbursement of expenses incurred by commissioners, consultants, and employees, if any, shall be as subsequently approved by the Board of Commissioners of the Town of Lake Lure. The Commission shall be governed by these budgetary and accounting procedures as may be specified by the municipal ordinance and the applicable laws of North Carolina.

§ 23.25 ORGANIZATION AND MEETINGS.

The governing board of the Lake Lure Marine Commission shall meet at a regular time and place as established by the Board of Commissioners of the Town of Lake Lure. The mayor of the Town of Lake Lure shall act as the presiding officer of the Commission, unless changed by future amendment to this Section. The governing board of the Commission shall adopt such rules and regulations as it may consider necessary, not inconsistent with the provisions of this Chapter or of any ordinance of the Town of Lake Lure or the laws of the State of North Carolina, for the proper discharge of its duties and for the governance of the Commission. In order to conduct business, a quorum must be present. The presiding officer may appoint those committees as may be authorized by such rules and regulations. The Commission shall meet regularly at those times and places as may be specified in its rules and regulations or in this ordinance or any amendment thereto. Special meetings may be called as specified in the rules and regulations. The provisions of the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes, apply.

§ 23.26 POWERS OF COMMISSION; ADMINISTRATIVE PROVISION.

- (A) Within the limits of funds available to it, and subject to the provisions of this Chapter and of the Town of Lake Lure municipal ordinance, the Commission may:
 - (1) Hire and fix the compensation of permanent and temporary employees and staff as

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it may consider necessary in carrying out its duties;

- (2) Contract with consultants for such services as it may require;
 - (3) Contract with the State of North Carolina or the federal government, or any agency or department or subdivision of them, for property or services as may be provided to or by these agencies, and carry out the provisions of such contracts;
 - (4) Contract with persons, firms, and corporations generally as to all matters over which it has a proper concern, and carry out the provisions of such contracts;
 - (5) Lease, rent, purchase, or otherwise obtain suitable quarters and office space for its employees and staff, and lease, rent, purchase, or otherwise obtain furniture, fixtures, vehicles, uniforms, and other supplies and equipment necessary or desirable for carrying out the duties imposed in or under the authority of this Article; and
 - (6) Lease, rent, purchase, construct, otherwise obtain, maintain, operate, repair, and replace, either on its own or in cooperation with other public or private agencies or individuals, any of the following: boat docks, navigation aids, waterway markers, public information signs and notices, and other items of real and personal property designed to enhance public recreation, public safety on the waters of Lake Lure and its shoreline area, or protection of property in the shoreline area, subject, however, to the provisions of Chapter 113 of the General Statutes and rules promulgated under that Chapter as to property within North Carolina.
- (B) The Commission may accept, receive, and disburse in furtherance of its functions any funds, grants, services, or property made available by the federal government or its agencies or subdivisions, or by private and civic sources.
- (C) The Board of Commissioners of the Town of Lake Lure may appropriate funds to the Commission out of surplus funds or funds derived from non tax sources. It may appropriate funds out of tax revenues and may also levy annually taxes for the payment of such appropriation as a special purpose, in addition to any allowed by the North Carolina Constitution or as provided by G.S. 160A-209.
- (D) In the event the Commission receives or expends any funds in any town fiscal year, it shall be also audited annually in conjunction with the town's audit as required by law.
- (E) In carrying out its duties, and either in addition to or in lieu of exercising various provisions of the above authorizations, the Commission may, with the agreement of the Board of Commissioners of the Town of Lake Lure, utilize personnel and property of or assign responsibilities to any officer or employee of the Town of Lake Lure. Such

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contribution in kind, if substantial, may with agreement between the Board and the Commission be considered to substitute in whole or in part for the financial contribution required of the Town in support of the Commission.

§ 23.27 FILING AND PUBLICATION OF APPLICABLE MUNICIPAL ORDINANCES.

