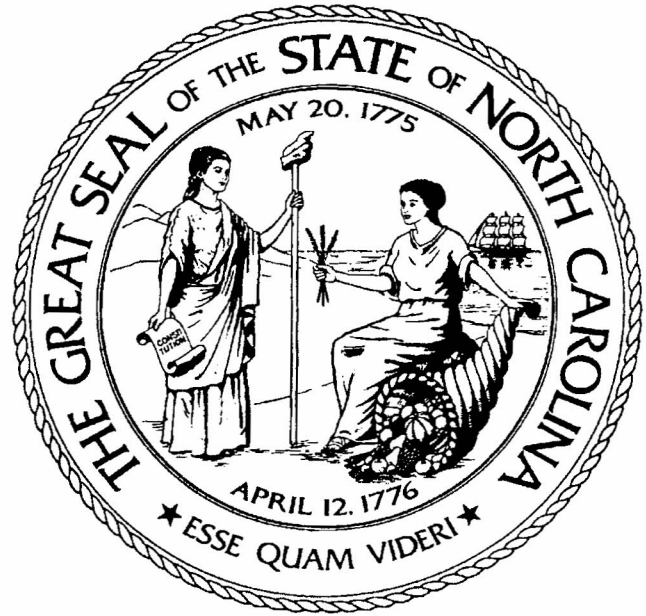


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JOINT LEGISLATIVE COMMISSION

ON MUNICIPAL INCORPORATIONS

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REPORT TO THE GENERAL ASSEMBLY OF NORTH CAROLINA Proposed Village of Lake James July 29, 2009

REPORT TO THE GENERAL ASSEMBLY

Proposed Incorporation of the Village of Lake James July 29, 2009

The Joint Legislative Commission on Municipal Incorporations was created in 1986 by the General Assembly to conduct an independent review and evaluation of proposed municipal incorporations. This evaluation, to be conducted in accordance with a statutory set of objective criteria, is designed to allow the General Assembly to see the feasibility of the proposed new municipality. The Commission consists of four members of the General Assembly, one city official, and one county official. A list of members appears as Appendix A.

The statutory criteria require a review of community support, (a petition is required) population, land development, nearness to other urban areas, and ability to provide municipal services at a reasonable tax rate. A copy of the statutes authorizing the Commission and setting up the review standards is attached as Appendix B.

The Commission received a petition proposing the incorporation of the Village of Lake James in Burke County on September 2, 2008. A copy of the petition is attached as Appendix C.

The Commission, pursuant to G.S. 120-161, asked the Division of Community Assistance of the Department of Commerce to evaluate the petition. The Division conducted the evaluation and found that the requirements of G.S. 120-163 and G.S. 120-164 had been met (a copy of the report is attached as Appendix D). However, at a meeting of the Commission on June 17, 2009, members of the Commission expressed concern about whether the proposed boundaries of the proposed Village of Lake James are contiguous, as required by G.S. 120-163(c). The Commission agreed to continue to study the contiguity issue, and to make a final decision as to that matter at a later date.

The Commission also requested that the Division of Community Assistance evaluate the proposed Village's petition for incorporation under G.S. 120-166 (a copy of the report is attached as Appendix E). The Division conducted the evaluation and determined that there are no municipalities within five miles of the proposed boundaries of the proposed Village of Lake James. Therefore, the requirements of G.S. 120-166 have been met.

The Commission further requested that the Division of Community Assistance evaluate the proposed Village's petition under G.S. 120-167 through G.S. 120-170 (a copy of the report is attached as Appendix F). The Division

conducted the evaluation and determined that all statutory requirements had been met.

Pursuant to G.S. 120-169.1, the Commission requested that the Fiscal Research Division provide data that shows the impact on other municipalities and counties of the diversion of already levied taxes or State-shared revenues to support services in the proposed Village of Lake James (a copy of the report is attached as Appendix G). The data provided by the Division (based upon figures from 2007-2008) shows that sales tax revenues in Burke County are distributed on a per capita basis. If the proposed Village of Lake James had been incorporated at that time, it would have received approximately \$161,501 in sales tax revenues. The incorporation of Lake James would have a marginal impact on the distribution of Powell Bill funds in the State and Burke County. If incorporated in the 2007-2008 fiscal year, the proposed Village of Lake James would have received an estimate of \$311,000 in total revenue, including Powell Bill funds, from State-shared revenue as long as the proposed Village had met the statutory requirements to receive these funds.

On Thursday, July 16, 2009, the Commission held a public hearing at the Table Rock Middle School in Morganton, North Carolina to receive comments from the public about the incorporation of the proposed Village of Lake James. Approximately 200 people attended; 39 spoke in favor of incorporation, 37 against.

The Commission met on July 29, 2009 to discuss the petition from Lake James, including the contiguity issue. After discussion and debate as to the definition of "contiguous area" as provided in G.S. 160A-53 (and 160A-41 and 160A-31(f)), the Commission by a vote of 4-2 decided that the proposed boundaries of the proposed Village of Lake James are not contiguous. Specifically, the Commission found that Areas 2 and 3 and Areas 3 and 4 of the proposed boundaries are separated by a lake (Lake James) and not a river or creek, as provided in G.S. 160A-53 (and other similar statutes).

The Commission finds that the proposed Village of Lake James does not meet the standards required by Article 20 of Chapter 120 of the General Statutes because the proposed boundaries are not contiguous as required by G.S. 120-163(c), and therefore the Commission does not recommend incorporation of the area as the Village of Lake James.

APPENDIX A

JOINT LEGISLATIVE COMMISSION ON
MUNICIPAL INCORPORATIONS
2008-2010
Membership

President Pro Tem's Appointments

Senator Fletcher Hartsell
P. O. Box 368
Concord, NC 28026-0368

Senator Charlie Dannelly
Room 2010, LB
(919) 733-5955
Dee Hodge, Legislative Assistant

Mr. Steven Raper
P. O. Box 1180
Rocky Mount, NC 27802-1180
(252) 972-1325

Staff

Gayle L. Moses, Staff Attorney
Bill Drafting Division

Oliver Bass
Dept of Commerce, Division of
Community Assistance
733-2853

Lee Nichols
Dept of Commerce, Division of
Community Assistance
733-2853

Speaker's Appointments

Representative Becky Carney
P. O. Box 32873
Charlotte, NC 28232

Representative William Wainwright
P. O. Box 941
Havelock, NC 28532

Mr. Mike Cross
Chatham County Commissioner
388 Cross Point Road
New Hill, NC 27562

Commission Assistant

Delta Prince
2125 Legislature Building
Raleigh, NC
919-733-5649

APPENDIX B

Article 20.

Joint Legislative Commission on Municipal Incorporations.

Part 1. Organization.

§ 120-158. Creation of Commission.

(a) There is created the Joint Legislative Commission on Municipal Incorporations, referred to in this Article as "Commission".

(b) The Commission shall consist of six members, appointed as follows:

- (1) Two Senators appointed by the President Pro Tempore of the Senate;
- (2) Two House members appointed by the Speaker;
- (3) One city manager or elected city official, appointed by the President Pro Tempore of the Senate from a list of three eligible persons nominated by the North Carolina League of Municipalities; and
- (4) One county commissioner or county manager, appointed by the Speaker from a list of three eligible persons nominated by the North Carolina Association of County Commissioners. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1991, c. 739, s. 17.)

§ 120-159. Terms.

Members shall be appointed for terms ending June 30, 1987, and subsequently for two-year terms beginning July 1, 1987, and biennially thereafter. A member eligible when appointed may continue for the remainder of the term regardless of the member's continued eligibility for the category. The Commission shall elect a chairman from its membership for a one-year term. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-160. Compensation.

Members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances as provided by G.S. 120-3.1. Members who are State officers or employees shall receive subsistence and travel allowances as provided by G.S. 138-6. All other members shall receive per diem, subsistence, and travel allowances as provided by G.S. 138-5. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-161. Facilities and staff.

The Commission may meet in the Legislative Building or the Legislative Office Building. Staff for the Commission shall be provided by the Legislative Services Commission. The Commission may contract with the Institute of Government, the Local Government Commission, the Department of Environment and Natural Resources, or other agencies as may be necessary in completing any required studies, within the funds appropriated to the Commission. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1989, c. 727, s. 218(82); 1997-443, s. 11A.119(a).)

§ 120-162. Reserved for future codification purposes.

Part 2. Procedure for Incorporation Review.

§ 120-163. Petition.

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 1; 2001-353, s. 6.)

§ 120-164. Notification.

(a) Not later than five days before submitting the petition to the Commission, the petitioners shall notify:

- (1) The board or boards of county commissioners of the county or counties where the proposed municipality is located;
- (2) All cities within that county or counties; and
- (3) All cities in any other county that are within five miles of the proposed municipality of the intent to present the petition to the Commission.

(b) The petitioners shall also publish, one per week for two consecutive weeks, with the second publication no later than seven days before submitting the petition to the Commission, notice in a newspaper of general circulation in the area proposed to be incorporated of the intent to present the petition to the Commission. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-165. Initial inquiry.

(a) The Commission shall, upon receipt of the petition, determine if the requirements of G.S. 120-163 and G.S. 120-164 have been met. If it determines that those requirements have not been met, it shall return the petition to the petitioners. The Commission shall also publish in the North Carolina Register notice that it has received the petition.

(b) If it determines that those requirements have been met, it shall conduct further inquiry as provided by this Part. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-166. Additional criteria; nearness to another municipality.

(a) The Commission may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census. For purposes of this section, "municipality" means a city as defined by G.S. 160A-1(2) or a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes.

(b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:

- (1) The proposed municipality is entirely on an island that the nearby city is not on;
- (2) The proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by the nearby city to the proposed municipality is infeasible or the cost is prohibitive, and the Commission shall adopt policies to implement this subdivision;
- (3) The municipalities within the distances described in subsection (a) of this section by resolution express their approval of the incorporation; or
- (4) An area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160A-31 within the previous 12 months before the incorporation petition is submitted to the Commission but the annexation petition was not approved. (1985

(Reg. Sess., 1986), c. 1003, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 25; 1998-150, s. 2; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2005-35, s. 2.)

§ 120-167. Additional criteria; population.

The Commission may not make a positive recommendation unless the proposed municipality has a permanent population of at least 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 2.)

§ 120-168. Additional criteria; development.

The Commission may not make a positive recommendation unless forty percent (40%) of the area is developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 3.)

§ 120-169. Additional criteria; area unincorporated.

The Commission may not make a positive recommendation if any of the proposed municipality is included within the boundary of another incorporated municipality, as defined by G.S. 153A-1(1), or if any of the proposed municipality is included within the boundary of a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 2005-35, s. 3.)

§ 120-169.1. Additional criteria; level of development, services; financial impact on other local governments.

(a) Repealed by Session Laws 1999-458, s. 4.

