



Incorporated 1927

Town of Lake Lure

P. O. Box 255 • Lake Lure, NC 28746-0255 • 828/625-9983 • FAX 828/625-8371

MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, OCTOBER 14, 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.

INVOCATION

Commissioner Callahan gave the invocation.

APPROVE AGENDA

Commissioner McCallum made a motion to approve the agenda as amended adding an item under 12. to hold a closed session to: (1) discuss legal matters and attorney client privilege regarding pending litigation between Patricia Hyatt and the Town of Lake Lure; and (2) to discuss the location of a business. Commissioner Pressley seconded the motion and the vote of approval was unanimous.

PUBLIC HEARING - PROPOSED AMENDMENTS TO THE ZONING REGULATIONS

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

A motion was made by Commissioner Hullender to delete proposed sections 5-13 of the Zoning Regulations (92.145 Signs, Intent; 92.147 Definitions; 92.150 Free-Standing Detached Signs; 92.155 Signs Exempt from Permit Requirements; 92.156 Signs Prohibited; 92.159 Sign Maintenance and Abandoned Signs; 92.160 Non-Commercial Messages; and 92.161 Permits, Fees, Nonconforming Signs, and Enforcement) from Ordinance No. 03-10-14 for further review by the Zoning and Planning Board. After review and revisions are made by the Zoning and Planning Board, hold a public hearing to consider these amendments at the next regular town council meeting

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on November 18, 2003. Commissioner Cox seconded the motion and the vote of approval was unanimous.

Mayor Proctor opened the public hearing regarding the proposed amendments to the Zoning Regulations (Sections 1-4; 92.005 Definitions; 92.028 Residential District; Conditional Use Permit; 92.118 Fences, Wall and Hedges; 92.133 Exceptions to Required Yards) and invited citizens to speak during the hearing.

William Breen, Jr., a Lake Lure realtor, asked for a clarification pertaining to the draft amendment for Section 92.156 (Signs Prohibited) relating to gas filled bulbs.

Commissioner Hullender informed Mr. Breen that questions pertaining Section 92.156 would be addressed at the public hearing scheduled for November 18, 2003.

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. 03-10-14 AMENDING THE ZONING REGULATIONS;
(SECTIONS 1-4: 92.005 DEFINITIONS; 92.028 RESIDENTIAL DISTRICT; CONDITIONAL
USE PERMIT; 92.118 FENCES, WALL AND HEDGES; 92.133 EXCEPTIONS TO
REQUIRED YARDS)**

After review, Commissioner Hullender made a motion to adopt Ordinance No. 03-10-14 as amended. Commissioner Cox seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 03-10-14

**AN AMENDMENT TO TITLE IX, CHAPTER 92,
THE ZONING REGULATIONS OF THE TOWN OF
LAKE LURE RELATING TO
TELECOMMUNICATIONS FACILITIES AND
FENCES, WALL AND HEDGES**

WHEREAS, the Town of Lake Lure Zoning and Planning Board, upon through review of the Zoning Ordinance, has recommended amendments regarding (1) the definitions and development standards for telecommunication facilities and (2) standards for fences, walls and hedges; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 14th day of October 2003, upon question of amending the zoning regulations 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 ALL COUNCILMEN VOTING IN THE AFFIRMATIVE:

SECTION ONE. Amend §92.005, "Definitions," as follows:

To add:

Telecommunication Facility: A telecommunications facility consists of the equipment and

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structure(s) designed to support antennas used for transmitting or receiving communications and data transmissions. This definition also includes accessory buildings and related equipment required for the telecommunications facility.

To read:

Telecommunications Tower: A structure on which there are electronic facilities for receiving or transmitting communications signals. Those less than 15 feet above the roof line, when secured to a building are exempt. Telephone poles carrying telephone and cable t.v. lines are also exempt from this definition. Examples of telecommunications towers include mono-poles, lattice construction and stealth structures.

