

TOWN OF SEVEN DEVILS
Public Hearing FY22 – 5:00pm
Regular Town Council Meeting – 5:30pm
Tuesday, May 11, 2021

In order to maintain the safety of Town residents, Staff and Council Members, the Town Council Meeting will be conducted electronically with Go To Meeting <https://global.gotomeeting.com/join/159050989>

*Public Comments can be emailed to:
publiccomments@sevendevels.net by Noon on Tuesday, June 8, 2021*

Agenda

- 1) INVOCATION
- 2) PLEDGE OF ALLEGIANCE
- 3) CALL TO ORDER – Roll Call
- 4) OPEN PUBLIC HEARING FOR BUDGET ORDINANCE FY22
 - A. Public Comments
- 5) CLOSE PUBLIC HEARING
- 6) RECESS
- 7) CALL TO ORDER FROM RECESS – 5:30pm
- 8) ADOPT AGENDA
- 9) CONSENT AGENDA
 - A. Motion for Consideration
 - (i) Approve minutes of Town Council Annual Retreat – April 8, 2021
 - (ii) Approve minutes of Town Council Meeting – April 13, 2021
- 10) OLD BUSINESS – None
- 11) NEW BUSINESS
 - A. Public Works Committee Recommendation FY22
 - B. Parks & Recreation Committee – Recommendation for OTH Name
 - C. Resolution #2021-03 – Opposing Tree Ordinance Reform
- 12) CITIZENS COMMENTS
- 13) ADMINISTRATIVE UPDATE
- 14) COMMITTEE REPORTS
 - A. Board of Adjustment – April minutes -Public Hearing & Meeting
 - B. Planning Board – No meeting
 - C. Public Works – April minutes
 - D. Public Safety Committee – May minutes
 - E. Parks & Recreation Committee – Included at Item 7) New Business, B. Parks & Rec Comm
 - F. TDA – April minutes
 - G. ABC Board – April minutes
 - H. Tree Committee – No meeting
 - I. Public Safety Department
 - (i) Police Report
 - (ii) Fire Report
 - J. Financial Reports
- 15) COUNCIL COMMENTS
- 16) ADJOURN

FY22 Budget Presentation Highlights:

- Revenues:

 Property Taxes – remains steady - **NO TAX INCREASE!**

 Sales tax – 40% increase

 ABC Revenues 20% increase

 Utility/Franchise/State Shared Taxes 10% increase

 Grant Revenues steady

 Water Sales 8% increase

 Powell Bill Allocation – 25% increase

- Expenditures:

 Paving/gravel/hot patch - \$50,000

 Replace #4 of 7 Water PRV Valves @ \$38,000

 Well house/booster station roof repairs - \$42,000

 Police vehicle - \$40,000

 Personnel – 4% increase – COLA and merit

 Parks & Rec Tech position – funded by TDA

 Reduce Debt Load: \$112,500 reduction – New Town Hall
\$29,342 reduction - Snowcloud loan

**TOWN OF SEVEN DEVILS
TOWN COUNCIL ANNUAL RETREAT
Thursday, April 8, 2021
10:00pm – 5:00pm**

The Seven Devils Town Council met for the Annual Retreat with the format of this meeting being dual Electronic – Go To Meeting #180025557 and In-Person at Town Hall on Thursday, April 8, 2021. Attendance In-Person included Mayor Larry Fontaine, Mayor Pro Tem Brad Lambert & Member Wayne Bonomo. Members Jeffrey Williams & Leigh Sasse attended remotely with visible video display. A quorum was met. Also, present In-Person Town Manager Debbie Powers; the minutes were recorded by Town Clerk Hillary Gropp.

PRAYER/INVOCATION

Mayor Fontaine gave the Invocation for the Annual Retreat.

PLEDGE OF ALLEGIANCE

Council members & staff recited the Pledge of Allegiance.

CALL TO ORDER

Mayor Fontaine called the Annual Retreat to order at 1:01pm.

Each member of Town Council stated their name & announced their presence for Roll Call.

ADOPT AGENDA

Member Williams made a motion to adopt the agenda; Member Bonomo seconded the motion. All members agreed.

REVIEW COUNCIL ACHIEVEMENTS 2019 & 2020

Town Council reviewed achievements of 2019 & 2020. Highlights included:

2019 - New Police Chief Jonathan Harris, Purchase of Skyline Building for New Town Hall, Improved Fire Rating, Final SafetyFest, Town Audit/Tax Collection 99.36%, Town Council changes with Elections/Appointed Member, Annexation-Grandview Restaurant, New Parks & Rec Tech Jewel McKinney, Recognition of David Ehmig, outgoing Council Member.

2020 – Guest speaker Rep. Ray Russell, Town Council Resignations/Appointed Member, COVID19 Financial Impacts/Remote Meetings, ABC Manager Retirement /New, Annexation-Clevon Woods/Clements, Food Drive-Feeding Avery Families, Mid-year Budget Review.

COUNCIL GOALS 2021 – None discussed

DISCUSSION ITEMS

Condition of Seven Devils Road

A letter signed Mayor Fontaine, dated March 17, 2021, was mailed to NCDOT-Watauga County. Summary of the letter express concern and request a meeting with NCDOT about deteriorating culverts, possible erosion & sinkhole repair, with this scope of work being neglected, and delayed repair by the NCDOT. Lack of maintenance of Seven Devils Road presents an increased safety hazard to the citizens & tourists as the only route in/out of the Town. To date, the Town has not received a reply from NCDOT. Mayor Fontaine asked for continued follow up by staff.

Municipal Elections 2021 – November 2, 2021

Candidate filing begins on July 2nd until July 16th.

Town Clerk Gropp provided a review of current terms/expiration for Town Council.

Seven Devils will have 3 Town Council seats open for election and 1 special ballot to fill the final two years of unexpired term due to resignation of former Council Member Ehlinger, currently held by Member Sasse. A candidate forum will be scheduled prior to elections.

NAME	TERM EXPIRES
Town Council: (top two – 4-year term; bottom two – 2-year term)	
Larry Fontaine - Mayor	12/2023
Brad Lambert – Mayor Pro Tem	12/2021
Tina Bailey Wayne Bonomo	12/2021 12/2021
Kay Ehlinger Leigh Sasse	12/2023 12/2021
Jeff Williams	12/2021

Lawsuit Costs

The Town of Boone vs. Watauga County lawsuit concerning local sales tax distribution was dismissed in Superior Court. Town Attorney Angle has submitted an invoice for legal costs. The Town is also responsible for 8% of legal services with an attorney who represented Beech Mountain, Blowing Rock and Seven Devils collectively.

Cottom Update

Mayor Fontaine has been in discussion with Lenny Cottom, owner of Hawksnest about the possibility of donating a portion of his land to the Town. In exchange of the donation to the Town, dialogue has occurred about rezoning to HDR & MDR density for development of his remaining property. The property to be donated is located next to Hanging Rock Villas access road and continues to Otter Creek and is adjacent to existing Town property. It will be used for overflow parking at Otter Falls Trail, as well as parking for Peak Mountain Trail. A survey will be done, to help determine what % land the Town will gain.

The subject property has been viewed in person with Owner, Lenny Cottom and Mayor Fontaine, Public Works Director Aldridge, Town Engineer Poore, Town Manager Powers,

Mayor Pro Tem Lambert, and citizen Jack Byrnes, who serves on the Board of Adjustment, Planning Board & Public Works Committee. Town Engineer Poore estimates 40 additional parking spaces can be developed on the identified area of the vacant parcel.

Mayor Fontaine stated he does not want development of the Peak Mountain Trail until extra parking can be figured for Otter Falls Trail. This is a solution to the problem.

However, Peak Mountain Trail is a goal of the Town, and future parking will be planned at the top of Skiview Road, when trail building begins. The Skiview parking will be ADA compliant, allowing for handicap access, as well as 1st Responder access. This was an agreed upon requirement in the RTP Grant process.

Future steps include: Survey, Donation, Rezoning, Tax Credits to Hawksnest/Cottom, Town meetings to include Planning Board, Public Hearings & Town Council.

New Town Hall property & 180 Shelby Street

New Town Hall - Town Engineer Poore has submitted a soil & erosion permit with NCDEMLR, in preparation of development of the additional 6.526 acreage, that is part of the New Town Hall parcel. Deadline for reply is soon, and if no response, grading can resume on the land.

Shelby Street - A 2.44 acres that is adjacent to the New Town Hall property and bordered by Woodwinds to the other side, is under contract for purchase by Seven Devils TDA for \$70,000. Town Attorney Angle is working on the documents for closing, and Town Manager stated she will sign the contract on behalf of the Town.

Mayor Pro Tem Lambert asked for specific details about the Shelby Street 2.44 acre parcel. "Should Town Council approve the purchase of this parcel?"

Manager Powers stated the TDA is purchasing the parcel and will donate it to the Town. Officially, the TDA is component unit of the Town, with their own Board members, but operates under the umbrella of the Town. TDA has separate funds & audit from the Town of Seven Devils, TDA can choose how to spend the funds, TDA can own property, however, TDA cannot take out a loan. Everything the TDA does, is to benefit the Town.

