

**Town of Marshville  
Town Council Meeting  
Tuesday, September 8, 2015  
Marshville Town Hall – 201 W. Main Street**

**Regular Meeting**

**Council Members Present:** Mayor Deese, Mayor Pro-Tem Virginia Morgan, Council Members Norma Carpenter, Gary Huntley, Margaret Bivens, and Jim Rowell

**Staff Present:** Town Manager, Fern Shubert; Clerk/Finance Officer, Tonya Johnson; Police Chief, Matt Tarlton

**Call to Order/Invocation/Pledge of Allegiance**

The meeting was called to order at 7:00 pm by Mayor Frank Deese. The invocation was given by Council Member Huntley. The Pledge of Allegiance was given by everyone in attendance.

**Adoption of Agenda for the Meeting**

Mayor Pro-Tem Morgan made a motion to amend the agenda to add the discussion of the Marshville Town Park. The motion was seconded by Council Member Rowell and passed unanimously.

Council Member Rowell made a motion to amend the agenda to add a discussion on sewer issues with Union County. The motion was seconded by Council Member Carpenter and passed unanimously. Council Member Rowell requested that this discussion come after the ABC Board presentation.

A motion to adopt the agenda with the above amendments was made by Council Member Rowell. The motion was seconded by Mayor Pro-Tem Morgan and passed unanimously.

**Public Comment**

Courtney Massey, of 313 Hill Street, Marshville, addressed the council concerning a complaint against the Marshville Police Department. Mr. Massey stated he has resided in Marshville for the past five years. Mr. Massey alleged that for the past year he and his family have been the victims of harassment by the Marshville Police Department. Mr. Massey reported that he has complained to Town Manager Shubert on four occasions and to date nothing has been done. Mr. Massey feels he has been “brushed off” by the Town Manager. Mr. Massey stated he has been accused of drug dealing. He claimed to be fearful of what they (officers of the Marshville Police Department) might do to him and added that he doesn’t feel safe. Mr. Massey stated he does not feel he is being treated fairly. He expressed his desire to live here peacefully.

Mayor Deese acknowledged Mr. Massey’s complaint and stated that efforts will be taken to ensure that this issue goes through the proper channels. Mayor Deese stated that Chief Tarlton needs to be able to do his job and investigate and bring a report back to council.

**Consent Agenda**

- Proclamation recognizing September 17 – 23, 2015 as Constitution Week
- Minutes – August 3, 2015 Regular Meeting
- Minutes – August 13, 2015 Recessed Meeting
- Tax Releases – Taxes older than 10 years
- Proclamation from Turning Point recognizing October as Domestic Violence Awareness Month

Mayor Deese requested to amend the consent agenda to add a proclamation from Turning Point recognizing October as Domestic Violence Awareness Month. This request was made into a motion by Council Member Rowell, seconded by Council Member Bivens and passed unanimously.

A motion to adopt the consent agenda as amended was made by Council Member Rowell. The motion was seconded by Mayor Pro-Tem Morgan and passed unanimously

**ABC Commission Presentation – Laurie Lee, Director of Pricing Division and ABC Board Audits**

Laurie Lee presented a handout about ABC stores to the council. She also distributed the NC Alcoholic Beverage Control 2014 Annual Report. Ms. Lee reported that, according to information, the Town of Marshville passed an alcoholic beverage and ABC store referendum in the 2013 election. Ms. Lee explained what happens after the vote to establish an ABC store.

**ABC Board Structure:**

The council appoints board members, usually three or five, and sets compensation. The terms are staggered. Members of the ABC Board should have sufficient time to invest. ABC Board meetings must follow open meeting rules

**Steps to Opening an ABC Store:**

A location must be identified and cannot be within fifty feet of a school, church or daycare facility. The ABC Board must put together a business plan and have the ability to secure funding. Notice must be posted on the property for thirty days. Approval must be obtained from the ABC Commission. An ABC store may lease/rent from the appointing authority.

**Financing:**

An ABC Board may secure funding by the following means:

- Bank loan
- Line of credit
- Loan from the appointing authority
- Collateral would be future profits. The appointing authority is never liable for ABC Board debt.

