

Town of Seven Devils
Thursday, January 11, 2024
Town Council Special Meeting
5:30pm

The Town Council of Seven Devils met for a Special Meeting on Thursday, January 11, 2024 at Town Hall. The purpose of the Special Meeting was to conduct the business of the cancelled Town Council meeting of Tuesday, January 9, 2024.

Attendance included: Mayor Larry Fontaine, Mayor Pro Tem Brad Lambert and Council Members Wayne Bonomo, Bob Bridges and Leigh Sasse.

Also in attendance: Town Manager Johnathan Harris, Jonathan Green – 4 Eggers Law Firm; the minutes were recorded by Town Clerk Hillary Gropp.

INVOCATION

Mayor Fontaine gave the Invocation for the Town Council meeting.

PLEDGE OF ALLEGIANCE

Council members and citizens recited the Pledge of Allegiance.

CALL TO ORDER

Mayor Fontaine called the meeting to order at 5:31pm.

CONTRACT

Town Council members reviewed and discussed the Fee Agreement/Contract for Eggers Law Firm as Town Attorney with Jonathan Green or Stacy Eggers IV as representation.

Member Bridges made a motion to approve the Fee Agreement/Contract; Member Bonomo seconded the motion. All members agreed.

ADOPT AGENDA

Mayor Pro Tem Lambert made a motion to adopt the agenda; Member Sasse seconded the motion. All members agreed.

ADOPT MINUTES

FY24 Mid-year Budget Review – December 6, 2023

Town Council Organization Meeting – December 12, 2023

Mayor Pro Tem Lambert made a motion to adopt the minutes; Member Bridges seconded motion. All members agreed.

CITIZENS COMMENTS

Mary Ballinger – 526 Buckeye Lane – Citizen Ballinger, along with Citizen Henry Williams continue to protest the increase water rate tiers and ask for review, specifically the rate for the tier of 4500+ gallons; commented on the improved website and town notifications being sent are helpful, however suggested better citizen engagement improvements, citing examples from Chapel Hill, NC, as well as other details for response or inquiry; thanked Public Works staff for hard work with road maintenance during winter weather; thanked Police & Fire Departments for their commitment to citizen's safety.

**Clerks Note – Citizen Ballinger provided a written letter with entire public comment to Town Clerk Gropp.*

Stuart Ryan – 184 West Rocky Top – Thanked Public Works for the great job with road during recent winter conditions; commented about the disconnect for citizens, increase in tax bills and the Town's budget and quoted Bob Bridges comments from September 2022 Town Council meeting about the Town maintaining fiscal conservancy while providing services, Citizen Ryan gave a definition of Fiscal Conservative and stated the Town's budget has increased 90% over the past three (3) years; the Town should reduce government spending or tax cuts; inflation is affecting citizens.

Tom Bookstaver – 231 Snowcloud Drive – Encourage citizens to contact the Fire Department if they have concerns about safety during cold weather conditions.

OLD BUSINESS


**A. Reschedule Public Hearing – UDO Amendments & Nuisance Ordinance Updates
February 13, 2024 at 5:00pm**

Due to newspaper deadlines during the holiday season, the public hearing notice was not published as approved at the prior Town Council meeting and needs to be rescheduled.
Mayor Pro Tem Lambert made a motion to set the Public Hearing on February 13, 2024, at 5:00pm;
Member Bonomo seconded the motion. All members agreed.

NEW BUSINESS

A. Resolution 2024-01 – Town Attorney

Discussion and questions by Council members regarding language in Resolution 2024-01 were addressed by Town Attorney Green.



Resolution

Town of Seven Devils
North Carolina
Date: 1/11/2024

**RESOLUTION FOR THE TOWN ATTORNEY TO ACT ON BEHALF OF THE
TOWN OF SEVEN DEVILS
Res. No. 2024-01**

WHEREAS, The Town of Seven Devils ("Town") is a municipal corporation and body politic of the State of North Carolina; and

WHEREAS, pursuant to G.S. §160A-173, the Town appoints an attorney who serves at the Town's discretion as its legal advisor; and

WHEREAS, G.S. §160A-12 provides that all powers, functions, rights, privileges, and immunities of the town shall be exercised by the town council, who shall act by Ordinance or Resolution; and

WHEREAS, the North Carolina Supreme Court in the Town of Midland v. Harrell concluded that the Town Council may delegate the authority to initiate legal proceedings on behalf of the Town, which it may do by Ordinance or Resolution; and

WHEREAS, the authority to file an action on behalf of the Town is jurisdictional in nature and the passing of this Resolution will provide for more efficient operation of the Town and avoid reluctant Defendants from imposing procedural delays and hurdles in the enforcement of Town ordinances and actions which are in the best interests of the Town; and

WHEREAS, the Town Council retains the right to redirect the Town Attorney on any legal matters which are being pursued by the Town as the Town Council deems just, wise, and appropriate:

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Seven Devils, as follows:


1. The Town Attorney is authorized to initiate and pursue legal action on behalf of the Town for the enforcement of ordinances, the collection of fines, fees, taxes, and other sums due and owing to the Town, without need of further Resolution or Ordinance to be adopted by the Town Council; and

R2024-01

2. The Town Attorney is authorized to initiate and pursue legal action for the Town on any matter, including but not limited to imminent domain, contractual breaches, declaratory action, and such other matters as the Town Attorney deems advisable and in the best interests of the Town, without need of further Resolution or Ordinance to be adopted by the Town Council; and

3. The Town Attorney is authorized, in his discretion, to retain outside counsel to represent the Town in various litigation matters as deemed appropriate by the Town Attorney without need of further Resolution or Ordinance to be adopted by the Town Council.