(b) Services. – The Commission may not make a positive recommendation unless the area to be incorporated submits a plan for providing a reasonable level of municipal services. This plan shall be based on the proposed services stated in the petition under G.S. 120-163(c).

(c) The Commission in its report shall indicate the impact on other municipalities and counties of diversion of already levied local taxes or State-shared revenues from existing local governments to support services in the proposed municipality. (1998-150, s. 3; 1999-458, s. 4.)

§ 120-170. Findings as to services.

The Commission may not make a positive recommendation unless it finds that the proposed municipality can provide at a reasonable tax rate the services requested by the petition, and finds that the proposed municipality can provide at a reasonable tax rate the types of services usually provided by similar municipalities. In making findings under this section, the Commission shall take into account municipal services already being provided. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-171. Procedures if findings made.

(a) If the Commission finds that it may not make a positive recommendation because of the provisions of G.S. 120-166 through G.S. 120-170, it shall make a negative recommendation to the General Assembly. The report to the General Assembly shall list the grounds on which a negative recommendation is made, along with specific findings.

If a negative recommendation is made, the Commission shall notify the petitioners of the need for a legally sufficient description of the proposed municipality if the proposal is to be considered by the General Assembly. At the request of a majority of the members of the interim board named in the petition, the Commission may conduct a public hearing and forward any comments or findings made as a result of that hearing along with the negative recommendation.

(b) If the Commission determines that it will not be barred from making a positive recommendation by G.S. 120-166 through G.S. 120-170, it shall require that petitioners have a legally sufficient description of the proposed municipality prepared at their expense as a condition of a positive recommendation.

(c) If the Commission determines that it is not barred from making a positive recommendation, it shall make a positive recommendation to the General Assembly for incorporation.

(d) The report of the Commission on a petition shall be in a form determined by the Commission to be useful to the General Assembly. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-172. Referendum.

Based on information received at the public hearing, the Commission may recommend that any incorporation act passed by the General Assembly shall be submitted to a referendum, except if the petition contained the signatures of fifty percent (50%) of registered voters the Commission shall not recommend a referendum. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-173. Modification of petition.

With the agreement of the majority of the persons designated by the petition as an interim governing board, the Commission may submit to the General Assembly recommendations based on deletion of areas from the petition, as long as there are no noncontiguous areas. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-174. Deadline for recommendations.

If the petition is timely received under G.S. 120-163(e), the Commission shall make its recommendation to the General Assembly no later than 60 days after convening of the next regular session after submission of the petition. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§§ 120-175 through 120-179. Reserved for future codification purposes.

**PETITION TO INCORPORATE
THE PROPOSED VILLAGE OF LAKE JAMES
(BURKE COUNTY, NC)**

September 2, 2008

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2009

A BILL TO INCORPORATE THE VILLAGE OF LAKE JAMES

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Village of Lake James is enacted to read:

"CHARTER OF THE VILLAGE OF LAKE JAMES.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Lake James are a body corporate and politic under the name 'Village of Lake James'. The Village of Lake James has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Lake James are as follows:

1780 Boundary to 126 to Canal and back to Canal:

Beginning at a 5/8" rebar as shown on Plat Book 30 page 37 in Burke County Register of Deeds and located on the Duke Power Project Boundary of Lake James, elev. 1200 ft. and also on the McDowell and Burke County Line, said rebar located S 46°09'38" E a distance of 25059.54' from the county line corner located on Dobson Knob with NAD 83 coordinates N-761953.51', E-1114344.03';

thence along the 1200 ft contour Duke Power Project Boundary in a North-easterly direction and along the boundary of 1780 LLC as shown Plat Book 30 page 37 approximately 1692 feet to a 5/8" Rebar with cap located on the 1200 foot contour and located in a cove ;

thence N 25°11'57" E a distance of 270.06' to the SW corner of Delane Moss recorded in deed book 831 page 1684;

thence S 84°59'42" E a distance of 354.42' along the Northern 1780 LLC boundary to a 1.5 inch iron pipe;

thence S 84°40'12" E a distance of 361.38' along the line of Fredrick McMahon as described in DB 952 page 1136;

thence S 85°17'18" E a distance of 296.23' to a concrete monument;

thence S 80°47'05" E a distance of 245.94' to a nail in a poplar and being the SW corner of Dennis Canova;

thence S 87°51'09" E a distance of 415.14' to an iron pipe;

thence S 58°18'07" E a distance of 362.28';

thence S 02°42'25" W a distance of 358.69' to an iron pipe found at a fence corner;

thence S 87°04'44" E a distance of 33.84' to an iron pipe found at a fence corner ;

thence S 02°39'17" W a distance of 344.94' to a 1" iron which is the SW corner of Canova as described in DB 929 page 1762;

thence N 87°22'22" E a distance of 430.67' to the Western boundary of a private r/w with road name Campbell's Trace;

thence continuing in an North Easterly direction along the Northern right of way of Campbell's Trace until it intersects with NC 126 at the entrance to 1780 subdivision;

thence continuing in a South Easterly Direction down the center of NC 126 to where it intersects with the Duke Power Project Boundary 1200 foot contour of Lake James. This intersection is in the vicinity of Mountain Harbor Marina Property;

thence beginning in a South Westerly direction along the Duke Power Project Boundary 1200 foot contour interval to the point and place of beginning.

Benfield's Landing Road to Powerhouse Rd to Laurel Ridge road to 1200' contour to beginning:

Beginning at the intersection of Duke Power Project Boundary 1200' contour interval at its intersection with NC126 at the bridge known as Canal Bridge;

thence going South along the center of NC 126 approximately 450 feet to the center of SR 1234 also known as Benfield's Landing Road;

thence continuing along the center of Benfield's Landing Road in an Easterly Direction approximately 2.2 miles to the intersection of Benfield's Landing Road with SR 1233 also known as North Powerhouse Road;

thence turning in a Northerly Direction and continuing along the center of North Powerhouse Road, crossing the Paddy's Creek Dam, then the Duke Power Lake James Spillway, then crossing the Linville Dam with Power Plant;

thence continuing Northerly along North Powerhouse Road to where the intersection of North Powerhouse Road would intersect with the Eastern Right of Way of Laurel Ridge Court if extended, a private right of way;

thence continuing in a Northerly Direction along the Eastern Right of Way of Laurel Ridge Court to an eip in the Southern lot line of Lot 6 of Laurel Ridge Subdivision recorded in Plat book 16 Page 248;

thence S 53°24'39" E a distance of 64.43' to the SE corner of Lot 6 Plat 16 page 248;

thence N 54°18'11" E a distance of 208.98' to a point in the land leased by Mimosa;

thence continuing in a Western direction along the Northern line of lot 6 to the point where Lot 6 intersects the Duke Power Project Boundary 1200' contour interval as shown on Plat 16 Page 248;

thence in a general Westerly direction along the Duke Power Project Boundary 1200' contour interval, to the point an place of beginning.

East Shores:

Beginning at a Northern Point in Lot 56 of East Shores Subdivision phase 6, as recorded in the Burke County Register of Deeds plat Book 11 Page 39, said point also being the Duke Power Project Boundary 1200' contour interval at it's intersection with lot 56 and property owned by Stephen McCall deed book 665 page 496;

thence proceeding in a Easterly direction to the South Eastern corner of McCall as described in Deed Book 665 page 496;

thence proceeding South along the eastern line of Lot 53 of East Shores Subdivision, a boundary with Ora Lee Love as described in Deed Book 127 page 558 to the South Western corner of Love;

thence turning East along the line of Love and Lots 69A, 70A, and 71A of East Shores to a North Eastern corner of East Shores Subdivision;

thence in a general South Western Direction along the Easternmost boundary of East Shores subdivision to a point where it joins Mimosa Fishing Club Incorporated at the Duke Power Project Boundary 1200 ft contour interval;

thence to close and fully encompass all of East Shores Subdivision by proceeding along the Duke Power Project Boundary 1200 ft. contour interval and the Western Side of East Shores Subdivision to the point and place of beginning.

SouthPointe:

Beginning at the North-Western corner of Lot 63 SouthPointe Subdivision Phase 8 as shown on Plat Book 34 page 56-57, said point also being the Duke Power Project Boundary 1200 ft contour interval;

thence in a North Eastern direction along the Northern boundary of Lots 63, 64 and COS 10 as shown on Plat Book 34 page 56-57 to the North Eastern corner of COS 10, said point being in vicinity of the Southern right away of NC 126;

thence in a South-Eastern direction and parallel with the right of way of NC 126 to a point in the Eastern right of way of Southpointe Drive;

thence in a Southerly direction along the Eastern right of way of Southpointe Drive to the South Western corner of Lot 260 of SouthPointe Subdivision, phase 4, as shown in plat book 25 page 84;

thence N 51°00'42" E a distance of 231.74' to the Northern corner of Lot 260;

thence S 77°00'05" E a distance of 171.58' to a point in the line of Lot 259;

thence N 47°35'38" E a distance of 28.12' to the North Western corner of Lot 259, said point located on the Duke Power Project Boundary 1200 ft contour interval;

thence proceeding in a South Easterly direction along the Duke Power Project Boundary 1200 ft contour interval around and including all phases of SouthPointe subdivision to the point and place of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The Governing body of the Village of Lake James shall be the Village Council, which shall have seven members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election of 2009 provided for by Article IV of the Charter, Clifford Becketl, Charles Hoffman, Steven Lian, Howard Morgan, James Peterson, Denice Rehtiene, and John Stiene are appointed to the Village Council of the Village of Lake James. The temporary officers shall elect persons to serve as Interim Mayor and Interim Mayor Pro Tempore. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial election is held.

"Section 3.3 **Manner of Electing Council; Term of Office.** The qualified voters of the entire Village shall elect the Village Council from the Village at large, and except as provided in this section,

they shall serve four year terms. In 2009, the four candidates receiving the highest number of votes shall be elected to serve four-year terms, and the three candidates receiving the next highest number of votes shall be elected to two-year terms. In 2011, and quadrennially thereafter, three members shall be elected to four-year terms. In 2013, and quadrennially thereafter, four members shall be elected to four-year terms

“Section 3.4. Manner of Electing Mayor; Term of Office; Duties. The Mayor shall be elected from among the members of the Village Council at the organizational meeting after the initial election in November, 2009 and shall serve for a term of two years. Biennially thereafter, a Mayor shall be chosen by the same process for a term of two years. The Mayor shall attend and preside over the meetings of the Village Council, shall advise the Village Council from time to time as to matters involving the Village of Lake James, and shall have the right to vote as a member of the Village Council on all matters before the Council, but shall have no right to break a tie vote in which the Mayor has participated.