**Start-Up Costs**

Ms. Lee stated that startup costs are approximately \$200,000 - \$250,000. She added that ABC stores are not cash cows. Expenses include funds to stock the store, to up fit space, and initial payroll and other operating expenses.

**Sales/Revenues**

Retail price is determined by a formula which is set by state statute. Prices are standard across the state. Gross profit is typically 22% - 25% of retail sales. Ms. Lee pointed out that most stores operate in the red for the first several years of operation. Ms. Lee estimated that a store would need to gross \$1,000,000 in sales to be profitable.

Ms. Lee stated that the ABC Commission would require a sensible business plan. The next step in the process would be for council to appoint an ABC Board who, in turn, would work to determine viability and sustainability of opening/operating an ABC store.

Mayor Deese asked if the town is initially denied a request to open an ABC store is there a time limit before it can reapply. Ms. Lee commented that she does not know the answer to that question. Town Manager Shubert asked if the compensation for ABC Board members could be set at \$1.00/year. Ms. Lee stated that it can and added that some boards work on a voluntary basis.

**Discussion concerning the sewer issue with Union County**

Town Manager Shubert provided a packet of information to council members and those present at the meeting. She stated that she wants to take an opportunity to provide council members with



some background on the Union County sewer issue. Town Manager Shubert stated that bills are high and, as a resident of Marshville, she takes it personally. Town Manager Shubert referenced a letter from Union County dated August 12, 2015 regarding the Wastewater Service Agreement. Town Manager Shubert referenced paragraph four (4), “As of this date, Marshville has a significant outstanding balance of payments due to Union for wastewater services provided. Marshville has not made a payment for services provided since March 2014 and has a current balance due in excess of \$260,000. We recognize that Marshville may be due some credit from Union for the annual true-up of the cost of services provided under the terms of the 1994 agreement. However, our preliminary estimates indicate this true-up would be in the order of \$90,000 to \$200,000, significantly less than your balance due for current services”.

Town Manager Shubert then reviewed with the council members a letter she submitted on September 4, 2015 in response to the Union County letter. She stated that it is not her desire to spend a fortune on this issue but she wants Union County to treat the Town of Marshville fairly. Town Manager Shubert expressed that she hopes the council will not force a settlement before having all the information needed to negotiate. Town Manager Shubert reported that she has a meeting with the Assistant County Manager on September 26, 2015.

Town Manager Shubert exclaimed that the 1994 Agreement does exist. She provided a documentation from former Union County Manager Al Greene (December 31, 2008) and former Town Administrator, Carl Webber (January 5, 2009) which reference a proposed amendment to the 1994 Agreement.

Town Manager Shubert also provided documentation whereby Union County adopted a 201 Facilities Plan. She explained that under this Plan the system is user pay and Union County can’t treat it like it owns it.

In 1993 a determination was made that the Town of Marshville was overcharged by Union County. Town Manager Shubert stated that at this time more information is needed than Union County has been willing to provide.

Council Member Rowell questioned if efforts are being made to come to a resolution. Town Manager Shubert stated that she is very interested in working out the sewer issue but more information is needed. Council Member Carpenter reported that Commissioner Richard Helms inquired of her for council intervention to resolve the sewer issue. Mayor Deese commented that the solution needs to be fair. Council Member Carpenter added that the Chair of the County Commissioners admitted that Union County owes Marshville money. Mayor Deese reported that the Town of Marshville is working and will continue working to resolve this issue.

**Discussion and possible action regarding request for a street closing**

In response to a request from Sue Helms and Bryan Perry, a motion to authorize Chief Tarlton to close East Main Street from Hwy. 205 to Cross Street on November 10, 2015 from 5:00 pm to 9:00 pm was made by Council Member Rowell. The motion was seconded by Mayor Pro-Tem Morgan and passed unanimously.

