

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, JANUARY 11, 2005, 7:00 P.M. AT THE LAKE LURE MUNICIPAL
CENTER**

PRESENT: Mayor Jim Proctor
Commissioner Blaine Cox
Commissioner Dick McCallum
Commissioner Chuck Watkins

H. M. Place III, Town Manager
J. Christopher Callahan, Town Attorney

ABSENT: Commissioner Lea Hullender

CALL TO ORDER

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

INVOCATION

Town Attorney Callahan gave the invocation.

APPROVE THE AGENDA

After discussion, Commissioner Cox made a motion to approve the agenda as amended by adding an item as 5 a [closed session meeting for the purpose of legal matters and attorney client privilege in accordance to G.S. 143-318.11(a)(3)]. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING - PROPOSED ORDINANCE NO. 05-01-11 IMPOSING A
MORATORIUM ON SECTIONS OF THE TOWN OF LAKE LURE ZONING
REGULATIONS THAT REGULATE PLANNED UNIT DEVELOPMENTS**

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

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 05-01-11 imposing a moratorium on sections of the Town of Lake Lure zoning regulations that regulate planned unit developments.

Community Development Administrator Shannon Baldwin read into the record the following excerpts from his memorandum of January 11, 2005 addressed to town council.

At the December 21, 2004 meeting of the Zoning and Planning Board the following recommendation passed unanimously:

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"The planning board recommends that the Council enact a moratorium for six months on the development of P.U.D.'s (planned unit development's), both commercial and residential, 10 acres or more, as soon as possible because of the negative impact growth [in districts with P.U.D.'s] would have on: (1) the town's infrastructure [like streets/roads, water, and sewer]; (2) the lake [like boating density and safety]; (3) the natural environment [like unregulated tree removal and soil erosion and sedimentation]; and (4) the fire suppression and public safety services."

Dick Washburn, Chairman, expressed the following additional concerns: That (1) the Zoning and Planning Board's recommendation about a moratorium be introduced to Town Council at a regular meeting, then voted upon by the Council; (2) The Mayor direct the Zoning and Planning Board in writing to make the necessary studies regarding PUD's and request that the recommendations be sent back to the Town Council for consideration; (3) The Town Council give more direction to the Zoning and Planning Board regarding the need to develop a comprehensive plan; and (4) The need for some breathing room so that the Zoning and Planning Board could take everything apart regarding PUD regulations to see how the town's situation can be improved.

It was the consensus of the Zoning and Planning Board that Chairman Washburn's concerns be considered by the Town Council as well.

Others present at the meeting raised issues about the need for a new comprehensive plan, architectural standards, obsolete regulations, infrastructure overload, tree preservation, light pollution from development yet to come, decreasing residential property values from new commercial-type development, 1920's sewer collection system, bacteria in the lake, and the land use ordinance amendment process.

Beth Rose, Chairperson of the Board of Adjustment, spoke as a regular BOA board member and not as its chairperson. She expressed concerns over the BOA not having adequate tools to deal with PUD's, especially with respect to design and aesthetics.

Others recognized that the town council recently passed the planning board's recommendations regarding PUD's in order to improve the town's regulations, but also recognized additional time is needed to finish analyzing and making additional recommendations to revise and improve the PUD sections of the town's regulations.

Chairman Dick Washburn of the Lake Lure Zoning and Planning Board answered questions pertaining to the proposed moratorium.

Mayor Proctor acknowledged the petitions received by the town regarding a moratorium on planned unit developments. The Mayor stated that 437 individuals signed a petition asking for a moratorium and out of these petitions, 2 individuals asked that John Cloud's planned unit development project not be included in the moratorium. He said 167 individuals asked that all residential planned unit developments be included rather than just those over 10 acres. One individual suggested that tall buildings be required to have a 1,000 ft. setback. Mayor Proctor stated that 423 out of the 437 petitions received were Lake Lure property owners.

The Mayor invited citizens to speak during the hearing. Several citizens of Lake Lure requested that town council impose a moratorium on planned unit developments. Some residents

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asked that the John Cloud's proposed planned unit development on Boy's Camp Road not be included in the proposed moratorium.

Gary McCall, a Lake Lure resident, read into the record a letter dated January 11, 2005 received from Martha Jane Powers addressed to town council requesting that the town not allow developments which will further burden the town's water and sewer system, as well as, existing town roads. Mr. McCall expressed his concerns about the town's sewer system's capacity to handle more development.

