

**TOWN OF SEVEL DEVILS
TOWN COUNCIL
MINUTES – REGULAR SESSION
November 8, 2010**

The Seven Devils Town Council met in regular session on Monday, November 8, 2010, at Town Hall. Present were Mayor Bob Dodson, Mayor Pro Tem Kathy Copley, Council Members David Ehmig, Richard DeMott, and Kay Ehlinger. Town Manager Ed Evans and Town Attorney Rob Angle were also present. The minutes were recorded by Beth Taylor, Town Clerk.

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

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

APPROVAL OF MINUTES:

**OCTOBER 11, REGULAR MEETING and
OCTOBER 26, CONTINUATION MEETING**

Member DeMott made a motion to approve the October 11, 2010 regular meeting minutes. Member Ehmig seconded the motion. The members agreed unanimously. The minutes were approved.

The following changes were requested for the October 26, 2010 Continuation Meeting Minutes:

On page 2, second sentence, change the wording from "...the majority is here" to "...all members are here."

On page 3, second paragraph under the chart, remove the semi colon after 'as' in the sentence beginning "The two references for Spur stated...", and also adding the following after the sentence mentioned above; "Additionally, Town Engineer Poore commented that Spur employees needed their supervisor to be present."

On page 4, in the eighth sentence down, changing the word "is" to "if" in the sentence beginning "Mayor Pro Tem Copley asked Town Engineer Poore to clarify..."

A motion was made by Member DeMott to approve the October 26 Continuation Meeting minutes as amended, seconded by Member Ehlinger. The members agreed unanimously.

**PUBLIC HEARING TO ALLOW COMMENT ON FINANCING OF WATER
LINE REPLACEMENT AND ROAD RESURFACING PROJECTS**

Town Manager Evans reviewed the waterline project funding attempts that had been made to find financing for the needed projects and the terms of the current offer from RBC Bank for the procurement of an installment loan contract utilizing Build America Bonds. Evans stated that after checking with several banks and being unable to secure a loan with an interest rate or term favorable to the Town, he had learned of Build America Bonds and sought information about them with RBC Bank, a bank willing to work with the Town of Seven Devils. After learning the details, the Town Council decided to pursue the option of a Build America Bond (BAB) installment loan from RBC Bank and found that it seemed to be an appropriate instrument for our projects. This loan will not exceed \$633,810.00, the initial estimated cost of four projects that include Grandview Drive, Wayside Court, Chinkapin Drive, and Hanging Rock Villas. The expected date of funding, if approved by the LGC, is December 16, 2010. The interest rate in the proposal is 5.37% annually, reduced by a 35% rebate on the interest from the Federal Government, which will provide an effective interest rate of 3.4905%. The term of this loan is for 10 years with a payment amount of \$41,370.97 in arrears, paid semiannually. There is a fee of \$7,500.00 for legal fees charged by the bank.

There is a prepay penalty with this loan. However, Evans explained that it is not really relevant since it is highly unlikely the Town would be able to pay the loan off early.

After Manager Evans' summary, Mayor Dodson asked for a motion to open the Public Hearing. Member DeMott made the motion. Member Ehlinger seconded the motion. The members agreed unanimously.

Mayor Dodson asked for citizen input. Town citizen George Ehlinger, resident of 196 Thorncliff Drive, Seven Devils, asked the Members if all the money would be strictly used on water projects. Manager Evans responded that it will not.

Mr. Ehlinger further stated that if the funds were to be strictly for water, the Woodwinds Community should not be taxed on it, since they do not receive Town water. Mayor Dodson said no decision has been made on other projects at this time. That is part of what we are going to be discussing tonight.

There were no further citizen comments. Mayor Dodson made a motion to close the Public Hearing. Member DeMott seconded the motion. It was agreed upon unanimously.

CITIZEN COMMENTS

None

ADMINISTRATIVE UPDATE & CALENDAR

Manager Evans stated neither the County, NCDOT, nor BREMCO has received Christmas Ice Storm 2009 relief funds from FEMA. Mayor Dodson asked Manager Evans if he had an estimate of what the Town should get. Evans responded that the Town has received approximately \$13,000 to date and that we should receive around \$55,000 more, making a total of approximately \$73,000.00.

Manager Evans pointed out that when he met with the Watauga Comprehensive Transportation Plan Steering Committee on November 4, 2010, he brought to their attention that the Town only has one road in and out of town. The Planning Committee agreed that a single access road could be problematic and that the topic is probably worthy of inclusion in future plans. As more information becomes available, Evans will update the Council Members.