- (A) A copy of the initial municipal ordinance creating the Commission and of any ordinance amending or repealing the resolution creating the Commission shall be filed with:
- (1) The Executive Director of the Wildlife Commission. Upon request, the Executive Director shall also send a certified single copy of any and all applicable ordinances to the chairman of the Commission.
 - (2) The Secretary of State.
 - (3) The clerk to the Town of Lake Lure.
 - (4) The clerk of superior court of Rutherford County.
 - (5) A newspaper of general circulation in Rutherford County.
- (B) This Ordinance shall take effect when the text has been submitted to the Secretary of State for filing. Certifications of the Board under the seal of the Commission as to the text or amended text of any municipal ordinance and of the date or dates of submission to the Secretary of State shall be admissible in evidence in any court. Certifications by the clerk of superior court of Rutherford County of the text of any certified ordinance filed with the clerk by the Board is admissible in evidence and the Board's submission of the resolution for filing to the clerk shall constitute prima facie evidence that such resolution was on the date of submission also submitted for filing with the Secretary of State. Except for the certificate of a clerk as to receipt and date of submission, no evidence may be admitted in court concerning the submission of the certified text of any ordinance by the Board to any person other than the Secretary of State.

§ 23.28 REGULATORY AUTHORITY.

- (A) Except as limited in subsection (B) of this section, by restrictions in any municipal ordinance, and by other supervening provisions of law, the Commission may make regulations applicable to Lake Lure and its shoreline area concerning all matters relating to or affecting the use of Lake Lure. These regulations may not conflict with provisions of general or special acts or of regulations of State agencies promulgated under the authority of general law. No regulations adopted under the provisions of this section may be adopted by the Commission except after public hearing, with publication of notice of the hearing in a newspaper of general circulation in Rutherford County at least 10 days before the hearing. In lieu of or in addition to passing regulations supplementary to State law and regulations concerning the operation of vessels on Lake Lure, the Commission may, after public notice, request that the Wildlife Resources Commission pass local regulations on this subject in accordance with the procedure established by appropriate State law.

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- (B) Violation of any regulation of the Commission commanding or prohibiting an act shall be a Class 3 misdemeanor.
- (C) The regulations promulgated under this section take effect upon passage or upon such dates as may be stipulated in the regulations except that no regulation may be enforced unless adequate notice of the regulation has been posted in or on Lake Lure or its shoreline area. Ordinances providing regulations for specific areas shall clearly establish the boundaries of the affected area by including a map of the regulated area, with the boundaries clearly drawn, by setting out the boundaries in a written description, or by a combination of these techniques. Adequate notice as to a regulation affecting only a particular location shall be given in the following manner. When an ordinance providing regulations for a specific area is proposed, owners of the parcel of land involved as shown on the county tax listing, and the owners of land within 500 feet of the proposed area to be regulated, as shown on the county tax listing, shall be mailed a notice of the proposed classification by first-class mail at the last addresses listed for such owners on the county tax abstracts. This mailing requirement does not apply in regulations affecting the entire lake. Notice shall also be given by a sign, uniform waterway marker, posted notice, or other effective method of communicating the essential provisions of the regulation in the immediate vicinity of the location in question. Where a regulation applies generally as to the waters of Lake Lure or its shoreline area, or both, there must be a posting of notices, signs, or markers communicating the essential provisions in at least three different places throughout the area, and it shall be printed in a newspaper of general circulation in Rutherford County.
- (D) A copy of each regulation promulgated under this section must be filed by the Commission with the following persons:
 - (1) The Secretary of State;
 - (2) The clerk of superior court of Rutherford County;
 - (3) The Executive Director of the Wildlife Resources Commission; and
 - (4) The federal Energy Regulatory Commission licensee for Lake Lure, if other than the Town of Lake Lure.
- (E) Any official designated in subsection (D) of this section may issue certified copies of regulations filed with the official under the seal of the official's office. Such certified copies may be received in evidence in any proceeding.
- (F) Publication and filing of regulations promulgated under this section as required above are for informational purposes and are a prerequisite to their validity if they in fact have been duly promulgated, the public has been notified as to the substance of the regulations, a copy of the text of all regulations is in fact available to any person who may be affected, and no party to any proceeding has been prejudiced by any defect that may exist with respect to publication and filing. Rules and regulations promulgated by the Commission under the provisions of other sections of this Article relating to internal

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governance of the Commission need not be filed or published. Where posting of any sign, notice, or marker, or the making of other communication is essential to the validity of a regulation duly promulgated, it is presumed in any proceeding that prior notice was given and maintained, and the burden lies upon the party asserting to the contrary to prove lack of adequate notice of any regulation.