Mayor Fontaine explained the TDA is required to spend 2/3 on tourism related expenses and limited to 1/3 on capital improvements from Occupancy Tax.

Mayor Fontaine stated since the TDA has exceeded the expenditures on capital improvements, a possible lease agreement might be written between the Town and the TDA for the use of Old Town Hall. This will help to reverse the percentages for an audit.

Mayor Pro Tem Lambert raised concerns because as a Town Council member, he is unaware of the purchase of the Shelby Street 2.44 acre parcel and the lease agreement with TDA as it has never come before the Town Council. His additional concerns are the expenses the Town of Seven Devils will be obligated for in the future, when the initial

decision of purchase originated with the TDA, but never presented to the Town Council for approval. The Town Council should be able to ask questions for some of these decisions.

Mayor Fontaine agreed that many decisions are made with the TDA or the Parks & Recreation Committee, but should filter up to the Town Council for approval. Major action on decisions by these Boards/Committee should be made known to Town Council prior to large expenses that will become the Town's obligation or long term responsibility.

Member Bonomo agreed. Member Williams agreed, and stated that as a Town Council member he does not know all the actions of the Boards/Committees. Mayor Fontaine stated that all Boards/Committees have open meetings, with their own minutes. Mayor Fontaine was in agreement, that ultimately the Town Council is responsible for the Town and has to answer to any questions by the Local Government Commission (LGC).

Additionally, Mayor Fontaine spoke on the topic of New Town Hall land. Parks & Recreation Committee & Citizens Surveys, with TDA funding have resulted in plans to build walking paths, dog park, outdoor music venue and additional parking on the Town Hall land. Further discussion occurred among Town Council about the intended scope of work and tree clearance on the New Town Hall for a future park. Numerous citizens have expressed concern to some Town Council members about the extensive tree removal to allow for 80 parking spaces. Discussion continued as to who's responsibility, who's decision, who's authority allowed this, as well as who designed the plan for the Town Hall land. Although, many decisions have been made with different Boards/Committees and Staff, the plan design has never been presented to or approved by Town Council. Mayor Fontaine stated all work has ceased on Town Hall property until it is filtered up by the proper Board/Committee for Town Council review. Town Council should have knowledge with final approval for all major projects, purchases, expenses, and this becomes effective immediately. All Council members agreed. Mayor Fontaine will personally communicate this update with the TDA and Parks & Recreation Committee. *No motion – No Action Taken.*

BREAK for Town Council & Staff – 5 Minutes – *Meeting not recessed.*

MANAGER ITEMS

Manager Powers gave an updates on the following:

- Skyline Loan – Current balance owed = \$946,875
- Snowcloud Loan – Current balance owed = \$102,801
- Cash position 03/31/21 = 1,709,657 compared to 03/31/2020 = 1,176,990
- Sales Tax Recap
- Real Estate Sales – 2020=61 2019=65 2018=48 2017=42
- Revaluations in 2020 for both Avery & Watauga County
- Short Term Rentals in 7D = 82 total

FY22 Budget Items

Personnel

- Proposed 2% COLA and 2% Merit Increase
- NC Retirement 1.2% Increase for All; General Employees = 11.35% & LEO = 12.10%
- State Retirement Penalty remains until 2026 – 4.98%
- All employees, except 1 enrolled with 5% 401(K) match
- State Health Insurance Plan Increase 4% - January 2022
- Deductible Reimbursement remain the same for employee – Estimated 4
- MedCost Supplemental Insurance – Increase 4%

CIP

- Peak Mountain Trail – RTP Grant to be funded in FY23
- New Town Hall Park delayed to FY23
- Otter Falls Parking delayed to FY23
- New Town Hall Payments – FY22 = \$136,605
- Police Vehicle – Replace 2015 Taurus with SUV 2022 - \$40,000
- Public Works:
 - Snowplow - \$7,000
 - New Chipper - \$51,000 & sell old for appx. \$5 - \$10K
 - Insulate Maintenance Building – 3 Bay doors - \$14,000
 - Water Meters - \$12,000
 - PRV#4 – Grandfather Circle - \$38,000
- Water Department – Repair well house & Booster stations (6) - \$42,000
- Public Works – Streets – Paved/Gravel = \$90,000 – Powell Bill Funds \$30,000

COUNCIL COMMENTS

Member Williams thanked the staff for the efforts of today's Annual Retreat.

Member Sasse asked for an updated about the recent Clevon Woods Annexation. Manager Powers reported, to date, no permit applications have been submitted to the Town.

RECESS

Member Bonomo made a motion to recess until the Town Council meeting on Tuesday, April 13th; Mayor Pro Tem Lambert seconded the motion. All members agreed. The Town Council Annual Retreat recessed at 4:07pm.

Larry Fontaine, Mayor

Hillary Gropp, Town Clerk

**TOWN OF SEVEN DEVILS
REGULAR TOWN COUNCIL MEETING
TUESDAY, APRIL 13, 2021
5:30PM**

The Seven Devils Town Council met for a Regular Meeting and the format of this meeting was dual Electronic – Go To Meeting#586780685 and In-Person at Town Hall on Tuesday, April 13, 2021. Attendance In-Person included Mayor Larry Fontaine, Mayor Pro Tem Brad Lambert, and Members Wayne Bonomo & Jeffrey Williams. Member Leigh Sasse attended remotely with visible video display. Also present In-Person – Town Manager Debbie Powers & Town Attorney Rob Angle. The minutes were recorded by Town Clerk Hillary Gropp.

INVOCATION

Mayor Fontaine gave the Invocation for the 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 5:30pm.

ROLL CALL

Each member of the Town Council stated their name and announced their presence for the Roll Call.

ADOPT AGENDA

Member Williams made a motion to adopt the agenda; Member Bonomo seconded the motion. All members agreed.

CONSENT AGENDA

Adopt minutes of the Public Hearing & Town Council Meeting – March 8, 2021

Member Bonomo made a motion to approve and adopt the minutes; Member Williams seconded the motion. All members agreed.

OLD BUSINESS - None

NEW BUSINESS

A. James Tomberlin – Presentation via Go To Meeting

James Tomberlin - Mountain Region Supervisor with the NC Wildlife Resources Commission – Wildlife Management Division. A presentation was given about the deer population and density in the region, estimating 41-50+ deer per sq. mile. The factors used to assess overabundance include biological, ecological and cultural habits, and the balance between deer habitat and human behavior. Suggestions were given to modify human behavior, therefore possibly altering deer migration.

James Tomberlin also provided suggestions and education on bear activity, and encouraged the Town to become “BearWise” certified as a means of educating owners and visitors to the Town.

For further details or questions about tonight’s presentation go to:

www.ncwildlife.org or www.bearwise.org

No Action Taken ~CLOSED~



RESOLUTION #2021-02

**RESOLUTION BY THE TOWN COUNCIL OF SEVEN DEVILS, NC.,
OPPOSING PROPOSED ZONING REFORM – SB 349/HB 401**

WHEREAS, the legislation proposed in SB 349/HB 401 is of great concern to the Town of Seven Devils and other municipalities within North Carolina; and

WHEREAS, provisions within this legislation would severely diminish or even eliminate the ability of local government to determine what is best for its community or even allow community input or involvement in the decision-making process; and

WHEREAS, development would become uncontrolled and reckless with little to no regard for property-owners rights, not to mention the added stress and demand on a municipality's infrastructure which would eventually lead to declining property values; and

WHEREAS, town officials were elected by their citizens for a reason – to protect and preserve the quality of life that they have come to enjoy; and

WHEREAS, residents could not enjoy a safe and secure, clean and well-kept environment with plenty of amenities offered, if it weren't for the efforts put forth by its elected officials and town staff in utilizing effective and proven zoning processes that include community input; and


WHEREAS, a one-size fits all approach to land use is radical, reckless and irrational – a blatant attack on local land use decision-making; and

WHEREAS, lumping all cities and towns under one statewide zoning mandate would eliminate the single-family zoning designation and allow multi-family housing in every neighborhood with no minimum parking requirements in place to ensure adequate parking for all; and

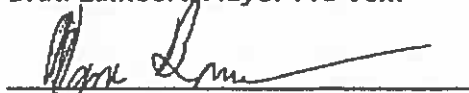
WHEREAS, increased housing does not guarantee more affordable housing nor does this legislation.

NOW, THEREFORE, BE IT RESOLVED that copies of this resolution are sent to our legislative delegation and to the leadership of the North Carolina General Assembly in an effort to stop SB 349/HB 401 from becoming law and to work together to find real ways to advance affordable housing opportunities.

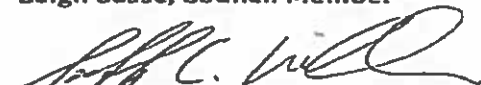
Adopted this the 13th day of April, 2021.


