

TOWN OF SEVEN DEVILS
REGULAR TOWN COUNCIL MEETING
TUESDAY, OCTOBER 12, 2021
5:30PM

The Seven Devils Town Council met for a Regular Meeting on Tuesday, October 12, 2021. In-Person attendance included: Mayor Larry Fontaine, Members Wayne Bonomo & Leigh Sasse; Mayor Pro Tem Brad Lambert & Jeffrey Williams were absent. A quorum was established. Also in attendance were Town Manager Debbie Powers, Police Chief Jonathan Harris & Town Attorney Rob Angle. The minutes were recorded by Town Clerk Hillary Gropp. Electronic format via Go To Meeting #185435301.

INVOCATION

Mayor Fontaine gave the Invocation for the Council meeting.

PLEDGE OF ALLEGIANCE

Council members and Citizens recited the Pledge of Allegiance.

CALL TO ORDER

Mayor Fontaine called the meeting to order at 5:32pm.

ADOPT AGENDA

Member Bonomo made a motion to adopt the agenda; Member Sasse seconded the motion. All members agreed.

CONSENT AGENDA

Adopt minutes of the Town Council Meeting – September 14, 2021

Member Sasse made a motion to approve and adopt the minutes; Member Bonomo seconded the motion. All members agreed.

OLD BUSINESS

A. Update – New Legislative Bill – Police Chief Harris

Gov. Roy Cooper on September 2, 2021 signed into law a wide-ranging piece of legislation that creates new databases, requires additional background checks and decriminalizes certain local government ordinances. Senate Bill 300 (S.L.2021-138) may require town councils to adopt or amend ordinances, create new databases, or establish new practices or processes.

Decriminalization of Certain Ordinances (Part XIII) removes the current presumption that all local ordinances may be enforced criminally and states that ordinances may be enforced criminally “only if the city specifies such in an ordinance”. It also includes a list of statutory sections in which cities cannot adopt ordinances with criminal enforcement, such as: planning & regulation of development, setback lines, ordinances regulating trees.

For ordinances that will not be enforced criminally, establish administrative capabilities to issue and collect civil citations or fines violations and to provide for an appeals process. For arrestable offenses, judicial officials have the authority to obtain personal ID. In civil matters, where only a citation or fine can be issued, obtaining the ID of the alleged violator may be difficult or impossible.

Legislation requires the criminal authority to be specified in “the ordinance,” towns and cities should carefully specify criminal enforcement in each applicable ordinance. Police Chief Harris will review the Town’s ordinances and make recommendations as needed to comply with the December 1, 2021 deadline. ~OPEN~

NEW BUSINESS

A. Planning Board Recommendations

(i) Administrative Corrections to UDO

Debbie Powers, Town Manager/Zoning Administrator reported that during the Board of Adjustment meetings that occurred earlier this year, errors were discovered in Article 17 of the UDO. Article 17 repeatedly refers to “Public Hearings”, and the correct term should be “Evidentiary Hearings.

Public Hearings are legislative mechanisms, that allow any public person to voice an opinion on an item before the Town Council.

Evidentiary Hearings are quasi-judicial mechanisms that are sworn testimony of “persons with standing” in a Board of Adjustment case.

Both of these hearings must be held in compliance with the open meetings and public records laws.

This guidance aligns with the Quasi-Judicial Handbook written by David Owens and Adam Lovelady with the UNC School of Government. Board of Adjustment Chair Bob Bridges and Town Attorney Rob Angle are in agreement with this administrative correction.

Member Bonomo made a motion to approve the Administrative Corrections to the UDO; Member Sasse seconded the motion. All members agreed. ~CLOSED~

(ii) BearWise Community Nuisance Ordinance

ARTICLE 15 – BEAR WISE COMMUNITY

15.1 This Ordinance is for the health, safety, and welfare of the residents of the Town of Seven Devils and their invitees, guests, visitors, and employees, as well as for the wildlife which inhabit the High Country. Human provided food sources, whether intentional or unintentional, are the primary cause of conflicts between wildlife and people. Injuries are rare. However, wildlife can be dangerous and is capable of inflicting serious injury, damage to personal property or killing humans and pets.

Besides running the risk of human injury, often it is the particular wild animal that has to be destroyed because of these conflicts. There are known practices which minimize or prevent human-wildlife conflicts. Therefore, the Town of Seven Devils is taking preventative measures to not only keep the residents of Seven Devils safe, but also keep the wildlife of Watauga and Avery counties wild.

15.2 Residents are recommended to perform all necessary actions to remove attractants of wildlife. This includes, but is not limited to:

1. Pet food **shall** not be put or stored outside for any time period other than the actual time the pet is eating.
2. All BBQ grills **shall** be cleaned immediately after use or stored in a sturdy shed, garage, or other secure location.
3. Ensure that any bird feeders are hanging at least 10 ft. high and 4 ft. from any trees or poles.
4. All garbage and trash shall be kept in a wildlife resistant container or secured in a sturdy shed or garage at all times.

15.3 Violations and Penalties of this Ordinance will be handled as set forth below. All Violations shall be paid to the Town within twenty (20) days of issuance of the Violation. Failure to comply with any warning or Violation within the designated timeframe may be deemed another Violation.

- First Violation – the first Violation will result in a Warning to the alleged offender. The offender will be warned, informed, and educated on the proper precautions necessary to prevent the feeding of wildlife and the necessary actions to meet the provisions of this Ordinance. The Warning shall include a time schedule for compliance which shall be no longer than seven (7) days from the date of issuance.
- Second Violation – the second Violation will result in a written Violation and a fine of \$125.00. The Violation shall contain a time schedule for compliance which shall be no longer than seven (7) days from the date of issuance.
- Subsequent Violations – Each subsequent Violation will result in a Violation and a fine of \$250.00. The Violation shall contain a time schedule for compliance which shall be no longer than seven (7) days from the date of issuance.

Member Sasse made a motion to adopt the BearWise Nuisance Ordinance; Member Bonomo seconded the motion. All members agreed. ~CLOSED~

B. Budget Amendment #2 FY22

Budget Amendment #2 – FY22

Purpose: to account for the TDA donation to the Town from FY21; Auditor reported this Violation in the FY21 presentation at September meeting. This Budget Amendment is to correct.

Increase: Revenue Account #10-399-04 – TDA DONATION TO TOWN by \$160,000.

Increase: Expenditure Account #10-540-58 – PARKS PROJECTS by \$160,000.

NOTES:

To properly account for the TDA donation to the Town in the amount of \$160,000 for the planning, mapping, infrastructure, and creation of the Park facility at Town Hall. This Budget Amendment is to correct the Audit Violation and create a response to the LGC when they request it.

Debbie Powers
Town Manager

Member Bonomo made a motion to approve the Budget Amendment#2 – FY22; Member Sasse seconded the motion. All members agreed. ~CLOSED~

C. Resolution #2021-05 – Appreciation – Tom Gidley

Mayor Fontaine read the following Resolution #2021-05 and presented it to Tom Gidley.



RESOLUTION #2021-05

Appreciation and Gratitude to Tom Gidley for Volunteer Service

WHEREAS, Tom Gidley has served the citizens of this community as a Member of the Tourism Development Authority for 16 years; and

WHEREAS, Tom Gidley has served with vision, enthusiasm, and integrity, and provided unending volunteer work for the Town of Seven Devils and its citizens; and

WHEREAS, Tom Gidley has participated in implementing the following Recreational functions in the Town, such as Music on the Lawn, the Arbor Day Celebration, Tennis/Pickleball Clinics, Annual "Lite Up The Nite" Holiday Celebration, and the 40th Anniversary Celebration of the Town; and

WHEREAS, Tom Gidley served to dedicate and promote Otter Falls Trail and has been a keen advisor on advertising, TDA purchases for the Town, and communicator to our residents; and

WHEREAS, Tom Gidley has participated in the expansion of the Town playground, and integrating pickleball into the Town tennis courts, Peak Mountain Trail and New Town Hall park creation; and

WHEREAS, Tom Gidley has participated in, and supported the creation of the Comprehensive Park & Recreation Plan;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Seven Devils, NC, that it expresses to you, Tom Gidley, on behalf of itself and other citizens and officials, appreciation for your unselfish and invaluable service and contributions rendered, and urges all citizens to join in extending appreciation for your 16 years of service to the people of Seven Devils.