§ 23.29 ENFORCEMENT.

- (A) All law enforcement officers with territorial jurisdiction as to any part of the waters of Lake Lure or its shoreline area within the limitations of their subject matter jurisdiction, have the authority of peace officers in enforcing the laws over all of the waters of Lake Lure and its shoreline area. A certificate of training issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission will suffice for certification for the purposes of this Article.

- (B) Where a law enforcement officer with jurisdiction over any part of the waters of Lake Lure or its shoreline area is performing duties relating to the enforcement of the laws on the waters of Lake Lure or in its shoreline area, the officer shall have such extraterritorial jurisdiction as may be necessary to perform the officer's duties. These duties include investigations of crimes an officer reasonably believes have been, or are about to be, committed within the area in question. This includes traversing by reasonable routes from one portion of this area to another although across territory not within the boundaries of the waters of Lake Lure and its shoreline area; conducting prisoners in custody to a court or to detention facilities as may be authorized by law, although this may involve going outside the area in question; execution of process connected with any criminal offense alleged to have been committed within the boundaries in question, except that this process may not be executed by virtue of this provision beyond the boundaries of Rutherford County. This also includes continuing pursuit of and arresting any violator or suspected violator as to which grounds for arrest arose within the area in question.

- (C) Where law enforcement officers are given additional territorial jurisdiction under the provisions of this section, this shall be considered an extension of the duties of the office held, and no officer shall take any additional oath or title of office.

SECTION 2. This Ordinance is effective immediately upon adoption.

Adopted this 9th day of September, 2003.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Jim Proctor
Mayor

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APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

After discussion, Commissioner Cox made a motion to schedule a special workshop meeting with the Lake Lure Marine Commission on Tuesday, September 30, 2003, 9:00 a.m., at the town meeting room of the Lake Lure Municipal Center for the purpose of discussing the Lake Lure Marine Commission's objectives and procedures pertaining to lake issues. Commissioner Hullender seconded the motion and the vote of approval was unanimous.

PUBLIC FORUM

Mayor Proctor invited the audience to speak on any non-agenda item. Wally Gilbert, a resident of Yacht Island, asked Town Council to consider adopting a dog leash law for Lake Lure due to the increased number of tourist visiting Lake Lure. Mr. Gilbert said there was an increase in problems of dogs biting individuals and barking. He also requested that Town Council restrict water skiing schools to hold their activities in the middle of the lake where it is less populated. Mr. Gilbert said he was concerned about the damage to surrounding sea walls.

Town Attorney Chris Callahan explained the issues pertaining to enforcing a dog leash law.

**INTRODUCTION OF EROSION CONTROL SPECIALIST AND VIDEO
PRESENTATION ABOUT THE WATERSHED PROTECTION PROGRAM**

Erosion Control Specialist Clint Calhoun was introduced at the meeting. Mr. Calhoun showed a video narrated by Bob Caldwell of Channel 13 explaining the watershed protection program.

The Mayor called a break at 8:15 p.m. and reconvened the meeting at 8:25 p.m.