Larry Fontaine, Mayor


Brad Lambert, Mayor Pro Tem


Wayne Bonomo, Council Member


Leigh Sasse, Council Member


Jeffrey Williams, Council Member



Attest:


Hillary Gropp, Town Clerk

Member Bonomo made a motion to approve Resolution #2021-02; Member Williams seconded the motion. All members agreed. **~CLOSED~**

C. Public Works Committee – Terms Extended

Due to unbalanced terms, it was agreed by the Public Works Committee to extend 2 member's terms. Jack Byrnes & Larry Fontaine will serve 1 additional year. Term expires 1/1/2023. **No Action Taken**
~CLOSED~

D. Budget Amendment #3 – FY21

Budget Amendment #3 – FY21

Purpose: To account for the anticipated expense of replacing a failed HVAC unit at New Town Hall.

Increase 10-304-01 (Capital Reserve) by \$8,739.00

Increase 10-420-74 (Capital Outlay) by \$8,739.00

Notes: Cost to replace the HVAC unit which services the west side of New Town Hall (Finance, Police, and Manager offices). Repairs were made by several HVAC companies (Banner Elk Heating & Cooling, Boone Heating & Cooling) with recommendations to replace. Mountain Heritage Systems also inspected the unit. General estimates to replace ranged from \$8,000 to \$10,000. McGuire Mechanical estimate is \$8,739 for Carrier 3.5 Ton 16 SEER Heat Pump System.

This replacement was discussed and approved at the Mid-Year Budget Review on December 1, 2020.

Thank you,

Debbie Powers

Town Manager

Member Bonomo made a motion to approve Budget Amendment #3-FY21; Member Williams seconded the motion. All members agreed. ~CLOSED~

E. Budget Amendment #4 – FY21

Budget Amendment #4 – FY21

Purpose: To account for the expense of replacing Vermeer 12" Brush Chipper for Public Works Department, included in the CIP.

Increase 10-304-01 (Capital Reserve) by \$51,282.00

Increase 10-545-74 (Capital Outlay) by \$51,282.00

Notes:

In previous years, this item was included in the CIP, and \$28,000 had been placed in Capital Reserves. This replacement was discussed at the Mid-Year Budget Review on December 1, 2020 and approved at the Council Annual Retreat on April 8, 2021. |

Thank you,

Debbie Powers

Town Manager

Member Bonomo made a motion to approve Budget Amendment #4-FY21; Mayor Pro Tem Lambert seconded the motion. All members agreed. ~CLOSED~

F. Revised FY22 Spending Plan

Executive Summary			
REVENUE SUMMARY		EXPENDITURE SUMMARY	
General Fund	\$ 2,024,932	General Fund	\$ 2,024,932
Enterprise Fund	\$ 265,197	Enterprise Fund	\$ 265,197
Total	\$ 2,290,129	Total	\$ 2,290,129
Section 1. General Fund		Section 1. General Fund	
Anticipated Revenues By Category-		Authorized Expenditures By Department-	
Ad Valorem Taxes	\$ 807,000	Governing Board	\$ 23,900
State Shared Revenue	\$ 125,360	Administrative	\$ 472,303
ABC Distribution	\$ 120,000	Public Safety	\$ 564,491
Powell Bill Allocation	\$ 30,000	Fire Protection	\$ 108,327
Permits, Fees, and Licenses	\$ 10,000	Zoning	\$ 21,000
Sales Tax	\$ 200,000	Public Works	\$ 451,115
Miscellaneous Revenues	\$ 169,620	Powell Bill	\$ 30,000
Appropriated Fund Balance	\$ 135,952	Tourism Development Authority	\$ 300,000
Government Grants	\$ 54,000	Parks & Recreation	\$ 53,798
Sale of Assets	\$ 5,000		
From Capital Reserve Fund	\$ 68,000		
Occupancy Tax	\$ 300,000		
Total	\$ 2,024,932	Total	\$ 2,024,932
Section 2. Enterprise Fund		Section 2. Enterprise Fund	
Anticipated Revenues By Category-		Authorized Expenditures By Department-	
Water Operating Revenues	\$ 240,797	Water-Operating	\$ 120,725
Water Taps and Connections	\$ 4,000	Non Operating	\$ 32,472
Non Operating Revenues	\$ 400	Capital Outlay	\$ 112,000
From Capital Reserve Fund	\$ 20,000		
Total	\$ 265,197	Total	\$ 265,197

- (i) Public Works Chipper moved to FY21
- (ii) Water Department Telemetry Upgrade included in FY22
- (iii) Include Town Manager in 4% Salary Increase
- (iv) Set Public Hearing Date – FY22 Budget Ordinance – Tuesday, May 11, 2021 at 5:00pm

Member Bonomo made a motion to approve the Revised FY22 Spending Plan and set the Public Hearing; Member Williams seconded the motion. All members agreed. ~CLOSED~

G. TDA Proposal to lease OTH

Discussion occurred among Town Manager Powers, Council Members and Town Attorney Angle about the benefits of a possible lease agreement for OTH between the TDA and Town, as an acceptable use of Occupancy Tax collected by the TDA.

The Town Council of Seven Devils is open to discuss and receive a proposal from the TDA (Tourism Development Authority of Seven Devils, a component of the Town) to consider a financial agreement to lease the community portion of the Old Town Hall building, to further accommodate the promotion and advertising, as directed in the original Resolution dated, September 12, 2005 – *Creating a Tourism Development Authority* and the updated Resolution dated, September 10, 2019 – *Administration of the Tourism Development Authority*. **No Action Taken**

CITIZENS COMMENTS - None

ADMINISTRATIVE COMMENTS

Town Manager Powers provided the following update:

- March 5th – Kevin met with RWA to complete State report. *A leak at Moonlight Trail booster station pressure tank was discovered and repaired.*
- March 8th – Public Hearing for the UDO transition 160A to 160D.
- Trash Violation – 285 Four Diamond Drive - \$100 fine – paid by owner.
- March 12th – New Construction – Overcash – Lot 3, Skiview Road. *Town Attorney Angle said new construction is routinely taking 2+ years for completion in the region. Getting septic approval from the health department is time consuming/difficult and expensive for new builds.*
- March 16th – Public Works Committee met to discuss 2021/Capital equipment/Recap winter.
- March 17th – Mayor letter sent to NCDOT regarding Seven Devils Road. A reply from NCDOT was received today, just prior to TC meeting. Future discussion with NCDOT about culvert replacements.
- March 22nd – New HVAC system installed at NTH.
- March 23rd – Board of Adjustment meeting about Appeal of Administrative decision.
- March 30th – New generator installed at NTH. *Member Williams stated the concrete pad is too short for the generator. The generator measures 8ft and the pad is 6ft.*

Tree Permits – 4

Complaints

Real Estate Closings – 9

Projects – 4

Violation – 1

Fence Permits – 0

Stop Work Orders – 0

COMMITTEE REPORTS

Board of Adjustment – March draft minutes

Planning Board – No meeting

Public Works – March draft minutes

Public Safety Committee – April minutes

Parks & Recreation Committee – March minutes

TDA – No meeting

ABC Board – February minutes

Tree Committee – No meeting

Public Safety Department

Police Report

Fire Report

Financial Report

COUNCIL COMMENTS

Member Bonomo stated with the current real estate “bubble” bringing very high prices and the revaluation of the taxes occurring, this could benefit the Town. Town Attorney Angle stated it is unknown how the county will adjust the recent year increase, in relation to the overall 8 years since the last revaluation.

Mayor Pro Tem Lambert provided information about Covid vaccinations being offered in Avery County. Details will be posted to the Town’s website.

Member Bonomo asked about the current vaccination rate of Town staff; Manager Powers stated 70%.

ADJOURN

Member Williams made a motion to adjourn; Mayor Pro Tem Lambert seconded the motion. All members agreed. The meeting adjourned at 7:40pm.

Larry Fontaine, Mayor

Hillary Gropp, Town Clerk

DRAFT

Public Works Recommendation to Town Council – 2021

After conclusion of the meeting on Tuesday, April 20, 2021, the committee recommends the following projects be completed in FY22:

1. On Wayside Court to Rock Cove (end) - Resurface & Pave the ditch line. Estimate is \$18,600.
2. Pave ditch line from 146 Deepwood Ct. to the intersection of Skyland Drive. Estimate is \$8,200.
3. Alpine Drive – crack fill (hot patch) from intersection of Edgecliff Ln. to end of Alpine, as necessary.
4. Miscellaneous Gravel, as necessary.

Line items #3 and #4, not to exceed \$23,200.

Total expenditures NTE \$50,000.

FY22 Proposed budget is \$90,000 for these items; committee recommends carrying over remaining \$40,000 to FY23 for future projects.

Brad Lambert
Committee Chair

**Town of Seven Devils
Parks and Recreation Committee
Minutes—Regular Session
April 15, 2021**

The Town of Seven Devils Recreation Commission met at 9:00 a.m. in Town Hall on April 15, 2021.

Bob Bridges called the meeting to order and called the roll. Members present were Ed Beck, Bob Bridges, Faye Brock, Anne Fontaine, Kay Lambert, Lee Metzger, and Martha Stearns, Mark Williams was absent. Wayne Bonomo, Larry Fontaine, Brad Lambert, and Debbie Powers also attended.

Kay Lambert made a motion to approve the agenda. Lee Metzger seconded the motion, and it passed. Kay Lambert made a motion to approve the minutes of the March 11, 2021, meeting. Faye Brock seconded the motion, and it passed.

