

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, NOVEMBER 14, 2006, 7:00 P.M. AT THE LAKE LURE MUNICIPAL
CENTER**

PRESENT: Mayor Jim Proctor
Commissioner Dick McCallum
Commissioner Russ Pitts
Commissioner Chuck Watkins

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

ABSENT: Commissioner Jeanine Noble

CALL TO ORDER

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

INVOCATION

Attorney Callahan gave the invocation.

APPROVE THE AGENDA

After discussion, Commissioner Watkins made a motion to approve the agenda as amended by removing items 4 (overview of the town's preliminary draft of the comprehensive plan by Land Design, Inc.) and 14 b (schedule a hearing to consider the adoption of the comprehensive plan prepared by Land Design, Inc.) from the agenda. Commissioner McCallum seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING - CONSIDER PROPOSED ORDINANCE NO. 06-11-14 AMENDING
CHAPTER 84 (MISCELLANEOUS OFFENSES), REPLACING SECTION 84.04
(UNREASONABLE NOISE) OF THE TOWN OF LAKE LURE CODE OF ORDINANCES**

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 06-11-14.

Town Manager Place reviewed and answered questions relating to proposed Ordinance No. 06-11-14.

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Mayor Proctor invited citizens to speak during the public hearing and the following requested to speak. John Bittle, Jerry Nelon, Dennis Buckwer, Paul LaQue, Jerry Martin, Bill Frykberg, John Kilby, Kate Haskell, Pat Maringer, Ann Hinton, Bob Washburn, and Patricia Maringer. Several citizens voiced their concerns about the impact of this ordinance with regards to working hours for construction, lost income, ordinance being too strict on noise level. There were complaints about the loud noise from the Lake Lure Police Department firing range, motor cycles, and trucks.

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

ADOPT ORDINANCE NO. 06-11-14 AMENDING CHAPTER 84 (MISCELLANEOUS OFFENSES), REPLACING SECTION 84.04 (UNREASONABLE NOISE) OF THE TOWN OF LAKE LURE CODE OF ORDINANCES

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

Council members agreed to not adopt proposed Ordinance No. 06-11-14 and wait until after the comprehensive plan study has been completed. Council members agreed further revisions needed to made to the noise ordinance.

Mayor Proctor read an excerpt from an e-mail received from Flemming Bell with the Institute of Government on his legal opinion of the use of enforcement with regards to decimal meters.

PUBLIC HEARING - CONSIDER PROPOSED ORDINANCE NO. 06-11-14A AMENDING THE LAKE STRUCTURES REGULATIONS, TITLE IX, CHAPTER 94 OF THE CODE OF ORDINANCES FOR THE TOWN OF LAKE LURE RELATING TO STANDARDS AND REQUIREMENTS FOR LAKE STRUCTURES SPECIFICALLY THE DEFINITION OF "MEASURABLE SHORELINE" AND PROHIBITED USES

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 06-11-14A.

Mayor Proctor invited citizens to speak during the public hearing and no one requested to speak.

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

ADOPT ORDINANCE NO. 06-11-14A AMENDING THE LAKE STRUCTURES REGULATIONS, TITLE IX, CHAPTER 94 OF THE CODE OF ORDINANCES FOR THE TOWN OF LAKE LURE RELATING TO STANDARDS AND REQUIREMENTS FOR LAKE STRUCTURES SPECIFICALLY THE DEFINITION OF “MEASURABLE SHORELINE” AND PROHIBITED USES

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

After discussion, Commissioner McCallum made a motion to adopt Ordinance No. 06-11-14A as amended. Commissioner Pitts seconded the motion and the vote of approval was unanimous. (Copy of Ordinance No. 06-11-14A is attached).

PUBLIC HEARING - CONSIDER PROPOSED ORDINANCE NO. 06-11-14B AMENDING THE TOWN OF LAKE LURE SUBDIVISION REGULATIONS, TITLE IX, CHAPTER 91, PERTAINING TO STANDARDS AND REQUIREMENTS FOR SUBDIVISION DEVELOPMENT AS IT RELATES TO PROTECTION AND MANAGEMENT OF TREES AND STEEP SLOPES

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 06-11-14B.

Paula Jordan, Chair of the Lake Lure Tree Management Committee, reviewed and answered questions relating to proposed Ordinance No. 06-11-14B.

Mayor Proctor invited citizens to speak during the public hearing.

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

ADOPT ORDINANCE NO. 06-11-14B AMENDING THE TOWN OF LAKE LURE SUBDIVISION REGULATIONS, TITLE IX, CHAPTER 91, PERTAINING TO STANDARDS AND REQUIREMENTS FOR SUBDIVISION DEVELOPMENT AS IT RELATES TO PROTECTION AND MANAGEMENT OF TREES AND STEEP SLOPES

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

After discussion, Commissioner Watkins made a motion adopt Ordinance No. 06-11-14B as presented. Commissioner McCallum seconded the motion and the vote of approval was unanimous. (Copy of Ordinance No. 06-11-14B is attached).