“Section 3.5. Manner of Electing the Mayor Pro Tempore; Term of Office; Duties. The Mayor Pro Tempore shall be elected from among the members of the Village Council at the organizational meeting after the election in November, 2009 and shall serve for a term of two years. Biennially thereafter, a Mayor Pro Tempore shall be chosen by the same process for a term of two years. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor and the Mayor Pro Tempore are both absent from a meeting of the Village Council, the members of the Village Council may elect a temporary chairperson to preside in the absence of the Mayor and Mayor Pro Tempore. The Mayor Pro Tempore shall have the right to vote on all matters before the Village Council and shall be considered a member of the Village Council for all purposes.

“Section 3.6. Compensation of the Mayor and Village Council. The Mayor and the members of the Village Council shall be reimbursed for reasonable expenses and may receive a salary and honoraria only upon a majority vote of the qualified voters of the Village who vote on the question in a special referendum.

“ARTICLE IV. ELECTIONS.

“Section 4.1. Conduct of Village Elections. Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

“Section 4.2. Date of Election. Elections shall be conducted in accordance with Chapter 163 of the General Statutes, except that the first election shall be held on November 3, 2009.

“Section 4.3. Special Elections and Referenda. Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE V. ORGANIZATION AND ADMINISTRATION.

"Section 5.1. Form of Government. The Village shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. Village Clerk. The Village Council shall appoint a Village Clerk as provided in G.S. 160A-171, and the clerk shall perform the duties required by law or the Council.

"Section 5.3. Village Attorney. The Village Council shall appoint a Village Attorney as provided in G.S. 160A-173, and the Village Attorney shall serve at the pleasure of the Village Council and be its legal adviser.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. Powers of the Village Council. The Village Council may levy those taxes and fees authorized by general law. An affirmative vote of the majority of the Village Council shall be required to change the ad valorem tax rate from the rate established during the prior fiscal year. Notwithstanding, no tax rate of greater than 7.5 cents per \$100 of assessed valuation may be established without a referendum and a 2/3 affirmative vote by the registered voters of the Village of Lake James casting votes on said referendum.

"Section 6.2. Budget. From and after July 1, 2009, the citizens and property in the Village of Lake James shall be subject to municipal taxes levied for the fiscal year beginning July 1, 2009, and for that purpose the Village shall obtain the Burke County record of property in the area herein incorporated that was listed for taxes as of January 1, 2009. The Village may adopt a budget ordinance for the fiscal year 2009-2010 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the Act insofar as is practical. For fiscal year 2009-2010, ad valorem taxes may be paid at par or face amount within 90 days of the adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. The Village may adopt a budget ordinance for fiscal 2009-2010 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the Act insofar as is practical, but no ad valorem taxes shall be levied for the fiscal year 2008-2009.

"ARTICLE VII. ORDINANCES.

"Section 7.1. Ordinances. Except as otherwise provided in this Charter, the Village of Lake James is authorized to adopt such ordinances as the Village Council deems necessary for the governance of the Village.

East Shores Owners Association, Inc.
PO Box 1723
Morganton, NC 28655

Street Lighting Expense
12/1/2007 through 11/25/2008

12/31/2007	\$ 1,211.17
1/31/2008	\$ 1,211.17
2/29/2008	\$ 1,211.17
3/31/2008	\$ 1,211.17
4/30/2008	\$ 1,211.17
5/31/2008	\$ 1,211.17
6/30/2008	\$ 1,211.17
7/31/2008	\$ 1,211.17
8/31/2008	\$ 1,211.17
9/30/2008	\$ 1,212.46
10/31/2008	\$ 1,224.07
11/25/2008	\$ 1,224.07
TOTAL	\$ 14,561.13

Certified Correct Date
Michael B. Fowler 11/25/2008



[Print] [Close]

From: "Morgan, Howard" <MorganAgency@allstate.com>
To: "Rindy Pell (E-mail)" <rindypell@bellsouth.net>
Subject: VLJ Street Lighting
Date: Tuesday, November 25, 2008 11:56:57 AM

Rindy,

Mike Fowler will send me a copy of lighting for East Shores and Chuck Ord from South Point gave me a total of \$11,503 for last years cost. Their management company has the original bills and he does not have a copy, but should be able to get them if needed.

Thanks
Howard

Howard L. Morgan Jr.
Morgan Agency Inc.
910 Burkemont Ave.
Morganton, NC 28655

Phone (828) 433-7998
Fax (828) 433-7999
www.Allstate.com/MorganAgency



[Print] [Close]

From: "Morgan, Howard" <MorganAgency@allstate.com>
To: "Rindy Pell (E-mail)" <rindypell@bellsouth.net>
Subject: Street Lighting
Date: Thursday, December 11, 2008 2:12:13 PM

Rindy,
I sent Jim Peterson an email and ask him to get the lighting info from South Pointe.
I also talked to Linda Canty 584-4638 from Mallard Pointe and she is mailing me a hard copy of their bill which is about \$1800.00 per year.

Thanks
Howard
Howard L. Morgan Jr.
Morgan Agency Inc.
910 Burkemont Ave.
Morganton, NC 28655

Phone (828) 433-7998
Fax (828) 433-7999
www.Allstate.com/MorganAgency



Sheriff of Burke County

John T. McDevitt

April 14, 2009

(828) 438-5500
(828) 322-5035
(828) 733-1222
Fax (828) 438-5469

Mr. Howard L. Morgan, Co-chair
Mr. John C. Stiene, Co-chair
Village of Lake James Task Force
P.O. Box 511
Glen Alpine, NC 28628

Dear Howard and John,

As we discussed on Friday, December 12, 2008, the Burke County Sheriff's Office will contract with the Village of Lake James (Village) to provide supplemental services when the Village is established.

For the initial year, a half time additional deputy will be assigned to the area during the months of May through October at a cost of \$22,550.00. This amount is based on a current fulltime starting pay rate with fringe benefits and insurance totaling \$40,750.00 plus uniforms and a firearm. We agreed that initially an existing Burke County Sheriff vehicle will be used for the supplemental service hours. As soon as is economically feasible the Village will purchase an additional fully equipped vehicle for the additional deputy at a cost of \$31,716.00.

As the Sheriff of Burke County, I am pleased that we will be working with you to enhance services for our citizens.

Sincerely,


John T. Mc Devitt
Sheriff, Burke County

P.O. Box 511
Glen Alpine, NC 28761
January 15, 2009

Mr. Charles E. Hicks
200 Elk River Road
Elk Park, NC 28622

Re: Zoning and Building Code Enforcement and Development

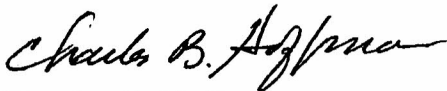
Dear Chuck,

As we discussed, we are pleased that you will be available after March, 2009, to provide Zoning and Building Code services to the proposed Village of Lake James at a rate of \$225 per day. We expect that you will maintain your current certifications as well as obtain any additional certification necessary. Based on the area (3.1 square miles), the current developed property, and projected development within the proposed Village, we anticipate that an average of 20 hours of your time a week will be required.

Our Zoning and Ordinance Committee, as well as our Village Council, looks forward to benefiting from your professional expertise and guidance as the Village matures. Your years of experience, especially within Burke County and specifically at Lake James, will serve us well.

Please indicate your agreement on this letter and return it to the Task Force

Sincerely,



Charles B. Hoffman
Council Member
Proposed Village of Lake James

Confirmed by:



Charles E. Hicks



Republic Services
of NC LLC

Morganton Division
2911 Hwy 18 S.

Morganton
NC 28655

828-437-7940

December 17, 2008

Task Force on Incorporation
PO Box 511
Glen Alpine, NC 28761

RE: Proposed Village of Lake James

Mr. John Stiene:

Thank you for allowing Republic Services of North Carolina LLC D.B.A. GDS to partner with the proposed Village of Lake James.

GDS - Morganton presently services over 4,400 residential subscription customers within Burke County along with six municipalities. Included as our municipal customers are; Town of Glen Alpine, Town of Hildebran, Town of Rutherford College, Town of Drexel, Town of Valdese and Town of Connelly Springs.

With a (5) five year municipal agreement GDS will provide the following service,

- One 95 gallon roll out cart for residents use.
- Once per week curbside pick up.
- Monthly service charge of \$3,120.75 per month, based on 365 residence of the proposed Village of Lake James.
- In the event of village growth, additional residences will be added at a charge of \$8.55 per home per month.
- An annual CPI (Consumer Price Index) increase will be added each July based on previous December CPI.

This rate will be subject to modification after June 30, 2009. GDS will also work with the proposed village on any residence requiring special service.

Again, thank you for allowing GDS to be part of the formation of The Village of Lake James.

Sincerely,

Wade Goossens
Site Manager
GDS - Morganton

Village of Lake James

Budget- Schedule 1

revised as of

REVENUE

	2009-2010	2010-2011	2011-2012	REF.
General Fund				
Local Revenue				
Ad valorem Taxes:				
Property - Note 1	\$ 149,368	\$ 154,180	\$ 158,992	2- A
Vehicles	1,170	1,170	1,170	2-B
Interest- Delinquent Taxes	25	26	27	2-C
Total Local Revenue	\$ 150,563	\$ 155,376	\$ 160,189	
Local Fees				
Street Lighting	27,866	28,912	30,068	2-D
Planning and zoning fees	25,800	24,500	24,500	2-E
Total Local Fees	\$ 53,666	\$ 53,412	\$ 54,568	
County and State-Shared Revenue				
Local sales and use taxes	-	91,000	91,000	2-F
Electric Franchise Tax	-	11,877	12,353	2-G
Video programming services taxes	-	2,000	2,000	2-H
Subtotal	\$ -	\$ 104,877	\$ 105,353	
Grants				
Interest earnings at 1.5%	\$ 225	\$ 1,300	\$ 2,940	
Total Revenues	\$ 204,454	\$ 314,965	\$ 323,050	
Appropriations	<u>172,054</u>	<u>205,047</u>	<u>214,835</u>	
Net surplus	\$ 32,400	\$ 109,918	\$ 108,215	
Accumulated Fund Balance	\$ 32,400	\$ 142,318	\$ 250,533	

APPROPRIATIONS

	2009-2010	2010-2011	2011-2012	REF.
Administration				
Gov. Board- expenses	\$ 2,500	\$ 2,500	\$ 2,500	3-A
Salaries and benefits	15,939	16,656	17,406	3-B
Professional services	20,000	26,250	27,563	3-C
Office expenses	2,000	2,100	2,205	3-D
Furnishings and equipment	3,000	1,300	1,300	3-E
Training and travel	4,000	4,500	5,000	3-F
Dues and subscriptions	5,000	5,000	5,000	3-G
Community events	-	2,500	2,500	3-H
Elections	1,000	1,000	1,000	3-I
	<u>\$ 53,439</u>	<u>\$ 61,806</u>	<u>\$ 64,474</u>	
Street Lighting	<u>\$ 27,866</u>	<u>\$ 28,912</u>	<u>\$ 30,068</u>	3-J
Planning and zoning	<u>\$ 27,000</u>	<u>\$ 27,000</u>	<u>\$ 27,000</u>	3-K
Public Safety	<u>\$ 22,500</u>	<u>\$ 42,441</u>	<u>\$ 44,563</u>	3-L
Solid Waste Disposal	<u>\$ 37,449</u>	<u>\$ 40,998</u>	<u>\$ 44,745</u>	3-M
Nondepartmental				
Insurance	\$ 2,000	\$ 2,000	\$ 2,000	3-N
Town Hall rent	1,800	1,890	1,985	3-O
	<u>\$ 3,800</u>	<u>\$ 3,890</u>	<u>\$ 3,985</u>	
Total Appropriations	\$ 172,054	\$ 205,047	\$ 214,835	