**Discussion and possible action regarding approval of a Whistleblower Policy**

Council Member Bivens asked for an explanation as to why a Whistleblower Policy is needed. Mayor Deese stated that the policy is a requirement for a federal grant applied for by the Marshville Police Department. Discussion ensued regarding the language in the section “Protection from Retaliation”. The manager suggested adding “as provided for in the section “Reporting Violations” for clarity. Attorney Griffin pointed out that this is a policy statement and not an ordinance. Some discussion ensued about the section titled “Safeguards” regarding confidentiality. Council Member

Bivens stated she would not want an employee to be in a hostile work environment should their identity be revealed. The manager stated that this policy merely puts into writing what she has asked of staff since becoming Town Manager. Wrong doing should be reported. A motion to adopt the Whistleblower Policy with the added language in the section titled “Protection from Retaliation” as suggested by the manager was made by Council Member Rowell. The motion was seconded by Mayor Pro-Tem Morgan and passed unanimously. The Town Clerk was directed to make the approved revision to the Whistleblower Policy.

**Discussion and possible action regarding termination of the cell tower lease by Cricket Communications**

Town Manager Shubert reported that the tower lease will be terminated in December 2015 by Cricket Communications. Cricket Communications desires to leave the equipment and has agreed to pay the Town \$15,000. The equipment becomes the property of the Town of Marshville. Attorney Griffin clarified that Cricket Communications intends to abandon ownership of the equipment. Town Manager Shubert stated that there would be a nominal cost to the Town to remove the equipment and that it could be handled by Southern Corrosion, the company that currently provides tank maintenance. Mayor Deese questioned whether the equipment could be sold. Council Member Rowell made a motion to authorize the Town Attorney to review the contract with Cricket Communications, to determine if Cricket Communications is within its right to terminate the lease and for the proper documentation to transfer ownership of the equipment to the Town of Marshville for \$15,000. The motion was seconded by Council Member Huntley and passed unanimously.

Town Manager Shubert reported that Crown Castle and others have expressed interest in buying the right to keep the property on the tower leased. After a brief discussion it was the consensus of the council not to proceed.

**Discussion and possible action regarding approval of General Order #41A, Subject: Digital Video Systems, to the Marshville Police Department Standard Operating Policies**

Chief Tarlton stated that this policy was developed to dictate the use of body cameras once they are assigned to an officer. The policy spells out several situations when the recordings could not be used. Chief Tarlton requested that the policy be reviewed by the Town Attorney.

Chief Tarlton reminded council members that the system will include four cameras and a base (for charging) and data storage as was included in the FY2015-16 Budget. Mayor Deese agreed that the attorney should review the policy. Council Member Rowell raised several questions regarding various sections of the policy including retention of recordings, storage procedures and purging of records, and editing and duplication of files. Chief Tarlton stated that copies of records would only be provided for court purposes. Discussion ensued regarding storage, retention and requests for release of records. It was the consensus of the council to have Attorney Griffin review the policy and bring it back to the council for discussion and/or approval.

**Discussion and possible action concerning a resolution to authorize seeking additional funding for Water System Improvements**

Town Manager Shubert reported that the Town received a letter approving the loan for the emergency repairs on Hwy. 74. The Manager added that the Town needs to complete other projects as well.

Bill Lester stated that the paperwork for the Emergency Repair Project on Hwy. 74 has been submitted. Mr. Lester discussed other needed projects including the booster pump. Mr. Lester stated that the funding agency does not think the booster pump is severe enough to fund. The agenda packet includes a resolution to apply for funding for the current cycle. If awarded, debt service would likely begin in 2017. Council Member Rowell asked when the funds would be



awarded. Mr. Lester commented it would probably be in December. Council Member Rowell questioned that, if approved, could the funds be turned down. Mr. Lester replied that the Town is not obligated to accept the funds. Mr. Lester pointed out that the booster pump project is a must do. A motion to adopt the resolution to authorize seeking additional funding for water system improvements was made by Council Member Rowell. The motion was seconded by Council Member Bivens and passed unanimously.

Mr. Lester stated that the CIP/Asset Management Plan was presented in January 2014 and that he recalls that the plans were to move forward using the Plan. Mr. Lester requested that the minutes from the January 2015 council meeting be amended to reflect the approval of the Plan. It was the consensus of the council to direct the Town Clerk to amend said minutes to show that the CIP/Asset Management Plan was approved.

A letter was presented requesting an extension on the Anderson Project. A motion to approve the Anderson Project extension request letter and to authorize Mayor Deese to sign the letter was made by Council Member Huntley. The motion was seconded by Council Member Bivens and passed unanimously.

