

**TOWN OF SEVEN DEVILS  
TOWN COUNCIL  
MINUTES – REGULAR SESSION  
November 09, 2009**

The Town of Seven Devils Town Council met in regular session on Monday, November 9<sup>th</sup>, 2009 at Town Hall. Members present were Mayor Bob Dodson, Mayor Pro Tem Richard DeMott and Council Members Kay Ehlinger, Bill Wilkinson and Kathy Copley. 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 5:31 p.m.

**PLEDGE OF ALLEGIANCE**

Council members and citizens recited the Pledge of Allegiance.

**ADOPT AGENDA**

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

**APPROVE MINUTES**

The following corrections were made to the October 12, 2009 regular meeting minutes:

- On Page 1 under **ADOPT AGENDA** first sentence needs to be changed to say: Mayor Pro Tem DeMott made a motion to adopt the agenda.
- Member Copley requested clarification on Page 2 of the last sentence under **OLD BUSINESS C. Consider adoption of Public/Private Road awareness Form.** **Item C** was changed to read as follows: The Town Manager explained at the September 21<sup>st</sup> Planning Board meeting, the Planning Board agreed since public/private road is addressed on the Zoning Permit Form, this item required ***no action***. The Town Council reviewed the submitted amended *Zoning Permit Form*. Ed pointed out the following note added to the middle of the Zoning Permit Form. (Note: No maintenance or snow removal is provided by the Town of Seven Devils on private roads/streets, etc.) Discussion followed among the Council. It was the consensus of the Council that the amended *Zoning Permit Form* sufficiently addresses Public and Private Roads.
- Member Copley noted the word amended needed to be added to her motion on Page 2, after **Item C**. Member Copley's motion was amended to read as follows: Member Copley made a motion to adopt the amended *Zoning Permit Form* as submitted. Mayor Dodson seconded the motion. The members agreed unanimously.
- Mayor Dodson noted on page 5, the second sentence under **C. Public Safety** should be amended to read as follows: Member Ehlinger complimented the Public Safety Committee for their participation in the Operation Medicine Cabinet Pharmaceutical Drug Take Back Project.

The Town Council agreed to defer action on approval of the October 12, 2009 regular meeting minutes to the December 14<sup>th</sup>, 2009 regular scheduled meeting.

**CITIZEN COMMENTS**

Carter Asbill, 528 Telemark Lane told the Council he is present to support the Planning Board's recommendation on modification of the tree section of the Zoning Ordinance.

Larry Fontaine, 127 West Rocky Top congratulated the newly elected Town Council members. He said he would like to see a list comparing the actual number of voters and the number that turned out to vote. He suggested creating a list of ideas on how to increase the number of voters.

## ADMINISTRATIVE UPDATE

The Town Manager reviewed his administrative update with the Council. Ed told the Council the audit is complete and the auditors will present their findings at the December 14<sup>th</sup>, 2009 regular scheduled Town Council meeting. He told the Council and Citizens a copy of the audit is available by email or a paper copy is available to the public for \$10.

Ed told the Citizens that the Moretz paving was approximately \$12,000 less than the roughly estimated \$94,000.

The Town Manager reminded the Citizens and Council that Town Hall will be closed on Wednesday, November 11, 2009 in recognition of Veterans Day.

The Town Manager told the Council the 55 unpermitted and expired real estate signs that have been collected would represent \$825 in revenue for the Town. He told the Council for this fiscal year, we have collected \$465 in sign permit fees.

## OLD BUSINESS

None

## NEW BUSINESS

- A. Planning Board Recommendation – Amend the Nuisance Ordinance – Article 6.6 (Addressing Bears / Trash Cans)** Discussion followed among the Council regarding possibly placing fines in the Budget Ordinance or keeping the fines in the enforcement section of the Nuisance Ordinance. There was further discussion regarding first, second, and third offenses. David Hooper explained to the Council that this recommendation was for clarification in the Nuisance Ordinance that fines can be levied. He explained to the Council that although there is a problem with trash the largest problem is that bears are getting more humanized and it will eventually lead to a bear or person getting harmed.

Mayor Dodson read from the **Nuisance Ordinance – Article 10 – Enforcement – 10.3 Penalties:** *Any person, firm or corporation that creates, maintains, or allows a public nuisance shall be guilty of a Class 3 misdemeanor and, pursuant to North Carolina General Statute 14-4, may be subject to a fine of not more than five hundred dollars (\$500) for each violation. Each and every day that any person, firm or corporation shall continue such conduct in violation of this Ordinance shall constitute a distinct and separate violation.*

Problems with rental properties, GDS erratic schedule of trash pick up and possibilities of other garbage removal services were discussed.

Member Copley made a motion that the following sentence should be added to **Article 6.6 of the Nuisance Ordinance:** *Fines will be levied in accordance to Article 10 – Enforcement – 10.3 Penalties of the Nuisance Ordinance.* Mayor Pro Tem DeMott seconded the motion. The members agreed unanimously.

Problems with GDS erratic schedule of trash pick up and rental properties were discussed. After discussion, the Town Council agreed to send this item back to the Planning Board for review of fines for first, second and third offenses and consideration of permanent enclosures for trash cans. – **OPEN** -

- B. Planning Board Recommendation – Consider approval of updated version of the Comprehensive Land Use Plan (CLUP)** – The Town Council reviewed suggested changes to the Comprehensive Land Use Plan version one (1) submitted by the Planning Board and version two (2) submitted by the Town Manager.

Mayor Dodson noted in the second version page 7 of 13 the last paragraph states, “*The Town’s water system is comprised of six wells*”. The Council requested this be changed to reflect five wells.

The Council requested the last sentence in the first paragraph of version two (2) be changed to read as follows: *85% of residents are within 500 feet of a fire hydrant.*

Mayor Pro Tem DeMott made a motion to approve version two (2) of the Comprehensive Land Use Plan as amended. Member Ehlinger seconded the motion. The members agreed unanimously. **CLOSED**

**C. Planning Board Recommendation – Modify Zoning Ordinance 8.9.3.3 (Tree Removing / Pruning)** – Mayor Dodson noted there had been a previous verbal statement from Carter Asbill during Citizen Comments supporting this modification. The Council then reviewed two (2) letters one from Chris & Sherry McBee and the other from John Tinnell and an email from William McLean supporting the modification.

The Council then reviewed the suggested changes to the **Zoning Ordinance 8.9.3.3 (Tree Removing / Pruning)**. A lengthy discussion followed among the Council regarding protected, live and dead trees. It was the consensus of the Town Council that any tree removal or pruning of protected, dead or alive trees will all require a Tree Removal / Pruning Permit. The Town Manager noted the last sentence in 1) reads: *Tree limbs of 3” or less in diameter may be pruned without a permit.* The Town Manager said it is possible to flat top a tree by only removing limbs 3” or less in diameter. After discussion the Town Council agreed to send **Zoning Ordinance 8.9.3.3** back to the Planning Board for further consideration and review. Mayor Dodson instructed the Town Clerk to be sure the Planning Board gets copies of the letters from Chris & Sherry McBee and John Tinnell and the email from William McLean.

The Town Manager told the Town Council at the last Planning Board meeting it was discussed that perhaps the Town Manager / Zoning & Code Enforcement Officer could call upon the Planning Board to make decisions in controversial tree removal situations. The Planning Board felt it would be best to send three Board members to investigate the situation and that it would be best if the three members have the authority to render a decision when called upon. **OPEN**

**D. Planning Board Recommendation – Amend Zoning Ordinance (Possible Section 8.2.3 – New Subsection – Uncovered Walkways)** – Bob Haugh explained that George Ehlinger had spoken with Watauga County Building Inspector Ronnie Green who informed George if a walkway is connected to a house, Watauga County will inspect the walkway. Bob explained State’s minimum width is twenty eight inches (28”) wide. After the Planning Board discussed access and safety issues, we felt a minimum of forty two inches (42”) and a maximum of sixty inches (60”) would be better.

Member Copley suggested the word wide be added after (42”) and (60”). The Town Manager suggested the wording be added: *must be attached to a component part of the house or garage.* Ed told the Council we were looking at placing this change in the **Zoning Ordinance – Community Design Standards as 8.2.3.3**. He explained the current 8.2.3.3 – Additional Requirements for commercial Development will become 8.2.3.4.

A lengthy discussion followed among the Council regarding setback areas, inspections of walkways not attached to the house and engineering requirements. After discussion it was the consensus of the Council to return: **Amend the Zoning Ordinance to reflect: Uncovered walkways, regardless of whether in or out of the setback, must be a minimum of forty two inches (42”) and can be up to a maximum of sixty inches (60”) to the Planning Board for further consideration and review.** **OPEN**

**E. Planning Board Recommendation – Add to the Zoning Ordinance 7.12 - Exceptions to Setback Requirements: #5)**

Mayor Pro Tem DeMott made a motion to approve adding to the **Zoning Ordinance 7.12 – Exceptions to Setback Requirements: #5) One walkway providing access to a residence.** Mayor Dodson seconded the motion. The members agreed unanimously. **CLOSED**

**F. Town Manager Recommendation – Consider Change to Zoning Ordinance 9.5 – Real Estate Signs** – The Town Manager said as he previously addressed in his Administrative UpDate he has removed 55 unpermitted or expired real estate signs. He explained a spread sheet has been developed to track the permit expiration dates. He told the Council the real estate agent or owner is now given a copy of the sign permit form which reflects an expiration date. He explained this gives them the burden of tracking the expiration date and applying for a renewal. He said there is a \$15 sign permit fee but there is no incentive to get the permit as there is no penalty for unpermitted or expired signs. The Town Manager recommended imposing a fine for signs erected without a permit that would be greater than the cost of buying a permit and imposing a fine for expired permits that is greater than the cost of buying the permit. Ed told the Council he thinks it would be reasonable to send letters to all real estate firms doing business in Seven Devils so they are informed of the newly imposed fines. Discussion followed among the Council regarding reasonable fines for unpermitted, illegally moved and expired signs.

Member Copley made a motion to continue the \$15 permit fee for all real estate listing signs as listed in the Annual Operating Budget Ordinance (with the exception of Open House signs which require a permit but do not require a permit fee). Member Wilkinson seconded the motion. The members agreed unanimously.

Member Copley made a motion for the Town Manager to draft language to change **Zoning Ordinance – 9.5.2 – Real Estate Signs** - to impose a \$50 fine for unpermitted & illegally moved signs and to impose a \$25 fine for expired signs. She further motioned signs shall be returned to the real estate agencies or companies upon payment of fines and/or sign permit fees. Bill Wilkinson seconded the motion. The members agreed unanimously.

**G. Census Partner Resolution** – Mayor Dodson told the Council this resolution is giving permission to allow the Census to use space at Seven Devils Town Hall. The Town Council reviewed the 2010 proposed Census Partner Resolution.

Member Copley made a motion to adopt the 2010 Census Partner Resolution as presented. Mayor Dodson seconded the motion. The members agreed unanimously.

**H. Ann Oakley Water Bill** – The Town Manager explained this is a result of a large water bill which occurred during the second quarter of 2009. Ed told the Council the bill was \$6,881.97. He explained after the leak was repaired, the bill was adjusted to .01 cent per gallon which resulted in a water bill of \$2,414.00. Ed told the Council Ann Oakley & Steve Icenhour worked out a payment plan to pay the bill in full by July 31, 2010. He said there was recent construction on Green Cove Road by Eggers Construction and Mr. Icenhour claimed a pipe was broken in the meter box. Mr. Icenhour thought Eggers Construction possibly ran over their meter box and broke their pipe. Ed told the Council Mr. Icenhour said he had a plumber do the repairs before he had a large leak and he did not ask the town or Eggers Construction to pay for the plumbing bill. He said when this damage occurred it made Mr. Icenhour think perhaps the previous leak in June was caused the same way. Ed told the Council they asked him to further reduce their bill from the second quarter and he told them he could not do that. Ed said he explained to them that this would need to be a decision by the Town Council. Ed then showed the Council pictures taken of the Green Cove Road, light pole and meter box. Bob Haugh told the Town Council there was no construction on Green Cove Road during the period of the second quarter leak. After viewing the photographs it was the consensus of the Town Council that there was no way the equipment could have run over the meter box which is located five to six feet off the road. The Town Council agreed to take *no action*.

