

**TOWN OF SEVEN DEVILS
TOWN COUNCIL
MINUTES – REGULAR MEETING**

April 14, 2015

The Seven Devils Town Council met in regular session on Tuesday, April 14, 2015, at Town Hall. Present were Mayor Larry Fontaine, Mayor Pro Tem Brad Lambert, Council Members Kay Ehlinger, David Ehmig and David Hooper. Also present were Town Attorney Rob Angle and Town Manager Ed Evans. The minutes were recorded by Anne Fontaine, as Town Clerk Sara Miller was absent.

CALL TO ORDER

Mayor Fontaine called the meeting to order at 5:32 PM.

PLEDGE OF ALLEGIANCE

Council members and citizens recited the Pledge of Allegiance

ADOPT AGENDA

Mayor Fontaine stated that a new matter needed to be added to the agenda. New Business item F would handle a recommendation from the Recreation Commission to change the meeting date and time for Recreation Commission to the Thursday following the regular Town Council meeting at 9:00AM. Member Ehlinger made a motion to adopt the amended Agenda. Member Hooper seconded the motion. The members agreed unanimously.

CONSENT AGENDA – MOTION FOR CONSIDERATION

Adopt minutes of Regular Town Council Meeting—March 10, 2015

Adopt minutes of Town Council Retreat—March 26, 2015

Member Hooper made a motion to adopt the Consent Agenda. Member Ehmig seconded the motion. The members agreed unanimously.

CITIZEN COMMENTS

Kay Lambert, 430 Wildcat Rocks Rd., stated that Operation Medicine Cabinet would be on Saturday, May 16, 2015 from 10:00AM until 2:00PM at the Foscoe Fire Department.

Sarah Manning, 277 Four Diamond Dr., asked about where she could find information regarding the Board of Adjustment Public Hearing coming up. Manager Evans stated that a packet would be going out soon, as well as posted on the website, with information for the public. He also stated that the Public Hearing was advertised in the Watauga Democrat, adjoining property owners were sent letters, and a sign was posted at the property.

Mayor Fontaine welcomed a former Seven Devils resident, Bill Ferguson, who just recently purchased a home in Hanging Rock Villas.

ADMINISTRATIVE UPDATE & CALENDAR

Manager Evans stated that there was an ABC Board meeting on Thursday, April 9, 2015. He stated that the filing period for the upcoming municipal elections in November begins July 6 at 8:00AM and ends on July 17 at 12:00PM. He also stated that there would be a Board of Adjustment meeting on Tuesday, April 28, 2015 at 5:30PM that would include the Public Hearing discussed in Citizen Comments.

OLD BUSINESS—NONE

NEW BUSINESS

APPROVE CONTRACT WITH YOUNG, MILLER & GILLESPIE, PA FOR TOWN AUDIT—After some discussion, the Council decided to table this issue until the Town Council Budget Workshop on Wednesday, April 22, 2015. No action was taken. ~OPEN~

RESOLUTION AGREEMENT—TRAVELOCITY.COM L.P.— After some discussion, Member Hooper made a motion to adopt the Resolution agreement regarding Travelocity.com L.P.. Member Ehlinger seconded the motion. The members agreed unanimously. ~CLOSED~

Stacy C. Eggers, IV
Eggers, Eggers, Eggers, & Eggers, PLLC
Post Office Box 248
Boone, NC 28607

Re: *Resolution Agreement*

Dear Ms. Eggers:

Contemporaneously with this letter, TVL LP (f/k/a Travelocity.com L.P.) (“Travelocity”) and County of Watauga and towns of Banner Elk, Beech Mountain, Blowing Rock and Seven Devils (collectively “the Taxing Jurisdictions”) are entering into a Resolution Agreement. In furtherance of that Resolution Agreement, Travelocity and the Taxing Jurisdictions specifically acknowledge and agree as follows.

1. Travelocity represents that effective August 22, 2013, Travelocity and Expedia entered into a long-term agreement providing that transactions on Travelocity’s United States and Canadian websites will be facilitated by Expedia, and Expedia assumed responsibility for any state and local sales tax and hotel occupancy tax due on such transactions. Expedia began facilitating transactions on the Travelocity websites on November 1, 2013 and by January 6, 2014, approximately 99% of all stand-alone and package hotel reservations booked through Travelocity-branded United States websites were facilitated through Expedia’s platform..
2. Travelocity represents that effective March 1, 2014, Travelocity sold the assets and contracts of its “Travelocity Partner Network” business to Orbitz Worldwide. The Travelocity Partner Network was a division of Travelocity that provided private-label, online travel booking technology to major airlines, banks and credit card companies, Internet content and service providers, travel agencies, and convention and visitors’ bureaus.
3. Travelocity represents that as a result of both events, beginning June 1, 2014, Travelocity is no longer the merchant of record, and will no longer collect any amounts from travelers, for hotel reservations facilitated through any of its U.S. websites.