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 Pressley seconded the motion. Therefore, the consent agenda, incorporating the following items was unanimously approved:

- a. minutes of September 12, 2003 (regular meeting);
- b. budget amendment transferring \$7,000.00 from the contingency fund (account #109100.1000) to the Fire Department budget (#105300.4500 - contractual services) to cover costs of expanding the septic system on town property for the Lake Lure Fire Department as submitted by the finance director; (copy of memorandum attached);

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- c. Resolution No. 03-09-09 (personnel policy regarding the North Carolina House Bill 273)

**PERSONNEL RESOLUTION NO. 03-09-09
OF THE TOWN OF LAKE LURE**

WHEREAS, The Mayor and Council Members of the Town of Lake Lure recognize the importance of its municipal employees and has adopted a personnel policy manual establishing the rules and regulations governing employment by the town and setting forth the benefits accruing to employees, including policies regarding leaves of absence; and

WHEREAS, under North Carolina House Bill 273, municipalities are required to enact a policy specific to adverse reactions to small pox vaccination for first responders (firefighters, police officers, paramedics and other first responders) who receive inoculations under the requirements of the Homeland Security Act;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF LAKE LURE that the council recognizes “infection with smallpox, infection with vaccinia, or any adverse medical reaction when the infection or adverse reaction is due to the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, . . . or when the infection or adverse medical reaction is due to the employee being exposed to another employee vaccinated as described in this subdivision” as an occupational disease within the meaning of the Workers’ Compensation Act and applies all Town of Lake Lure Sick Leave and Workers’ Compensation policy rules to such adverse reactions in regards to sick leave and salary continuation.

Adopted this 9th day of September, 2003

ATTEST:

Mary A. Flack, MMC
Town Clerk

Jim Proctor
Mayor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

- d. request from the Hickory Nut Gorge Kiwanis Club to: (1) suspend the town’s peddling ordinance on October 18-19, 2003 for “Oktoberfest”; (2) close a portion of town street temporarily during this event (contingent upon vendors not leaving their vehicles and trailers parked in the closed portion of the street); and (3) use of town property surrounding the Lake Lure arcade building including property along Pool Creek for selling crafts and food, fund raising, and music during this event.

End of Consent Agenda

UNFINISHED BUSINESS:

a. Consider Amendment to the Personnel Policy Regarding Merit Pay

Town Manager Place read into the record his memorandum of September 2, 2003 regarding merit pay policy. (Copy of memorandum attached).

After review, Commissioner Cox made a motion to approve Resolution No. 03-09-09B amending the personnel policy regarding merit pay for town employees as amended. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

**PERSONNEL RESOLUTION NO. 03-09-09B
OF THE TOWN OF LAKE LURE**

WHEREAS, the Mayor and Council Members of the Town of Lake Lure recognize the importance of its municipal employees and has adopted a personnel policy manual establishing the rules and regulations governing employment by the town and setting forth the benefits accruing to employees, including policies regarding leaves of absence; and

WHEREAS, said policy establishes a procedure for the review of each employee's performance and abilities and sets forth a program of merit pay increases to reward said performance; and

WHEREAS, it is the intent of the Mayor and Council Members to refine and revise the merit pay program to be more equitable and more meaningful; and

WHEREAS, said policy fails to recognize the accepted practice of providing for general pay plan adjustments or "market adjustments" by adjusting the Town's overall pay plan up (or down) based on the general condition of the economy, cost-of-living factors, comparative rates of pay in other jurisdictions, agencies or local businesses, and the financial condition of the Town; and

WHEREAS, it is the intent of the Mayor and Council Members to specifically provide for such market adjustments;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF LAKE LURE that the Town of Lake Lure Personnel Policy be revised as follows:

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SECTION 1. Section 14 shall be revised to read:

“Section 14. Merit Pay Rates Increases

When the quality of an employee's performance is worthy of special recognition, the employee's salary may be advanced up to one full step within the same assigned salary grade. Such merit pay raise shall be ~~granted~~ awarded only after upon recommendation of the department head and ~~approved by the Town Manager~~ shall be based on the quality of the individual's work performance.

Following successful completion of an employee's probationary period, the quality of his or her performance shall continue to be reviewed and appropriate instruction and counsel shall be provided in methods for improving job performance.

Merit pay increases shall not be awarded automatically. When an employee's productivity, behavior, attendance or work quality need to be improved, no merit increase shall be approved and the employee shall be ~~told~~ counseled regarding where improvement needs to be made.