Village of Lake James

Budget- Schedule 2

revised as of December 30, 2008

	2009-2010	2010-2011	2011-2012
2A- Property Taxes			
Note: Does not include any future increase in assessed valuation by Burke County			
Current Assessed from Tax and Resident Summary at \$0.05 per \$100 on \$298,186.533			
	\$ 149,093	\$ 149,093	\$ 149,093
Add Dry Creek 5 houses @\$650,000 Yr2		1,625	1,625
Add Dry Creek 5 houses @\$650,000 Yr 3			1,625
Add Southpointe 5 houses @ \$475,000 Yr 2		1,187	1,187
Add Southpointe 5 houses @ \$475,000 Yr 3			1,187
Add Mallard Cove 1 house- Yr 1 @\$ 550,000	275	275	275
Add 1780 - 5 houses @\$600,000 Yr2		1,500	1,500
Add 1780 - 5 houses- @\$600,000 Yr3			1,500
Other Yr2		500	500
Other Yr 3			500
Total Property Ad Valorem Taxes	\$ 149,368	\$ 154,180	\$ 158,992
2B- Vehicle Tax			
234 perm. residences with 2 vehicles (each \$5,000)	\$ 1,170	\$ 1,170	\$ 1,170
234 x 2 x \$5,000 at \$.05 per \$100			
2C- Late Payment Interest			
5% per month of 2% of taxes for 2 months	\$ 25	\$ 26	\$ 27
2D- Street Lighting Fees- per each development:			
Southpointe, East Shores, Mallard Cove	\$ 27,866	\$ 28,912	\$ 30,068 3-4% inflation
2E- Building and Zoning Fees- estimated			
New Houses (avg. 3,500 sq. ft./ home)			
Yr 1- 16 new homes @ \$1,300/home	\$ 20,800		
Yrs. 2 & 3- 15 new homes @ \$1,300/home		\$ 19,500	\$ 19,500
Other including shoreline protection	5,000	5,000	5,000
	\$ 25,800	\$ 24,500	\$ 24,500
2F- Burke County distributes sales tax revenue based population. There are 535 residents in Village. Based on month ended 4/30/2008 distribution per 6/11/2008 NC Dept of Rev. memo estimated \$180 per resident			
This amount is consistent with the reported revenues of Burke County municipalities for fiscal 2007.			
	?	\$ 96,300	\$ 96,300
2G- Electric Franchise tax			
Est. 234 resident parcels x \$1200 cost per year x 3.09% plus 131 seasonal x 100 per mos. X 4 mos x3.09%			
No new construction included	?	\$ 10,706	\$ 11,134 4% inflation
2H- Other videoprogramming and telecommunications			
	?	\$ 2,000	\$ 2,000

Village of Lake James

Budget- Schedule 3

revised as of December 30,2008

	2009-2010	2010-2011	2011-2012
3A- Governing Board - Reimbursed Expenses	\$ 2,500	\$ 2,500	\$ 2,500
3B- Town Clerk			
40% @ \$35,000 and 4.5% raise per year	\$ 14,000	\$ 14,630	\$ 15,288
Employer's State and Federal Taxes			
No NC unemployment if under \$18,000			
FUTA 6.2%	868	907	948
Soc. Sec. Employer 6.2%	868	907	948
Medicare Employer 1.45%	<u>203</u>	<u>212</u>	<u>222</u>
Total	\$ 15,939	\$ 16,656	\$ 17,406
3C- Professional Services- Attorney and CPA			
On-going inflated 5% per year	\$ 20,000	\$ 26,250	\$ 27,563
3D- Office Expenses			
Ongoing paper, postage, general supplies	\$ 2,000	\$ 2,100	\$ 2,205 5% inflation
(assume 2 mailings a year - \$800 postage)			
3E- Furnishings and Equipment			
Computer, Fax, Printer, Copier Yr1	\$ 3,000	\$ -	\$ -
Funded depreciation		1,000	1000
Office Furnishings- most will be donated	-	<u>300</u>	<u>300</u>
	\$ 3,000	\$ 1,300	\$ 1,300
3F- Training and Travel			
Meetings in NC for mayor and council members	\$ 4,000	\$ 4,500	\$ 5,000
3G- Dues and Subscriptions	\$ 5,000	\$ 5,000	\$ 5,000
3H- Community events			
Town meeting refreshments	\$ -	\$ 500	\$ 500
Town picnic	0	<u>2000</u>	<u>2000</u>
Total	\$ -	\$ 2,500	\$ 2,500
3I- Elections- Burke County Board			
Linville 1	\$ 500	\$ 500	\$ 500 one election per year
Linville 2	<u>500</u>	<u>500</u>	<u>500</u>
Total	\$ 1,000	\$ 1,000	\$ 1,000
3J- Street Lighting- fees to maintained as determined	\$ 27,866	\$ 28,912	\$ 30,068
by development/area			
3K- Zoning and Building Code Enforcement/Development	\$ 27,000	\$ 27,000	\$ 27,000 inflationary costs will be offset by decreased hours necessary in Yrs. 2 and 3

Village of Lake James
Budget- Schedule 3
as of December 30, 2008

3L- Public Safety

Contract with Burke County Sheriff for			
1/2 time deputy -see 12/15/08 letter signed by			
Sheriff John Mc Devitt	\$22,500	\$23,625	\$24,806 5% inflation
Car- 5yr life @ \$30,000		6,000	6,300 5% inflation
Fuel - 700/ miles/week, gas \$3.00/gal, 15 mpg		7,280	7,644 5% inflation
Admin./Misc.	-	5,536	5,813
Net incremental police	<u>\$ 22,500</u>	<u>\$ 42,441</u>	<u>\$ 44,563</u>

2M- Solid Waste Disposal

GDS letter of intent (dated 12/17/08) for existing homes	\$ 37,499	\$ 39,274	\$ 41,238 5% inflation
Add'l.homes as per property tax- 2-A- rate \$8.55/month	\$ -	\$ 1,724	\$ 3,507 5% inflation on 2009 rate of \$8.55/mo.
Total	<u>\$ 37,499</u>	<u>\$ 40,998</u>	<u>\$ 44,745</u>

2N- Insurance

	<u>\$ 2,000</u>	<u>\$ 2,000</u>	<u>\$ 2,000</u>
per Howard Morgan, Insurance Agent			

2O- Town Hall Rent

	<u>\$ 1,800</u>	<u>\$ 1,890</u>	<u>\$ 1,985</u> 5% inflation
Propose to rent space from West End Fire or Lake James Fire -\$150/month			

Morganton News Herald

Advertising Affidavit

Account Number

3377609

**North Carolina Community Newspapers
PO Box 968
Hickory, NC 28603**

Date

August 27, 2008

MORGAN
TASK FORCE ON INCORPORATION
PO BOX 511
GLEN ALPINE, NC 28628

Date	Category	Description	Ad Number	Ad Size
08/27/2008	Legal Notices	notice of Intent to Submit Petition to I	0001002331	2 x 27 L

NOTICE of Intent to Submit Petition to Incorporate the Village of Lake James, Burke County, North Carolina

This is to notify all person, corporations, and other entities that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: DryCreek/Southpointe Subdivision, East Shoes Subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road. The area lake side of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 for Canal Bridge through 1780 Subdivision.

Howard L. Morgan and John C. Stiene
Co-Chairmen
TaskForce on Incorporation
PO Box 511
Glen Alpine, NC 28628
PUBLISH: August 20, 27, 2008

Media General Operations, Inc.

Publisher of

Morganton News Herald

Burke County

Before the undersigned, a Notary Public of Catawba County, North Carolina, duly commissioned, qualified, and authorized by law to administer oaths, in said County and State; that he/she is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a copy of which is attached hereto, was published in the Morganton News Herald on the following dates:

08/20, 08/27/2008

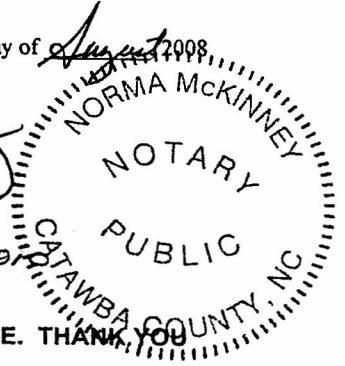
and that the said newspaper in which such notice, or legal advertisement was published, was a newspaper meeting all the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina.

Laura Lefore
Assistant Bookkeeper

Newspaper reference: 0001002331

Sworn to and subscribed before me, this 27th day of August, 2008.

Norma McKinney
Notary Public



My Commission expires: June 26, 2010

THIS IS NOT A BILL. PLEASE PAY FROM INVOICE. THANK YOU

NEWS HERALD
MOORENSTON, NC

AUGUST 20 & 27, 2008

NOTICE of Intent to Submit Petition to Incorporate the Village of Lake James, Burke County, North Carolina

This is to notify all person, corporations, and other entities that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: DryCreek/Southpointe Subdivision, East Shoes Subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, The area lake side of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 for Canal Bridge through 1780 Subdivision.

Howard L. Morgan and John C. Stiene
Co-Chairmen
Task Force on Incorporation
PO Box 511
Glen Alpine, NC 28628
PUBLISH: August 20, 27, 2008

781.0000880

NOTICE of Intent to Submit Petition to Incorporate the Village of Lake James, Burke County, North Carolina

This is to notify all person, corporations, and other entities that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: DryCreek/Southpointe Subdivision, East Shoes Subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, The area lake side of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 for Canal Bridge through 1780 Subdivision.

Howard L. Morgan and John C. Stiene
Co-Chairmen
Task Force on Incorporation
PO Box 511
Glen Alpine, NC 28628
PUBLISH: August 20, 27, 2008

DCA-REC 12/1/08

P.O. Box 511
Glen Alpine, NC 28628
November 25, 2008

Mr. Zachary Lee Nichols
Community Development Planner
North Carolina Division of Community Assistance
4313 Mail Service Center
Raleigh, NC 27699-4313

Dear Mr. Nichols,

Enclosed please find:

1. November 25, 2008 letter to you stating that the Proposed Village will have an ad valorem tax rate of at least 5 cents per \$100 of valuation upon all property within its corporate limits.
2. Copies of notification letters sent to the municipalities of Hickory, Long View, Rhodhiss, and Old Fort. As soon as we receive the returned registered receipts for these letters, these receipts will be sent to you as additional documentation in support of the Proposal for Incorporation of the Village of Lake James.
3. A revised map and supplements to the map which refines the boundary in the Laurel Ridge area to exclude four (4) parcels adjacent to North Powerhouse Road. This revision will then set all the boundaries of the Proposed Village to be greater than three miles from the City of Morganton.

