

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

**August 13, 2013**

The Seven Devils Town Council met in regular session on Tuesday, August 13, 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 Attorney Rob Angle and Town Manager Ed Evans. The minutes were recorded by Sara Miller, Town Clerk.

**CALL TO ORDER**

Mayor Fontaine called the meeting to order at 5:30 PM.

**PLEDGE OF ALLEGIANCE**

Council members and citizens recited the Pledge of Allegiance

**ADOPT AGENDA**

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

**CONSENT AGENDA – MOTION FOR CONSIDERATION**

**Adopt minutes of Regular Town Council Meeting—July 9, 2013**

Mayor Pro Tem Lambert made a motion to adopt the consent agenda. Member Ehlinger seconded the motion. The members agreed unanimously.

**PUBLIC HEARING—VOLUNTARY SATELLITE ANNEXATION (pursuant to NC GS 160A-58.2)**

Mayor Fontaine made a motion to open the Public Hearing regarding the Voluntary Satellite Annexation. Member Ehmig seconded the motion. The members agreed unanimously.

Mayor Fontaine asked Manager Evans to give background information about the potential annexation. Evans then told what all had been done, discussed the location and its proximity to the current Seven Devils municipal boundaries, described the land to be annexed, the purpose for the annexation petition from the petitioner, and stated that the Town had complied with North Carolina General Statutes including the requirement that the Town Clerk attest to the ‘sufficiency of the petition.’

Mayor Fontaine asked opened the floor for citizen comments regarding the proposed Voluntary Satellite Annexation.

**Sarah Manning, 277 Four Diamond Dr.**, expressed concern about the Town notifying the community of Foscoe of this possible annexation. She stated that a past annexation was refused due to opposition from Foscoe, after Foscoe was not directly notified of the annexation. Manager Evans stated that there were formal announcements in the local newspaper, but there were not contacts made directly to Foscoe, as Foscoe is not an incorporated entity, so there is no manager or mayor to speak with.

**Reese Walter, 289 Hawks Lake Dr.**, asked what services will be supplied to this new annexed area. Manager Evans stated that the same services would be supplied as all of the other annexed properties along NC Hwy 105 in Seven Devils - police and fire only.

**Bob Bridges, 147 Deepwood Ct.**, asked if there would be any water services provided to this annexed property. Manager Evans stated that there would be no water or sewer services provided, and that the property owner was accepting full responsibility of these.

Member Hooper asked how the zoning would work for this annexation. Manager Evans stated that everything annexed on Hwy 105 is now zoned General Business. He stated that with the nature of the business they wished to open – a restaurant – they would likely want it to be zoned General Business as well. The decision would be dependent on the Planning Board meeting that would occur the following Tuesday. The Planning Board would make a recommendation to the Town Council for a Zoning Map amendment, and the Town Council would make a decision on this at the next Town Council meeting. A public hearing to adopt a new Zoning map would be the next step.

Member Hooper then stated that the annexation would be approved without a zoning decision, if decided upon now. Manager Evans stated that was correct.

Mayor Fontaine made a motion to close the Public Hearing regarding the Voluntary Satellite Annexation. Member Hooper seconded the motion. The members agreed unanimously.

### **CITIZEN COMMENTS**

**Kay Lambert, 430 Wildcat Rocks Rd.,** stated that Operation Medicine Cabinet had been scheduled for October 19, 2013, along with the Watauga County Hazardous Waste day.

**Anne Fontaine, 127 West Rocky Top,** stated that the total miles walked in the Seven Devils Walking Challenge so far had reached 3288 miles, with a deadline of September 30th.

**Carter Asbill, 528 Telemark Lane,** stated that he was concerned about the lack of road striping coming up and down Seven Devils Road. Manager Evans replied that he had asked the State if they could fit Seven Devils in for restriping, but was told that it just was not in the State budget for the current year.

**ADMINISTRATIVE UPDATE & CALENDAR**—Town Manager Evans stated that the ABC Board will meet on Thursday, August 15, 2013 at 4:00PM.

### **OLD BUSINESS**

**DISCUSSION—MINI-PARKS (ROW)**—Manager Evans stated that there was no update at that time. New Business Item B referred to this matter. **~OPEN~**

**OTTER FALLS—DUE DILIGENCE ISSUES**—After discussion, Mayor Pro Tem Lambert made a motion which would authorize Manager Evans to negotiate up to a cumulative 2 month extension on the due diligence period, as well as to spend up to \$1,000.00 additional earnest money. Member Ehmg seconded the motion. The members agreed unanimously. **~OPEN~**

**ANNEXATION REQUEST—ORDINANCE NUMBER: ANNEX1-2013—TWO PARCELS—1.505 ACRES AND 1.011 ACRES LOCATED ON ALDRIDGE ROAD (NCSR 1594) (PURSUANT TO NC GS 160A-58.2)**—After discussion, the Council stated that it would defer this matter to the September Town Council meeting, allowing the Planning Board to issue a recommendation at its next meeting the following Tuesday. Mayor Pro Tem Lambert also stated that this would allow Foscoe or any other local resident to see posted zoning signs the Town would post, and be able to voice opinions on the annexation at the next meeting. The September Town Council meeting would include the zoning recommendation as well as the final decision regarding the voluntary annexation. There was no action taken. **~OPEN~**

### **NEW BUSINESS**

**NCLM ANNUAL CONFERENCE—HICKORY**—After brief discussion and Mayor Fontaine confirming that the money was in the budget for Manager Evans to attend, Manager Evans and Mayor Fontaine agreed to both attend the NCLM Annual Conference in Hickory. **~CLOSED~**

**OFFER TO PURCHASE TOWN OWNED LAND PARCEL**—After discussion, Manager Evans suggested that the Council make a motion to move forward with negotiations on rezoning of Town property and a presentation to the Planning Board of this potential rezoning. Member Hooper made the above mentioned motion. Mayor Fontaine seconded the motion. The members agreed unanimously. **~OPEN~**

**SNOWCLOUD WATER PROJECT**—Mayor Fontaine stated that the Town received two bids, both higher than the budget set for the project and that the project should likely be deferred to next year, when the Town would have more funds available to fund it. Manager Evans stated that Eggers construction had the lower bid, and that the Town is happy that it received two bids from two great companies with whom they can work well. Manager Evans stated that the Council will defer this issue until spring of 2014, no motion was necessary.