A merit pay raise ~~may be granted with the approval of~~ increase may be awarded by the Town Manager to deserving full-time employees under the following circumstances:

- (a) ~~When a new employee has completed a year of continuous service following the initial probationary period, a 2½% pay increase may be granted. and annually thereafter, each employee's performance shall be evaluated by his or her supervisor.~~
 - (1) When the work of the employee is determined to be “good” as documented on the employee's performance evaluation, the employee may be granted a merit increase of up to 1.25% (one-quarter step).
 - (2) When the work of the employee is determined to be “very good” as documented on the employee's performance evaluation, the employee may be granted a merit increase of up to 2.5% (one-half step).
 - (3) When the work of the employee is determined to be “excellent” as documented on the employee's performance evaluation, the employee may be granted a merit increase of up to 5% (one full step).
- ~~(b) When an employee has completed 3 years of continuous service, 5 years of continuous service, and each 5 years of continuous service thereafter, a 2½% pay increase may be granted if it will not exceed the maximum salary rate for the class of his position.~~
- (b) A promoted employee shall be eligible for a merit increase after one year of continuous service from the date of promotion.
- (c) A merit increase shall not be awarded when said increase will exceed the maximum rate for the employee's salary grade.”

SECTION 2. A new Section 16A shall be added to read:

“Section 16A - General Pay Plan Adjustments

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General pay plan adjustments or "market adjustments" shall be effected by adjusting the Town's overall pay plan up (or down) by the same percentage amount across-the-board. The Town Council, upon a recommendation from the Town Manager, shall normally consider market adjustments prior to adopting the new fiscal year budget. Market considerations include the general condition of the economy, cost-of-living factors, comparative rates of pay in other jurisdictions, agencies or local businesses, and the financial condition of the Town."

SECTION 3. This resolution shall tack effect upon adoption.

Adopted this 9th day of September, 2003

ATTEST:

Mary A. Flack, MMC
Town Clerk

Jim Proctor
Mayor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

After discussion, Council members agreed to discuss financing the merit pay for town employees at the special workshop meeting scheduled on Tuesday, September 30, 2003, 9:00 a.m., at the meeting room of the Lake Lure Municipal Center.

NEW BUSINESS:

a. Consider Request from the Hickory Nut Gorge Recreation Association Regarding the Second Annual Diamonds Golf Tournament being Held at the Lake Lure Municipal Golf Course

Town Council reviewed a request from the Hickory Nut Gorge Recreation Association regarding the second annual diamonds golf tournament being held at the Lake Lure municipal golf course. After discussion, Council members agreed to deny the request asking the town to furnish postage for the mailing of flyers to the Hickory Nut Gorge Chamber of Commerce members pertaining to this golf tournament event. (Copy of letter attached).

NEW BUSINESS:

b. Consider Request from William R. Breen, Jr. Regarding the Town of Lake Lure Boat Slip Leasing Policy

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Mayor read into the record a letter of August 22, 2003 furnished by William R. Breen, Jr. addressed to Town Council pertaining to the town's boat slip leasing policy. (Copy of letter attached).

After discussion, Council members agreed to deny the request from William R. Breen, Jr. to amend the marina boat slip leasing policy.

NEW BUSINESS:

c. Consider Proposed Ordinance No. 03-09-09A Amending Chapter 94 (The Lake Structures Regulations) of the Code of Ordinances for the Town of Lake Lure; Adding a New Sub-Paragraph Pertaining to Lake Structures Certificates and Tag, and Maintenance of Structures

After review, Commissioner Pressley made a motion to approve Ordinance No. 03-09-09A as presented. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

ORDINANCE NO. 03-09-09A

AN ORDINANCE AMENDING CHAPTER 94 (THE LAKE STRUCTURES REGULATIONS) OF THE CODE OF ORDINANCES FOR TOWN OF LAKE LURE

WHEREAS, the Lake Lure Town Council adopted Chapter 94 of the Code of Ordinances, commonly known as the lake structures regulations, for the purpose of regulating all structures erected or maintained within the lake boundary of Lake Lure within the corporate limits of the town; and,

WHEREAS, the Lake Lure Town Council has determined that it is desirable to amend said chapter to clarify the purpose of issuing lake structure permits;

