

Before I ask my questions, I am hoping you can clarify how the Lake Davidson Working Committee is going to be functioning. Your public comments indicate that the Committee has already met at least once on a non-public basis to identify issues and establish committees and responsibilities, and has two public meetings scheduled, one on August 5 at which the public can attend but not speak, and one on September 3 at which public comment is permitted. My understanding of the North Carolina Open Meeting law is that a meeting is official if a majority of its members are present, which in this case would be three or more. Given the broad scope of issues involved, I was wondering if the Committee has been having other meetings of which the public is not aware and at which public attendance and participation has not been permitted? If so, have these meetings been in violation of the Open Meeting Law? Will there be any meetings at which the Committee will hold a question and answer session with the public and where an actual discussion and exchange of information can take place? When does the Committee propose to have its work completed and a proposed inter-local or other form of agreement between the towns available for public consideration? Is there a budget for the Committee to hire experts to conduct water and other tests, survey the citizens in the neighborhoods most directly impacted, conduct legal and other research, etc.?

The NC open meetings law requires that official meetings of the towns' Board of Commissioners be open to the public. An "official meeting" is a meeting that includes the majority of the members of the Board to conduct hearings, participate in deliberations, or transact or vote on public business. The Lake Davidson Working Committee includes two commissioners from each jurisdiction, falling short of the majority of members required for open meetings.

The committee has had only one meeting – on July 8, 2008. At our meeting on August 5, 2008, we will discuss how we will move forward, when we will hold meetings, and what format they will use. The committee doesn't yet have a timeline for completion, nor do we know if a joint agreement is appropriate for the lake. After fact-finding, public input, and deliberation, the committee members will propose to their respective boards an action, whether it is an interlocal agreement or some other vehicle, or no action.

There is no budget for this work.

1. When was notice first given regarding the proposed inclusion in the 2001 Davidson Planning Ordinance of a horsepower limitation? What notices were given to affected homeowners in the neighborhoods in Davidson which are on Lake Davidson and when were public hearings held on the proposed ordinance? On what date was the ordinance actually passed? Please provide copies of the documents relating to these issues, including the agenda and minutes from the meeting at which the ordinance was passed.

The Town of Davidson Planning Ordinance was passed June 11, 2001. In 2000 and 2001, there were literally dozens of meetings to discuss with citizens the various ordinance sections. There were three types of meetings: Some were public meetings that were advertised informally, just like we do now, through the use of newspaper articles, emails, announcements at town board meetings, etc. We sent postcards to all Davidson residents advertising some of these meetings to explain the ordinance provisions and garner input. Secondly, there were presentations at regular Town Board meetings. And there were public hearings, which were advertised using legal notices as required by the NC General Statutes. Those legal public notices are available for review at town hall.

2. Same questions with respect to the ordinance provision retaining 100% of lake shoreline for public use. Since this was passed after all of the neighborhoods listed were developed other than Spinnaker Reach, how does this affect pre-existing homeowner/neighborhood HOA property rights or are they grandfathered/exempt?

Zoning regulations are not retroactive on existing development. Each neighborhood must meet the zoning requirements in force at the time it is approved.

3. You have acknowledged that the 10 hp limit, in whatever form, has never been enforced. However, in the DavidsonNews.net article on July 25, you stated that a letter has been written each spring to homeowners in affected neighborhoods reminding them of the rules/regulations. Please

provide copies of those letters. We have lived here in Lake Davidson Park since July of '05, and have seen one letter.

In my Lake Davidson file I have letters from 2000 and 2007. I have not looked through the correspondence file, and don't know how far back its contents go, or whether a copy of these letters would have been saved. The media was also occasionally helpful to us in getting the word out.

4. The "Fact Sheet" indicates that the Towns of Davidson and Mooresville began discussing an inter-local agreement several years ago, yet there is no mention in the agendas or minutes of such discussions until the inter-local was presented and approved by the Town of Davidson Board in October 2007. If there were earlier discussions, why is there no reflection of those meetings and issues in the public record?

The boards of Davidson and Mooresville discussed the Lake Davidson issue at a joint evening meeting in 2006. The boards asked staff from both towns to meet, discuss the issues, and draft an agreement. The meeting was advertised and public. However, minutes of board meetings only reflect action taken by the board, not discussions. If no action is taken, there are often no minutes, particularly from these more informal meetings.

5. The "Fact Sheet" refers to the inter-local as being in "draft" form, but it was passed by the Town of Davidson at a Board meeting in October 2007. Does this mean that this is not the form which the towns are currently considering, and if so, shouldn't the inter-local passed in October be rescinded?

The interlocal is a draft until it is acted on by both parties.

6. The "Fact Sheet" indicates that the terms of the proposed inter-local "would be enforced through the towns' zoning and other land use regulations." Can you please specify the statutes, rules or regulations which confer upon the towns the authority to enforce each of the specific inter-local provisions? Has a legal opinion been obtained from the Town Attorney or another source? If so, please make it available.

The actions to be taken by each Town pursuant to the draft of the interlocal agreement fall under the town's zoning power, enumerated in Article 19 of NC General Statute 160A. The town attorney was consulted; there is no written opinion.

7. The Lake Norman Marine Commission's website has a link for homeowners who wish to build piers which states that such permission must be obtained through application to Duke Energy. Please explain how the town's zoning authority overrides or interfaces with LNMC and Duke's rules regarding piers.

There are numerous agencies which have varying degrees of jurisdiction over Lake Davidson. There is no federal or state pre-emption of the town's zoning regulations.