OLD BUSINESS

A. Resolution – Water Shortage Response Plan (carry over to December)

~OPEN~

B. Water Use Ordinance Revision (carry over to December) ~OPEN~

NEW BUSINESS

A. Consideration of additional water system and road improvements to be included

Mayor Dodson wanted to know why we were discussing additional projects to include before we have any money. Town Attorney Angle pointed out that we have to identify all the projects in the resolution when we pass it. A lengthy discussion ensued regarding two separate potential projects on opposite ends of Town that are worthy of consideration. Evans explained that the goal has been and continues to be seeking out the highest priority projects. After substantial analysis by Kevin Aldridge (Public Works Director), David Poore (Town Engineer), and Evans (Town Manager) it is their belief that the most critical additional projects, for which we would have the financial resources to include, are those in the same geographic area as the previously approved Grandview Drive project. This would allow completion of an entire section of Town. Evans recommended that potential additional projects, based on priority, would include adding Edgefield Court and Cherokee Court, both located off Grandview Drive (the main project subject), and resurfacing of Devils Lake Drive (the road used to access all of the roads in the Grandview Drive portion of the previously approved projects and two of the currently recommended projects). Although the loan would not be sufficient to cover resurfacing the entirety of Devils Lake Drive, we could do a portion of the road with the loan proceeds if any remain and then use General Fund and Powell Bill resources to complete the resurfacing if possible, noting that the Powell Bill resource must be used on road projects. Evans explained that if it is not possible to do the entire project, we could do as much as our funds would allow. Evans also

discussed Snowcloud, another priority project on the opposite end of Town that is very worthy of consideration for upgrade. He stated that we do not have nearly enough money from the loan proceeds and additional funds to complete the entire project in Snowcloud and that if we only did a portion of the project, we probably could not finish it for quite some time. Regarding any additional projects, Mayor Dodson asked if the contingency was included in any of the prospective additional projects. Evans replied he thought it was included. Mayor Pro Tem Copley stated she did not think the contingency amount was included. Member Ehmig stated that if the contingency is not included, we may not have as much money to do additional projects as we think. Member Ehmig noted that based on the winning bid of \$505,000 the contingency would be approximately \$78,000, bringing the total to \$583,000. If this scenario is correct it would result in the Town having approximately \$50,000 remaining to fund additional projects. Town Attorney Angle stated that the Town needs to name the potential additional projects in the Resolution. Mayor Pro Temp Copley wanted to clarify that just because the projects are named in the Resolution does not obligate the Town to do them, come spring, if the funds are not available. Attorney Angle and Manager Evans confirmed that we would not be obligated to do them. We would only do them if the funds were available.

Mayor Dodson asked if anyone was prepared to make a motion regarding additional projects to be considered. Member Ehlinger made a motion to add Edgefield Court, Cherokee Court, and Devils Lake Drive to our approved projects, subject to the availability of funding. Member DeMott seconded the motion. The members voted unanimously in favor of the motion. ~CLOSED~

B. Consider (new) proposal from RBC Bank to provide financing for water projects

Members reviewed a copy of the RBC proposal for the installment loan contract. Evans reiterated that it is a Build America Bond with an annual interest rate of 5.37 % and a 35% interest rebate. The rebate provides an effective interest rate 3.4905% for a 10 year term. He further stated that the semi-annual payment is \$41,370.97 and the only change in this proposal over the previously approved financing proposal from RBC Bank is the change in dates, which requires the Council to approve the proposal again. Mayor Pro Tem Copley voiced a concern over the pre-payment fee. She did not remember it being included in the original proposal. Manager Evans clarified that it was in the original proposal, but that it is not really going to be an issue as it is unlikely that the Town will be paying the loan off early. Member DeMott made a motion to approve the loan proposal using the Build America Bond instrument as presented in the proposal from RBC Bank. Member Ehlinger seconded the motion. The members voted unanimously to approve the RBC proposal. ~CLOSED~

C. Resolution – Authorizing the filing of an application for approval of an installment financing contract

Member DeMott made a motion to adopt the *Resolution authorizing the filing of an application for approval of an installment financing contract in the amount of \$633,810 authorized by North Carolina general statute 160A-20 and authorizing the execution and delivery of an installment financing contract.* It was seconded by Member Ehlinger. The members voted unanimously to adopt the Resolution. ~CLOSED~

D. Consideration - Giving signature authority to Town Manager for the water and road related projects that are part of this financing agreement

Member DeMott made a motion to grant Town Manager Evans the authority to sign for the water and road related projects that are part of this financing agreement. Mayor Pro Tem Copley seconded the motion. It was agreed upon unanimously.