SECTION TWO. Amend §92.026 (C)(7), "R-1 Residential District, Conditional Use Permit," as follows:

- (7) (g) All telecommunications towers that are not exempt require a ~~zoning permit conditional use permit before construction may begin.~~ Excluding accessory buildings, all structures must meet the setback requirements set forth in §92.040.
- (h) The applicant shall provide a plan to restrict access to the property to the satisfaction of the Board of Adjustment. This plan ~~should include fencing, etc.~~ shall show compliance with the following standards:
 - (1) Opaque screen of vegetation, consisting of evergreen trees or shrubs shall be required along all side of perimeter of the site;
 - (2) In addition, an 8' high security fence shall be erected 12' from the base of the tower;
 - (3) It shall be the responsibility of provider to keep all landscaping material free from disease and properly maintained;
 - (4) Screening must be shown on site plan detailing type, amount of plantings and location.
- (l) ~~The applicant shall provide documentation indicating the Federal Aviation Administration minimum lighting standards will not be exceeded by the facility. Strobe lights are prohibited unless required by the FAA. No lighting of any kind shall be allowed other than that required by the FAA.~~
- (n) Applicants shall provide documents indicating the power density levels the proposed facility will generate and shall not exceed any federal standards for electromagnetic radiation or the American National Standard Institute standards for telecommunications towers, whichever provides the stricter requirements.

Applicants shall also provide:

 - 1. Identification of intended provider;
 - 2. Certification by a registered engineer that the tower has sufficient integrity to accommodate more than one user, if applicable;
 - 3. Affidavit from owner indicating intent to allow shared used use and how other users shall be accommodated.
- (q) Telecommunications towers can shall not exceed 150' in height and must be erected in a forested area. Where natural obstacles such as trees, ridge lines, etc. obstruct

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the required view of the tower, an additional 50' will be permitted, but no tower shall exceed 200'. Towers that are shorter than the maximum height are encouraged where possible.

- (t) The minimum setback on all sides of the property shall be equal to height of the tower plus 20% (i.e., a 100' tower would require a 120' setback).
- (u) Towers shall be disguised to look like a living evergreen tree, native to this area.
- (v) The town reserves the right to deny a conditional use permit for a telecommunications tower on the basis of negative influence on property values, or on aesthetic concerns provided there is competent and material evidence to prove the impact on adjacent property owners will be significant. The Board shall clearly state its reasons in writing with relevant evidence of impact on adjacent property values or aesthetics if denied on this basis.
- (w) Towers and related facilities must be removed if abandoned or no longer used for a period of 90 consecutive days. The town shall require an annual renewable surety bond from the owner to ensure that funds are available to remove the structure at an amount to be 1.25 times the total amount of current construction cost of the tower.
- (x) Any replacement or enlargement to an existing tower, including damaged or inoperable towers shall require a new conditional use permit. Normal repair and maintenance shall not require a new permit.
- (y) Where a tower is located on a lot with an existing principal structure, the tower shall be located between said structure and the rear property line.
- (z) An access road of at least 12' in width shall be maintained from a public street to the tower for use by service and emergency vehicles.
- (aa) Outdoor storage of equipment or other related items is prohibited at tower site.

SECTION THREE. Amend Paragraph (C), §92.116 "Fences, Wall and Hedges," as follows:

- (C) In the required street front yards of all residential districts, open fences (those allowing the free flow of light and air other than those prohibited by subsection (D)) below are limited to three eight feet in height and solid walls and fences are limited to three feet in height from the existing ground elevation. Walls and fences may be combined, provided not more than three feet of the height of the structure may be solid and the remainder shall be open fence work. Where fences are erected, solid support columns not more than 16 inches in width or the not less than eight foot centers shall be allowed up to eight feet in height and such columns may be topped with decorative elements such as balls, vases and the like up to a total height of nine feet. Open fences include wood or metal picket, wrought iron or similar designs with a solid to open ratio of not more than 1:4. Columns at entrance to vehicular driveways shall be allowed up to thirty-six inches per side.

SECTION FOUR. Amend §92.133, "Exceptions to Required Yards," as follows;

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- (B) Fences, walls, hedges and Retaining walls under the provisions of section §92.116.
- (C) One masonry column located on each side of a driveway to define the entrance to a property or to support a gate across the driveway, provided that such columns shall not exceed thirty-six inches in width and eight feet in height.

SECTION FIVE. The Zoning Administrator shall make all the necessary corrections and additions to the Zoning Ordinance and shall henceforth enforce the ordinance hereby amended.

SECTION SIX. This ordinance shall be effective upon its adoption.

Adopted this 14th day of October 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 and no one requested to speak.

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 McCallum to approve the following consent agenda items as presented and Commissioner Hullender seconded the motion. Therefore, the consent agenda, incorporating the following items was unanimously approved:

- a. minutes of September 9, 2003 (regular meeting), and September 30, 2003 (special workshop meeting);
- b. budget amendment transferring \$5,100.00 from the contingency fund (account #109100.1000) to the golf course maintenance/repairs line item (account #106200.1500) as outlined in a memorandum of October 10, 2003 submitted by the finance director to cover the cost of replacing an irrigation pump; (Copy of memo attached); and
- c. Resolution No. 03-10-14 (Municipal Agreement between the Town of Lake Lure and the North Carolina Department of Transportation regarding reinspection of bridges on the Municipal Street System F. A. Project BRZ-NBIS 13). (Copy of resolution and agreement attached.)