8. I am a resident of Lake Davidson Park, and I am not aware of any "public access" along Edgewater Park Street. Although our neighborhood dock is on that street, it is restricted to residents of the neighborhood. The HOA maintains the land, and the only parking is a limited amount which residents use in front of their homes. Is it the Town of Davidson's position that Lake Davidson can be accessed by the public from our dock or otherwise at Edgewater Park Street? If so, what is the source of that position?

I will change the fact sheet and map to reflect that the agreement with Crosland Land has not been instituted. On October 22, 1996, Crosland Land gave the town the option to obtain and make public all open space within Lake Davidson Park at no cost provided the town is prepared to improve and maintain these areas. This agreement does not affect the dock, which is, and will remain, private.

9. The "Fact Sheet" appears to suggest that the boat ramp at Transco Road is "public" land, but it is my understanding that it is private land. Please explain the source of the statement.

Transco Road is a state-maintained road. The land surrounding Transco Road is privately owned.

10. What is the statutory basis for the statement that the Lake Davidson shoreline in Mecklenburg County is within the Town of Davidson's "jurisdiction"? What does this statement mean? Is this the source of the Town's belief that it can regulate horsepower by prohibiting docking boats with more than 10 hp overnight?

The town (and county) limit runs through the middle of Lake Davidson. The town has zoning authority within the town limits.

11. What is the source of the statement that "it is very likely that Lake Davidson is not fed by springs?" Who was consulted as the authority on this subject? It would seem to me that this is a fact which should be able to be determined definitively. The recent amendment which now appears on the Town of Davidson's website says that there are springs in the lake in Roosevelt Park - where did this information come from and what does that source say about whether there are springs supporting Lake Davidson?

We're sure this could be determined definitively, but we did not consult an authority. We used observation over many years. Since the springs don't change the lake level to any discernible extent, there must be minimal inflow. For example, during the drought a few years ago, Lake Davidson dropped similarly to Lake Norman. Roosevelt Wilson Park pond was drained in 2007, so we had the chance to see the springs.

12. Who owns the island? Have they agreed to make it a wildlife sanctuary? What will the cost be to develop the sanctuary, and who will pay for it and maintain it?

Duke Energy owns the island. The term "wildlife sanctuary" means, in this instance, that hunting would not be allowed, making the island safe for wildlife.

13. What is the specific proposed site for boat launch being financed with Duke Energy's money? Will this site enable boat owners whose boats must be input on a trailer to put their boats in and out of the lake? What are the specifications for the ramp (i.e. how wide, how deep is the water, how far will the ramp go into the water, what size boats and trailers will be accommodated)? What parking will be available? Will there be a gate/attendant to monitor the boats being input?

The Relicensing Agreement states that Duke Energy will contribute \$130,000 to the purchase of land or the construction of a canoe/kayak launch and a fishing pier in "Lake Davidson Park." This contribution will be made within the first five years of Duke's new license. When it is time to plan that facility, we will work with the Town of Mooresville to determine the appropriate public land on which to locate it, and name that park "Lake Davidson Park."

14. Are there other lakes in NC that are designated as entirely "no wake" zones?

There are private lakes in NC that have not that we are aware of; although I have not researched the topic.

15. What is the source of the statement that "motorized watercraft cause shoreline erosion?" I realize that this is quoted from the Mount Mourne and South Iredell Master Plan, but that document did not cite a source for this or other similar statements. Since shoreline erosion can result from other causes, how much shoreline erosion is being caused by boats, and how has that been determined?

Powerboat wakes are one cause, though not the sole cause, of shoreline erosion. Wakes create waves that break against the shore and cause erosion. It is difficult to separate the extent of boat-generated erosion from wind-generated wave erosion and erosion by land activities.

16. What scientific evidence exists, or what expert opinions have been obtained, that support the statement that "Lake Davidson is a fragile ecosystem?"

This is also from the Mt. Mourne plan, so we don't know the source. However, the Catawba River is considered "America's most endangered river" by the American Rivers organization (Charlotte Observer, April 2008). It certainly is an ecosystem; its fragility is subjective.

17. What scientific evidence exists, or what expert opinions have been obtained, that support the statement that boats with more than 10hp (a) cause pollution and/or (b) cause erosion of the shoreline?

Is this also from the Mt. Mourne plan? You may be referring to the quote, "Motorized watercraft cause shoreline erosion and bring accompanying litter and spills of gas and oil into the lake." It doesn't speak to 10 hp or less. I think it is logical that canoes and kayaks cause less erosion and pollution than motorized watercraft.

18. Has the Lake Davidson/Lake Cornelius covekeeper been consulted concerning the results of his water tests?

We aren't aware of water testing done by cove keepers. We would be happy to review them.

19. Although I understand that there is a public interest in Lake Davidson, there can be no question that the citizens whose neighborhoods are on Lake Davidson are most directly affected by the work being done and changes being considered by the Committee. Has consideration been given to surveying these people to get their input?

The Town of Davidson isn't considering changes to its zoning regulations. There were public hearings when the developments were approved and the input was in favor of the zoning.

20. There have been references to the public having been consulted prior to passage by the Davidson Board of Commissioners of the inter-local agreement. Please indicate: (a) who on the Town Board or staff was responsible for consulting members of the public, (b) who determined the members of the public that should be consulted, (c) how those contacts were made and when (i.e. phone calls, letters to HOAs, telephone surveys to citizens in neighborhoods on Lake Davidson), and (d) what records exist regarding the results of those consultations.

References to public input go back to 1983 when we held the first public hearing about development on the lake. When properties were rezoned and the 10 hp limitation was placed on the properties, the adjoining property owners were notified and invited to attend the hearings. The interlocal agreement was not a rezoning, which would require a public hearing, nor a change in Board policy. We had informal, public meetings with ski advocates and neighborhood advocates. There are no minutes from those meetings.