



Town of Marshville Town Council Meeting

Monday September 25, 2017, 7:00 PM
Marshville Town Hall

SPECIAL MEETING MINUTES

Present: Mayor Frank Deese, Mayor Pro-Tem Virginia Morgan, Council Members Norma Carpenter, Ernestine Staton, Margaret Bivens and Jim Rowell

Staff: Interim Town Manager, Scott Howard; Town Clerk, Tonya Johnson

Also present were Attorneys Karlene Turrentine and Chuck Kitchen

Call to Order/Invocation/Pledge of Allegiance

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

Motion to go into Closed Session per NCGS 143-318.11 (a) (3)

To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.... The public body may consider and give instruction to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure...

The motion to go into closed session per the statute cited above was made by Mayor Pro-Tem Morgan. The motion was seconded by Council Member Staton and passed by unanimous vote.

Action resulting from the Closed Session regarding attorney-client privilege

There was no action to be taken in open session.

Motion to go into Closed Session per NCGS 143-318.11 (a) (6)

To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

The motion to go into closed session per the statute cited above was made by Council Member Carpenter. The motion was seconded by Council Member Staton and passed by unanimous vote.

Action resulting from the Closed Session regarding personnel issue

A motion was made by Mayor Pro-Tem Morgan to present an employment contract to Scott Howard for his consideration and to ask for a decision by tonight at midnight. The motion was seconded by Council Member Staton and passed unanimously.

Adjourn

A motion to adjourn was made by Council Member Rowell. The motion was seconded by Council Member Bivens and passed by unanimous vote.

These minutes approved this 6th day of November, 2017.

By: 

Franklin D. Deese, Mayor

Attest: 

Tonya D. Johnson, Town Clerk

**EMPLOYMENT CONTRACT
TOWN MANAGER – TOWN OF MARSHVILLE**

2934a

This Agreement, made and entered into this 26th day of September 2017, by and between the Town of Marshville, state of North Carolina, a municipal corporation, hereinafter called "Employer", as party of the first part, and Melvin "Scott" Howard, hereinafter called "Employee", as party of the second part, both of whom understand as follows:

WITNESSETH:

WHEREAS, Employer desires to employ the services of Melvin "Scott" Howard as Town Manager of the Town of Marshville; and

WHEREAS, it is the desire of the Town Council, hereinafter called "Council" to provide certain benefits, establish certain conditions of employment and to set working of said Employee; and

WHEREAS, it is the desire of the Council to (1) secure and retain the services of Employee and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to continued employment, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the Employee, and (4) to provide a just means for terminating Employee's services at such time as he may be unable to discharge his duties due to age or disability or when Employer may otherwise desire to terminate his employ.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

Employer hereby agrees to employ said Melvin "Scott" Howard as Town Manager of the Town of Marshville. Employee shall perform the functions and duties specified in the Town Manager Job Description, by statute, and other legally permissible and proper duties and functions as the Council shall from time to time assign.

Section 2. Term

- A. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject to the provisions set forth hereinafter in this agreement.
- B. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provision set forth hereinafter in this agreement.
- C. Employee agrees to remain in the full-time exclusive employ of the Employer for two (2) years , and neither to accept other employment nor become employed by any other employer until said

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termination date, unless said termination date is affected as hereinafter provided. The term "full-time exclusively employed" shall not be construed to include occasional teaching, writing, consulting or accounting service performed on Employee's time off. Should Employee desire to engage in such occasional activities, he shall notify the Council and request approval, which shall not be unreasonably refused, so long as those occasional activities do not unduly cause interference to Employer.

Section 3. Suspension

Employer may suspend the Employee with or without full pay and benefits at any time during the term of this agreement pending further proceedings pursuant to disciplinary action.

Section 4. Termination and Severance Pay

- A. In the event the Employee is terminated by the Council before expiration of the aforesaid term of employment and during such time the Employee is willing and able to perform his duties under this agreement, then in that event Employer agrees to pay Employee a lump sum cash payment equal to three (3) months aggregate salary. The Employee shall also continue receiving the life insurance benefits and any other insurance benefits provided to the Employee prior to separation during the severance period. In the event the Employee is terminated because of his conviction by a competent tribunal of any illegal act constituting a misdemeanor involving a breach of the public trust, or a felony, then, in that event, Employer shall have no obligation to pay the aggregate severance sum designated in this paragraph.
- B. Employee shall also be compensated for all earned vacation, holidays, and other accrued benefits to date, other than sick leave. Notwithstanding the above, in the event the Employee is terminated for cause, then, and in that event, the Employer shall have no obligation to pay the severance sums designated in this section.
- C. In the event Employer at any time during the term of this agreement reduces the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all employees of Employer, or in the event Employer refuses, following written notice, to comply with any other provision benefiting Employee herein, or the Employee resigns following a vote by a consensus of the Council that he resign, then, in that event, Employee may, at his option, be deemed to be terminated at the date of such reduction or such refusal to comply within the meaning and context of the herein severance pay provision.
- D. In the event Employee voluntarily resigns his position with Employer before expiration of the aforesaid term of his employment, then Employee would not be entitled to severance pay at Employer's expense.
- E. Termination by Employer shall comply with North Carolina law and must be by an affirmative vote of four-fifths (4/5) of the members of the entire council.