Old Business

Debbie Powers reported that the soft opening of Old Town Hall was April 1. The date for the Grand Opening will be determined later. Eighty residents and fourteen town employees have obtained key fobs. Bob Bridges made three recommendations for Old Town Hall:

- (1) A list of available TV channels should be posted on the wall.
- (2) The telephone number for public safety should be posted in a prominent place.
- (3) There should be an AED machine in the exercise room so that someone doesn't have to leave the room to get one and risk being locked out.

Debbie Powers explained the advantage of leasing Old Town Hall (OTH), excluding the fire department, to the Tourism Development Authority (TDA). Two-thirds of TDA's income is required to be spent on tourism promotion, and one-third on capital improvements. Because of TDA's funding of OTH improvements, TDA has spent more than policy allows on capital improvements. Leasing OTH to TDA would allow TDA to be in compliance with the spending requirements.

Grading at New Town Hall will start as soon as the state issues a permit. The TDA has approved funds to purchase additional property adjacent to New Town Hall (NTH), but the closing has not occurred yet.

New Business

Debbie reported that some new summer activities have been added to the schedule since our last meeting. Dance Aerobics will meet bi-weekly from June 2 through August 25. The topic for the Ranger Workshop on August 12 will be "Weather on the Ones." Lee Metzger has scheduled three advanced pickleball clinics—Serving Strategy on June 23, Doubles Strategy on July 21, and Non-Volley Zone Strategy on August 18.

Two copies of each book to be discussed by the Book Club have been ordered, and they will be available in the Book Exchange.

Rack cards listing all the summer activities have been ordered. They are expected to arrive by the end of April and will go out with the May water bill. They will also be available in NTH and OTH.

There was a discussion about offering art classes. We decided to recommend that Jewel McKinney proceed with scheduling two or three art classes this summer. Art teachers will be responsible for sharing space in OTH with other activities and cleaning up after class.

Anne Fontaine suggesting providing some instruction for using the exercise equipment in the exercise room.

Debbie Powers reported that the TDA has approved funding for refinishing the tennis courts. This will be completed in July or August and will take ten to fourteen days. There will be two tennis courts and four pickleball courts. Tennis lines will be painted white, and pickleball lines will be painted yellow.

We discussed appropriate names for OTH. Kay Lambert made a motion to recommend that it be named Seven Devils Community Center. Lee Metzger seconded the motion, and it passed. We discussed the possibility of adding a Black Bear Park sign at the tennis court/playground area.

Bob Bridges thanked the TDA for their support in funding OTH improvements and recreation activities.

Faye Brock made a motion to adjourn. Martha Stearns seconded the motion, and the meeting was adjourned.

Submitted by

Martha Stearns, Secretary

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021H.B. 496
Apr 5, 2021
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10236-LM-110

Short Title: Property Owners' Rights/Tree Ordinances. (Public)

Sponsors: Representative Boles.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING THAT COUNTIES AND CITIES SHALL NOT ADOPT
3 ORDINANCES REGULATING THE REMOVAL OF TREES FROM PRIVATE
4 PROPERTY WITHOUT THE EXPRESS AUTHORIZATION OF THE GENERAL
5 ASSEMBLY.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Article 6 of Chapter 153A of the General Statutes is amended by
8 adding a new section to read as follows:

9 **"§ 153A-145.9. Limitations on regulating trees.**

10 No county may adopt ordinances regulating the removal of trees from private property within
11 the county's jurisdiction without the express authorization of the General Assembly. Neither the
12 general police powers authorized in this Article nor any other powers authorized in this Chapter
13 or in any other general or local law, except a general or local law expressly authorizing a county
14 to adopt ordinances regulating the removal of trees from private property, shall be used by a
15 county's governing body as the basis for adopting ordinances regulating the removal of trees from
16 private property."

17 SECTION 2. Article 8 of Chapter 160A of the General Statutes is amended by
18 adding a new section to read as follows:

19 **"§ 160A-205.4. Limitations on regulating trees.**

20 No city may adopt ordinances regulating the removal of trees from private property within
21 the city's corporate limits or extraterritorial jurisdiction without the express authorization of the
22 General Assembly. Neither the general police powers authorized in this Article nor any other
23 powers authorized in this Chapter or in any other general or local law, except a general or local
24 law expressly authorizing a city to adopt ordinances regulating the removal of trees from private
25 property, shall be used by a city's governing body as the basis for adopting ordinances regulating
26 the removal of trees from private property."

27 SECTION 3. Any local acts authorizing ordinances regulating the removal of trees
28 from private property and any ordinances that were adopted under that authority before the date
29 this act becomes law shall remain in effect after this act becomes law.

30 SECTION 4. Any ordinances regulating the removal of trees from private property
31 that were adopted before the date this act becomes law without the express authorization of the
32 General Assembly are hereby repealed.

33 SECTION 5. This act is effective when it becomes law.



* D R H 1 0 2 3 6 - L M - 1 1 0 *



RESOLUTION #2021-03

RESOLUTION BY THE TOWN COUNCIL OF SEVEN DEVILS OPPOSING PROPOSED TREE ORDINANCE REFORM – HB496

WHEREAS, The N.C. General Assembly will be considering HB 496, which would require that all local ordinances regulating the removal of trees be permitted only with the express authorization of the General Assembly; and

WHEREAS, The Town Council of Seven Devils believes that trees are an essential and integral part of our mountain town and also believes that the Seven Devils Tree Committee comprised of local residents, can best safeguard the integrity and natural beauty; and

WHEREAS, The preservation of trees is a major objective of our Planning and Zoning Board when considering tree removal requests as specified in our Unified Development Ordinance Tree Protection-Preservation Article 8 – Section 10; and

WHEREAS, The Town Council of Seven Devils believes that trees in our Town increase property values, enhance the economic vitality of business areas, and beautify our community. Furthermore, the Town of Seven Devils is proud to have been designated a Tree City USA by the Arbor Day Foundation; and

WHEREAS, The Town Council of Seven Devils believes that any state legislation restricting local tree ordinances will damage local efforts to preserve our rural mountain character, hamper economic development, and lower residents' quality of life.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Seven Devils is opposed to HB 496 in its entirety and urges our legislators to vote against this bill. Copies of this resolution are sent to our legislative delegation and to the leadership of the North Carolina General Assembly in an effort to stop HB496 from becoming law.

Adopted this the 11th day of May, 2021.

Brad Lambert, Mayor Pro Tem

Wayne Bonomo, Council Member

Leigh Sasse, Council Member

Jeffrey Williams, Council Member

Attest:

Hillary Gropp, Town Clerk

TOWN COUNCIL MEETING

Administrative Update

May 11, 2021

April 2021 items:

1. April 1 – “Soft Opening” of Seven Devils Community Center – good turnout, despite flurries and cold temps
 2. April 8 – Town Council Annual Workshop
 3. April 15 – IT server updates; Manager new desktop
 4. April 21 – Kevin/Debbie meet with NC DOT onsite
 5. April 23 - Rob determines no clear title to 2.44 acres
 6. April 26 – Public Hearing for May construction
 7. April 27 – BOA meeting – determination of May Violation
 8. April 28 – Gov. Cooper issues EO 209 thru June 1, 2021
 9. April 30 – Hillary attends virtual Clerk CEU
 - Update on April 28 tragedy – “Light Up Blue, Remember with Red”
 - Update on NTH property permit from State
 - Update on APR
-
- Tree Permits – 7
 - Projects – 1
 - Fence Permits – 0
 - Complaints – 3
 - Violations – 0
 - STOP WORK ORDERS - 0
 - Real Estate Closings - 9

AGENDA ITEM 13) Complaints

Month	Name	Address	Topic	Resolution
April	Ann Hammond	1778 Skyland Drive	Concerned about fraud on Zillow listing at neighboring property.	Forward to police dept
	Bruce Carlson	363 Thornclyff Drive	Carlson has security cameras and see's activity at neighboring house; concerned about who?&why?	Forward to police dept
	New Owner/Inquiries	Various	Misinformed about the services the Town provides. Ex: Sewer, Septic, Trash pick up	Town only provides H2O

Town of Seven Devils

Board of Adjustment

Public Hearing – Violation Appeal – Lot 25, Alpine Meadows

Monday – April 26, 2021 1:00pm

The Seven Devils Board of Adjustment held a Public Hearing on Monday, April 26, 2021 with the format of this Public Hearing being dual Electronic – Go To Meeting #349867949 and In-Person at Town Hall. Attendance In-Person included Chair Bob Bridges, Members Jack Byrnes, Bobbye Hurlbrink & Faye Brock. Alternate John Wells attended remotely with visible video display and observed. Member Frank Sell and Alternate Bert Valery were absent. A quorum was met. The minutes were recorded by Town Clerk Hillary Gropp.

Appeal Applicants- Owners of Lot 25, Alpine Meadows, Norman & Kay May were in attendance.

Town Manager/Zoning Administrator Debbie Powers attended, but has recused herself from the procedural duties of this matter before the Board of Adjustment.

CALL TO ORDER

Chair Bridges called the Public Hearing to order at 1:00pm.

ROLL CALL

Board of Adjustment members Faye Brock, Bob Bridges, Bobbye Hurlbrink, & Jack Byrnes stated their name and announced their presence for Roll Call.

OPEN PUBLIC HEARING

Member Byrnes made a motion to open the Public Hearing; Member Brock seconded the motion. All members agreed.

PUBLIC HEARING NOTIFICATION

Town Clerk Gropp reported the methods used for notification of the Public Hearing. These include letters to “those with standing”, signage at Town Hall & Lot 25, Alpine Meadows, and publication in the Watauga Democrat on Wednesday, April 14, 2021.

PUBLIC HEARING INTRODUCTION

Prior to the Public Comment, Chair Bridges stated the following Public Hearing Introduction Statement.

“I’d like to make a statement as to the purpose of this Public Hearing, to outline what it is, and what it isn’t.”

This hearing is to give the public an opportunity to speak regarding the particular case to be decided. Anyone can attend. It is not to give the public an opportunity to present

additional evidence that should have been presented at the now closed evidentiary hearing regarding this case.

This Board is required to make its decision solely on the testimony and evidence presented at the evidentiary hearing, where “persons with standing”, and others would incur “special damages” as a result of the Board’s decision, presented evidence and testimony. “Special damages” are those distinct from damages to the public at large.

Anyone who wishes to speak in person at this hearing must sign in prior to speaking. A sign-up sheet is available. Those wishing to speak virtually must identify themselves, and we will add those names to the sign-up sheet.

Each person will be given a maximum time limit of 3 minutes to speak. The clerk will be the timekeeper. I ask each speaker to restrict their comments to the case being decided. Any person who interrupts, disturbs, or obstructs this hearing will be asked to leave.

At the conclusion of this Public Hearing today, the public will be given a “public comment period” of 24 hours to email their comments regarding this case.

The email address is publiccomments@sevendevils.net

PUBLIC COMMENT

Wayne Bonomo – 299 Highcliff Circle, asked the Appeal Applicants their intent for building and the progress to date. Before a thorough answer could be provided by Norman May, Chair Bridges stated questions were not allowed as a public comment. The evidentiary hearing has already closed, however if Wayne Bonomo had a public comment to be made then proceed. Wayne Bonomo wanted to ask specific questions of the Appeal Applicants and Chair Bridges stated that is inappropriate at this time. Chair Bridges asked the Clerk to the Board for notes of the BOA meeting on March 23, 2021. Clerk Gropp replied to **draft minutes** are posted to the Town’s website. The BOA will review and approve the draft minutes at their meeting on Tuesday, April 27, 2021. Wayne Bonomo left the podium.

No other citizens signed up to speak.

ADJOURN

Member Brock made a motion to adjourn the Public Hearing; Member Hurlbrink seconded the motion. All members agree. The Public Hearing adjourned at 1:15pm.

Robert D. Bridges, Chairperson

Hillary Gropp, Town Clerk

**Town of Seven Devils
Board of Adjustment Meeting
Tuesday - April 27, 2021
5:30pm**

The Seven Devils Board of Adjustment met on Tuesday, April 27, 2021 and the format of the meeting was dual format via Electronic – Go To Meeting #331996005 and In-Person at Town Hall.

In-Person attendance included Regular members: Bob Bridges, Faye Brock, Jack Byrnes, Bobbye Hurlbrink. A quorum was met.

Alternate John Wells attended remotely with visible video display and observed. Alternate Bert Valery was absent.

The minutes were recorded by Town Clerk Hillary Gropp.

Town Manager/Zoning Administrator Debbie Powers recused herself from the procedural duties of the "Old Business" for BOA meeting.

Also in attendance:

Norman & Kay May – Appeal Applicants – Lot 25, Alpine Meadows

Roxanne Schwebke Saltman -Variance Applicant – Shoppes of Tynecastle

CALL TO ORDER

Chair Bridges called the meeting to order at 5:30pm.

ROLL CALL

Board of Adjustment members Faye Brock, Bob Bridges, Bobbye Hurlbrink, Jack Byrnes, and Alternate John Wells stated their name and announced their presence for Roll Call.

AMEND AGENDA

Chair Bridges amended the agenda with two items as follows:

Item 4) Old Business, B. Deliberations of May Appeal, *strike and replace* (ii) ~~Parties with Standing Comments/Email Comments~~, amend to Submission of Email Comment as part of Case Documentation.

Item 5) New Business, A. Variance Application/Presentation, *remove Roxanne Schwebke Saltman, Petitioner and add to* (v) Presentation of Facts/Evidence – Debbie Powers, Town Manager/Zoning and Roxanne Schwebke Saltman.

Member Brock made a motion to adopt the amended agenda; Member Byrnes seconded the motion. All members agreed.

4) OLD BUSINESS

A. APPROVAL OF MINUTES – Board of Adjustment – May 23, 2021

Chair Bridges asked to amend the Board of Adjustment minutes, at page 7, included language in italics at the following sentence, A future public hearing will occur and citizens with standing *and other citizens*

will be able to comment, prior to the Board of Adjustment's final decision. Member Byrnes made a motion to approve the amended minutes; Member Brock seconded the motion. All members agreed.

B. DELIBERATIONS OF MAY APPEAL

(i) Call for Additional Disclosure – Zoning Administrator Powers spoke with Watauga County Planning & Inspection about the last inspection, which occurred in December 2020. The next inspection would be for the final CO (Certificate of Occupancy), however it has not been called in at this time. Powers also visited the location, and the driveway is still gravel, but will need to be concrete or asphalt to comply with the CO.

(ii) Submission of Email Comment as part of Case Documentation – NONE

(iii) Discussion

Findings of Fact, Conclusion & Decision

Findings of Fact, Decision, and Order – Norman May, Lot 25, E. Rocky Top

Findings of Fact

1. Mr. and Mrs. May and Town staff met on October 17, 2017 for a Pre-Construction meeting to issue all the necessary Building permits for the Town (Zoning, Grading, Driveway, Water Tap, and Performance Bond).
2. The Town Unified Development Ordinance – Article 10 – addresses all the details of Construction regulations, including the two-year overall time limit for all new residential construction projects.
3. Five email correspondences occurred over the period of April 26, 2018 to December 10, 2020 from the Zoning Administrator to Mr. May, regarding the slow progress of his construction project. These emails were presented at the Evidentiary Hearing on April 27, 2021 as Attachment C.
4. On December 30, 2020, a written, signed complaint was received from Mr. Jeff Williams at 177 East Rocky Top Trail, the next-door neighbor to the May property. The UDO states the Zoning Administrator “shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.”
5. On December 30, 2020, a Violation and Letter was issued in the amount of \$250, due within 30 days (January 31, 2021) and a warning that beyond that date, that an additional \$250 per day Violation would accrue until the project is completed.
6. Mr. May paid the \$250 Violation and has appealed the decision of the Zoning Administrator of the \$250/day Violation that started on February 1, 2021 and accrued until April 27, 2021 (the date of the Board of Adjustment meeting). Total amount accrued is \$21,500.
7. At the March 23, 2021 Board of Adjustment meeting, Mr. May presented his case, stating that the delay was due to inclement weather conditions and unreliable contractors.
8. At the March 23, 2021 Board of Adjustment meeting, the Zoning Administrator stated that 2 other new construction projects had been started after Mr. May's project began and were completed and received their CO within the 2-year limit.

Conclusion:

1. Based on the Application for Appeal, the evidence submitted on March 23, 2021 Board of Adjustment meeting, the Public Hearing on April 26, 2021 receiving no written or verbal comments from persons of

standing, or other citizens, and the above findings of fact, on April 27, 2021 the Board of Adjustment final Conclusion and Decision is as follows:

The Town of Seven Devils Zoning Administrator has exhibited leniency and extended the deadline by 1 year, 3 months with the May permit. Although extreme weather, labor or supply shortages, due to Covid19 can be considered as a factor, when considering an already extended deadline, these too have already been factored in by the Zoning Administrator prior to the issuance of two violations.

Violation #0492 - \$250.00 – Failure to complete construction in 2 years

Violation #0494 - \$250.00 – UDO Construction – Failure to complete in 2 years; \$250 a day fine, Effective February 1, 2021.

On the Application of Appeal, most specifically, How do you think the ordinance or guidelines should be interpreted? Norman May's written reply is, "The Hardship is not the result of the Applicant's own Actions".

Board of Adjustment Chair Bridges disagreed, and stated the Owner's own action brought the hardship by acting as his own general contractor, as well as being an absentee general contractor, not being familiar with the sub-contractors, suppliers, schedules, availability of supplies contributed more to the "failure to complete in 2 years".

To date, the May construction is still not complete.

(iv) Vote

Motion: The Board of Adjustment voted to Affirm the Zoning Administrator decision, with a \$250.00 a day fine to begin on April 28, 2021 at 12:01am.

(5) Yeas (0) Nays

A roll call vote of the Board of Adjustment members is as follows:

Faye Brock-Yea Bob Bridges-Yea Bobbye Hurlbrink-Yea Jack Byrnes-Yea Frank Sell-Yea

C. Decision

A. To determine "when the fine begins?", the Board of Adjustment discussed the Town of Seven Devils Unified Development Ordinance (UDO), Article 17, Section 2 (b), Stay of Further Action.