We appreciate the professional efforts of Oliver and you in helping us to move expeditiously in the formation of the Proposed Village of Lake James.

Best wishes for a Happy Thanksgiving.

Sincerely,

Howard L. Morgan, Jr.
John C. Stiene

Howard L. Morgan, Jr. and John C. Stiene
Co-chairs, Proposed Village of Lake James

Cc: Gerry F. Cohen, Director
Bill Drafting Division

Gayle Moses, Staff Attorney
Bill Drafting Division



P.O. Box 511
Glen Alpine, NC 28628
November 25, 2008

Mr. Zachary Lee Nichols
Community Development Planner
North Carolina Division of Community Assistance
4313 Mail Service Center
Raleigh, NC 27699-4313

Dear Mr. Nichols,

In accordance with North Carolina General Statute 120-163 (c), the Proposed Village of Lake James will levy an ad valorem tax of at least 5 cents per \$100 of valuation upon all taxable property within its corporate limits.

Sincerely,

Howard L. Morgan, Jr. and John C. Stiene
Co-chairs, Proposed Village of Lake James

Cc: Gerry F. Cohen, Director
Bill Drafting Division

Gayle Moses, Staff Attorney
Bill Drafting Division

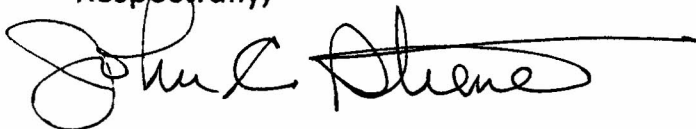
P.O Box 511
Glen Alpine, NC 28628
November 25, 2008

Mayor Rudy Wright
76 N. Center Street
Hickory, North Carolina 28601

Dear Mayor Wright,

This is to inform the County of Burke that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene", with a long horizontal flourish extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

P.O Box 511
Glen Alpine, NC 28628
November 25, 2008

Mayor Norman Cook
Town of Long View
2404 1st Avenue, SE
Long View, North Carolina 28602

Dear Mayor Cook,

This is to inform the County of Burke that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene", with a long horizontal flourish extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

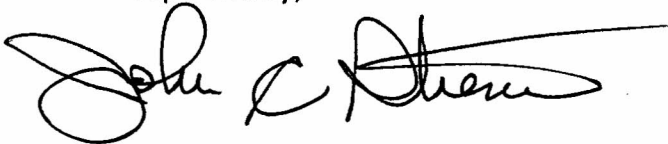
P.O Box 511
Glen Alpine, NC 28628
November 25, 2008

Mayor Rick Justice
Town of Rhodhiss
P.O. Box 40
Rhodhiss, North Carolina 28667

Dear Mayor Justice,

This is to inform the County of Burke that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

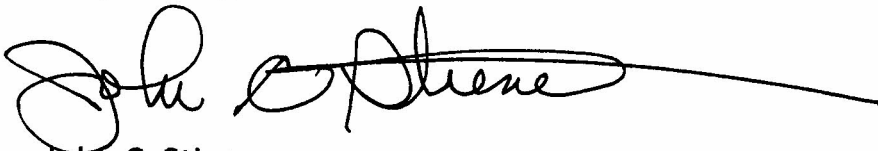
P.O Box 511
Glen Alpine, NC 28628
November 25, 2008

Mayor Garland Norton
38 Catawba Avenue
Old Fort, North Carolina 28667

Dear Mayor Norton,

This is to inform the County of Burke that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene", with a long horizontal flourish extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

Burke Co., NC



BRAXTON
GATE DR



CALLS
LODGE CT

MAP INSERT - SOUTH POINTE (A)
TO EAST SIDGES (B)

Measure

Length: 0.137 miles

DISCLAIMER: The information contained on this page is NOT to be construed or used as a "legal description". Map information is believed to be accurate but accuracy is not guaranteed. Any errors or omissions should be reported to the Burke County Geographic Information Systems Division of the Office of Information Technology. In no event will Burke County be liable for any damages, including loss of data, lost profits, business interruption, loss of business information or other pecuniary loss that might arise from the use of this map or the information it contains.

Burke Co., NC



MAP INSERT (D)
LABREL RIDGE TO EAST SHORES

Measure
Length: 0.051 miles

DISCLAIMER: The information contained on this page is NOT to be construed or used as a "legal description". Map information is believed to be accurate but accuracy is not guaranteed. Any errors or omissions should be reported to the Burke County Geographic Information Systems Division of the Office of Information Technology. In no event will Burke County be liable for any damages, including loss of data, lost profits, business interruption, loss of business information or other pecuniary loss that might arise from the use of this map or the information it contains.

<http://www.webgis.net> Anderson & Associates, Inc. <http://www.andassoc.com>

Burke Co., NC



MAP INSERT (E) CANAL BRIDGE

Measure

Length: 0.055 miles

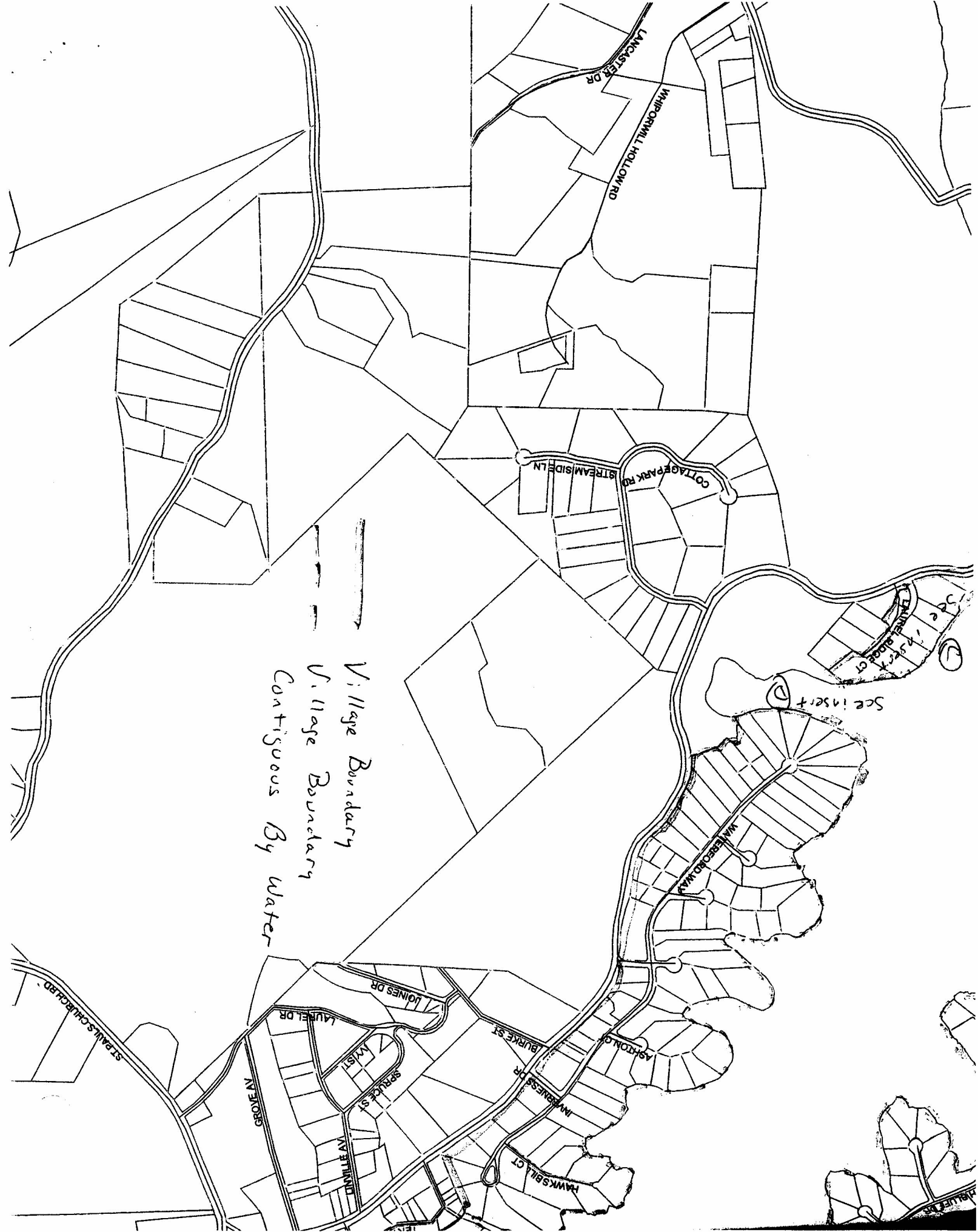
DISCLAIMER: The information contained on this page is NOT to be construed or used as a "legal description". Map information is believed to be accurate but accuracy is not guaranteed. Any errors or omissions should be reported to the Burke County Geographic Information Systems Division of the Office of Information Technology. In no event will Burke County be liable for any damages, including loss of data, lost profits, business interruption, loss of business information or other pecuniary loss that might arise from the use of this map or the information it contains.

<http://www.webgis.net> Anderson & Associates, Inc. <http://www.andassoc.com>



(A)
See
insert

(B)



Village Boundary
Village Boundary
Contiguous By Water

See insert
See insert

LANCASTER DR
WHIPPOHILL HOLLOW RD

COTTAGE PARK RD
STREAMSIDE LN

WILBERBORO WAY

ASHTON DR
JIMMIES DR
BURKE ST
HAWKSBILL CT

GROVE AV
DANVILLE AV
SPRUCE ST
LAUREL DR
LONES DR

ST PAULS CHURCH RD



CORNWALLIS TRL

JRK TRL W

YELLOW FORK TRL E

FERGUSONS FOLLY DR

FIRESTONE TRL

WATSON

MC 128

MAIN GROVE ST

15 TILGNER

16 SSVB

LAUREL AV

SPRUCE ST

BARTLETT ST

LAKE ST

insert Section E

EASTSIDE AV

RIDGEWAY AV

CANAL BROOK

WOOD DUCK LN

COVE RD

DEER

BROOKLYN

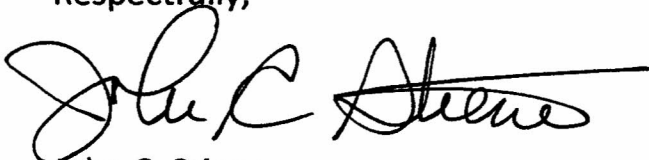
P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Mayor Carl Greene
Town of Connelly Springs
1030 US Highway 70
P.O. Box 99
Connelly Springs, NC 28612-0099

Dear Mayor Greene,

This is to inform the Town of Connelly Springs that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Mayor Richard Propst
Town of Drexel
202 Church Street
P.O. Box 188
Drexel, NC 28619

Dear Mayor Propst,

This is to inform the Town of Drexel that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink that reads "John C. Stiene". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

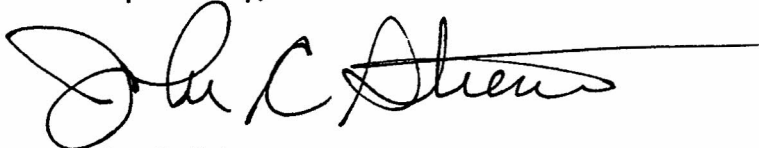
P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Mayor Christine Abernathy
Town of Glen Alpine
P.O. Box 236
Glen Alpine, NC 28628

Dear Mayor Abernathy,

This is to inform the Town of Glen Alpine that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene", with a long horizontal line extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Mayor Wendell Hildebran
202 South Center Street
P.O. Box 87
Hildebran, NC 28690-0901

Dear Mayor Hildebran,

This is to inform the Town of Hildebran that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

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John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

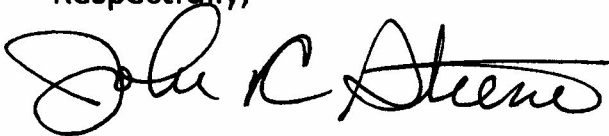
P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Mayor Mel Cohen
City of Morganton
305 East Union Street
P.O. Box 3448
Morganton, NC 28680- 3448

Dear Mayor Cohen,

This is to inform the City of Morganton that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,



John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

Cc: Ms. Sally Sandy
City Manager

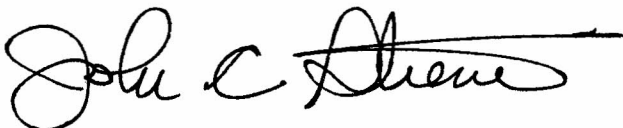
P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Mayor Jimmy Huffman, Sr.
Town of Rutherford College
950 Malcolm Blvd.
Rutherford College, NC 28671

Dear Mayor Huffman,

This is to inform the Town of Rutherford College that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

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John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Mayor Jim Hatley
Town of Valdese
217 Bleyнат Street, NE
P.O. Box 901
Valdese, NC 28690-0901

Dear Mayor Hatley,

This is to inform the Town of Valdese that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene", with a long horizontal line extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Chairman Andrew K. Webb
McDowell County Commissioners
60 East Court Street
Marion, NC 28752

Dear Chairman Webb,

This is to inform the County of McDowell that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene", with a long horizontal line extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

Cc: Charles Abernathy, County Manager

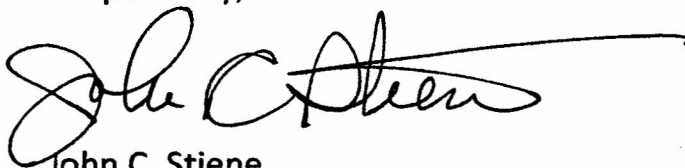
P.O Box 511
Glen Alpine, NC 28628
August 21, 2008

Mayor A. Everette Clark
City of Marion
194 North Main Street
Marion, NC 28752

Dear Mayor Clark,

This is to inform the City of Marion that on or after September 2, 2008, in Raleigh, North Carolina, the Task Force on Incorporation, Village of Lake James will submit a petition for incorporation of the Village of Lake James to the Joint Legislative Commission on Municipal Incorporation pursuant to Article 20 of Chapter 120 of the North Carolina General Statutes. The area to be included within the boundaries is: Dry Creek/ Southpointe subdivision, East Shores subdivision, the area lakeside of North Powerhouse Road including Laurel Ridge to Benfield's Landing Road, the area lakeside of Benfield's Landing Road from North Powerhouse Road to Canal Bridge, and the area in a southwestern direction lakeside of N.C. HWY 126 from Canal Bridge through 1780 subdivision.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Stiene", with a long horizontal flourish extending to the right.

John C. Stiene
Co-Chairman
Task Force on Incorporation, Village of Lake James

David L. Campbell, Chairman
C. Lewis Paschall, Secretary
Bettie C. Hooks, Member



C. Greer Suttlemyre, Director

BURKE COUNTY BOARD OF ELECTIONS
201 West Meeting Street · Morganton, NC 28655

August 28, 2008

Mr. John C Stiene
P O Box 511
Glen Alpine, NC 28628

Dear Mr. Stiene:

This letter is to inform you of the status of petition VILLAGE OF LAKE JAMES MUNICIPAL INCORPORATION in Burke County. Pursuant to North Carolina law, the entire petition has been checked against the registration records of the Burke County Board of Elections and that 308 names out of 332 signatures have been determined to be qualified. The number of eligible registered voters in the Burke County Board of Elections registration records for the proposed Village of Lake James Municipality is 493. The number of certified names is 308, meaning 62.5% of the eligible voters signed the petition.

Sincerely,

David L. Campbell
Chairman
Burke County Board of Elections

ORIGINAL



SSP366AA-1

INITIAL REPORT

Assessment of the Petition

By

The Village of Lake James
(Burke County)

For

Incorporation

Relative to NC G.S. 120-163 and NC G.S. 120-164

By

North Carolina Department of Commerce
Division of Community Assistance



The Division of Community Assistance staff has reviewed the petition for incorporation from the proposed Village of Lake James as it relates to NC G.S. 120-163 and NC G.S. 120-164. These sections of the General Statutes refer to the petition and notification requirements. The requirements of these sections have been satisfied as described below.

G.S. 120-163 (a) requires that a petition be signed by 15% of the registered voters (but by not less than 25 voters) in the area proposed for incorporation. The proposed Village of Lake James has submitted a petition with the required signatures. According to the letters from the Burke County Board of Elections, 308 of 493 (62.5 percent) registered voters have signed the petition.

G.S. 120-163 (b) requires that “the petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt.” G.S. 120-163 (d) requires that the petitioners must present to the Commission the verified petition from the county board of elections. The Burke County Board of Elections has verified the Village of Lake James petition.

G.S. 120-163 (c) requires that the petition must include a number of items. These are:

- A proposed name for the city. The petition of the Village of Lake James does include a proposed name, “The Village of Lake James”.
- A map of the city. The petition of the Village of Lake James does include a map.
- A list of at least 4 services to be provided by the proposed municipality by the 3rd fiscal year. The petition of the Village of Lake James does include a list of 4 proposed services.
- The names of three persons to serve as the interim governing board. The petition of the Village of Lake James includes the names of seven persons to serve as the interim council.
- A proposed charter. The petition of the Village of Lake James does include a proposed charter.
- A statement of the estimated population and population density. The petition of the Village of Lake James does include a statement of the estimated population and population density.
- Assessed valuation. The petition of the Village of Lake James does include a statement on the assessed value of property in the area proposed to be incorporated.
- Degree of development. The petition of the Village of Lake James does include a statement on the degree of development.

- Recommendations as to the form of government and manner of election. The petition of the Village of Lake James does include recommendations as to the form of government and manner of election.
- Budget ordinance with an ad valorem tax levy of at least \$.05 per \$100.00 valuation. The petition for the Village of Lake James does include the required statement on tax levy.

According to G.S. 120-163, the proposed municipality may not contain any non-contiguous areas. Based upon the map submitted with the petition, the proposed boundaries of the Village of Lake James do not contain any non-contiguous areas.

According to G.S. 120-164(a), not later than five days before submitting the petition to the Commission, the petitioners shall notify:

- (1) The board or boards of county commissioners of the county or counties where the proposed municipality is located.
- (2) All cities within that county or counties.
- (3) All cities in any other county that are within five miles of the proposed municipality of the intent to present the petition to the Commission.

The petition includes copies of the notification letters mailed to Burke County, all municipalities within Burke County (Conelley Springs, Drexel, Glen Alpine, Hickory, Hildebran, Long View, Morganton, Rhodhiss, Rutherford College and Valdese), and all municipalities in any other county that are within five (5) miles of the proposed Village (none). Therefore, all required notification letters were sent.

According to G.S. 120-164(b), the petitioners shall also publish, one per week for two consecutive weeks, with the second publication appearing no later than seven days before submitting the petition to the Commission, notice in a newspaper of general circulation in the area proposed to be incorporated of the intent to present the petition to the Commission.

The required notifications were published in The Morganton News Herald newspaper on August 20, 2008 and August 27, 2008, as evidenced by an affidavit of publication.

PHASE 1 REPORT

Assessment of the Petition

By

The Village of Lake James
(Burke County)

For

Incorporation

Relative to NC G.S. 120-166.

By

North Carolina Department of Commerce
Division of Community Assistance



The Division of Community Assistance staff has reviewed the petition for incorporation from the Village of Lake James as it relates to NC G.S. 120-166. Subsection (a) of the section establishes criteria based upon the nearness of the proposed town to existing municipalities and their respective populations. The statute requires that the population values be in accordance with the most recent decennial federal census or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census. These relationships are presented in the following table.

Critical Distance	Population of Neighboring Municipality
1 mile	5,000 to 9,999
3 miles	10,000 to 24,999
4 miles	25,000 to 49,999
5 miles	50,000 and over

There are no municipalities within 5 miles of the proposed boundaries of the Village of Lake James with a population of 50,000 and over. The City of Morganton (population 17,097) is within 4 miles of the proposed boundaries of the Village of Lake James, and therefore does not meet the threshold set in G.S. 120-166(a). The Town of Glen Alpine (population 1,248) is within 3 miles of the proposed boundaries of the Village of Lake James, and therefore does not meet the threshold set in G.S. 120-166(a). There are no municipalities within 1 mile of the proposed Village of Lake James that meet the threshold set in G.S. 120-166(a).

The Commission is not precluded from making a positive recommendation on the petition for incorporation of the proposed Village of Lake James as it relates to G.S. 120-166.

Methodology and Information Sources:

The proposed boundary of the Town of Lake James is estimated based on the boundary description and the boundary map presented with the petition. The boundary for existing municipalities was determined from the most recent digital data available provided by the Burke and McDowell County GIS Departments. A buffer analysis (an ArcView GIS utility) was performed on the proposed boundary that was presented on the map attached to the petition. The buffer area around the Village of Lake James shows on the attached map, municipalities that are within 1, 3, 4, and 5 miles of the proposed municipality boundary and were calculated using ArcGIS software. The population estimates for the nearby municipalities are based on the most recent (2000) decennial census or most recent estimates (July, 2007) of the NC Office of State Budget and Management, State Demographics web site (<http://demog.state.nc.us/>).

Note: 1

§ 120-166. Additional criteria; nearness to another municipality.

- (a) The Commission may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census.
- (b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:
- (1) The proposed municipality is entirely on an island that the nearby city is not on;
 - (2) The proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by the nearby city to the proposed municipality is infeasible or the cost is prohibitive, and the Commission shall adopt policies to implement this subdivision;
 - (3) The nearby municipality by resolution expresses its approval of the incorporation; or
 - (4) An area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160A-31 within the previous 12 months before the incorporation petition is submitted to the Commission but the annexation petition was not approved. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 25.)

Village of Lake James Incorporation Study Nearness to Another Municipality

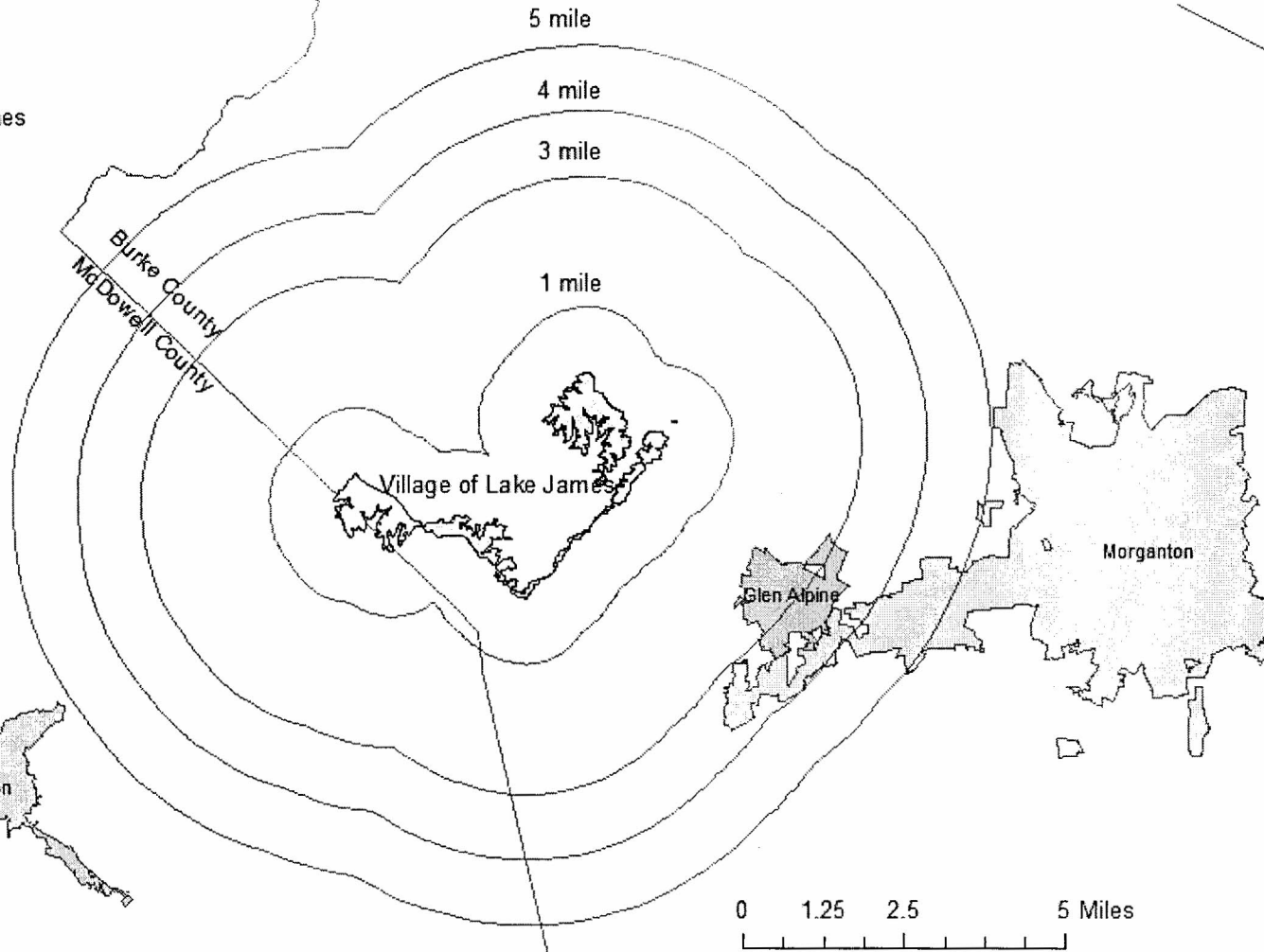
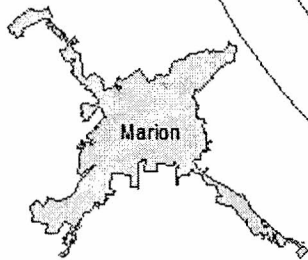
Legend

- 1,3,4,5 Mile Buffer
- Village of Lake James

City Limits

NAME

- Glen Alpine
- Morganton
- Marion



Source: Map based on digital geographic data provided by the GIS Departments of Burke and McDowell Counties. Boundary for the Village of Lake James is approximate based on map presented by petitioners and should be used for review purposes only. Map prepared 12/02/2008

Assessment of Petition
For the Incorporation of the
Proposed Village of Lake James
(Burke County)

AREAS 1, 2, 3, and 4

Relative to NC G.S. 120-167 - 120-170

North Carolina Department of Commerce
Division of Community Assistance



Village of Lake James Phase II Study – Areas 1, 2, 3 and 4

The Division of Community Assistance (DCA) staff has reviewed the petition for incorporating the Village of Lake James (Areas 1-4) (see Map A) relative to G.S. 120-167 through G.S. 120-170. The following discussion addresses each of these sections.

G.S. 120-167 Additional criteria; population.

G.S. 120-167 refers to population and requires that a municipality has a permanent population of at least 100 and a population density (permanent and seasonal) of at least 250 persons per square mile. The Burke County Board of Elections determined that there are 493 registered voters living in the proposed Village of Lake James, exceeding the required minimum permanent population. DCA performed a land use analysis of the subject area and identified a total of 409 dwelling units. The 2000 US Census Bureau data estimates an average of 2.32 persons per household for the Linville Township in Burke County and a housing occupancy rate of 92.3 percent. This suggests that at least 875 persons are likely to reside in a total land area of 2.81 square miles. The total population density of the proposed Village of Lake James is 311 persons per square mile (permanent and seasonal). **It appears that G.S. 120-167 is satisfied.** (see Table 1)

Table 1	
Population	Totals
Square Miles 1,798.24 (total acreage) divided by 640 (acres per square mile)	2.81
Number of Households (Burke County GIS Data)	409
Occupancy Rate (Burke County - 2000 Census)	0.923
Persons per Household (Burke County - Linville Township - 2000 Census)	2.32
Permanent Population 409 (number of households) X 2.32 (persons per HH) X 0.923 (occupancy rate)	875.8
Population per Square Mile 875.8 (permanent pop.) divided by 2.81 (square miles)	311.7

G.S. 120-168 Additional criteria; development.

G.S. 120-168 refers to development and requires that at least 40 percent of the area must be "developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants."

DCA analyzed available county tax information and aerial photographs to determine the degree of development. The land use survey considered parcels as "developed" if they had land use characteristics that were residential, commercial, institutional or governmental, industrial, or dedicated open spaces. Vacant parcels, forested parcels, or agricultural parcels were considered "undeveloped." DCA's analysis indicated that 56.47 percent of the subject area, as presently proposed, is developed (see Table 2 and Map A). **It appears that G.S. 120-168 is satisfied.**

**Table 2 – Areas 1, 2, 3 and 4:
Development Relative to NC G.S. 120-168**

Land Use	Acres
Commercial	5.26
Industrial	0
Institutional/Governmental/Utilities	36.71
Residential	376.21
Open Space	597.22
Undeveloped	782.84
Total acreage	1,798.24
Total Developed Acreage	1,015.4
% Developed	56.47%

G.S. 120-169 Additional criteria; area unincorporated.

G.S. 120-169 requires that none of the area proposed for incorporation may be included within the boundary of another incorporated municipality. DCA compared the proposed boundary for the Village of Lake James with the most recently updated Burke County (GIS) data as well as the North Carolina Department of Transportation (GIS) data and found no evidence that any of the subject area is part of an incorporated municipality. **It appears that G.S. 120-169 is satisfied.**

G.S. 120-169.1 Additional criteria; services.

G.S. 120-169.1(b) requires that the area to be incorporated submit a plan for providing a reasonable level of municipal services. To meet the requirements of this section, the proposed Village of Lake James must propose to provide at least four of the following services:

- 1) Police protection.
- 2) Fire protection.
- 3) Solid waste collection or disposal.
- 4) Water distribution.
- 5) Street maintenance.
- 6) Street construction or right-of-way acquisition.
- 7) Street lighting.
- 8) Zoning.

The proposed Village of Lake James has submitted a sufficient plan for providing four of the eight services listed above. The proposed Village of Lake James will provide police protection, solid waste collection or disposal, street lighting, and zoning. Police protection will be provided through a contract with the Burke County Sheriff's Department. Solid waste collection or disposal will be provided through an agreement with Republic Services of North Carolina LLC D.B.A. GDS. North Carolina Building Code Enforcement and Zoning will be adopted and administered through a contract with Charles E. Hicks of Elk Park, NC. Street lighting will be provided by contract with Duke Energy. **It appears that G.S. 120-169.1(b) is satisfied.**

G.S. 120-170 Findings as to services.

G.S. 120-170 requires that the proposed municipality can provide, at a reasonable tax rate the services requested by the petition (police, solid waste collection or disposal, street lighting, and zoning) and that the proposed municipality can provide at a reasonable tax rate the types of services usually provided by similar municipalities. The proposed Village of Lake James has proposed a \$0.05/\$100 property tax rate, which would generate the estimated property tax revenue of \$142,965 based on an estimated \$298,186,533 assessed valuation and 95.89 percent collection rate. The proposed services and the cost of the services is as follows: police protection will be provided by contract with the Burke County Sheriff's Department (\$22,500), solid waste collection or disposal will be provided through an agreement with Republic Services of North Carolina LLC D.B.A. GDS (\$37,449); North Carolina Building Code Enforcement and Zoning will be adopted and administered through a contract with Charles E. Hicks of Elk Park, NC (\$27,000); street lighting will be provided by contract with Duke Energy (\$27,866–98 lights for 12 months). The total annual cost of services the proposed Village intends to provide is \$114,815. Although the revenue generated from the property tax of \$0.05/\$100 is sufficient to cover the cost of street lighting, the Village intends to pay for that service by imposing a fee on homeowners, which will be paid through the Homeowners' Associations in the proposed Village. Currently, the HOAs provide street lighting as a service but, upon incorporation, the proposed Village will assume this responsibility and collect the fee. G.S. 120-170 provides that "[i]n making findings under this section, the Commission shall take into account municipal services already being provided." As a result of the types of services the Village of Lake James plans to provide and the manner in which those services would be provided, the proposed \$0.05/\$100 property tax rate appears to be reasonable.