NOW IT IS HEREBY DETERMINED AND AGREED: Travelocity will have no obligation to report and remit Watauga County/City Occupancy Taxes pursuant to the terms of the Resolution Agreement unless, and only to the extent, Travelocity is merchant of record on a traveler’s credit card for occupancy of accommodations facilitated pursuant to reservations made on or after April 20, 2015, that are subject to the Watauga County/City Occupancy Taxes.

TVL LP (f/k/a TRAVELOCITY.COM LP)
By: General Partner, Travelocity.com LLC

By: _____
Scott Roberts, Associate General Counsel

TOWN OF SEVEN DEVILS

By: *Larry Fontaine*
Print name: LARRY FONTAINE
Title: MAYOR
Date: 4/14/15



R2015-6

RESOLUTION AGREEMENT—ORBITZ, LLC—After some discussion, Member Hooper made a motion to adopt the Resolution agreement regarding Orbitz, LLC. Member Ehmig seconded the motion. The members agreed unanimously. **~CLOSED~**

Resolution Agreement Page 1 of 7

RESOLUTION AGREEMENT

This Resolution Agreement ("Agreement") is entered into by and between Orbitz, LLC, Trip Network, Inc., TVL LP (f/k/a Travelocity.com LP), Expedia, Inc., Hotels.com L.P., and Hotwire, Inc. (individually "OTC" and collectively "OTCs"), and the County of Watauga and towns of Banner Elk, Beech Mountain, Blowing Rock and Seven Devils (collectively "the Taxing Jurisdictions"), effective the 20th day of April 2015.

WHEREAS, the OTCs contend that amendments to N.C. Gen. Stat. §§ 105-164.4(a)(3), 153A-155(c), and 160A-215(c) enacted by Session Law 2010-31, § 31.6 ("the Amendments") are unconstitutional under the United States Constitution and the North Carolina Constitution and in violation of the federal Internet Tax Freedom Act, as amended;

WHEREAS, the Taxing Jurisdictions contend that the Amendments are lawful and that they have the right to collect occupancy taxes under the terms of the Amendments;

WHEREAS, the parties desire to resolve their dispute without litigation;

WHEREAS, the parties further desire to resolve all past potential occupancy tax liability of the OTCs since 1 January 2011 to the Taxing Jurisdictions and to adopt a mutually agreeable reporting and remittance methodology on a prospective basis; and

WHEREAS, the parties desire to enter into this Agreement to accomplish the above.

NOW IT IS HEREBY DETERMINED AND AGREED:

1. This Agreement will resolve the OTCs' dispute with the Taxing Jurisdictions regarding the Amendments and all past potential occupancy tax liability to the Taxing Jurisdictions for occupancy of accommodations facilitated by any OTC commencing between 1 January 2011 and 20 April 2015 and for occupancy of accommodations facilitated by any OTC commencing thereafter pursuant to reservations made between 1 January 2011 and 20 April 2015.
2. The Taxing Jurisdictions acknowledge that this Agreement contains Tax Information, as defined in N.C. Gen. Stat. § 105-259, and its provisions are therefore subject to the disclosure prohibitions of N.C. Gen. Stat. § 105-259, N.C. Gen. Stat. § 153A-148.1, and N.C. Gen. Stat. § 132-1.1.
3. Registering for occupancy tax purposes or payment of occupancy tax does not constitute a concession that the OTCs are engaging in business within any locality in North Carolina or a concession that the OTCs are subject to any other tax or license in North Carolina.
4. For occupancy of accommodations facilitated by any OTC pursuant to reservations made on or after April 20, 2015 that are subject to the occupancy tax of any of the Taxing

Resolution Agreement Page 7 of 7

TOWN OF BLOWING ROCK

By: _____
Print name: _____
Title: _____
Date: _____

TOWN OF SEVEN DEVILS

By: *Larry Fontaine*
Print name: LARRY FONTAINE
Title: MAYOR
Date: 4/14/15



R2015-5

26639579_1- Watauga County

RESOLUTION—OPPOSING SB369—After some discussion, Member ehlinger made a motion to adopt the Resolution of the Town of Seven Devils Opposing Senate Bill 369. Member Hooper seconded the motion. The members agreed unanimously. The Council also approved the draft letter written by Manager Evans to send with copies of the Resolution to each State Representative.