Adopted this the 12th day of October, 2021

Larry Fontaine
Larry Fontaine, Mayor

Brad Lambert
Brad Lambert, Mayor Pro Tem

Wayne Bonomo
Wayne Bonomo, Council Member

Leigh Sasse
Leigh Sasse, Council Member

Jeffrey Williams
Jeffrey Williams, Council Member



~NO ACTION TAKEN~

D. Parks & Recreation Committee – Recommendations for Town Hall Park Name

Discussion occurred and item is tabled until all Council members are in attendance.

~OPEN~ ~NO ACTION TAKEN~

E. Visionary Committee – Recommendations for Phase II

The Visionary Committee met on September 16, 2021 to discuss Phase II and recommends the following for the New Town Hall Park:

Amenities:

Playground, Restrooms - 3 women's & 2 men's, Walking trail with parcourse, Pavilion/Picnic area, Parking area, Temporary stage for outdoor music events.

Infrastructure Needs:

Well, Septic, Electric, Lighting, Security Camera System

Town Manager stated with the approval of these recommendations then the process of pricing for Phase II will begin.

Member Sasse made a motion to approve the Visionary Committee's Recommendation for Phase II; Member Bonomo seconded the motion. All members agreed. ~OPEN~

CITIZENS COMMENTS

Tom Bookstaver – 231 Snowcloud Drive – Tom thanked the Town for his recognition of service with the Seven Devils Fire Department, but wanted to clarify his service began 33 years ago as a charter member, not 20 years as was announced last month.

Bob Bridges – 147 Deepwood Court – Bob thanked and complimented the TDA on the new improved signage and landscape at the Seven Devils Community Center.

ADMINISTRATIVE COMMENTS

Town Manager Powers provided the following update:

1. Echo Newsletter-Fall Edition is available – Important info included about contacts for emergencies.
2. Reminder Board/Committee applications due by November 1st
3. New Residential Construction – 4 projects underway, with 2 more beginning soon.
4. Violation - \$1000 for topping trees at 169 Highcliff Circle
5. Watauga County Fire Marshall inspection – September 20th
6. November 2nd – Municipal Elections – Watauga voters at 7D Town Hall & Avery at Banner Elk Hall.
7. Public Works – Water Operators training – September 22nd
8. Open Enrollment – Employee State Health Plan – October 11th-29th
9. ARP Report Deadline has been changed to April 30, 2022
10. Pickleball players sent a thank you letter for the court repaving & improvements.
11. NCDOT – Sign installed at Otter Falls – Skyland Drive has deterred parking issues; Paving on Seven Devils Road began today from stables to the 7D Community Center.
12. The front deck at 7D Community Center is being replaced; will be ADA compliant when complete.
13. Landscaping replacement is occurring at Town Hall & 7D Community Center

- Tree permits – 7 Projects – 5 Fence Permits – 1 Complaints -21 RE Closings -8

At the conclusion of the Administrative update, discussion occurred with Police Chief Harris about additional ways the speed can be limited or controlled on Seven Devils Road, especially on weekends or holidays. Suggestions included: Parking a Police car as a deterrent, temporary signage with posted speed limit & actual speed of traveling vehicle, rumble strips installed, and issuance of speeding tickets by Police.

COMMITTEE REPORTS

Board of Adjustment – No meeting

Planning Board – September minutes

Public Works – No meeting

Public Safety Committee – October minutes

Parks & Recreation Committee – September minutes

TDA – September minutes

ABC Board – August minutes

Tree Committee – No meeting

Public Safety Department

Police Report

Fire Report

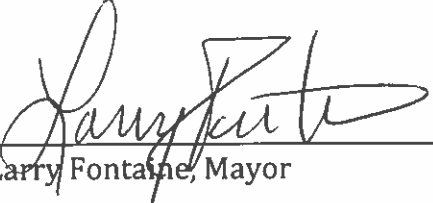
Financial Report

COUNCIL COMMENTS

Leigh Sasse – stated the fresh landscaping at Town Hall and the Community Center looks nice and thanked the TDA.

ADJOURN

Member Sasse made a motion to adjourn; Member Bonomo seconded the motion. All members agreed. The meeting adjourned at 6:31pm.



Larry Fontaine, Mayor



Hillary Gropp, Town Clerk

