

**TOWN OF SEVEN DEVILS  
TOWN COUNCIL  
MINUTES – REGULAR SESSION  
October 10, 2011**

The Seven Devils Town Council met in regular session on Monday, October 10, 2011, at Town Hall. Present were Mayor Bob Dodson, Mayor Pro Tem Kathy Copley, Council Members Richard DeMott, Kay Ehlinger and David Ehmig. Also present were Town Manager Ed Evans and Town Attorney Rob Angle. The minutes were recorded by Beth Taylor, Town Clerk.

**CALL TO ORDER**

Mayor Dodson called the meeting to order at 5:32p.m.

**PLEDGE OF ALLEGIANCE**

Council members and citizens recited the Pledge of Allegiance.

**ADOPT AGENDA**

Mayor Pro Tem Copley made a recommendation to add the citizen request made by the Pinkerton's to the agenda as item E under New Business.

Member Ehlinger made a motion to adopt the agenda as amended. Member DeMott seconded the motion. The members agreed unanimously.

**APPROVAL OF MINUTES OF REGULAR MEETING SEPTEMBER 12, 2011**

Member Ehlinger made a motion to adopt the minutes. Member DeMott seconded the motion. The members agreed unanimously.

**CITIZEN COMMENTS**

None

**ADMINISTRATIVE UPDATE & CALENDAR**

No comments

**PUBLIC HEARING – VOLUNTARY ANNEXATION REQUEST**

Member DeMott made a motion to open the public hearing. Member Ehmig seconded the motion. The Members agreed unanimously.

Manager Evans briefly summarized, for the benefit of the citizens present, the steps that have taken place meeting statutory requirements and where the Town and Council are in the process concerning the voluntary annexation request of the Hwy 105 property owned by Steve Loflin and Murray Broome.

Citizen Larry Fontaine, 127 West Rocky Top, wanted to know if there were plans on having a road connect the Hwy 105 property to the Woodwinds community. Steve Loflin of Appalachian Realty Inc. replied that they do not have any desire to have an access road to Woodwinds.

There were no further citizen comments. Member DeMott made a motion to close the public hearing. Member Ehmig seconded the motion. The Members agreed unanimously.

**PRESENTATION OF TOWN FINANCIAL AUDIT – Young, Miller, & Gillespie**

Sharon Gillespie, of Young, Miller, & Gillespie gave an overview of what was in the Financial Audit report. Copies of the report were given to each Council Member, and a copy was placed in Town Hall for citizens to review if they so desire. Ms. Gillespie commented that the Town, because of having so few staff, has to segregate duties and recommended that the Town Council stay involved in monetary issues. She also noted that the Town was not in “*compliance*” related to the Town’s failure to set up a separate fund for the Build America Bond as required by NC General Statutes. She stated this was a requirement that neither she nor the Town knew about. However, she also noted that the “significant deficiencies described are not material weaknesses.” Ms. Gillespie thanked the Town for the opportunity to perform the audit and expressed appreciation for the good working relationship with the Finance Officer, Debbie Powers, and the Town Manager, Ed Evans.

## OLD BUSINESS

### Voluntary Annexation request – Hwy 105 property – Owned by Appalachian Realty, Inc. & Blue Ridge Peddler, Inc.

Mayor Pro Tem Copley wanted to verify the five standards/tests that must be met in order to fulfill the annexation request had been met. Manager Evans went over the five tests from the material provided at the previous Town Council meeting, confirming that all five tests have been met. Mayor Pro Tem Copley also wanted to have clarified the intended zoning on the property. Manager Evans stated that it is to be zoned as General Business and that the request by the owners is contingent upon the property being zoned General Business. Evans further stated that the request is rescinded otherwise. Evans told the Council that this was a stipulation stated in the voluntary annexation request by the property owners. Mayor Pro Tem Copley wanted to know if there was any way to stipulate in the annexation that there would not be an access road from Woodwinds to the Hwy 105 property. Town Attorney Rob Angle replied he did not think we could do that or that it was necessary. Mr. Loflin stated again that they had no plans to construct a road connecting the property to Woodwinds and stated that he would be willing to put it in writing.

Member DeMott made a motion to proceed with the annexation of the Hwy 105 property. Member Ehlinger seconded the motion. There were **4 Ayes** (Mayor Dodson, Member DeMott, Member Ehlinger, Member Ehmig) and **1 Nay** (Mayor Pro Tem Copley).

### Water Issues

Manager Evans recapped the decision the Council reached in last month's meeting regarding the water issues of both the Tarltons and the Smocks. He continued by stating that on September 13, 2011 our Public Works department did the following at the Smock and Tarlton residences:

1. Installed radio read meters
2. Checked the water pressure
3. Additionally, Public Works sent the Smock's old meter in for testing at no charge to them. The results for the water meter test confirmed that the old meter was accurate. Evans recommended that the radio read meters be left so that we can continue to monitor the water use situation at these houses.

Manager Evans continued by showing the Members graphs that we were able to generate from the new radio read meters and software. The graphic representation showed the usage on both an hourly and daily usage. The chart for the daily usage showed that there was no water usage at all during a 2 ½ week period. Mrs. Smock confirmed that they were out of town during that time. Manager Evans asked if they had had their water shut off during that time. Mrs. Smock stated that they did not have it shut off. Since there was no usage during the time they were away it was agreed that there is no leak at this time.

Don Bull of HD Supply explained, regarding the charts, that any leak would show up on the chart as red, whether it is a continuous leak or an intermittent leak (such as a toilet valve hang up). When the question was posed if having air in the lines would cause a high meter reading, Henry Kovacs of HD Supplies explained that since our lines are tapped on the side, a fact he confirmed with Public Works Director Kevin Aldridge, it is very unlikely that air would cause a high reading. Mrs. Smock stated that they are not experiencing any air in their lines at this time and that the problem seems to occur only when the Town experiences problems with the tank. Don Bull stated that these new meters have to meet a much higher standard than the old ones did. Mr. Bull continued by pointing out that the old meters may have been affected by air but the new ones will not since there is no real volume in entrained air (milky water). The old meters used a water wheel, while these new meters use a rotating disk or 'wobble plate' which is a positive placement disk and considered one of the most accurate disk out on the market today.

Manager Evans stated that we also generated a report showing the Tarlton's water usage. Mr. Tarlton, having seen the report, wanted to recommend that the Town consider replacing all town meters with the radio read meters. Manager Evans asked the Tarltons if they had any further issues with their water. Mr. Tarlton stated they did not. They considered the issue closed.

Manager Evans stated that they still had to address the issue of any potential adjustment to the Smock's water bill. Mrs. Smock asked what concession or adjustment the Town had agreed to make. Manager Evans stated that the only concessions previously stated was that as long as they pay the minimum \$35 bill they will not be charged any late fees until the

matter has been resolved and also that the water meter would be tested at no charge to the Smocks. Mrs. Smock stated that they have always paid 100% of their balance, so this is not an issue.

Mayor Pro Tem Copley made a motion to postpone any consideration of a water bill adjustment for the Smocks and that the issue be tabled until the 2012 season when monitoring data will be available to further explain the situation. Member Ehlinger seconded the motion. The Members agreed unanimously. The issue is considered closed at this time.

Discussion ensued over the cost to upgrade all Town meters to radio read meters. According to Mr. Kovacs, he thinks that to replace the meter head would be \$120 a meter and to replace the entire meter would be \$150. Each meter has an approximate life of 20 years. The Town meters were replaced about 4 or 5 years ago. It was agreed to consider eventually having all Town meters be replaced with radio read meters. The Member's agreed that it was not necessary to change them at this time.

## **NEW BUSINESS**

### **Proposed Contract for ABC Law Enforcement – High Country ABC Board**

The Members briefly discussed that all three towns (Seven Devils, Sugar Mountain & Banner Elk) should be responsible for sharing equally in providing Public Safety Officers to assist the ABC Store.

Mayor Pro Tem Copley made a motion to adopt the proposed contract for ABC Law Enforcement. Member DeMott seconded the motion. The Members agreed unanimously.