John Cloud, a Lake Lure resident and land developer, explained that his proposed planned unit development being constructed on Boy's Camp Road will benefit the community in that it will furnish jobs, ad valorem tax revenue for the town, as well as, provide a learning center. Mr. Cloud said he and his wife would not do anything to spoil this property.

Bill Frykberg, a Lake Lure resident, stated that he was in favor of John Cloud's proposed planned unit development on Boy's Camp Road. He said Lake Lure is in need of economic development to revitalize tourism in the Hickory Nut Gorge.

Russ Pitts, a Lake Lure resident, stated that John Cloud's proposed development is a good use for that property. Mr. Pitts said he was not in favor of including Mr. Cloud's development in the moratorium.

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

CLOSED SESSION

A motion was made by Commissioner Watkins to enter into closed session meeting to discuss legal matters and attorney client privilege pursuant to G.S. 143-318.11(a)(3). Commissioner McCallum seconded the motion and 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.

With no further items of discussion in closed session, Commissioner Cox made a motion to come out of the closed session meeting at 9:04 p.m. and re-enter the regular session of the town council meeting. Commissioner Watkins seconded the motion and the vote of approval was unanimous.

ADOPT ORDINANCE NO. 05-01-11 IMPOSING A MORATORIUM ON SECTIONS OF THE TOWN OF LAKE LURE ZONING REGULATIONS THAT REGULATE PLANNED UNIT DEVELOPMENTS

After discussion, Commissioner Watkins made a motion to approve Ordinance No. 05-01-11 imposing a moratorium on sections of the Town of Lake Lure zoning regulations that regulate planned unit developments as presented effective immediately. There was no second to this motion.

Commissioner Cox made a motion to table the adoption of Ordinance No. 05-01-11 until the next regular town council meeting. There was no second to this motion.

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Commissioner Cox explained the reasons why he did not want to approve the proposed moratorium at this time. He said there needs to be further study in order to seek legal advice and determine who would be affected by the moratorium.

Commissioner Watkins stated why he thought there should be a moratorium adopted immediately.

Commissioner McCallum stated his reason for not approving the moratorium at this time. He stated that the zoning regulations needed to be modified and updated.

PUBLIC FORUM

Mayor Proctor invited the audience to speak on any non-agenda item and the following individuals requested to speak.

1. Gary McCall, a Lake Lure resident, asked council members to explain the reason for delaying the adoption of the moratorium on planned unit developments.
2. Chuck Ross, a Lake Lure resident, questioned why council members did not make a decision tonight to adopt a moratorium on planned unit developments.
3. Edwin Haskell, a South Carolina attorney, gave his legal opinion on the effect of council members not voting on the moratorium tonight.

CONSENT AGENDA

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

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

- a. minutes of December 14, 2004 (regular meeting); and
- b. request from Mary Lou Kaloupek on behalf of the Hickory Nut Gorge Community Church Outreach, Inc., dba Shepherd's Care, to waive the rental fee for use of the community hall in the Lake Lure Municipal Center for the purpose of holding a chili supper as a fund-raiser on Friday, February 25, 2005.

End of Consent Agenda

The Mayor recessed the meeting at 9:25 p.m. for a break and reconvened the meeting at 9:40 p.m.

UNFINISHED BUSINESS

There was no unfinished business for discussion.

NEW BUSINESS:

a. Consider a Request from Douglas Long on Behalf of the Planning Committee for the Lake Lure Olympiad 2005 Sports Festival to be Held on August 12-13, 2005

Douglas Long asked council members to consider his request on behalf of the planning committee for the Lake Lure Olympiad 2005 sports festival.

After discussion, Commissioner McCallum made a motion to approve the request from Douglas Long on behalf of the planning committee for the Lake Lure Olympiad 2005 sports festival to: (1) hold a sports festival August 12-13, 2005 on town property and use of the town's facilities contingent upon coordinating a schedule with the town manager for this event; (2) endorse the Olympiad as its sponsor; and (3) authorize donations for the Olympiad 2005 sports festival to be received at town hall and deposit these proceeds in the town's account. Commissioner Watkins seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

b. Consider Approval of Performance Bond for Lake Vista RPUD (Residential Planned Unit Development)

After discussion, Commissioner Watkins made a motion to approve the request from Traci M. Dusenbury on behalf of Douglas Company to accept a performance bond in the amount of \$50,000 issued by Hartford Fire Insurance Company out of Charlotte, North Carolina to the general contractor, Harold K. Jordan and Company for public improvements including but not limited to roads, parking areas, and rights-of-way, water and sewer facilities, drainage, erosion and sedimentation control facilities, lighting and landscaping. (Copy of performance bond attached). Commissioner McCallum seconded the motion and the vote of approval was unanimous.