Section 5. Disability

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If employee is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health, as determined by a qualified health care professional, for a period of four (4) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a thirty (30) working day period, Employer shall have the option to terminate this agreement, subject to the severance requirements of Section 4, paragraph A. However, Employee shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits.

Section 6. Salary

Employer agrees to pay Employee for his services rendered pursuant hereto an annual base pay of \$62,000, payable in installments at the same time as other employees of the Employer are paid. In addition, Employer agrees to adjust said base salary and/or other benefits of Employee in such amounts and to such extents as the Council may determine that is desirable to do so on the basis of an annual salary review of said Employee made at the same time as similar consideration is given other employees generally, but not prior to six (6) months from date of this agreement.

Section 7. Hours of Work

It is recognized that Employee must devote a great deal of time outside of the normal office hours to conduct the business of the Employer. Employee is subject to a normal forty (40) hour week requirement as determined by Council. Employee is expected to maintain effective office time at Town Hall. However, his duties and responsibilities may occur outside of the office, where in his professional discretion he may best execute his duties and responsibilities.

Section 8. Vacation, Sick Leave

Employee shall receive vacation and sick leave at a rate not less than that specified for other general employees in the Employee Personnel Policy and Rules and Regulations for the Town of Marshville.

Section 9. Disability, Health and Life Insurance

Employer agrees to put into force and to make premium payments for Employee for insurance policies for life and disability for employee and medical group coverage for Employee as per coverage provided to all other Town employees.

Section 10. Expenses

Employee shall be reimbursed by Employer for all reasonable and necessary expenses incurred by him in the furtherance of his duties and the business of the Town, not exceeding the amount budgeted therefore each year in the appropriate Town account. The appropriate receipts and documentation must be provided within 90 days of expense to the Finance Director. Payment will be approved the Mayor or Mayor Pro-Tem.

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Section 11. Retirement

Employer agrees to participate in the North Carolina Local Government Employees Retirement System and to pay into the system, on Employee's behalf, the percentage equal to that which is provided all general employees of the Town.

Section 12. Indemnification

Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of Employee's duties as Town Manager, as long as Employees actions were in accordance with Town of Marshville Policies and Procedures and the laws of the State of North Carolina.

Section 13. Dues and Subscriptions

Employer agrees to budget and to pay a reasonable amount for the professional dues and subscriptions of Employee necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and for the good of the Employer. Specifically included are personal membership in the International City/County Management Association and North Carolina City and County Management Association not exceeding the amount budgeted therefore each year in the appropriate Town account.

Section 14. Professional Development

- A. Employer hereby agrees to budget and pay a reasonable amount for travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for the Town, including but not limited to the Annual Conference of the International City/County Management Association, the North Carolina League of Municipalities and other national, regional, state and local government groups and committees thereof which Employee serves as a member, not exceeding the amount budgeted therefore each year in the appropriate account.
- B. Employer also agrees to budget and to pay for the travel and subsistence expenses of Employee for short courses, institutes and seminars that are necessary for his professional development and for the good of the Employer, not exceeding the amount budgeted therefore each year in the appropriate account.

Section 15. Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

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EMPLOYER: Mayor

EMPLOYEE: Melvin Scott Howard

Town of Marshville

4418 Huggins Rd.

201 W. Main Street

Marshville, NC 28103

Marshville, NC 28103

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 16. General Provisions

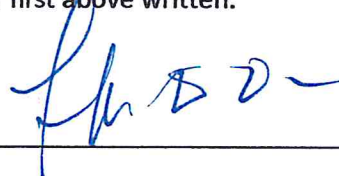
- A. The text herein shall constitute the entire agreement between the parties.
- B. This agreement shall become effective at 12:01 a.m. The 26th of September 2017.
- C. Employee understands that should the form of Governance be changed, his title will be Town Administrator.
- D. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS THEREOF, the Town of Marshville has caused this agreement to be signed and executed in its behalf by its Mayor Deese, and duly attested by its Town Clerk, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

ATTEST:



Clerk

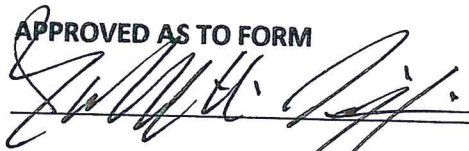


Mayor Frank Deese

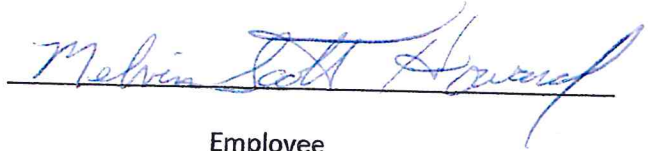
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APPROVED AS TO FORM

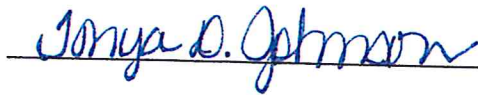


Town Attorney



Employee

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.



Finance Officer