Bill Lester gave a brief update on the Anderson Project.

**Discussion of the Marshville Development Ordinance** *(Please bring your Development Ordinance notebook)*

Council Member Rowell made a motion to table this item until the next meeting. The motion was seconded by Mayor Pro-Tem Morgan and passed unanimously.

**Discussion of the Marshville Park**

Mayor Pro-Tem Morgan stated that she had met with several mothers and grandmothers at the park regarding the condition of some of the equipment. Mayor-Pro Tem Morgan showed photographs taken on her iPad revealing roots and pipes that are exposed because there are no shavings around the equipment, a swing chain repaired with a padlock, picnic tables that need painting, and a damaged seat on a slide. Mayor Pro-Tem Morgan commented that the park is a mess! Issues exist that are a safety and health hazard. Mayor Pro-Tem Morgan stated that it is imperative that the Town hire a Park & Recreation Director. Mayor Deese commented that signs should be installed that say “Play at your own risk” while repairs are being made. He doesn’t want anyone to get hurt nor does he want the Town to get sued. Mayor Deese stated that this needs to be addressed as soon as possible! Council Member Bivens asked is the Public Works department is taking care of the Park. The Manager responded that it is. The Manager asked Mayor Pro-Tem Morgan to meet with Bivens Steele and Freddie Rollins to show the items needing immediate repair. Mayor Pro-Tem Morgan commented that funds can be used from the Community Development budget. Mayor Deese reminded the council that, legislatively, the manager is responsible for personnel. Mayor Deese suggested that the council schedule a planning meeting at the Community Center to focus on issues around the Town.

**Town Manager’s Report**

The Manager reported that CCOG put her on the Freight Mobility Committee based upon her attendance at meetings

The Manager reported that Alicia Melton passed a state exam

The Manager reported that the Town met the minimum criteria for the 2014 Local Water Supply Plan

The Manager stated that the county put in a request for an inter basin transfer

The Manager referenced information in the agenda packet regarding the Union County Parks and Recreation Initiative

The Manager reported that Governor McCrory declared Preparedness Month in North Carolina  
The Manager reported that Marshville’s certified population estimated (as of 2014) is 2,469  
The Manager reported that she is soliciting suggestions for sidewalk priorities and that the Town  
needs to make plans for traffic coming this way as a result of the 74 Bypass  
The Manager reported that in a recent sting operation to identify stores selling alcohol to minors,  
Marshville had no stores that were in violation

**Mayor and Town Council Member Comments**

Town Clerk/Finance Officer Johnson reported that the auditors completed their on-site work and  
stated that of all the towns they’ve audited thus far that have completed the FMS software  
conversion, Marshville’s was the smoothest.

Council Member Rowell provided an update on the scheduled Boll Weevil events

There being no further comments, a motion to go into closed session per NCGS 143-318.11 (a) (6)  
was made by Mayor Pro-Tem Morgan. The motion was seconded by Council Member Huntley and  
passed unanimously.

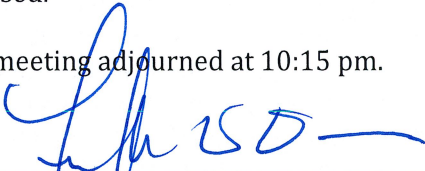
**Closed Session** (9:20 pm)

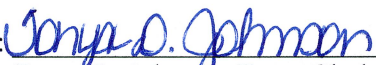
**Open Session** (10:10 pm)

**Action from Closed Session**

Council Member Rowell made a motion to release into open minutes the closed session minutes  
that were approved. The motion was seconded by Mayor Pro-Tem Morgan and passed  
unanimously.

Council Member Rowell made a motion to extend the Town Manager’s employment contract until  
September 30, 2016 and that all provisions of the contract remain as they are. The motion was  
seconded by Mayor Pro-Tem Morgan. The vote passed 3 to 2, Council Members Bivens and Huntley  
opposed.

The meeting adjourned at 10:15 pm.  
By:   
Franklin D. Deese, Mayor

ATTEST:   
Tonya D. Johnson, Town Clerk