An appeal by aggrieved parties to the Board of Adjustment stays all actions seeking enforcement of, or compliance with, the decision being appealed.

The Board of Adjustment's interpretation of "stays all action, enforcement of, or compliance with" meant that, once the May's filed an Application for Appeal on February 1, 2021, all fines between the dates of February 1, 2021 and April 27, 2021 (the "appeal period") are not enforceable. It was concluded that there is no fine during the stated "appeal period".

5) NEW BUSINESS

A. VARIANCE APPLICATION/PRESENTATION

(i) Open Evidentiary Hearing

Member Byrnes made a motion to Open the Evidentiary Hearing; Member Brock seconded the motion. All members agreed.

(ii) Opening Statement

Chair Bridges gave the following opening statement.

"This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decision. These rules are different from other types of land use decisions like rezoning cases.

"The board's discretion is limited. The board must base its decision upon competent, relevant, and substantial evidence in the record. A quasi-judicial decision is not a popularity contest. It is a decision constrained by the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference, or opinion.

"Participation is limited. This meeting is open to the public. Everyone is welcome to watch. Parties with standing have rights to participate fully. Parties may present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the board. General witness testimony is limited to facts, not opinions. For certain topics, this board needs to hear opinion testimony from expert witnesses. These topics include projections about impacts on property values and projections about impacts of increased traffic. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

"Witnesses must swear or affirm their testimony. At this time, we will administer the oath for all individuals who intend to provide witness testimony."

(iii) Witness Oath

Town Clerk Gropp administered the Witness Oath to Roxanne Schwebke Saltman – Variance Applicant – Shoppes of Tynecastle.

(iv) Disclosures

Chair Bridges stated the following: *"The parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with an affected person. Does any board member have any partiality to disclose and recusal to offer?"*

No board member replied.

Ex Parte Communication

Chair Bridges stated the following: *"The parties to this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the case outside of the hearing. That may include site visits as well as conversations with parties, staff, or the general public. Does any board member have any site visits to disclose?"*

No board member replied.

Chair Bridges asked the following: *"Does any board member have any conversations or other communications to disclose?"*

No board member replied.

Chair Bridges asked the following: *"Based on the disclosures we've heard from the board concerning partiality and ex parte communications, does any member of the board or any party to this matter have an objection to a board member's participation in this hearing?"*

No board member replied.

(v) Presentation of Facts/Evidence – Debbie Powers Town Manager/Zoning Administrator

Zoning Administrator Powers presented the following:

Findings of Fact:

- The Town of Seven Devils received an Application for Variance from Ms. Roxanne Schwebke Saltman, delivered to Town Hall on March 16, 2021.
- I required Ms. Saltman to deliver a letter from the owner of the Shoppes of Tynecastle, indicating their knowledge and acceptance of her proposed businesses (attached in packet).
- The application was complete and was accompanied by the \$250 fee and all required documentation.
- The property address is Shoppes of Tynecastle LLC at 4501 Tynecastle Highway, Seven Devils, NC 28604. Parcel ID # 1867-00-14-7120. Taxes are current.
- Property is in GB (General Business) on Official Zoning Map of Town of Seven Devils.
- Ms. Saltman verbalized her intent to lease the tower portion of the Shoppes of Tynecastle on the corner for a future distillery, and to place an Airstream RV in the adjacent parking area to accommodate a cigar bar.
- The Town of Seven Devils **Nuisance Ordinance, Article 13 – Recreational Vehicles Prohibited**, was referenced when the inquiry was delivered to the Zoning Administrator. RVs are not allowed in Town limits.
- Discussions with Ms. Saltman included:
 - a. Concerns regarding the RV systems – water intake, grey & black water collection, and disposal of these fluids.
 - b. Process of obtaining ABC permits from the State to operate a distillery; requirements of Town personnel to inspect and sign off on the ABC application (Fire, Zoning, Police) and the building permitting process for the Town of Seven Devils and Watauga County Planning & inspections Department, even though the Shoppes of Tynecastle is physically in Avery County.

Chair Bridges asked the Board of Adjustment members the following: *"Are there any preliminary questions for the Zoning Administrator Powers?"*

Member Brock asked:

Is there a timeline for this to end?" Powers replied there is not an ending or expiration.

Presentation by Roxanne Schwebke Saltman

Saltman explained the plans to open a distillery in the Tower at Shoppes of Tynecastle. Plans also include a cigar lounge to be operated out of an Airstream RV. Saltman provided photos of an Airstream RV as an example. The request for Variance is for a RV to be parked a few days a week, to be used for the cigar

lounge. When it isn't actively being used for the business use, then it will be stored behind the Shoppes of Tynecastle on private property. Details for exact business days, or hours of operation have yet to be determined, as well as sanitary disposal methods of fluids; ex: water, gray & black water.

The timeline to begin operation of the RV Cigar Lounge is set for late May 2021, until TDB in year 2022, when the Cigar Lounge will be relocated to the Tower.

The business plan/lease to open the RV Cigar Lounge at the Shoppes of Tynecastle is in a holding pattern and contingent on the Board of Adjustment decision or approval.

Saltman stated she thinks her Variance Application should be considered and approved, as the RV Cigar Lounge will be located in the Town's GB Zoning, and not Residential Zoning.

Saltman stated she will follow up with Zoning Administrator Powers about proper permits for signage.

Chair Bridges asked the Board of Adjustment members the following: *"Are there any questions for Roxanne Schwebke Saltman?"*

Member Hurlbrink asked *"When will a lease be signed?"* Saltman replied once the Board of Adjustment makes a decision.

Member Hurlbrink asked, *"Are there laws about smoking inside the RV Cigar Lounge?"* and *"Is there proper ventilation?"* Saltman replied that is all approved by a Government Agency.

Member Brock asked, *"Will the RV Cigar Lounge be ADA compliant?"* Saltman replied there will be two ramps to the main floor.

Member Brock asked, *"Will this be a year round operation?"* Saltman replied yes, but not initially.

Chair Bridges asked, *"Is this a legitimate DBA lease/business name?"* Saltman replied yes.

Chair Bridges asked, *"Will the bathroom in the RV Cigar Lounge be functional and used by how many customers?"* Saltman replied, yes, she didn't know how many would actually use the inside bathroom, and disposal of the tank would be needed. But she did not know the frequency of disposal until the RV Cigar Lounge opens. The RV Cigar Lounge will accommodate approximately 18 customers.

(vi) Board of Adjustment Discussion

Chair Bridges spoke about the intent of the Town of Seven Devils Nuisance Ordinance – Article 13 – Recreational Vehicles Prohibited.

13.1 Purpose – Due to the limited size and width and grade of the Town roads, all Recreational Vehicles are prohibited in the Town of Seven Devils town limits.

When considering the language directly relating to width and grade, this suggest the roads within the Residential Zoning, and not Commercial Zoning (GB Zone).

Chair Bridges read 13.4 Exceptions – Commercial work trailers operated by contractors, (i.e., landscapers, tree arborists, handyman, etc.) during normal work hours. Buses or RV's visiting Commercially Zoned (GB Zone) and Recreational Business (RB Zone) businesses during normal business hours.

Chair Bridges asked Zoning Administrator Powers, *"Why doesn't this RV qualify as an exception?"* Powers replied because the RV will remain overnight, and not visiting.

Member Byrnes stated this RV will be moved at times, and not remain permanently in the location.

(vii) Close Evidentiary Hearing

Member Brock made a motion to close the Evidentiary Hearing; Member Byrnes seconded the motion. All members agreed.

****Clerk's Note – All labeled attachments submitted with the agenda or referenced in this Board of Adjustment proceeding are included at the conclusion of these minutes.***

E. Board of Adjustment – Future Dates

(i) Public Hearing

Member Brock made a motion to set the Public Hearing date on Monday, May 24, 2021 at 1:00pm; Member Sell seconded the motion. All members agreed.

(ii) Board of Adjustment Meeting – Tuesday, May 25, 2021 at 5:30pm

ADJOURN

Member Brock made a motion to adjourn; Member Hurlbrink seconded the motion. All members agreed. The meeting adjourned at 6:30pm.

Robert D. Bridges, Chairperson

Hillary Gropp, Town Clerk

**Public Works Committee
Minutes – Regular Meeting
April 20, 2021 10:00am**

The Seven Devils Public Works Committee met on Tuesday, April 20, 2021 and the format of the meeting was dual Electronic – Go To Meeting #900601597 and In-Person at Town Hall. Attendance In-Person were Brad Lambert, Jack Byrnes, Larry Fontaine, Robert Michaud & Barrie Winn. Attending remotely, with visible video display was Mark Williams. Also present were Public Works Director Kevin Aldridge, Town Engineer David Poore and Town Manager Debbie Powers. The minutes were recorded by Town Clerk Hillary Gropp.

CALL TO ORDER – Roll Call

Chair Lambert called the Public Works meeting to order at 10:00am.

Committee members stated their name & announced their presence for Roll Call.

ADOPT AGENDA

Member Michaud made a motion to adopt the agenda; Member Byrnes seconded. All members agreed.