Adopted this the 11th day of January, 2024.


Larry Fontaine, Mayor

ATTEST:


Hillary Gropp, Town Clerk



R2024-01

Member Bonomo made a motion to adopt Resolution 2024-01 as written; Mayor Fontaine seconded the motion. All members agreed – Motion passed with 5 yeas– 0 nay ~CLOSED~

B. Water Shortage Response Plan (WSRP)

Mayor Pro Tem Lambert made a motion to table this item; Member Bonomo seconded the motion. All members agreed. ~Items Tabled~

C. Board of Adjustment – Vacant Seat – Appointment – Mark Cuppernull

Discussion occurred about the vacant seat on the Board of Adjustment due to resignation of John Wells IV – Regular member with term until 12/31/2025. Member Bridges provided a background on Applicant Mark Cuppernull.

Mayor Pro Tem Lambert made a motion to appoint Mark Cuppernull to the Board of Adjustment to fulfill the term of the vacant seat; Member Bonomo seconded the motion. All members agreed. ~CLOSED~

ADMINISTRATIVE UPDATE

Town Manager Harris provided the administrative update:

- *Rebuttal to Citizen Comments* – Stu Ryan, who was no longer present at the meeting; Town Manager Harris stated the Town has received 1.2 million in grant funding that is included in the FY Budget, therefore making the Revenue & Expense appeared inflated; Town Manager Harris encouraged any citizen who is concerned or has questions about the Town's FY Budget to come and speak with him directly for explanations.

- The Lite the Nite celebration had 84 guests.
- The 2nd installment of Powell Bill funding of \$19,973.67 has been received; total received is \$36,204.80.
- Three (3) of the Seven Devils Responders are enrolled in EMT training.
- Avery County has been upgraded to Tier 2 economic development county; Watauga County remains a Tier 2 economic development county.
- Subscribe to the Town's website to stay updated with text/email notifications.
- Seven Devils hosted the Mayor's & Manager's lunch on January 8th.
- Parks & Recreation meeting scheduled for January 11th.
- Planning Board meeting scheduled for January 16th.
- The TDA meeting scheduled is for January 23rd.
- Board of Adjustment meeting scheduled for January 23rd.
- Town Hall will be closed on January 15th for Martin Luther King Day.
- Information is available about the proposed increase in insurance rates at NC DOI.

COMMITTEE REPORTS

Board of Adjustment – No meeting

Planning Board – No meeting

Public Works Committee – No meeting

Public Safety Committee – No meeting

Parks & Recreation Committee - No meeting

TDA - No meeting

ABC Board – *ABC Board member Anne Fontaine reports the sales continue to exceed prior YTD sales.*

Police Report

Fire Report – *Mayor Fontaine stated this fire report is exceptional as presented to the Town Council.*

Financial Report

COUNCIL COMMENTS

Council Member Sasse inquired about the status of the new webcam to be installed.

Town Manager Harris reported the pole has arrived and waiting for the webcam to be delivered. The location of the webcam will be on a town road; however, the coordination will be figured out later to determine where power and internet connections are feasible.

Council Member Bridges replied to Citizen Ryan's from earlier in the meeting and he clarified that the comments made in September 2022 were spoken as Citizen Bridges, well before he ran for election and won a seat on Town Council; he stated the Town Council holds budget workshops in the spring and a mid-year budget review and these are open to the public; Bridges went on to state the Town Council creates a budget and their actions are conscientious with spending, therefore being fiscal conservative, as rarely do they spend all funds in the budget ordinance; they do experience the same pressures of inflation in costs.

Mayor Fontaine continued to speak about the budget and the process of obtaining a grant, and when a grant is awarded to the town, it can only be used for the specific purpose as outlined in the grant application, but the funds make the budget looked like it has ballooned; grant funds are not general funds and paid as a reimbursement after the money is spent on a project, not before. Mayor Fontaine also spoke of the value of employees and the retention of great staff and the necessity of pay during inflation with adequate COLA increases.

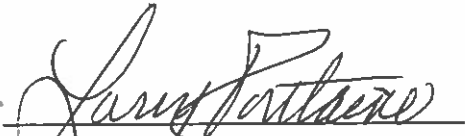
Council Member Bonomo inquired about updating the town seal, as the current seal is outdated with activities that no longer occur in Seven Devils, such as golf and ski. He also suggested the slogan "Discover Our Positive Altitude" be considered replaced with something new. Mayor Fontaine suggested perhaps a contest for this. The town seals are no longer registered, and recently the casual logo has been used more. Council Members Bridges added there might be financial costs to changing the logo to be considered.

Citizen Ballinger inquired about the LED sign at the Community Center to replace or update it. Discussion occurred among Council members about the projected expense of replacement and the difficulties of using the current LED sign, it is too bright, as well as the light pollution it causes for neighbors. Town Manager Harris stated there are many citizen's complaints about the LED sign. Several Council members were in agreement to get rid of the sign and Council should make a motion.

Member Bridges made a motion to turn off the LED sign and remove it; Member Bonomo seconded the motion. All members agreed.

ADJOURN

Member Bonomo made a motion to adjourn; Member Sasse seconded the motion. All members agreed. The meeting was adjourned at 6:25pm.


Larry Fontaine, Mayor


Hillary Gropp, Town Clerk