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

SECTION ONE: To amend Chapter 94.08 of the Lake Lure Code of Ordinances to add a new sub-paragraph (C) as follows:

§ 94.08 LAKE STRUCTURE CERTIFICATE AND TAG; MAINTENANCE OF STRUCTURES

(C) The purpose of a lake structure permit is to insure compliance with the lake structures regulations, and is not in the nature of a building permit, which is additionally required. Neither the issuance of a lake structures permit nor the failure of the town to inspect said lake structure periodically and reissue a lake structure permit, or revoke a lake structure permit, or take action to condemn a lake structure, shall imply, warranty or constitute either a contract or assurance that any lake structure is safe for the general public because it has a lake structure permit.

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

Adopted this 9th day of September, 2003.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

NEW BUSINESS:

d. Consider Proposed Withdrawal of Right-of-Way Agreement Regarding a Portion of Whitney Avenue

After discussion, Council members agreed to remove the item to consider proposed withdrawal of right-of-way agreement regarding a portion of Whitney Avenue from the agenda as requested by the town manager.

NEW BUSINESS:

e. Appoint Representative to the North Carolina Municipal League 2003 Annual Business Meeting as a Voting Delegate and Alternate Voting Delegate

A motion was made by Commissioner Cox to appoint Mayor Jim Proctor as voting delegate to represent the town at the North Carolina Municipal League 2003 annual business meeting. (No alternate voting delegate was appointed.) Commissioner McCallum seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

f. Adopt Resolution No. 03-09-09A Allocating Funds for the Town's Share of a Grant to Update the Section 201 Facilities Plant (Wastewater Master Plan), Authorize the Town Manager to Submit the Application, and Amend the Town Water and Sewer Budget

Town Manager Place read into the record his memorandum of September 8, 2003 regarding the water and wastewater planning and budget. (Copy of memorandum attached).

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After discussion, Commissioner McCallum made a motion to: (1) adopt Resolution No. 03-09-09A as presented; (2) authorize the town manager to submit the application for the grant to update Section 201 Facilities Plan (wastewater master plan); and (3) amend the budget to transfer \$4,494 from the fund balance in the water/sewer fund to the sewer department's professional services line item (account #308200.0400). Commissioner Cox seconded the motion and the vote of approval was unanimous.

**RESOLUTION NO. 03-09-09A
BY LAKE LURE TOWN COUNCIL**

WHEREAS, the North Carolina General Assembly enacted the Clean Water and Natural Gas Critical Needs Bond Act of 1998. The Bond Act provided for a referendum on November 2, 1998 for the issuance of \$800 million in bonds to provide funding for critically needed water and wastewater projects. The voters approved the bonds. From these proceeds, the Rural Economic Development Center, Inc. will provide Capacity Building Grants for units of government to assist in financing projects that address critical water and wastewater needs. These funds are intended to supplement other project funding and may not represent the full cost of a project.

WHEREAS, the Town of Lake Lure has a need for and intends to perform a 201 Facilities Plan Revision. This study will focus on revising and upgrading the Capital Improvement Plan for the wastewater system; developing a strategy for retiring septic systems in favor of municipal system connection, developing a re-use program for use on golf courses and an overall assessment of wastewater collection and treatment systems.

WHEREAS, the Town of Lake Lure intends to request the maximum amount of state grant assistance under the Capacity Building Grants Program for this project, which is \$40,000; and the total project cost is \$44, 494.

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF LAKE LURE;

That the Board will allocate \$4,494 from the Town's general fund to match the amount awarded by the State, if its application is approved. These funds are available in fiscal year 2003-2004.

That the Board will provide for the efficient operation and maintenance of the project on completion of construction thereof.

That H. M. Place, III Town Manager and successors so titled is hereby authorized to submit an application to the Rural Center and directed to provide such information as the appropriate State agency may request in connection with the Town's application.