End of Consent Agenda

UNFINISHED BUSINESS:

a. Other Unfinished Business

There was no other unfinished business for discussion.

NEW BUSINESS

a. Presentation Regarding the Rutherford County Hazard Mitigation Planning Process

Ron Morgan, Lake Lure Fire Coordinator, gave a presentation explaining the Rutherford County Hazard Mitigation planning process. Mr. Morgan said because of Senate Bill 300, and the Disaster Mitigation Act of 2000, the state and federal governments have mandated that all local jurisdictions have an approved Hazard Mitigation Plan in place by November 2004. Rutherford County has received a planning grant to produce the plan, and has contracted with Isothermal Planning and Development Commission for assistance in development of the plan. The plan itself will be multi-jurisdictional, meaning, that all of the municipalities within the county will participate in the county plan instead of creating their own. Mr. Morgan distributed brochures explaining the Rutherford County Hazard Mitigation Plan. (Copy of brochure attached.)

NEW BUSINESS:

b. Request from Hugh Moseley for Approval of a Sewer Connection Outside of the Town of Lake Lure City Limits

After discussion, Commissioner McCallum made a motion to approve a request from Hugh Moseley to connect into the town sewer system contingent upon his property being annexed into Chimney Rock Village. Commissioner Pressley seconded the motion and the vote of approval was unanimous. (Copy of application attached.)

NEW BUSINESS:

c. Adopt Resolution No. 03-10-14A Authorizing the Advertisement of an Offer to Purchase Certain Town Property Located on Asa Gray Drive (.18 Acre Portion of Lot) and Approve an Easement for Drainage on Certain Town Property

Bob Runde answered questions pertaining to his offer to purchase town property and request for an easement on town property.

After review, Commissioner Cox made a motion to: (1) adopt Resolution No. 03-10-14A authorizing the advertisement of an offer of \$4,000 to purchase town property located on Asa Gray Drive (a .18 acre portion of lot) as presented; and (2) authorize the town attorney to prepare an easement for Bob Runde granting drainage across the lower portion of town property (located on the Rutherford County Tax Map 516, Block 6, Lot 12). Commissioner McCallum seconded the motion and the vote of approval was unanimous. (Copy of Resolution No. 03-10-14A attached.)

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Mayor Proctor recessed the meeting at 8:45 p.m. for a break and reconvened the meeting at 9:55 p.m.

NEW BUSINESS:

d. Discussion Regarding Bow Safety Within Town Limits

Town Council discussed the issues pertaining to bow safety within town limits. Mayor Proctor invited citizens to speak regarding bow safety. The following citizens requested to speak:

1. Tom Owens, a Lake Lure resident, stated that he was a former hunter and believed in animal management. Mr. Owens said since 1993 he and other residents have reported the problem of poachers and trespassers in Lake Lure. Approximately three years ago, Mr. Owens experienced an injury to his right ear by an arrow on property near the town hall park area. Mr. Owens recommended that Town Council consider forming a committee to do a study on bow safety and draft an ordinance regulating safe distance requirements protecting the public from bow and arrow shooting. He said this committee could consist of responsible bow hunters with a legal advisor.
2. Tyrone Phillips, a Lake Lure resident, gave a brief overview on the hunting accidents and hunter education statistics for 2001 - 2002 published by the North Carolina Wildlife Resource Commission. (Copy of report attached.) Mr. Phillips stated that the accident rate for bow hunting was low. Mr. Phillips asked Town Council not to impose more hunting regulations. In his opinion, the North Carolina Wildlife Resource Commission has sufficient laws to regulate bow hunting safety.
3. Russ Maze, a Lake Lure resident, reported the problem of too many deer on his property causing damage. He would like to see some type of control on the deer population in his area.
4. Phyllis Maze, a Lake Lure resident, stated that she had tried different remedies to try to protect her property from too many deer eating her flowers and garden. Mrs. Maze said she even put up an electric fence to keep deer off her property, but it was unsuccessful. Mrs. Maze asked Town Council not to impose a law that will prohibit hunters from killing deer when needed.
5. Gary McCall, a Lake Lure resident, said that he would be in favor of imposing a restriction for hunting distance of 150 yards from a residence.