The attached Table 3 provides data on municipalities incorporated since 2000 and compares that information with the proposed tax rate and cost of services proposed by the proposed Village of Lake James. In addition, to give some indication of a comparison of the tax rate proposed by the proposed Village of Lake James and that assessed by other similar municipalities, DCA compared the proposed Village of Lake James with the North Carolina Department of Treasurer 2008 Municipal Financial Profiles for municipal populations between 500 and 999 persons. The North Carolina Department of Treasurer indicates in its report an average property tax rate for municipal populations between 500 and 999 persons is \$0.1721/\$100 valuation and average property tax revenue of \$278,329 on an average assessed value of \$166,076,431 at a 97.38 percent collection rate. For the proposed Village of Lake James to generate similar revenues, it would need to levy a property tax rate of \$0.098/\$100 valuation (assuming a total assessment of \$298,186,533 and 95.89 percent collection rate). As stated above, the proposed Village of Lake James can provide the four proposed services at a property tax rate of \$.05/\$100, but would not likely be able to provide additional services without a property tax rate increase. It appears that G.S. 120-170 is satisfied.

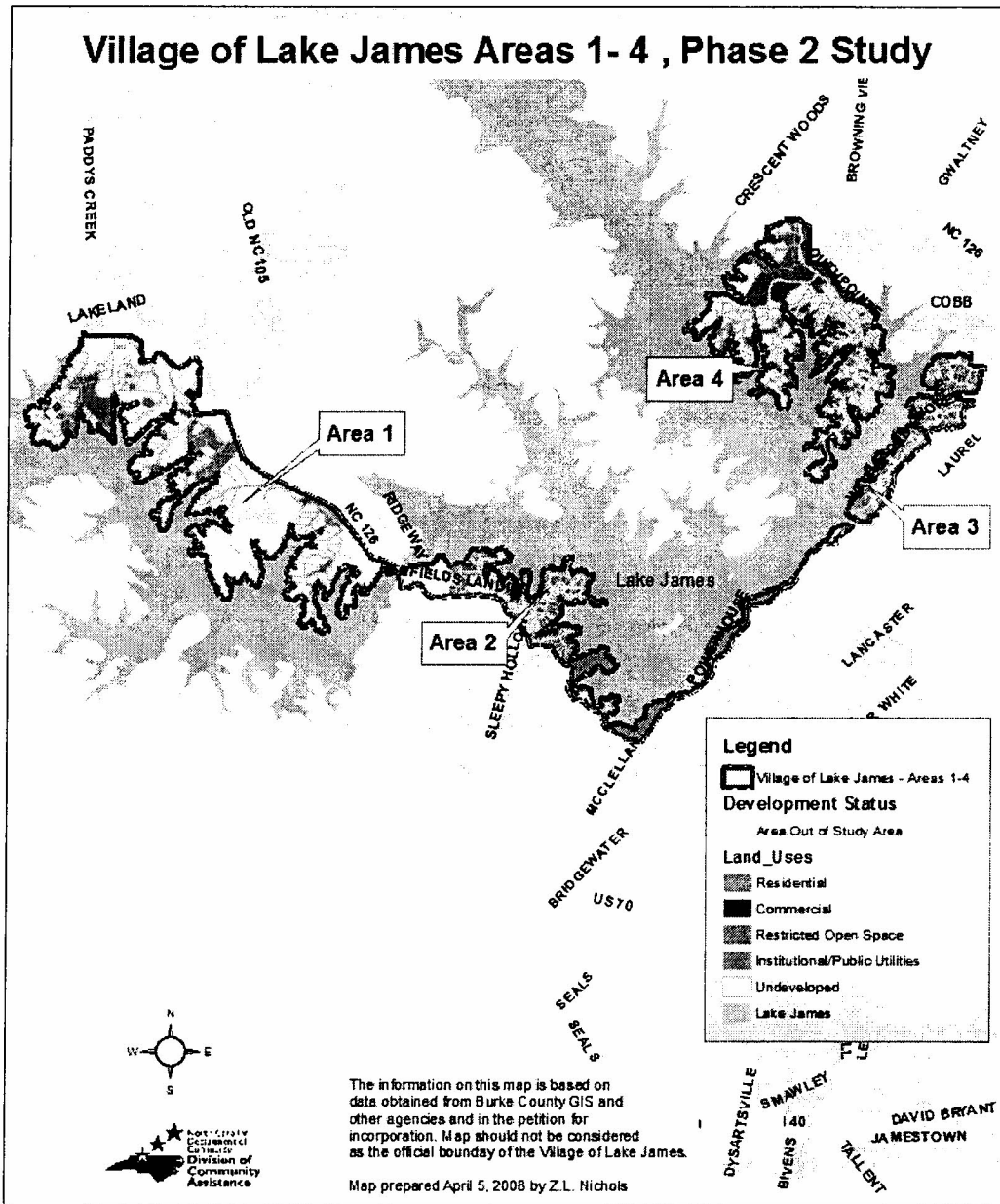
Conclusion

It appears that the proposed Village of Lake James (Areas 1-4) satisfies the requirements of G.S.120-167 through 120-170.

Information sources:

Petition for Incorporation of the Village of Lake James
2000 US Census (referenced 04/09), <http://www.census.gov/>
Burke County GIS Department, Parcel Data and Assessment Data
North Carolina Office of State Treasurer (referenced 04/09)
http://ncdst-web2.treasurer.state.nc.us/lgc/units/D_NB.htm

Map A



1. Sales Tax Revenue Change

Burke County distributes sales tax revenues on a per capita basis. This analysis uses the 2007-08 actual sales tax distribution to show how the distribution would have changed had the Village of Lake James been incorporated at that time.

Current					
County	Municipalities	Population	% of Population	Sales Tax Distribution	
Burke		88,632	74.11%	\$16,359,022	
	Connelly Springs	1,836	1.54%	338,834	
	Drexel	1,917	1.60%	353,835	
	Glen Alpine	1,251	1.05%	230,856	
	Hickory	81	0.07%	14,934	
	Hildebran	1,754	1.47%	323,715	
	Long View	690	0.58%	127,409	
	Morganton	17,061	14.27%	3,149,066	
	Rhodhiss	496	0.41%	91,551	
	Rutherford College	1,300	1.09%	239,867	
	Valdese	4,571	3.82%	843,605	
	TOTAL	119,588		\$22,072,695	
With Incorporation					
County	Municipalities	Population	% of Population	Sales Tax Distribution	Change
Burke		87,757	73.38%	\$16,197,543	(\$161,479)
	Connelly Springs	1,836	1.54%	338,844	\$10
	Drexel	1,917	1.60%	353,841	\$5
	Glen Alpine	1,251	1.05%	230,854	(\$2)
	Hickory	81	0.07%	14,935	\$1
	Hildebran	1,754	1.47%	323,709	(\$6)
	Long View	690	0.58%	127,401	(\$8)
	Morganton	17,061	14.27%	3,149,050	(\$16)
	Rhodhiss	496	0.41%	91,548	(\$3)
	Rutherford College	1,300	1.09%	239,867	\$0
	Valdese	4,571	3.82%	843,603	(\$2)
	<i>Village of Lake James</i>	875	0.73%	161,501	\$161,501
	TOTAL	119,588		\$22,072,695	

2. Powell Bill Allocation Change

Annual state street aid (Powell Bill) allocations are made to incorporated municipalities which establish their eligibility and qualify as provided by G.S. 136-41.1 through 136-41.3. The total amount allocated is seventy-five percent (75%) on the basis of relative population and twenty-five percent (25%) on the basis of relative non-State System local street mileage.

For 2007-08, population-based allocations assumed a statewide qualifying municipal population of 4,881,672 and available funds of \$108,800,679. This created a per capita distribution rate of \$22.29.

Adding the population of the proposed Village of Lake James to the statewide total creates a new population of 4,882,547 and a new per capita distribution rate of \$22.28. The rate change is too small to have a significant impact on the Powell Bill distributions to other Burke County municipalities.

The attached report from the Department of Revenue estimates that the Village of Lake James would receive \$53,000 in Powell Bill funds based on population. The town plans to maintain streets locally; therefore, an additional allocation based on street miles is included in the amount.

3. Other Revenues

Municipalities receive an amount equal to approximately 3.09% of the gross receipts resulting from the sale of power and light within the respective municipality. In addition, municipalities receive a portion of the telecommunications sales tax and the piped natural gas tax. Municipalities receive a share of the excise tax on beer and wine if they hold a referendum approving the sale of beer and wine within the corporate limits.

The Department of Revenue has estimated the amount of revenue that the Village of Lake James would have received in FY 2008-09 from each of these taxes. This information is included in the attached report.

Prepared by:
Brian Slivka, Fiscal Research Division
June 2, 2009

**PRO FORMA ESTIMATE OF REVENUES FOR THE POSSIBLE INCORPORATION
OF LAKE JAMES (BURKE COUNTY)
FOR FISCAL YEAR 2008-09**

POC: Brian Slivka, FRD, NCGA, (919) 733-4910

Proposed Property Tax Rate per \$100 valuation	0.05
Estimated Permanent Resident Population	875
Roads - Locally Maintained	<u>19.8</u>

Pro Forma Revenue, Fiscal Year 2007-08

1. Sales & use tax *	\$215,000
2. Electric power franchise tax***	\$24,000
3. Beer & wine excise taxes *,**	\$4,000
4. Piped natural gas excise tax***	\$0
5. Telecommunications sales tax*,***	\$9,000
6. Powell Bill*	\$53,000
7. Video Programming sales tax *,****	<u>\$6,000</u>
TOTAL	\$311,000

* Items 1, 3, 5, 6, and 7 require a minimum tax rate of \$0.05 per \$100 valuation.

**

A newly incorporated municipality in Burke County would share in the beverage tax revenues only after holding a referendum in which the sales of beer and/or wines are approved.

*** The electric power franchise tax distribution is equal to 3.09% of the gross receipts from the sale, within the corporate limits of the municipality, of electricity. Effective July 1, 1999, the utility franchise tax on piped natural gas was repealed and replaced with the piped natural gas excise tax. Effective January 1, 2002, the telephone franchise tax was repealed and replaced with a sales & use tax.

**** Effective for taxes collected on/after January 1, 2007, an amount equal to the sum of the specified percentages (less supplemental PEG support) of the following sales and use taxes is allocated to counties and municipalities to partially replace repealed local cable television franchise taxes: telecommunications, 7.7%; satellite, 37.1%; cable, 23.6%.

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