That the Town of Lake Lure has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

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Adopted this 9th day of September, 2003, at Lake Lure, North Carolina.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

NEW BUSINESS:

g. Amend the Town Water and Sewer Budget for the Water System Design Contract with McGill Associates

After discussion, Commissioner McCallum made a motion to amend the budget transferring \$67,575.00 from the fund balance in the water/sewer fund to the water department's professional services line item (account #308300.0400) for the water system design contract with McGill Associates. Commissioner Cox seconded the motion and the vote of approval was unanimous.

STAFF REPORTS

Town Manager Place reported on the following:

1. Fire Coordinator Ron Morgan and Finance Director Sam Karr were hoping to have the closing for the fire boat and fire station expansion tonight, but the package is not quite complete. The closing will be held sometime next week.
2. The large generator (#2) at the Hydro Plant was taken down for maintenance last week. The brushes and several brush holders needed replacing. The large generator will be back in service this week and the small unit will be serviced next.
3. The latest series of test at the beach are just fine. Mr. Place said the town is now back to the regular schedule of testing.
4. The first large event in Morse Park since Town Council adopted the dumpster policy was the Crafty Tar Heels show two weeks ago. All reports indicated that this policy of requiring event operators to provide a dumpster was successful. The vendors, town crew and park walkers seemed to appreciate not having debris scattered all over.

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5. The mayor received a letter from Nick Stover of Northland Cable indicating that their franchise agreement with the town is due to expire on July 31, 2006. The intent of the letter is to inform the town, 35 months in advance, that they desire to renew the franchise and have requested that formal renewal proceedings be commenced. Mr. Place said he mentions this because of the recent complaints about cable service here in town. Mr. Place said unless directed by Town Council, he intends to contact David Harris (town's cable service consultant who negotiated the current agreement) so that Mr. Harris can begin the negotiations and advise the town on the proper steps to take to insure compliance with the Cable Communications Policy Act of 1984, 47 U.S.C. 546.
6. Mr. Place said he had a couple of meetings with staff members of Lake Lure Tours about the planning and logistics for the music festival to be held in 2 ½ weeks. Mr. Place reported that things seem to be moving smoothly and he doesn't expect any problems. Mr. Place said he and town staff members including: Police Chief Mike Bustle, Fire Coordinator Ron Morgan, and Public Works Director Tony Hennessee will meet with Scott Salik tomorrow.
7. The mayor and Mr. Place and their wives were guests of the Southern Municipal Conference a couple of weeks ago. Mr. Place explained this organization is composed of board members and staffs of all the municipal leagues in the south from Virginia to New Mexico. Attendees were meeting for their annual conference at the Grove Park Inn in Asheville. As part of the conference, there was a boat tour of the lake and a nice dinner at the Lake Lure Inn. Mr. Place said he heard a lot of good comments from the delegates about Lake Lure.

COUNCIL COMMENTS

Commissioner Pressley reported that some individuals are paying the additional fee for commercial boat permits and some are not. Mr. Place stated that the town staff were taking the word of the customer. Lake Advisory Chairman Bob Washburn said he would furnish the town a copy of an updated list of commercial users compiled by the Lake Advisory Committee. Mr. Place said he would work with Mr. Washburn and town staff members to draft a questionnaire form to be filled out by the customer to determine if they are a commercial user.

Commissioner Pressley reported that the Lake Advisory Committee recommends the "catch and release dates" for fishing this year to begin on December 1, 2003 until March 1, 2004. After discussion, Commissioner Pressley made a motion to set the "catch and release dates" for fishing this year to begin on December 1, 2003 until March 1, 2004 as suggested by the Lake Advisory Committee and to request that it be publicized to the public. Commissioner Cox seconded the motion and the vote of approval was unanimous.

Commissioner Pressley requested that bow hunting and safety be put on the agenda for

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discussion at the next regular town council meeting on Tuesday, October 14, 2003.

Commissioner Pressley asked about the status of the right-of-way investigation concerning a dangerous curve on Boys Camp Road. Mr. Place said he would talk to the Public Works Supervisor Tony Hennessee about this issue.

<p style="text-align: center;">ADJOURNMENT</p>

With no further items of discussion, Commissioner Cox made a motion to adjourn the meeting at 9:45 p.m. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor