TOWN OF SEVEN DEVILS TOWN COUNCIL MINUTES – REGULAR MEETING

January 8, 2013

The Seven Devils Town Council met in regular session on Tuesday, January 8, 2013, 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 Manager Ed Evans and Attorney Rob Angle. The minutes were recorded by Sara Miller, Town Clerk.

CALL TO ORDER

Mayor Fontaine called the meeting to order at 5:33 PM.

PLEDGE OF ALLEGIANCE

Council members and citizens recited the Pledge of Allegiance

ADOPT AGENDA

Mayor Fontaine proposed to add an Agenda item X.G –High Country ABC Travel Policy to New Business. Member Ehlinger made a motion to adopt the agenda as amended. Member Hooper seconded the motion. The members agreed unanimously.

CONSENT AGENDA - ADOPTION OF MINUTES

Motion for Consideration – Adopt minutes of Regular Meeting December 11, 2012 Travel Request—Town Manager—NC City & County Managers Annual Winter Conference, Durham, February 6-8

Member Ehmig made a motion to adopt the consent agenda. Member Hooper seconded the motion. The members agreed unanimously.

CITIZEN COMMENTS—

Anne Fontaine, 127 West Rocky Top, announced that on January 19 at the Grandfather Mountain State Park Office on Hwy 105 there will be a Wildflower Origami Workshop at 2PM. Also, on February 9 from 10:00AM until 12:00PM the Recreation Commission will host a Bird Count Workshop at Town Hall.

PUBLIC MEETING

PRESENTATION—OTTER FALLS—PARTF GRANT—Mayor Fontaine opened with comments regarding Otter Falls and turned the presentation over to Town Manager Evans, who gave a presentation about the property and the possible acquisition of the Otter Falls property from David Little to build a Town park and recreation area. He stated the Town attempted to do this in 2005 unsuccessfully, and now the interest has peaked since the property is "for sale" again. He stated that the purpose for the current meeting is to gauge the interest of Town citizens in this project and solicit public input for applying for a grant from NC Parks and Recreation Trust Fund.

PUBLIC MEETING COMMENTS—OTTER FALLS PRESENTATION—

Frank Sell, 640 Thorncliff Drive, stated that he has been in Seven Devils for 18 years, and has thoroughly enjoyed Otter Falls in the past. He supported the future project 100%.

Mike Tarlton, 236 Edgecliff Lane, stated that he supports acquisition of the property for future Town use. His family enjoyed Otter Falls in the past, and the Town should not let this opportunity pass.

Anne Fontaine, 127 West Rocky Top, stated that she and the Recreation Commission supported this future project. The Recreation Commission submitted a letter of interest in this project to the Town in an effort to show support.

Barbara Tarlton, 236 Edgecliff Lane, supported the acquisition of the property for future Town use. She recommended Seven Devils citizen Leo Starzec to help in the finding and collection of future funds for this project.

After the citizen comment session, the Council discussed their views and each supported the future acquisition of Otter Falls if a grant can be obtained and stated that they wish to proceed with the PARTF Grant application process.

There being no further comments, the public meeting/presentation was closed.

ADMINISTRATIVE UPDATE & CALENDAR—Town Manager Evans reminded everyone that Town Hall will be closed on Monday, January 21, 2013 in observance of Martin Luther King, Jr. Day. He also reminded everyone that the ABC Board will be meeting on Thursday, January 10, 2013 at 4PM at the ABC Store.

OLD BUSINESS—

Employee Handbook—No new information.

Emergency Procedures Policy—No new information.

NEW BUSINESS

Adopt Resolution—Finance Agreement—Mower —Manager Evans stated that this resolution is a requirement for loan approval, and that the TDA has agreed to help with this worthwhile endeavor by making the payments towards this loan. Member Hooper made a motion to adopt the resolution. Mayor Pro Tem Lambert seconded the motion. The members agreed unanimously. ~CLOSED~



Resolution Approving Financing Terms

WHEREAS: The Town of Seven Devils ("Town") has previously determined to undertake a project for a Diamond brand side mounted boom mower (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

- 1. The Town hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated December 20, 2012. The amount financed shall not exceed \$25,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.69%, and the financing term shall not exceed five (5) years from closing.
- 2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
- 3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Document shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
- 4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
- 5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.
- 6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 8th day of January, 2013,

By: Sara Milly
(Clerk)

By: Yanyfuth
(Mayor)

Resolution—CWMTF(Clean Water Management Trust Fund)— After some discussion, Member Ehimg made a motion to adopt the resolution. Member Hooper seconded the motion. The members agreed unanimously. **~CLOSED~**

Resolution to Support the 2013-2015 Funding for Clean Water Management Trust Fund

Whereas the 1996 General Assembly established the Clean Water Management Trust Fund to provide an innovative and non-regulatory approach to the protection and restoration of the surface waters all across the state; and

Whereas the Clean Water Management Trust Fund is a non-regulatory program established to help meet infrastructure needs of municipalities and counties, restore degraded surface water, protect watersheds, increase recreational opportunities, and enhance quality of life in this state, all critical components for communities to obtain a competitive edge in their economic development; and

Whereas the Clean Water Management Trust Fund has funded 452 infrastructure projects to assist North Carolina communities balance infrastructure needs with environmental protection and to help struggling communities become self reliant with future infrastructure needs; and

Whereas infrastructure needs across the state addressing drinking water, wastewater, and stormwater are estimated at \$16.6 billion between 2005 and 2030; and

Whereas the Clean Water Management Trust Fund has leveraged more than \$1billion of private, local and federal funds to support projects; and

Whereas the General Assembly has reduced funding for the Clean Water Management Trust Fund by 78% since 2010; and

Whereas limited funding for the Clean Water Management Trust Fund left 88% of 2012 critical local needs unmet; and

Whereas our economic vitality, health and ability to sustain ourselves and the natural environment all rely on clean water; and

Whereas surface water must be protected to ensure sufficient drinking water supply for the state's growing industrial base and population; and

Whereas, Clean Water Management Trust Fund has provided grant(s) to the New River to do one or more of the following; to protect, restore or enhance surface water quality for the benefit of the state's agriculture, military, recreation and tourism economies and to protect our natural heritage for the benefit of all North Carolinians; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF SEVEN DEV AT ITS MEETING ON JANUARY 2013 THAT WE SUPPORT CLEAN WATER MANAGEMENT TRUST FUND AND THAT THE FUND RECEIVE AN INCREASE IN RECURRING FUNDING FROM THE GOVERNOR AND THE NORTH CAROLINA GENERAL ASSEMBLY FOR THE 2013-2015 BIENNIAL BUDGET:

Title

Resolution—Opposing Legislation That Provides for the Forced Taking of Municipal Water System—After some discussion, Mayor Pro Tem Lambert made a motion to adopt the resolution. Member Ehlinger seconded the motion. The members agreed unanimously. ~CLOSED~



RESOLUTION OPPOSING LEGISLATION THAT PROVIDES FOR THE FORCED TAKING OF MUNICIPAL WATER SYSTEM

WHEREAS, Statewide legislation was introduced in the 2011 Session of the North Carolina General Assembly that would have forced the involuntary conveyance of a cityowned water system to a Metropolitan Sewer District; and

WHEREAS, prior to the beginning of the 2012 Session of the North Carolina General Assembly, the Legislative Research Commission recommended legislation that would force the City of Asheville to transfer its Municipal water system to a Metropolitan Sewer District; and

WHEREAS, the 2012 Session of the North Carolina General Assembly enacted legislation to begin the process of the forceful taking of a Municipal water system; and

WHEREAS, it is anticipated that legislation will be introduced at the beginning of the 2013 Session of the North Carolina General Assembly that will force the transfer of a Municipal water system; and

WHEREAS, public utilities have the unique responsibility to be protectors of public health and the environment, while serving as partners in the community's growth and development; and

WHEREAS, the forced taking of any local government infrastructure sets a dangerous precedent in the State of North Carolina, a precedent that will have a chilling effect on any local government investing in needed infrastructure in the future, thereby endangering business opportunities and economic stability in the State and resulting in job losses for citizens here and across the State.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF SEVEN DEVILS AS FOLLOWS:

- The <u>Town Council of Seven Devils</u> is opposed to legislation that forces the transfer of any City's municipal water system to another entity.
- The <u>Town Council of Seven Devils</u> is convinced that local solution arrived at by an open, collaborative process is preferable to a legislative directed disposition of local government assets.
- 3. The <u>Town Council of Seven Devils</u> is opposed to the forced taking of any local government infrastructure because such taking sets a dangerous precedent that will have a chilling effect on any local government investing in needed infrastructure in the future, thereby endangering business opportunities and economic stability in the State and resulting in job losses for our citizens here and across the State.

Read, approved and adopted this	the Briday of January , 2013.
Sara Mille City Clerk	Harry furti
Approved as to form:	Jan Marie
City Attorney	\$ 40_1000

Resolution—PARTF(Parks and Recreation Trust Fund) Grand Application for Otter Falls property—Member Hooper made a motion to adopt the resolution. Member Ehlinger seconded the motion. The members agreed unanimously. ~CLOSED~



RESOLUTION IN SUPPORT OF CREATING A TOWN PARK AT THE SITE OF OTTER FALLS

WHEREAS, protecting and preserving our natural environment and water quality is imperative to the Town of Seven Devils; and

WHEREAS, the recreational and nature-friendly activities afforded by the Otter Falls environs for all residents, neighbors, visitors, and descendants are highly desirable; and

WHEREAS, the historical significance of the land containing Otter Falls includes use by Native Americans and part of the track bed for the original Tweetsie Railroad; and

WHEREAS, Clyde David Little wishes to sell a certain tract of approximately 9.78 acres containing the waterfall on Valley Creek known as Otter Falls; and

WHEREAS, the Town is committed to finding additional funding sources for the match required by PARTF to qualify for a grant to purchase the 9.78 acre tract; and

WHEREAS, the citizens and neighbors of the Town of Seven Devils, having met in a legally convened Public Meeting, fully support an Otter Falls Park;

NOW, THEREFORE, BE IT RESOLVED:

The Seven Devils Town Council firmly resolves to accept the tract of land as a park if sufficient funds are raised to purchase it.

ADOPTED, this the 8th day of January 2013.

Larry Fontaine, Mayor

Sara Miller, Town Clerk

Certification—PARTF—Governing Board Certification—Mayor Fontaine inquired and Manager Evans confirmed that the Certification is required as a beginning step to the application process for the PARTF Grant. Member Hooper made a motion to approve the Certification. Member Ehmig seconded the motion. The members agreed unanimously. **~CLOSED~**

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Local Government Name: Town of Seven Devils				
Federal Employer I.D. Number: 56- 1245010	County: Watauga			
ocal Government's Contact Person:	Local Government Manager:			
Name: Mr. Ed Evans	Name: Mr. Ed Evans			
Title: Town Manager	Title: Town Manager			
Address: 1356 Seven Devils Road	Address: 1356 Seven Devils Road			
City/State/Zip: Seven Devils, NC 28604	City/State/Zip: Seven Devils, NC 28604			
Telephone: 828-963-5343	Telephone: 828-963-5343			
E-mail: townmanager@sevendevils.net	E-mail: townmanager@sevendevils.net			
Chief Elected Official:	Type of project:			
Name: Mr. Larry Fontaine	□ Acquisition			
Title: Mayor	Development			
Address: 1356 Seven Devils Road	THE WALLESTON			
City/State/Zip: Seven Devils, NC 28604	Acquisition and Development			
Site Control:	Costs rounded to nearest dollar:			
Owned by local government	December 2			
2-2 PA	PARTF funds requested: \$ 135,800			
Owned by school board	Local government's			
 Leased by applicant for 25 years or more 	matching funds: \$ 135,800			
	Total cost of project \$ 271,600			
Easement	F.E. 32 Alex-2010(Alex-2			
Recreation Resources Service (RRS) regional consu	ıltant: LuAnn Bryan			
Short title of project: Otter Falls Park Property A	equisition			
property for development as the first natural area pa Approval by local governing board: (The loc I hereby certify the information contained in the attache	nows as Otter Falls. The initial project is to acquire the			

Budget Ordinance Amendment—Returned check or draft fee—After some discussion, Mayor Pro Tem Lambert suggested that instead of listing an exact dollar amount, to put "\$--per bank fee" to prevent future necessity to change the Ordinance. Member Ehmig made a motion to accept the Budget Ordinance Amendment, "\$--per bank fee". Member Hooper seconded the motion. The members agreed unanimously. **~CLOSED~**

High Country ABC Travel Policy—After discussion, the members decided on several revisions to the proposed Travel policy. The first change suggested was to #3 of the policy, to list a \$10/\$15/\$25 breakdown for meal expenses: \$10 for breakfast, \$15 for lunch, and \$25 for dinner, a maximum of \$50.00 per day. The second change suggested was to remove the following from #4, "or reimbursement. ABC employees and /or officials attending conventions will have room and board paid at the convention site rate." The third and final change suggested was to add the following to #5, "The General Manager shall approve all employee requests for reimbursement (unless over the state rates for lodging, requiring Board approval). Board approval shall be required for reimbursement requests by the General Manager and other Board members." Mayor Pro Tem Lambert made a motion to accept the ABC Travel Policy as amended, dependent on all the changes being accepted by the towns represented by the High Country ABC Board. Member Hooper seconded the motion. The members agreed unanimously. ~CLOSED~

COMMITTEE REPORTS

Planning Board—No Meeting
Public Works—No Meeting
Public Safety Committee—No meeting
Recreation—No meeting
ABC Board
TDA—No meeting
Public Safety Department
Police Report
Fire Report
Financial Report

COUNCIL COMMENTS

Mayor Fontaine stated that he, Public Works Director Kevin Aldridge, and Manager Evans met with the Boone DOT office regarding the lack of care to Seven Devils Road during a previous weather event. Mayor Fontaine hoped that there will be no future issues and stated that the meeting went very well.

ADJOURN

Mayor Pro Tem Lam	bert made a motion to	adjourn. Member	: Hooper seconde	d the motion. T	ľhε
members agreed unar	nimously. The meeting	was adjourned at	6:50 P.M.		

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Larry Fontaine, Mayor	Sara Miller, Town Clerk	