#### **I. Christmas Bonuses**

Mayor Dodson made a motion to give the staff and Town Manager the same bonus as last year of \$350. Mayor Pro Tem DeMott seconded the motion. The members agreed unanimously.

The Town Council reviewed the following list of unused and broken computer and printer units to be disposed of.

- 1 Gateway Computer 350 mhz 512 mb ram, no hard drive
- 1 Gateway Computer Monitor 19" CRT
- 1 Gateway E Series Computer 2.8 ghz P4 1 gig ram, no hard drive
- 2 HP Laserjet printers, Model 2200d
- 1 Epson Color Stylus 900 Inkjet Printer
- 1 Samsund Integrated Personal Facsimile Model FX500 – New
- 1 HP Officejet 6310 All – in – One Printer

Mayor Pro Tem DeMott made a motion to give the Town Manager the authority to dispose of the above unused and broken computer and printer units. Member Wilkinson seconded the motion. The members agreed unanimously.

## COMMITTEE REPORTS

- A. **Planning Board** – There were no additional comments.
- B. **Public Works** – *No meeting was held.*
- C. **Public Safety** – *No meeting was held.*
- D. **Recreation Commission** – *No Quorum.* The Council asked Tom Bookstaver why it seems so difficult for the Recreation Commission to achieve a quorum. Tom told the Council Martha Stearns is from Charlotte, Peggy Sell is from Gastonia and Mark Garrett is the Principal of Avery County High School which makes it difficult for him to attend a 4:30 meeting. Discussion followed regarding if the membership of the Recreation Commission should be reconsidered. Mayor Dodson requested Tom to give the Town Council recommendation on this in January.
- E. **ABC Board** – There were no additional comments.
- F. **TDA** – There were no additional comments.
- G. **Financial Report** – The Town Council reviewed the October 2009 monthly finance report.

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

## TOWN COUNCIL COMMENTS

Mayor Dodson read the following letter from Don Maclean:

*(LETTER)*

6 October 2009

Attention: City Manager Ed Evans

Dear Ed,

Mary and I are completing our third full summer season here at Seven Devils and we would like to thank the town for making our visits enjoyable. Last winter I requested the town consider a variance request to construct a carport on our property on Deepwood Ct. The variance was granted and I am happy to report the carport is complete and we think it is a nice improvement to our property. Our thanks to all the members of the Board of Adjustment who evaluated and approved our request.

Last week we were pleasantly surprised when the town resurfaced Deepwood Ct. the road needed attention and now it is in first class condition. Our thanks again to those who

contributed to the decision to provide a lasting fix. These efforts have made our stay this year much more enjoyable.

Respectfully,

Don Maclean

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Council Member Copley asked the Town Manager for an update on appointing the Town Clerk as Tax Collector, relining the Seven Devils road and putting a reflector on Moonlight Trail. The Town Manager told the Council appointing the Town Clerk as Tax Collector will be addressed at the December Town Council meeting. The Manager said he has spoken with the State and they told him there is very little chance that Seven Devils will get the road relined this year or next year. He told the Council he asked the State about putting reflectors on the road and they told him that comes from a separate division. He said this division has not yet gotten in touch with him. The Town Manager told the Council he and Kevin had looked at the place on Moonlight Trail where there is no shoulder. He said it is his and Kevin's opinion that the best thing to do is to get enough fill to make a shoulder because it is potentially dangerous. The Town Manager said they will definitely put up reflectors and explore what else is feasible.

Mayor Pro Tem DeMott told the Council and Citizens the High Country Conservancy is leading a hike to Bear Paw Nature Preserve on Saturday, November 14<sup>th</sup> at 10:00 a.m. He said if you plan to attend you need to contact High Country Conservancy at telephone number (828)264-2511.

#### **ADJOURN**

At 7:40 p.m. Mayor Dodson made a motion to adjourn. Mayor Pro Tem DeMott seconded the motion. The members agreed unanimously.

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Bob Dodson, Mayor

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Lois Evans on behalf of Town Clerk