Member Hooper asked if any patching would occur in town before the winter season hit. Manager Evans stated that he would check with the Public Works Department and see what can be done. **~CLOSED~**

**COMMITTEE REPORTS****Planning Board—No meeting****Public Works—No meeting****Public Safety Committee****Recreation****TDA****ABC Board****Public Safety Department****Police Report****Fire Report****Financial Report****COUNCIL COMMENTS**

Member Hooper stated that he thought the Town should have a set of actual conditions to use for when Conditional Use Permits are issued. He inquired if the Planning Board could complete that task. Member Ehlinger stated that she was not sure if such a general list could be generated and applied to each specific permit situation. Manager Evans stated that it can be done, and has been done in other Towns. He would bring it up to the Planning Board at their meeting the next week.

Mayor Fontaine thanked three members of the Council who filed and would run for the upcoming election, Member Hooper, Member Ehmig, and Member Ehlinger.

Mayor Fontaine welcomed Mayor Pro Tem Lambert back to the Council – healthy and recovered. Mayor Pro Tem Lambert thanked Mayor Fontaine, and also wished to thank all the people who made SafetyFest possible while he was sick.

Member Hooper expressed concern regarding the Otter Falls purchase, and all the people going to the falls who are not authorized to do so. Mayor Fontaine stated that the whole Council is very concerned about that issue. Mayor Pro Tem Lambert stated that even when the Town acquires the property it would not be an open park until the Town is ready to do so.

John Turner, attorney for the Blair Mountain POA, asked Mayor Fontaine if he may make a statement. He represented Blair Mountain Estates, who he stated were in the process of activating their POA. At the Council's authorization he had met with Rob Angle, Seven Devils Town Attorney, and Manager Evans and had good discussion. His clients appreciated concerns that were expressed during the meeting. Mr. Turner stated that Otter falls was not a public park yet, and roads in Blair Mountain were private, and were visited too frequently by those parking and looking for Otter Falls. Also, the misinformation within the community that the Town had already closed on the property was not helping the situation. People should not be accessing Otter Falls without the current owner Mr. Little's authorization. He looked forward to working with Manager Evans and Attorney Angle, to resolve all issues. He stated that his clients were pleased with the idea of creating a remote or small park at the Otter Falls location, and not an overburdened park. The residents also appreciated that the Town would have their own entrance and parking area, to deflect traffic through Blair Mountain Estates. The fact that the whole property is subject to covenants of Blair Mountain Estates was one issue that the Town and the POA needed to work through. He urged that the Town continue to do all that it can to keep people out of Blair Mountain Estates.

Mayor Fontaine appreciated the comments and input, and stated that he hoped the Town could resolve the issues with the restrictive covenants, and that it could be done the right way. He stated that the enthusiasm of citizens and their desire to see what they were pledging money towards overwhelmed the judgment. People got too excited and consequently they made bad choices to go through Blair Mountain Estates to view Otter Falls. Mayor Fontaine stated that the Town was doing everything possible to alleviate the problems. The Town would not open the park to the public after purchase until it is ready.

Mr. Turner stated that good communication would help address problems and mitigate any future issues. The Blair Mountain Estates owners supported it but want their property rights respected at the same time.

Manager Evans stated that the one thing the owners needed to remember was that it is their property, and they had the right to file complaints and have cars towed that are trespassing. He stated that at least four 'No Trespassing' signs were posted. It was going to be up to the owners to enforce that.

Mr. Turner stated that people had ignored the tow signs. It was hard to get tow trucks down there quickly and efficiently, to act on the posted warning, but thanked Manager Evans for the advice.

Member Ehlinger asked if there was a sign up that stated "No Entrance to Otter Falls". Manager Evans stated that there was not, that there were two 'No Trespassing' and two 'Posted Signs.' Manager Evans asked owner Lisa Otter Rose to confirm that she had put up two additional 'No Trespassing' signs. Lisa Otter Rose, 268 Lillian Drive, then stated that they had put up three signs and a No Parking sign, and yet people continued to park there.

Reese Walter, 289 Hawks Lake Drive, expressed thanks to the Council for their help thus far. He stated that he believed the Town put the cart before the horse. He asked to confirm that the owners do have the right to tow, and would the police department ticket trespassers.

Mayor Pro Tem Lambert stated that a complaint must be filed, or the Police cannot do anything. Mayor Fontaine agreed with the statement.

Mr. Walter asked, if a complaint were filed, would action on it happen immediately or would it take weeks for a response. He also stated that he hoped the Town would support the private owners having people towed.

Attorney Angle stated that he should make sure the person he is towing is not a neighbor or a visitor of a neighbor. In response, Mr. Walter stated that he would tow the town attorney if necessary.

Mr. Turner stated that he would talk with the owners regarding their private rights, and he thanked the Council and Town for their attempts and continued efforts to help the situation.

#### **ADJOURN**

Member Ehmig made a motion to adjourn. Member Hooper seconded the motion. The members agreed unanimously. The meeting was adjourned at 7:05PM.

---

Larry Fontaine, Mayor

---

Sara Miller, Town Clerk