APPROVE MINUTES – March 16, 2021

Vice Chair Fontaine made a motion to approve the minutes; Member Michaud seconded. All members agreed.

CITIZENS COMMENTS - None

OLD BUSINESS

A. Trouble Areas – Salt

Public Works Director Aldridge reported salt is cost prohibitive due to the quantity required to order and lack of storage facility. When considering the limited trouble spots & unknown future winter conditions, his recommendation is to use a larger 7/8 chat only. Committee members agreed.

B. DOT Letter – Seven Devils Road

A letter dated March 17, 2021, signed by Mayor Fontaine was mailed to Travis Chrisawn, NCDOT-Watauga County addressing the concerns of the problem areas on Seven Devils Road, including deteriorating culverts and previous sinkhole repair. Public Works Director Aldridge is to meet with Travis Chrisawn, on Wednesday – April 21st to review all areas of concern and discuss options/expected timelines for repair. NCDOT has confirmed the Town is on the list for paving, however due to delays work will not begin until 2022. Per Public Works Director Aldridge, NCDOT states no available funds for culvert repairs.

NEW BUSINESS

A. Blind Road Analysis and Recommendations

The Roads Assessment-April 2021 was provided by Town Engineer David Poore, after the Blind Road Analysis was performed in April. Overall, the Town roads are in good shape due to previous maintenance.

After discussion among Committee members, the recommended projects to be completed in FY22, and not to exceed \$50,000 are as follows:

- 1) Wayside Ct to Rock Cove Ct (end) - Resurface & pave ditch line - Estimate \$18,600
- 2) 146 Deepwood Ct to intersection of Skyland Dr - Pave ditch line - Estimate \$8,200
- 3) Alpine Dr to Edgecliff Ln - Hot patch/Crack fill - As needed - Estimate - *see below*
- 4) Miscellaneous gravel on Town roads - As needed - Estimate - *see below*

Above items #3 & #4, costs are not to exceed \$23,200

FY22 Proposed budget is \$90,000.

Public Works Committee recommends to rollover \$40,000 to FY23 for future projects.

Discussion of future projects include the waterline replacement at Chestnut Ridge Trail - Edgecliff Lane, as well as Windy Knob Trail - Moonlight Trail. These are both major CIP projects, to include changeover from PVC to ductile iron lines. These projects will require major funding/possible loan. Waterline replacement at Chestnut Ridge Trail should occur before any future paving projects at this location. Town Engineer Poore to obtain cost estimates for waterline repair at Chestnut Ridge for projected CIP in future FY's.

Public Works Director Aldridge reports the NCRWA located a leak at Windy Knob - Moonlight Trail. The leak has been repaired, but will cause the Town's water loss % to increase substantially.

B. Ditches

Public Works Department is currently performing spring clean up of ditches. Clearing out debris, leaves and chat will improve drainage. However, as noted by Town Manager Powers the depth of ditches cannot be altered due to the narrow ROW's & infrastructure of roads. When a heavy rainfall happens, it will always challenge the current drainage conditions, but for typical rains, the ditches are functional as built.

COMMITTEE COMMENTS

Vice Chair Fontaine attended the recent HCCOG meeting, and provided updates on two reports of concern to municipalities.

- Any requests for funding increases of the Powell Bill will require legislature action.
- A 2 year study of NC towns, with population less than 5000, showed a rating of "C" for infrastructure, which is not acceptable. The goal is to increase the rating to a "B",

which will attract industry. \$20 billion needs to be gained in the next 10 years. This can be attributed to budget shortfall of NCDOT funds. Of concern is the decreased collection of gas tax, due to Covid. Options to increase funding include elimination of trade in tax at dealerships, but tax on entire purchase cost, charging a fee for electric/hybrid vehicles, taxing Ecommerce, adding a weight base fee that will impact the trucking industry, transition from the gas tax to adding mileage based user fee, and increasing the NC sales tax.

ADJOURN

Member Michaud made a motion to adjourn; Member Winn seconded. All agreed. The meeting adjourned at 11:15am.

The Public Works Committee will meet on Tuesday, May 18, 2020 at 10:00am.

Brad Lambert, Chairman

Hillary Gropp, Town Clerk

Seven Devils Public Safety Committee
May 4, 2021

MINUTES

Members Present: Jack Byrnes, Wayne Bonomo, Brad Lambert, Dick Nelson,
Kay Lambert

Others Present: Debbie Powers, Town Manager and Bobby Powell, Fire Chief

The meeting was called to order at 5:35pm by Jack Byrnes, Chairman.

Brad Lambert moved to accept the Agenda as amended. Wayne Bonomo seconded.
All agreed.

Brad Lambert moved to approve the April 6, 2021 Minutes. Wayne Bonomo seconded.
All agreed.

Old Business

- * TDA is purchasing a 9-1-1 telephone for the Community Center with Spectrum service.
- * A key fob has been attached to the AED in the front entry room under the water tanks' board. This will allow someone reentry into the Exercise Room to render aid with the AED, therefore not requiring another AED.
- * An ice maker has been purchased and installed At Public Works (purchased through a grant from PBSO).
- * Wayne Bonomo reported nothing new with the Seven Devils Emergency Shelter. Wayne was asked to contact Red Cross to see if they can do a presentation about Emergency Shelters and to see if a new training course can be done for volunteers.

New Business

- * Kay Lambert suggested a donation be made (with a PBSO grant) to the Watauga County Sheriff's Department in memory of Chris Ward and Logan Fox. Dick Nelson moved \$500 be donated in their memory. Wayne Bonomo seconded. All agreed.
- * Dick Nelson expressed concern about the Hwy 105 S/Seven Devils Road intersection and that there needs to be a traffic light. Debbie Powers is aware of the situation and addressing the powers-to-be regularly; unfortunately the DOT isn't about to do anything for the foreseeable future.
- * Dick Nelson suggested we think of ways to raise funds without the SafetyFest. Currently funds are raised through merchandise sales and donations to PBSO.
- * Dick Nelson suggested a television be placed in the front entry room of the Community Center for people to gather, sit and watch. Kay Lambert said she'd pass on his suggestion. It was pointed out that there are two televisions in the Multi-Purpose Room.

There will not be another Public Safety Committee Meeting until September 2021 unless called by Chairman Jack Byrnes.

The meeting was adjourned at 6:15pm.

**Town of Seven Devils
Tourism Development Authority Meeting
April 27, 2021**

The Town of Seven Devils Tourism Development Authority met in regular session on Tuesday, April 27, 2021 at New Town Hall. Chair Anne Fontaine, Member Tom Gidley, Member Richard Blonshine, Town Manager Debbie Powers, Finance Officer Helga Sappington and Parks and Rec Tech Jewel McKinney were present. Member Leigh Sasse joined the meeting remotely via GoToMeeting ID: 197534357.

Call to Order

Chair Anne Fontaine called the meeting to order at 9:00 am.

Adopt Agenda and Approve Minutes

Member Richard Blonshine made a motion to adopt the agenda and to approve the minutes from the February 23, 2021 meeting. Member Tom Gidley seconded the motion. The motion passed unanimously.

Citizen Comments

Brad Lambert and Wayne Bonomo were present via GoToMeeting. No comments were made.

Old Business

- Parks and Rec Tech Jewel McKinney presented the new Rack Cards to the TDA members.
- There was a discussion about the purchase of an additional AED for OTH as requested by the Parks & Rec Committee. The TDA members decided against it.
- Town Manager Debbie Powers presented estimated costs for a 911 phone and landline at OTH as requested by the Public Safety Committee. Member Tom Gidley made a motion to approve funding; Member Leigh Sasse seconded the motion; all approved. Motion carried.
- Debbie presented estimated costs to repair the gutters at OTH. Member Richard Blonshine made a motion to approve; Member Leigh Sasse seconded; all approved. Motion carried.
- Parks and Rec Tech Jewel McKinney presented estimated costs for four portable Pickleball nets and a storage shed for such to encourage tourism and visitors. Member Richard Blonshine made a motion to approve funding; seconded by Member Tom Gidley; all approved. Motion carried.

New Business

- Town Manager Debbie Powers suggested the Town become a BearWise Community to educate tourists and visitors about bears in the area as suggested by the NC Wildlife Commission. Flyers about bear education will be distributed with the water bill. Doorhangers will be distributed to the rental companies and will also be available at Town Hall. Member Tom Gidley made a motion to approve funding for doorhangers (\$260.00); Member Richard Blonshine seconded the motion; all approved. Motion carried.
- There was a discussion about a commercial lease agreement of OTH Community Center to promote tourism and visitors. The TDA members will revisit this discussion in their next meeting.
- There was a discussion about the need for a landscape architect for the NTH property development to promote tourism and visitors. Town Manager Debbie Powers will present quotes at a future TDA meeting.

Email/Invoice Approvals:

- None.

Financial Statement

- Member Tom Gidley made a motion to approve the financial statements; Member Richard Blonshine seconded; all approved. Motion carried.

Board Comments

- Town Manager Debbie Powers informed the TDA members that the 2.44-acre property under contract could not convey a clear title, so the contract would be withdrawn, per Town Attorney advice.