STAFF REPORTS

Town Manager Place reported on the following:

1. Update on the opinion of the U.S. 4th Circuit Court of Appeals affirming the earlier decision of the U.S. District Court in the matter of Head v. Rutherford County Sheriff's Department, et al (including Police Chief Mike Bustle). Mr. Place said Mr. Head is the locksmith that sued the sheriff and every police chief in the county for violating his rights by engaging in "government intrusion into private industry." The claim was based on the fact that all the named agencies assisted the public when said public were locked out of their cars, homes and businesses. Mr. Place said District Judge Thornburg tossed the case out and the appeals court agreed.
2. Update on the lake level. Mr. Place said the lake level was lowered on January 2, 2005 and the lake level now is 4 ½ ft. down.

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3. A meeting is scheduled for next week to discuss the means of accelerating the design and approval process for the waste water treatment plant improvements (under the Stag funding program). Mr. Place said based upon McGill Associates latest schedule (distributed last month) calls for a design review meeting in January, 2005, a design completion and submittal to the state in April, 2005 and approval for construction from the state around August, 2006.
4. Update on hydro-electric revenue. Mr. Place said the town has already received \$192,221 in revenue from the hydro plant. The revenue projection for the entire year is \$180,000.

Mr. Place said the town will have to spend monies from the hydro-electric fund to remove the material deposited into the lake and river by several storms that hit Lake Lure last year. He said FEMA estimated that the town gained 60,000 cubic yards of material and have allocated funds to remove that amount at a cost of \$6.00 per yard. Lake Norman Dock and Dredge estimates that the town will need to remove about 89,300 cubic yards of material to get the mouth of the river and head of the lake down to a depth of 10 feet and the estimated costs is \$10.00 per yard. Mr. Place said the FEMA representative who assisted the town, indicated that FEMA would not base the amount for assistance on the quantity of material, but would consider a different cost per yard if warranted. Mr. Place said the grant will not cover the entire cost and he plans to ask for more funds. Mr. Place said the town may choose to dredge at least a part of the harbor, remove rocks and prepare the maintenance dredging pit in the river to facilitate the town's own program. He says this will be an additional cost to the town. Mr. Place recommended that the town start this program when Lake Norman arrives with their equipment. Mr. Place said Russ Pitts is working with TCB Paving to help reduce the overall cost.

5. Update on computerized application process for the 2005 boat permits. Mr. Place said Customer Service Supervisor Linda Ward has been working with Karen Van Sickler, who has volunteered to develop a computerized program for boat permits issued by the town. This computer program is expected to be in use before April, 2005.
6. Fire Coordinator Ron Morgan set up a panel of fire chiefs and Personnel Director Anita Taylor to interview applicants for the assistant fire coordinator's position last week.
7. Update on the town's fire station improvements project. Mr. Place said the steel is up and the roof is being added. The goal is to be finished by spring.
8. Update on the La Strada restaurant. Mr. Place said the La Strada restaurant is expected to open for business by April, 2005.

COUNCIL COMMENTS

Commissioner Cox suggested that council members develop an action plan for the zoning and planning board to look at specific areas under the planned unit development ordinances and review the things that need to be considered for change as quickly as possible. Commissioner Cox said he had a list of items for consideration that he would be willing to furnish to the zoning and planning board.

Mayor Proctor asked council members and staff members to e-mail their list of items that need to be addressed with regards to planned unit developments and he would compile the list into the form of a letter to the zoning and planning board.

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Commissioner McCallum recommended that town council hold a joint workshop meeting with the zoning and planning board once the Mayor had consolidated the comments from council members and staff members into a letter. He said town council needs to give the zoning and planning board a better understanding as to what needs to be done and prioritize them accordingly. Council members agreed to schedule a joint workshop meeting with the zoning and planning board for the purpose stated by Commissioner McCallum.

Council members discussed the need for a comprehensive plan.

Mayor Proctor announced that "The Law of Lake Lure" written by George William Sherk, D.Sc., J.D. has been completed in written form.

Council members talked about entering into a long term agreement with George William Sherk for legal services regarding lake issues.

ADJOURNMENT

With no further items of discussion, Commissioner Cox made a motion to adjourn the meeting at 10:32 p.m. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor