

**TOWN OF SEVEN DEVILS
TOWN COUNCIL
MINUTES – REGULAR SESSION
April 14, 2009**

The Town of Seven Devils Town Council met in regular session on Tuesday, April 14th, 2009 at Town Hall. Members present were Mayor Bob Dodson, Mayor Pro Tem Richard DeMott and Council Members Bill Wilkinson and Kathy Copley. Member Kay Ehlinger was absent and excused. Also in attendance were Town Manager Ed Evans and Town Attorney Rob Angle. Town Clerk Karen Daniels recorded the minutes.

CALL TO ORDER

Mayor Dodson called the meeting to order at 5:30 p.m.

PLEDGE OF ALLEGIANCE

Council members and citizens recited the Pledge of Allegiance.

ADOPT AGENDA

Mayor Dodson requested *New Business – Item C. Kessler request for water bill relief and Item D. Stanley request for water bill relief* to be added to the agenda. Member Copley requested *New Business – Item E. Appoint Brad Lambert to the Public Safety Committee* to be added to the agenda.

Mayor Pro Tem DeMott made a motion to adopt the agenda as amended. Member Copley seconded the motion. The members agreed unanimously.

APPROVE MINUTES

Member Copley said she had a change to the March 9, 2009 Regular Meeting minutes. Member Copley requested the following sentence be added to the third (3rd) paragraph on page eight (8) E. Board of Adjustment Membership: *Member Copley asked Ms Isquith to explain her absences from TDA meetings and whether the Board of Adjustment could expect better attendance. Ms Isquith explained the reasons for her absences and explained they will not affect her Board of Adjustment attendance.*

Member Copley requested the fourth (4th) paragraph regarding the Blind Road Analysis in the April 9th 2009 Continuation Meeting be changed to read as follows: *Member Copley told the Council she had the new Blind Road Analysis information from David Poore and Kevin Aldridge and will be distributing the information at the Public Works meeting.*

Mayor Pro Tem DeMott made a motion to approve the March 9, 2009 Regular Meeting and the March 12, 16, 20, 25 and April 9, 2009 Continuation Meeting minutes as amended. Member Copley seconded the motion. The members agreed unanimously.

CITIZEN COMMENTS

Sarah Manning, Four Diamond Drive asked the name of the new Town Manager. Mayor Dodson introduced the new Town Manager Ed Evans to the citizens.

STAFF UPDATE

OLD BUSINESS

NEW BUSINESS

- A. **Planning Board Recommendation – Size of houses** – Mayor Dodson requested Bob Haugh explain the reason for this change. Bob explained there are two reasons for the change. One reason is to prevent someone from saying they are

going to build a 2400 square foot house and the end result could be a house with only 1200 completed square feet and the other 1200 square feet could be completed sometime in the future. He said the other reason is that most houses being built in Seven Devils are over 2000 square feet. Mayor Dodson asked Bob if he is aware of any other towns or cities in North Carolina with this kind of minimum size house restriction. Bob told the Mayor he was not aware of any and that he also could not find a basis for the 1300 square feet minimum.

Member Copley addressed Yardy Williams. She said when we were working on the Comprehensive Land Use Plan and the Zoning Ordinance, we were working with Woody Harton and Alan Lang with the North Carolina Division of Community Assistance Program. Member Copley said it is her recollection that Woody and Alan both said the 1300 square foot minimum would not stand up in court. Yardy said his recollection was that Woody and Alan thought it would stand up in court. Mayor Pro Tem DeMott said that was his recollection also.

Mayor Dodson told the Council he had requested the Town Attorney Rob Angle look into this. Mayor Dodson asked the Town Attorney to tell the council what he had found. He said in doing research he did not find anything in North Carolina law. He said he found a number of cases in other states that based on square footage it probably would not be enforceable because of economic discrimination. The Town Attorney read: *Zoning ordinances are upheld when, but only when, they bear a substantial relation to the public health, safety, morals or general welfare.* Rob told the Council he had left a message with Rich Ducker of the Institute of Government explaining this situation. He said Rich Ducker said it would be risky at best and that he thought the courts would overturn it. Member Copley told the Council with the change to 1,650 she is unsure if any houses in her neighborhood could be built. She said she added approximately 500 square foot to her house for a study and that put her house at a little over 1,400 square feet. Discussion followed among the council. After discussion, the council agreed to take no action.

- B. **Offer from Bob Haugh for Maple Springs Lots 8 and 9** - The Town Council reviewed the following letter from Bob Haugh.

April 8, 2009

**Town Council
Town of Seven Devils
1356 Seven Devils Road
Seven Devils, NC 28604**

RE: LOTS 8 AND 9 ALPINE DRIVE

Dear Council Members:

I would like to purchase lots 8, (pin#1878-48-1900) and 9, (pin #1878-49-1061). My offer is (\$25,000) if both lots are approved for a standard three bedroom septic system on each lot. If one lot is approved for a standard three bedroom septic system, my offer is (\$20,000) for both lots. If both lots are not approved for a standard three bedroom septic system; my offer to purchase will be rescinded. I may make a new offer based on the Watauga Health Department review of this property for alternate system.

I will need approval from the town to file an application for each lot to the Watauga Health Department. I will also need approval from the town to provide a survey and dig perk holes. I will pay for this survey, perk holes and application fees.

Thanking you in advance for your consideration.

**Very Truly Yours,
Bob Haugh**

Mayor Dodson asked the Town Manager what he felt about the current status of real estate prices. Ed told the Council for the most part Watauga County properties have held their own. He said expensive houses have come down in price but smaller houses and lots are holding their own.

A discussion followed among the Council. The Town Council asked Bob Haugh if he would consider an offer of \$25,000 for both lots so long as one of the lots will perk for a two (2) bedroom septic system. Bob said he would.

Mayor Dodson made a motion to accept Bob Haugh's offer of \$25,000 for lots eight (8) and nine (9). Mayor Pro Tem DeMott seconded the motion. The members agreed unanimously.

Bob Haugh said he will need a letter from the Town and a signed authorization to apply with the Health Department for the perk tests.

The Town Attorney told Bob Haugh he needs to draw up a standard offer with the terms and contingency for the purchase of lots eight (8) and nine (9). Bob said he would draft the necessary documents.

- C. **Kesler request for water bill relief** - The Town Manager told the Council this leak occurred after a period of no habitation. He said there had been a frozen pipe in the garage resulting in a water bill of \$13,681.77 for the quarter. Ed further explained that Mrs. Judith Kesler is in ill health and they have asked for relief based on the guidelines in the water ordinance. Ed read from the Water Ordinance – Section 4.4 Adjustments: *A fifty percent (50%) reduction in the water charges above \$1000.00 providing the following conditions apply: (a) the leak must be verified by Public Works; and (b) the leak has been repaired by a qualified plumber. This provision applies only to large balances (over \$1000.00) resulting from private plumbing leaks in a single billing period, and does not apply to subsequent charges for water service after the leak has been repaired.* Ed told the council under these guidelines, they would be responsible for the first \$1,000.00 and would be entitled to relief for 50% of the charges above \$1,000.00 or a reduction of \$6,340.89. He explained this would bring their water bill balance to \$7,340.88.
- D. **Stanley request for water bill relief** – The Town Manager told the Council this leak occurred due to a frozen pipe during the month of February, 2009. He told the Council their bill is in the amount of \$2,230.47. He said he has not yet received the repair statement but in their letter they state this has been repaired. He explained this water bill account is normally drafted from the customer's bank account and the Town Clerk called to give them a heads up regarding the high bill. He explained the total bill allowing for relief of 50% of the charges above would bring this water bill to \$1,615.23.

The Town Council agreed to have the Town Manager contact Dr. Kessler and Mr. Stanley regarding a reduction in their water bills as allowed by the Water Use Ordinance and to make arrangements for a payment plan on their water bill accounts. **CLOSED**

Discussion followed among the Council regarding quarterly and monthly water billing; a charge for monthly reading if quarterly billing continues; changing the tiered billing and creating a new policy allowing the Town Council to forgive large bills in excess of (\$\$\$\$\$).

Member Copley asked the Town Clerk about the numerous water leaks at Hawks Peak condominiums. The Town Clerk said it is her understanding that the Hawks Peak Property Owner Association sent out letters to their homeowners approximately five (5) years ago requesting each homeowner contact a qualified plumber to check out their individual units. The Town Clerk told the Council she had spoken with Tom Gidley and he indicated the Hawks Peak Property Owners Association may be sending out another letter to Hawks Peak homeowners due to recent leaks.

The Council agreed to take no action and to place the subject of large water bills and billing on the May Town Council agenda. They also requested Kathy Copley to place this subject on the next Public Works agenda. **OPEN**

E. **Appoint Brad Lambert to the Public Safety Committee**

Member Copley made a motion to accept the Public Safety Committees recommendation to add Brad Lambert to the Public Safety Committee membership. Mayor Pro Tem DeMott seconded the motion. The members agreed unanimously. **CLOSED**

COMMITTEE REPORTS

- A. **Planning Board** – There were no additional comments.

- B. Public Works – There were no additional comments.
- C. Public Safety – Mayor Pro Tem DeMott commended the Public Safety Committee for moving forward with such enthusiasm in these economic difficult times. Kay Lambert encouraged anyone with a suggestion for possible sponsors to contact a Public Safety Committee Member. Mayor Dodson reviewed the Seven Devils March 2009 Fire Department report.
- D. ABC Board – There were no additional comments.
- E. Financial Report – Member Copley asked the Finance Officer Debbie Powers to explain the 149% Fire Protection expenditures. The Finance Officer explained if you look under miscellaneous revenues it reflects 419% which is from the 50% matching fire grant. Member Copley asked what was purchased with the fire grant. The Finance Officer explained the largest purchase was the commercial washer and dryer for the Fire Department.

Mayor Pro Tem DeMott made a motion to accept the financial report as submitted. Member Wilkinson seconded the motion. The members agreed unanimously.

- F. TDA – There were no additional comments.

COUNCIL COMMENTS

Member Copley requested the Town Manager Ed Evans to research and identify any projects we might apply for a golden leaf grant.

Member Copley stated at the retreat we wanted to clarify some things about the Recreation Commission. She said the Rules of Procedure probably describes the frequency in which a Board of Commission needs to meet; what type of minutes they need to keep; and terms of office. She said when we identified the five (5) Recreation Commission members we did not identify anyone as an officer and we did not establish terms of office. She also said they should be getting minutes for the packets.

Mayor Dodson read from **Rules of Procedure Rule 3. Organizational Meeting (c) Other Boards, Committees, and Commissions:** *Members/alternates-at-large shall take and subscribe the oath of office as the first order of business at their first meeting. The next order of business is selection of chair, vice-chair, and recorder. The Town Clerk shall administer the oath of office.*

Mayor Dodson asked Tom Bookstaver if the Recreation Commission has met or elected officers. Tom said to his knowledge they had not established a date for the next meeting. Mayor Dodson requested Tom Bookstaver make the members of the Recreation Commission aware of the necessity to follow the Town of Seven Devils Rules of Procedures for Public Bodies.

Member Copley stated Richard DeMott brought up the subject at the last meeting that we need to identify Seven Devils private and public roads. She explained that Kevin Aldridge does work with the County to identify what roads are private and they are marked private (PVT) on the signs.

Member Copley said she had been working with Bob Dodson and Police Chief Chuck Davis regarding how to address the issue of weekend work in our ordinances, how to verify there is access to a permit on the weekend and to give the police the necessary authority for enforcement.

Member Copley made a motion that she meet with David Hooper regarding places in the ordinances that items could be changed to make this possible and turn it over to the Planning Board for them to pursue. Mayor Dodson seconded the motion. The members agreed unanimously.

Member Copley requested Ed write a press release regarding his new position as the Town of Seven Devils Town Manager.

Mayor Dodson asked the Town Manager if he had anticipated a contract. The Town Manager said as an employee he had not. Mayor Dodson told the Council he would work up a new contract for the Council and Town Manager to review and consider.

Mayor Pro Tem DeMott thanked community for their cards, letters, visitations, and prayers during the recent loss of his wife.

RECESS

At 6:33 pm Mayor Dodson made a motion to recess to 10:00 am on Friday, May 8th, 2009. Mayor Pro Tem DeMott seconded the motion. The members agreed unanimously.

TOWN COUNCIL CONTINUATION MEETING Friday, May 8th, 2009

The Seven Devils Town Council reconvened at 10:00 a.m. on Friday, May 8, 2009 at Town of Seven Devils Town Hall. Members present were Mayor Bob Dodson, Mayor Pro Tem Richard DeMott and Council Members Kay Ehlinger, Bill Wilkinson and Kathy Copley. Also present were Town Manager Ed Evans and Zoning Administrator Don Fulkerson. Town Clerk Karen Daniels recorded the minutes.

At 10:00 a.m. Mayor Dodson made a motion to come out of recess. Member Ehlinger seconded the motion. The members agreed unanimously.

The Annual Operating Budget for Fiscal Year 2010 and the Capital Improvement Plan for FY 10 – FY 14 were presented to the Town Council for their review. A lengthy discussion followed concerning the Fiscal Year 2010 Budget and Capital Improvement Plan.

Member Copley told the Council she had the new Blind Road Analysis information from David Poore and Kevin Aldridge and will be distributing the information at the Public Works meeting.

ADJOURN

At 12:10 pm Mayor Dodson made a motion to adjourn. Member Ehlinger seconded the motion. The members agreed unanimously.

Bob Dodson, Mayor

Karen E. Daniels, Town Clerk