Commissioner Pressley read into the record a letter of October 13, 2003 received from Karla Antonio Hollins, regarding the issue of bow/arrow hunting and safety in their Lake Lure neighborhood. Mrs. Hollins stated in her letter that she was concerned for her family and animal's safety on their property. (Copy of letter attached.)

Town Council acknowledged a letter of October 13, 2003 received from Attorney Frank Jackson on behalf of Michele Morton, a Lake Lure resident, regarding hunters trespassing and causing damage to Ms. Morton's property. (Copy of letter attached.)

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After discussion, Council members agreed to do nothing at this time to regulate bow safety. They will encourage local officers to arrest people who are breaking the law.

e. Presentation Regarding Dredging Maintenance Plan

Heard a presentation from Lake Advisory Chairman Bob Washburn and Russell Pitts regarding a dredging maintenance plan including a silt removal and management analysis of Lake Lure. Mr. Pitts showed a video on silt removal. In addition, Mr. Pitts distributed copies of his letter to Council members outlining activities and recommendations with regards to the town dredge. (Copy of Silt Removal & Management Analysis of Lake Lure and letter from Russ Pitts attached.)

After discussion, Commissioner Pressley made a motion to approve an expenditure up to \$30,000 out of the silt removal line item to cover costs associated with refurbishing, and upgrading the town dredge and operational training expenses. Commissioner Cox seconded the motion and the vote of approval was unanimous.

f. Discuss and Review Recommendations from the Lake Advisory Committee

Bob Washburn, Chairman of the Lake Advisory Committee, read into the record his memorandum of October 7, 2003 reviewing recommendations from the LAC regarding the Lake Lure Marine Commission intent, lake patrol workshop, and dredging. (Copy of memo attached.) Council members agreed to schedule a workshop meeting with the Lake Advisory Committee February, 2004 to discuss lake patrol issues.

g. Appointments - Board of Adjustment & Lake Structures Appeals Board

Town Council members reviewed the list of candidates to be considered to fill Michael C. William's position as regular member and voted to appoint Stephen M. Webber to serve as regular member on the Board of Adjustment/Lake Structures Appeals Board with a term expiring December 31, 2005. Harvey W. Jacques was appointed to serve as alternate member on this board to fill Mr. Webber's term expiring December 31, 2003.

STAFF REPORTS

Town Manager Place reported on the following:

1. Mr. Place met with Mayor Proctor, Attorney Chris Callahan, Fire Coordinator Ron Morgan, and Finance Director Sam Karr, regarding the closing on the town's fire boat and fire station expansion held on September 19, 2003. Mr. Place said the town will need to hold a bid process on the building before construction can begin. The town's fire boat is now under construction.
2. Hydro-Plant Operator William Grimes, the town's service consultant and Duke Power representatives are checking into an electrical problem which is unexplainable at this time. Both generators at the dam are currently functioning and are in service.
3. Fairfield Mountains POA has submitted a request to have several street lights on Buffalo Creek road reactivated by the town. These lights were previously turned off as a cost saving

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measure. Mr. Place recommended that the town take over the payments at a cost of \$38.29 per month for five lights, or \$459.48 per year. He said turning the lights back on would be in the best interest of public safety.

After discussion, Commissioner McCallum made a motion to approve a budget amendment of \$38.29 per month (\$459.48 per year) from the contingency fund to the public works department line item for street lights (account #105600.1300) to cover the cost of reactivating five street lights on Buffalo Creek road. Commissioner Pressley seconded the motion and the vote of approval was unanimous.

4. Mr. Place will be in Florida this coming Thursday through Monday.

COUNCIL COMMENTS

Mayor Proctor called for a short break (five minutes) before entering the closed session meeting.

CLOSED SESSION

A motion was made by Commissioner Hullender to enter into closed session, after a short break (five minutes), to: (1) discuss legal matters and attorney client privilege regarding pending litigation between Patricia Hyatt and the Town of Lake Lure pursuant to G.S.143-318.11(a)(3); and (2) to discuss the location of a business in accordance with G. S.143-318.11(a)(4). 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.

ADJOURNMENT

With no further items of discussion, Commissioner Cox made a motion to adjourn the meeting at 11:20 p.m. Commissioner Pressley seconded the motion and the vote of approval was unanimous.

ATTEST:


Mary A. Flack, MMC
Town Clerk


Mayor Jim Proctor