PUBLIC FORUM

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

1. Paul LaQue requested that the town look into getting an EMS station on the west side of town. Mr. LaQue reported on incident where the response time by EMS took too long for an individual who lived on Boys Camp Road.
2. Bill Bush stated that he was the patient Mr. LaQue was referring about. Mr. Bush agreed there is a need for an EMS station on the west side of town.
3. Yvonne Anderson, asked for a clarification regarding the removal of trees.
4. John Bittle requested that proposed ordinances be posted on the town's website. Mr. Bittle also asked for the town to expand the sewer system capacity.
5. John Kilby reported on the problem of some individuals trash cans being exposed and leaves going into the lake. Mr. Kilby also suggested that the town purchase a leaf vacuum.

Town Manager Place stated that a leaf sweeper was approved in the town's Capital Improvement Plan (CIP).

COUNCIL LIAISON REPORTS

Commissioner Pitts reported on the activities of the Lake Advisory Committee.

Commissioner McCallum reported on the activities of the Zoning/Planning Board and the Comprehensive Steering Committee.

A motion was made by Commissioner McCallum to schedule a joint meeting with the Comprehensive Plan Steering Committee on December 15, 2006, at 9:00 a.m. in the Lake Lure Municipal Center to review the draft comprehensive plan prepared by LandDesign, Inc. Commissioner Pitts seconded the motion and the vote of approval was unanimous.

Commissioner Watkins reported on the activities of the Board of Adjustment/Lake Structures Appeals Board.

After discussion, Commissioner Watkins made a motion to direct the zoning and planning board to draft an ordinance amendment to Section 92.081 of the Zoning Regulations to increase the zoning and planning board alternate membership from two to three alternate members,

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Commissioner McCallum seconded the motion and the vote of approval was unanimous.

Council members directed Community Development Director Shannon Baldwin to develop a procedure to be documented giving directions for filing a variance application as requested by the Board of Adjustment Committee.

CONSENT AGENDA

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

Commissioner Watkins moved, seconded by Commissioner Pitts, to approve the consent agenda items as presented. Therefore, the consent agenda, incorporating the following items were unanimously approved and adopted:

- a. minutes of October 10, 2006 (regular meeting), October 12, 2006 (special meeting) and, October 27, 2006 (special meeting);
- b. a request from Mable Satrape to suspend the town’s alcohol ordinance to serve beer and wine during a party inside the community hall of the Lake Lure municipal center on December 22, 2006, from 7:00 p.m. until 10:00 p.m.;
- c. a request from Paula Jordan on behalf of the Hickory Nut Gorge Kiwanis Club to waive the rental fee for use of the community hall in the Lake Lure municipal center to hold an annual children’s Christmas party (formerly sponsored by Martha Jane Powers) on December 9, 2006, from Noon until 5:00 p.m.; and
- d. Resolution No. 06-11-14 designating the finance officer as acting agent on behalf of the town to execute and file applications for federal and/or state assistance with regards to Hurricane Ivan. (Copy of Resolution No. 06-11-14 is attached).

End of Consent Agenda

Mayor Proctor recessed the meeting at 9:00 p.m. and reconvened the meeting at 9:10 p.m.

UNFINISHED BUSINESS:

a. Other Unfinished Business

There was no other unfinished business for discussion.

NEW BUSINESS:

a. Consider a Request from the Community Development Director to Table the Adoption of Proposed Ordinance No. 06-11-14C (Amending the Zoning Regulations, Title IX, Chapter 92 of the Code of Ordinances, Relating to Clarification of the Text with Regards to Sections: 92.005 Definitions of Home Occupation; 92.025 Intent; 92.040 Building Site Minimum Dimensional Requirements; 92.063 Requirements Prior to Issuance of a Building Permit; 92.064 Building Permit Required; 92.066 Construction Progress; 92.116 Fences, Walls and Hedges; and 92.118 Fabric and Material Structures) and Direct the Zoning and Planning Board/to Review this Ordinance Further

After discussion, Commissioner McCallum made a motion to approved a request from Community Development Director Shannon Baldwin to table the adoption of proposed Ordinance No. 06-11-14C (amending the Zoning Regulations, Title IX, Chapter 92 of the Code of Ordinances, relating to clarification of the text with regards to Sections: 92.005 Definitions of Home Occupation; 92.025 Intent; 92.040 Building Site Minimum Dimensional Requirements; 92.063 Requirements Prior to Issuance of a Building Permit; 92.064 Building Permit Required; 92.066 Construction Progress; 92.116 Fences, Walls and Hedges; and 92.118 Fabric and Material Structures) to be reviewed further by the zoning and planning board. Commissioner Pitts seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

b. Consider Approval of a Performance Agreement Between the Town of Lake Lure and Firefly Cove, Inc. and a Performance Guarantee for the Same

Community Development Director Shannon Baldwin read into the record his memorandum dated November 7, 2006 regarding Firefly Cove, Inc. performance and guarantee. (Copy memorandum and supporting documentation are attached).

Attorney Albert Sneed requested on behalf of John Cloud that town council consider authorizing the zoning and planning board to approve the final plat for firefly cove prior to final approval of water system by the state and they would present to the town a check for an additional \$100,000 which would increase the bond amount that could be held until the project is in compliance.