Adjourn

At 10:25 am, Member Richard Blonshine made motion to adjourn; Member Tom Gidley seconded; all approved. Motion carried.

High Country ABC Board Meeting Minutes

April 15, 2021

The High Country ABC Board held its monthly meeting on Thursday, April 15, 2021 at 4:30 pm via ZOOM. Board chair Donna Dicks, board member Anne Fontaine, alternate board member Robin Dunn, alternate board member Leigh Sasse, and general manager Bonnie Betz were present. Alternate board member David Miller was absent.

Before the meeting, Board chair Donna Dicks read the following conflict of interest statement; "In accordance with 18B-201, it is the duty of every board member to avoid both conflicts of interest and appearances of conflicts. Does any board member have any conflicts of interests or appearances of conflicts with matters coming to the board today?" Hearing none, the meeting continued.

Upon motion duly made by Anne Fontaine, seconded by Winston Ammann, it was voted to approve today's agenda. Upon motion duly made by Anne Fontaine, seconded by Winston Ammann, it was voted to approve last month's minutes.

General manager Bonnie Betz stated that total sales for the month of March were \$336,859. This was up \$63,451 over March 2020 sales of \$273,408. Broken down, retail sales for March 2021 were \$262,579, up \$15,318. Mixed beverage sales for March 2021 were \$74,280, up \$48,133 over last year sales of \$26,147.

Bonnie Betz utilized the spreadsheet that had been sent from the accountant's office showing how money was being spent each month in each category and showing which line items need budget amendments. The following budget amendments were made accordingly:

Dues & subscriptions increased \$50

Telephone increased \$360

Operating supplies increase \$1600

The offsetting decreases were:

Travel decreased \$1000

Postage decreased \$1010

Upon motion duly made by Winston Ammann, seconded by Anne Fontaine, it was voted to approve the budget amendments to the budget for the year ending June 30, 2021. The Board agreed to add the topic "Budget Amendments" to each month's agenda.

Bonnie Betz stated the three towns will be receiving their third quarter distributions of \$25,000 each for the fiscal year.

Old Business:

Bonnie Betz followed up and determined that the Commission's deadline for the final budget is July 1st. The proposed budget should be set by June 1st. It will go to the Commission and the three towns, and all budget amendments must be completed by June 1st. The Public hearing for the 2021-2022 budget will precede the June Board meeting, and each town representative must be present. The Board will vote on the budget during their regular meeting. Once approved, the final budget will be sent to the Commission, the three towns and to the CPA before July 1st.

Bonnie Betz announced that new store hours were implemented April 1, 2021. The new store hours for the public are Monday-Saturday 10:00 am to 7:00 pm. All social media has been updated with the changes in hours.

New Business:

After being postponed due to COVID-19, the Board will invite Sara Brewer to the May board meeting at 5:30 pm to present her with their gift for her retirement. It was decided that only the Board members would be in attendance due to COVID issues and refreshments would be served.

The ABC store has now set up a new credit card reader to enable local restaurants to purchase their liquor by the drink orders with credit cards. The restaurants will now have the option to pay for their purchase by check, cash or credit card.

Club 12 sent their quarterly report and the Board was again impressed with their update and what they have accomplished. The Board will discuss giving them additional funds since there was a deficit in funds of \$5810.

Bonnie asked if the Board would meet for a budget amendment workshop on Wednesday, April 28 at 5:00 pm at the Banner Elk Book Exchange. Due to the many budget amendments that will be needed due to increased revenues, she felt an in-person meeting discussing the budget would be better.

Bonnie Betz spoke to the Board about purchasing software for an online ordering system. This would allow the local restaurants to place their liquor order online and not rely on the phone or voicemails. This would also include a new inventory tracking system. Bonnie went to the Boone store to view the product and has spoken to the Blowing Rock store who are both currently using both systems. The Board requested that she get a hard copy quote and what the quote will cover with regard to training and support.

Winston Ammann asked Bonnie to find out when the mixed beverage license renewal was due to the ABC Commission. The Commission had deferred payments of renewal fees due to the restaurants and bars closing or limiting capacity due to COVID.

There were no citizens in attendance. Sarah Manning emailed Anne Fontaine two questions she would like answered. First, what is the status of Avant Garde Home in Seven Devils? They sell beer and wine and do not have a mixed beverage permit. Second question: Will we be conducting the surveys in the county to determine compliance to "carding" customers purchasing alcohol? The board has previously contracted with Western Youth Network to perform an Alcohol Purchase Survey in Avery County to determine which businesses "card" beer and wine purchasers as required by law. The first survey produced a 60% compliance among the 20 or so businesses that were surveyed. The second survey in 2019, showed 95% compliance. Donna Dicks recommended that we consider conducting this program again, perhaps in the fall, especially since it is very reasonably priced and gives great feedback for the sheriff's department. We will discuss it further at a later meeting. Anne will respond back to Sarah with answers to her questions.

The next scheduled meeting will be held in person on Thursday, May 20, 2021 at 4:30 pm. Donna Dicks will check the availability of the Book Exchange in Banner Elk.

Anne Fontaine made a motion to adjourn today's board meeting. It was seconded by Winston Ammann and approved by all.

Donna Dicks, Board Chair

Winston Ammann, Board Member

Anne Fontaine, Board Member

Date approved

Activity Log Event Summary (Cumulative Totals)

SEVEN DEVILS PUBLIC SAFETY

(04/01/2021 - 04/30/2021)

Alarm Activation	1	Assist Avery Sheriffs Office	1
Assist Motorist	1	Assist Other Department	6
Bank Deposit Escort	3	Business Check	317
Disturbance	1	Extra Patrol	12
Fight	1	Fire Department	1
Medical	1	Motor Vehicle Accident	1
Patrol	154	Residence Check	2
Unwanted Person	1	Vehicle Stop	3

Total Number Of Events: 506

SEVEN DEVILS FIRE DEPARTMENT

1356 Seven Devils Road, Seven Devils, N.C. 28604

(828) 963-5343 (828) 963-6760

Fax (828) 963-1129

Fire Chief Bobby Powell

April 2021

Fire Calls: 3
Medical Calls: 2
Training sessions: 4
Total Man-hours: 121 Hrs.

We have started more hands-on training for this summer to include fire truck operations and pump training, supplying water to locations with and without hydrants.

We had a fire call at an area of Seven Devils where we do not have a hydrant system and the firefighters on the call were planning before they arrived at the house, how to get a water supply system for fire flow set up in case it was needed. I was on my way to the scene as it was canceled. It was a heater that had been turned on inadvertently and built up lint and dust were causing the smoke and flames. Our firefighters did an excellent job.

We also had Foscoe VFD, Linville VFD, Banner Elk VFD, Newland VFD, Avery Fire Marshall and Avery County Fire Coordinator Office, coming to help with this fire.

We are always thankful to have all these people assist us.

We are still planning training together with Foscoe and Linville this summer.

3 Fire Calls
2 Medical Calls

Thank You.
Bobby Powell

MONTHLY FINANCE REPORT
April 2021 - 83.33%

	Budget	Actual		%
	Total	Previous	Apr	
Section 1. General Fund				
Anticipated Revenues by Category				
Ad Valorem Taxes	806,000	809,928	515	100.55%
State Share Revenue	109,510	51,413	5,483	51.96%
ABC Distribution	100,000	101,500	25,500	127.00%
Powell Bill Allocation	22,500	26,166	0	116.29%
Permits and Fees	1,000	8,189	53	824.20%
Sales Tax	120,000	141,316	15,850	130.97%
Misc Revs, Govt Grants, Sale of Assets	264,506	261,340	6,558	101.28%
Capital Reserve Fund/FB	222,075	0	0	0.00%
Occupancy Tax	150,000	308,270	29,377	225.10%
Total	1,795,591	1,708,122	83,336	99.77%
Authorized Expenditures by Department				
Governing Board	16,250	11,705	1,237	79.64%
Administrative	505,536	398,221	47,379	88.14%
Public Safety	579,948	348,286	48,236	68.37%
Fire Protection	109,098	93,675	1,121	86.89%
Planning	1,500	406	0	27.07%
Parks & Rec	52,001	32,294	4,165	70.11%
Public Works	358,758	272,100	29,848	84.16%
Powell Bill	22,500	25,591	0	113.74%
Tourism Development Authority	150,000	308,270	29,377	225.10%
Total	1,795,591	1,490,548	161,363	92.00%

MONTHLY FINANCE REPORT
April 2021 - 83.33%

	Budget	Actual		%
	Total	Previous	Apr	
Section 2. Enterprise Fund				
Anticipated Revenues by Category				
Water Operating Revenues	221,500	209,481	22,377	104.68%
Water Taps and Connections	0	6,000	0	0%
Non Operating Revenues	754	906	0	120.16%
Capital Reserve for Capital Outlay	0	0	0	0.00%
Total	222,254	216,387	22,377	107.43%
Authorized Expenditures by Department				
Water-Operating	119,571	81,862	9,332	76.27%
Non Operating	102,683	52,978	2,622	54.15%
Capital Outlay	0	19,863	0	0.00%
Total	222,254	154,703	11,954	74.98%