~CLOSED~



RESOLUTION

**A RESOLUTION OF THE TOWN OF SEVEN DEVILS OPPOSING
SENATE BILL 369**

WHEREAS, the Town of Seven Devils is a municipal corporation and public body established under the laws of the State of North Carolina for the representation of its citizens and taxpayers; and

WHEREAS, North Carolina General Statute §105-472 provides for the allocation of sales tax between cities and counties within North Carolina; and

WHEREAS, North Carolina General Statute §105-472(b) allows a Board of County Commissioners to determine, on a yearly basis, whether such allocation is made on a per capita distribution or an ad valorem distribution; and

WHEREAS, the Town relies heavily on sales tax revenues to provide services, including those necessary to provide for the health and safety of its residents as well as thousands of tourists that visit Seven Devils; and

WHEREAS, Tourist communities across the State of North Carolina will be hit the hardest by this proposed legislation; and

WHEREAS, Tourism is a recognizable industry in the State of North Carolina that provides economic stability, touching each of the State's 100 counties; and

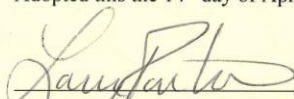
WHEREAS, Direct tourism employment continues to grow in lodging, transportation, food service, and retail employment sectors to help serve visitors that spend billions of dollars annually; and

WHEREAS, Senate Bill 369 'Sales Tax Fairness Act' as filed on March 23, 2015 would take away the power of the Board of County Commissioners to determine, on a yearly basis, whether such allocation would be made on a per capita or an ad valorem distribution method and move the distribution of sales tax revenue distribution to a State disbursement that would be calculated solely on the per capita method; and

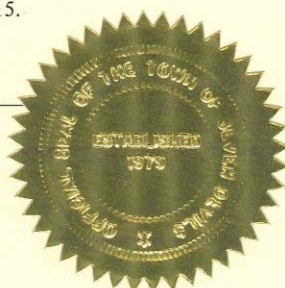
WHEREAS, the legislatively enacted sales tax allocation laws that are currently in place favorably permit each county in the State of North Carolina to determine the distribution method that is best for its community;

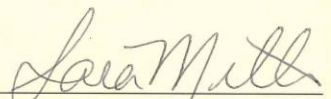
NOW THEREFORE, be it resolved by the Town Council of the Town of Seven Devils, which is situated in both Avery County and Watauga County of the great State of North Carolina, strongly opposes Senate Bill 369 (S369) due to the detrimental effect this proposed bill will have on the financial health of our residents and tourists as well as the Town's ability to provide for and protect the health and safety of our residents and tourists.

Adopted this the 14th day of April, 2015.


Larry Fontaine, Mayor

R2015-4




Sara Miller, Town Clerk

HIGH COUNTRY MUNICIPAL ABC BOARD—TRAVEL POLICY APPROVAL

REQUEST—After some discussion, the Council came to the conclusion that item #3 of the Travel Policy should follow State guidelines, with meal reimbursement structure following a per-meal, per-day system. Mayor Pro Tem Lambert made a motion to reject the ABC Travel Policy as it is written. Member Ehlinger seconded the motion. The members agreed unanimously. ~CLOSED~

RECOMMENDATION—RECREATION COMMISSION MEETING DATE/TIME

CHANGE—After some discussion, Member Ehlinger made a motion to approve the date and time of the Recreation Commission meeting be changed to the Thursday after the regular Town Council meeting, at 9:00AM. Member Hooper seconded the motion. The members agreed unanimously.

~CLOSED~

COMMITTEE REPORTS**Planning Board-No meeting****Public Works-No quorum****Public Safety Committee****Recreation Commission**—Manager Evans stated that there has already been a strong RSVP response for the Otter Falls Grand opening.**TDA****ABC Board****Public Safety Department****Police Report****Fire Report****Financial Report****COUNCIL COMMENTS**

Mayor Fontaine received a letter from Bobby Hurlbrink and Bill Logan, 129 Greenview, that commended Officers Bobby Powell and Eddie Hughes for their great service to the Town of Seven Devils. Bobby and Bill had accidentally locked themselves out of their home, and Officers Powell and Hughes responded to help them with the situation. The Officers were professional and prompt with their aid and Bobby & Bill wish to thank them immensely for their help that evening.

RECESS

Member Ehmig made a motion to Recess until the Town Council Budget Workshop on Wednesday, April 22 at 10:00AM. Member Ehlinger seconded the motion. The members agreed unanimously. The meeting was recessed at 6:14PM.

 Larry Fontaine, Mayor

 Anne Fontaine

 Sara Miller, Town Clerk