Town Attorney Rob Angle noted that the language of the contract leaves some possibilities for signatures on the money put into Escrow. He suggested that the blanks on the contract could be filled in with ‘Mayor or Town Manager’, or ‘Mayor and Town Manager’, or other possibilities. Member Ehmig stated that he thought the wording should be for the ‘Mayor and Town Manager’ to sign documents regarding deposit funds. Member DeMott made a motion to use ‘Mayor and Town Manager’ for the contract. Member Ehmig seconded the motion. The members voted unanimously in favor of the motion. ~CLOSED~

E. Mowing Agreement between NCDOT and the Town of Seven Devils

Manager Evans shared that this agreement was something he had been working on since spring. He stated that the Town currently cuts the grass on the right-of-way and

that the Town is not reimbursed by the NCDOT. He also noted that the NCDOT is paying a contractor to cut the right-of-way approximately four times per year. Thus, he thought it prudent to try to work out an agreement with the NCDOT so that the Town could be reimbursed for the grass mowing work that they are currently performing, and have been performing for some time. Evans told the Council that the reimbursement is not much. The reimbursement from the NCDOT is based on a linear mile dollar amount. Mayor Pro Tem Copley wanted to know if the Town has the proper liability coverage for this. Manager Evans responded that we do. Mayor Pro Tem Copley also wanted to clarify if this Agreement is just for mowing, not to include snow removal. Evans responded that the agreement is only for mowing. Member Ehmig made a motion to adopt the Mowing Agreement. Member Ehlinger seconded the motion. The members voted unanimously in favor of the motion.
~CLOSED~

F. Recreation Committee – Request for Potential Playground Property

Manager Evans explained to the Council Members that the Recreation Committee has observed that the Town does not have a playground for children to play. They have received comments from some residents, especially grandparents, who would like for their grandchildren to have a playground available when they visit. As stated in the letter from the Recreation Committee to the Town Council, the Committee hopes to find a suitable lot to build a small playground with room for a couple of park benches for the adults to use while the kids play. They are not looking for anything elaborate. Town Attorney Angle wanted to know if there was land near the tennis court. Member Ehmig responded there was land, but not very much. Manager Evans suggested the use of the lot near the Town Hall as a possibility. Mayor Dodson questioned whether the Town would have to fence the playground. Both Member Ehlinger and Mayor Pro Tem Copley stated that they thought it would definitely have to be fenced in for safety reasons. Mayor Pro Tem Copley pointed out that there could be possible problems of parking and could also create a problem of noise if the playground is near Town Hall, as it would likely be right outside of office windows.

The Council Members unanimously agreed to turn the issue over to Manager Evans to see if he could suggest suitable locations for a playground, at which time they would consider options. ~OPEN~

COMMITTEE REPORTS

A. Planning Board

No Comments

B. Public Works

No Comments

Public Safety Committee

No Comments

Recreation Commission

No Comments

C. ABC Board

Mayor Pro Tem Copley asked what LBD was and if it only applied to restaurants. Member Ehmig responded that it was for Liquor By the Drink, and yes, it is for restaurants.

D. TDA

Manager Evans pointed out that the deck/porch in the front and side of Town Hall has been sealed and stained. This was accomplished by a community service worker and our own Public Works employees. The rear deck and ramp will be done as soon as weather permits. Thanks to the TDA for their help with this project.

Public Safety Department

i. Police Report

No Comments

ii. Fire Report

No report at this time

E. Financial Report

Mayor Dodson Made a motion to accept the financial report. Member DeMott seconded the motion. It was agreed upon unanimously.

COUNCIL COMMENTS

Mayor Dodson noted that he had mentioned to Manager Evans that there are some properties around town that we might want to try to sell and that if so, we may want to put up some 'for sale' signs. He also stated that we might want to wait until spring to put up the signs and attempt to sell.

ADJOURN

A motion was made by Mayor Dodson to adjourn at 7:26 pm. It was seconded by Member DeMott. The members agreed unanimously.

Bob Dodson, Mayor

Beth Taylor, Town Clerk