### **Designation of Voting Delegate for 2011 Annual League Business Meeting**

Mayor Pro Tem Copley made a motion to designate Manager Evans as the voting delegate for the 2011 Annual NC League business meeting. Member DeMott seconded the motion. The Members agreed unanimously.

### **Authorization to move forward with proposed lot swap – Alan Andre and Seven Devils and get perk test on Seven Devils lots and prepare deeds if appropriate**

After some discussion, Mayor Pro Tem Copley made a motion authorizing Manager Evans to spend up to \$1,500 in expenditures for a perk test of the property on Skiview, which is proposed for the land swap, contingent upon Mr. Andres making a written commitment on the swap. Member DeMott seconded the motion. The Members agreed unanimously.

Member Ehmig made a motion to authorize Manager Evans and Town Attorney Rob Angle to act for the Town on the swap, preparing deeds & such legal documents to get this land swap finalized. Member DeMott seconded the motion. The Members agreed unanimously.

### **Surplus property sale request – Side mower, Shotgun mounts, Water pump**

Mayor Pro Tem Copley made a motion to surplus the side mower, shotgun mounts and water pump. Member DeMott seconded the motion. The Members agreed unanimously. Member Ehmig made a motion to have every surplus item, with the exception of firearms, go through a third party auction, and all firearms go to auction through an authorized federal firearms dealer. Member DeMott seconded the motion. The Members agreed unanimously.

### **Citizen request – the rock columns on the Pinkerton property**

Manager Evans stated that it had been brought to his attention that rock columns had recently been constructed by Harold & Marcia Pinkerton at 173 Skiview Road, and that they are too close to the road and considered a safety hazard. Manager Evans went to the Pinkerton home to see for himself and talk to the homeowners. Evans stated that the new columns are approximately 9" from the paved road. When he questioned the Pinkertons they responded that they had come by Town Hall to see if it was alright to add onto their existing rock wall. They stated that the Town Manager was not in at the time and so they left word that if there was a problem with what they were doing to come by their property or call to let them know. Much discussion ensued on whether or not the Town had the authority to have the Pinkertons remove the columns they constructed. It was decided that Manager Evans and Town Attorney Rob Angle would look into finding out the right-of-way information along Skiview Road to determine if the Town has the authority to have them take down or move the columns. It was also agreed that the Pinkertons should provide the documents to show the corners of their property.

## COMMITTEE REPORTS

### A. Planning Board

### B. Public Works

**C. Public Safety Committee-** Kay Lambert, 430 Wildcat Rocks Road, stated that Operation Medicine Cabinet was a success thanks to the hard work of many Seven Devils volunteers. They collected approximately 10,900 pills in our space at the Foscoe Fire Dept. They do not have the totals in yet for what was collected in Avery County.

It was brought to light that there are still a number of homes that are not using the correct 911 street numbers that were made available at Town Hall. Mayor Pro Tem Copley made a motion authorizing the Manager Evans to use whatever method he deems appropriate to identify and notify homeowners of 911 violations, as well as identify possible penalties for failing to comply. Member Ehlinger seconded the motion. The Members agreed unanimously.

### D. Recreation Commission

### E. ABC Board

### F. TDA

### G. Public Safety Department

#### i. Police Report

#### ii. Fire Report

### H. Financial Report

Member Ehmig made a motion to accept the financial report. Member Ehlinger seconded the motion. The Members agreed unanimously.

## CLOSED SESSION PURSUANT TO NCGS 143-318.11a (4) Matters relating to economic development

Mayor Pro Tem Copley made a motion to go into closed session at 8:12 pm. Member DeMott seconded the motion. The Members agreed unanimously.

No action was taken during the closed session.

Mayor Pro Tem Copley made a motion to come out of Closed Session at 8:35 pm. Member DeMott seconded the motion. The Members agreed unanimously.

## COUNCIL COMMENTS

None

## ADJOURN

Mayor Dodson made a motion to adjourn. Member DeMott seconded the motion. The members agreed unanimously. The meeting was adjourned at 8:37 pm.

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Bob Dodson, Mayor

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Beth Taylor, Town Clerk