After discussion, Commissioner McCallum made a motion to: approve a performance agreement and a performance guarantee between the Town of Lake Lure and Firefly Cove, Inc. subject to the following stipulations: (1) approved the letter of credit for \$2,027,803.75 with an expiration date of November 3, 2007; (2) plus additional bond of \$100,000 pending state approval for the changes to the water system; and (3) direct the zoning and planning board to waive the requirement in the subdivision regulations that requires prior approval by the state for the water

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system contingent upon all other requirements being met and approval from McGill Associates has been obtained. Commissioner Watkins seconded the motion and the vote of approval was unanimous. (Copy of agreement and performance guarantee are attached).

NEW BUSINESS:

c. Consider Approval of a Performance Agreement Between the Town of Lake Lure and J.D. Harrison Investments, LLC and a Performance Guarantee for the Same

Community Development Director Shannon Baldwin read into the record his memorandum dated November 8, 2006 regarding Blue Heron Point Subdivision. (Copy memorandum and supporting documentation are attached).

Kirby Hearn answered questions regarding the performance agreement and performance guarantee being presented.

After discussion, McCallum made a motion to approved performance agreement and a performance guarantee between the Town of Lake Lure and J.D. Harrison Investments, LLC. (Copy of agreement and performance guarantee are attached). Authorized the mayor to sign this agreement. Commissioner Watkins seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

d. Consider the Adoption of Resolution No. 06-11-14A Requesting Services of the North Carolina Department of Commerce, Division of Community Assistance for the Preparation of an Extra Territorial Jurisdiction (ETJ) Map, an ETJ Ordinance, and Related Land Use Regulations Amendments

Community Development Director Shannon Baldwin read into the record his memorandum dated November 6, 2006 regarding resolution requesting service from the Division of Community Assistance. (Copy memorandum and supporting documentation are attached).

After discussion, Commissioner McCallum made a motion to adopt Resolution No. 06-11-14A (requesting services of the North Carolina Department of Commerce, Division of Community Assistance for the preparation of an extra territorial jurisdiction (ETJ) map, an ETJ ordinance, and related land use regulations amendments) as presented. Commissioner Watkins seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

e. Consider Approval of a Service Agreement Between the Town of Lake Lure & Emergency Communications Network, Inc. for an Emergency Network System; Approve a Budget Amendment and Authorize the Town Manager to Sign this Agreement

Town Manager Place read into the record his memorandum dated November 9, 2006 regarding approval of a CodeRed service agreement. (Copy of memorandum is attached).

After discussion, Commissioner McCallum made a motion to: (1) approve the service agreement between the Town of Lake Lure and Emergency Communications Network, Inc. for an emergency network system; (2) approve a budget amendment of \$5,000 from the contingency fund for this system; and (3) authorize the town manager to sign this agreement. Commissioner Watkins seconded the motion and the vote of approval was unanimous.

f. Consider Approval of a Lease Agreement Between the Town of Lake Lure & George Whittmer, Lake Lure Properties, LLC, Regarding the Lake Lure Arcade Building Commercial Center Identification Sign on Town Property

Town Manager Place read into the record his memorandum dated November 8, 2006 regarding lease for the Lake Lure Arcade Building off-site sign. (Copy of memorandum is attached).

George Wittmer answered questions pertaining to his request for approval of the lease agreement and approval of his sign.

Mayor Proctor requested that Mayor Pro tem Dick McCallum be authorized to sign this agreement due to personal conflicts of interest.

After discussion, Commissioner Watkins made a motion to approve a lease agreement between the Town of Lake Lure and George Whittmer of Lake Lure Properties, LLC, regarding the Lake Lure Arcade Building commercial center identification sign on town property and authorize the Mayor Pro tem to sign this agreement. Commissioner Pitts seconded the motion and the vote of approval was unanimous.

STAFF REPORTS

Town Manager Place read his report into the record dated November 14, 2006. (Copy of report is attached).

After discussion, Commissioner McCallum made a motion to authorize the town manager to sign an agreement with Attorney Michael Egan for legal services at a monthly retainer of \$600.

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Commissioner Watkins seconded the motion and the vote of approval was unanimous.

COUNCIL COMMENTS

Commissioner Pitts mentioned that the town was not planning on stocking the lake with fish this year. He said a study needed to be made with regards to this matter.

Council members agreed to schedule a special meeting for the Lake Lure Marine Commission to be held on Tuesday, December 12, 2006 at 4:00 p.m. in the Lake Lure Municipal Center to review commercial boat license applications for 2007.

Council members spoke briefly about the town managers retirement in February, 2008.

Commissioner McCallum mentioned that he would be absent from the town council meeting being held on January 9, 2007.

RECESSED THE MEETING

With no further items of discussion, Commissioner McCallum made a motion to recess this meeting at 11:12 p.m. until Wednesday, November 15, 2006 at 9:30 a.m. in the law office of Attorney Sandra King located at 17 North Market Street in downtown Asheville to hold a closed session regarding ongoing litigation between the Town of Lake Lure vs. Patricia Hyatt. Commissioner Pitts seconded the motion and the vote of approval was unanimous.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor