

**Town of Marshville
Town Council Meeting
Monday October 7, 2013, 7:00 PM
Marshville Town Hall – 201 West Main Street**

REGULAR MEETING MINUTES

Council Members Present: Mayor Franklin Deese, Mayor Pro-Tempore Matthew Jefferson, Council Members Norma Carpenter, Margaret Bivens, Gary Huntley and Dora Bridget

Staff Present: Town Manager, Amanda Reid; Town Clerk/Finance Officer, Tonya Johnson; Town Attorney, Bobby Griffin; Planning & Zoning Administrator, Mandy Edwards; Park Director, Alan Thifault and Police Chief, Carl Webber

Call to Order/Invocation/Pledge of Allegiance

Mayor Deese called the meeting to order at 7:00 p.m. Council Member Huntley offered the invocation. The Pledge of Allegiance was offered by all in attendance.

Adoption of Agenda for the Meeting

The Town Manager asked that item number 5, Introduction & Oath of Office of Reserve Officer Wayne Maske, be removed from the agenda. Reserve Officer Maske had a conflict and was not able to attend. A motion was made by Council Member Carpenter, seconded by Council Member Bivens and passed unanimously to remove the item from the agenda. Mayor Deese requested that the Public Hearing regarding Voluntary Annexation Contiguous to Corporate Limits for 650 West Union Street be moved to item number 7 and the Public Hearing for the Establishment of zoning for the Hasty Road property be moved to item number 8. A motion was made by Council Member Bridget, seconded by Council Member Carpenter and passed unanimously to change the order of the public hearings. A motion to adopt the agenda as amended was made by Council Member Bridget, seconded by Council Member Bivens and passed unanimously.

Public Comment

Erby Laney of 8519 Hwy. 74 East, Marshville addressed the Town Council reiterating a previous request for reimbursement for a pump station located on his property. He stated that he was aware that one other pump station was located on private property located at Bakery Feeds. All other pump stations are located on property owned by the Town of Marshville. The Town Manager replied that she had received information from NCDOT that their right of way was 200 feet at Mr. Laney's property. She has forwarded a right of way encroachment agreement with NCDOT dated 1971 to the Town Attorney to send to Mr. Laney's attorney. Mr. Laney stated that he did not have an attorney, but had requested a friend who is an attorney write a letter for him. Mr. Laney repeated earlier requests for \$150 per month compensation.

Ms. Yvonne Bowman of 1423 Brice Griffin Road withdrew her request to address the Town Council.

Consent Agenda

- September 3, 2013 Town Council Minutes – Regular Meeting
- September 23, 2013 Town Council Minutes – Special Meeting
- Budget Report as of August 31, 2013
- Municipal Records Retention Schedule Amendment
- Release of Utility Debt
- Resolution & Certificate of Incumbency (Credit Card Account)

A motion to approve the consent agenda and the items thereon was made by Council Member Huntley, seconded by Council Member Bivens and passed unanimously.

Presentation of Information - Monroe Bypass Ms. Kym Hunter, Staff Attorney, Southern Environmental Law Center

Ms. Kym Hunter, Staff Attorney and Ms. Kate Asquith, Associate Attorney with Southern Environmental Law Center presented to the Town Council information regarding the Monroe Connector/Bypass. Southern Environmental Law Center is a public interest environmental law firm that represents public interest groups for free and focuses primarily in areas of transportation and land use policies and practices. Ms. Hunter explained that the Monroe Bypass is a proposed 20-mile toll highway that would run from the intersection of U.S. 74 and I-485 to Wingate, bypassing Monroe, at an estimated \$900 million. Ms. Hunter stated that tolls will not cover the project's costs and the State plans to spend \$24 million of taxpayer money every year for thirty years to pay for the project. Ms. Hunter discussed the effect of the bypass on surrounding properties, potential growth (or lack thereof) in Union County, as well as lower cost alternatives such as improvements to parallel routes. Ms. Hunter conveyed that NCDOT studies show that the bypass is not intended to improve traffic flow on U.S. 74 and expected travel time savings are estimated to be less than originally projected. Southern Environmental Law Center filed a lawsuit against NCDOT on the basis that NCDOT misled the public and other agencies. The Court agreed and ordered NCDOT to reevaluate the Bypass's impacts. At the conclusion of Ms. Hunter's presentation the Town Manager questioned differences in the presentation to Marshville, Unionville and Fairview including travel times and potential alternates. She also requested references and documents from which Ms. Hunter's information came. Mayor Deese commented that he drove from Marshville to I-485 and timed the trip, then drove the same distance on I-485 and timed it with the distance traveled on I-485 being 11 minutes shorter. He stated that there was no doubt that the bypass would reduce travel time and the project is important to Marshville and with impacts to Anson County and further east. He stated he doesn't support not constructing the bypass, but concurs with fewer interchanges and being more cost effective stating his support for a toll road if there is no other way. Ms. Fern Shubert commented that everyone needs the same facts. A citizen in attendance, Mr. Ronnie Moore, addressed a public safety concern stating it was important to reduce truck traffic on Highway 74.

Public Hearing: Petition for Voluntary Annexation Contiguous to Corporate Limits 650 West Union Street (Union County PIN 0231401490)

A motion to open the public hearing was made by Council Member Bivens, seconded by Council Member Carpenter and passed unanimously. The Planning & Zoning Administrator reported that on August 29, 2013, Franklin Howey, Jr. submitted a petition for voluntary contiguous annexation into the town limits of the Town of Marshville. The property consists of 37.03 acres and is located at 650 West Union Street, Marshville, NC 28103 (Union County PIN 0231401490). The property is currently located in the Town of Marshville's Extra Territorial Jurisdiction. The Town can deliver solid waste collection, water and sewer service, and recycling services to the property. The Town will also receive additional revenues from ad valorem tax assessments and additional state shared revenues that include utility franchise, Powell Bill Fund, and sales tax. There being no public comments or questions from the Town Council, Mayor Deese asked for a motion to close the public hearing.

A motion to close public hearing was made by Council Member Carpenter, seconded by Council Member Huntley and passed unanimously. A motion to approve Ordinance 13-010, An Ordinance to Extend the Corporate Limits of the Town of Marshville and Incorporate by Annexation a Contiguous Area into the Town of Marshville, North Carolina was made by Council Member Carpenter and seconded by Council Member Bivens and passed unanimously. Mayor Deese questioned if the Town Council needed to address zoning on the property. The Town Manager replied that the property was already zoned as part of the ETJ.

Public Hearing: Establishment of zoning - Hasty Road property (Union County PIN 02086016)

A motion to open the public hearing was made by Council Member Bridget, seconded by Council Member Bivens and passed unanimously.

The Planning & Zoning Administrator stated that the request is to establish zoning as a commercial zoning district which may include (B-1, B-2, B-3, B-4 or B-6) on the property located on Hasty Road, and further addressed by Union County Tax Parcel ID # 02086016 and 02303057. At the Town Council meeting on September 23, 2013 a motion was made to table the request to establish zoning as RA-40 to allow the Town Council to consider possible commercial zoning designations. Consideration of the purpose statements for each district, as well as the uses allowed by right and with a Special Use Permit, should be considered. She reviewed the types of commercial districts and if they were applicable to the property. She stated B-1 (central business) district is designed for the downtown district. The B-2 (community business) district and B-3 (office/residential) district are designed for areas that are not generally suited for residential development or areas that no longer are viable as single family residential areas. The B-4 (general commercial) district is designed to accommodate the widest range of commercial activities. The HC (highway corridor mixed use) district applies to the Highway 74 corridor and the B-6 (office/institutional) district is intended to accommodate a variety of residential and non-residential uses with an emphasis on office, institutional, governmental, educational, and limited commercial activities. She believes that the only two possible commercial zoning options are a B-4 or B-6 designation as the districts are defined in the current zoning ordinance. She provided a handout to the Town Council showing uses by right and those requiring a special use permit for both districts. She explained that if the Town Council decides to go forward with commercial zoning, they will need to explain why it considers the zoning to be in the public interest, and to discuss factors including the size of the tract in question; the compatibility of the disputed zoning action with an existing comprehensive zoning plan; the benefits and detriments resulting from the zoning action for the owner of the newly zoned property, neighboring properties, and the surrounding community; and the relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts.

The Town Manager stated that she had distributed a map for the Town Council that showed surrounding property owners, size of the properties, and current zoning. She also distributed a letter received that evening from Mr. C.W. Horne, one of the property owners and owner of surrounding property. She reviewed the letter stating Mr. Horne's request that the Town Council consider a commercial zoning for this property and his belief that the area would be appropriate for general business and light commercial use. He also stated that he would consider annexation and rezoning for the 181 acre property adjacent to the property to commercial zoning in the future.

Mayor Deese opened the floor for Public Comment.

- James Lee Allen, 314 N. Hayne Street, Monroe, addressed the Town Council representing Mr. Danny Baker. He stated there is a proposed use for this property and that his client was contacted by a developer in February 2013 regarding the proposed use. Mr. Allen stated that zoning is a local issue and referenced statutes.
- Paula Stegall, 8110 Hwy. 74 E., Marshville, addressed the Town Council requesting the property not be zoned for commercial use. She asked the Town Council to conduct due diligence and be responsible in making a determination. Ms. Stegall ended her remarks with two questions to consider, (1) why not direct the developer to a commercial property that is not being used, and (2) why would two thriving communities reject this proposal?
- Jim Rowell, 516 E. Union St., Marshville, addressed the Town Council, stating he serves on the Town's Planning Board. Mr. Rowell stated the Planning Board voted that B-4 or B-6 is not the appropriate zoning according to the law and that in North Carolina spot zoning must be reasonably supported. He urged the Town Council to make the right decision for Marshville and its citizens.
- Ronnie Moore, 930 Hasty Road, Marshville, addressed the Town Council in support of commercial zoning of the Hasty Road property. Mr. Moore stated he is an advocate for growth.

Mayor Deese stated that since he has been Mayor he has consistently heard the need to bring businesses to the community. The Town should look toward the future and not dwell in the past. At the council's retreat the land use plan and zoning ordinances were discussed as a priority. Zoning is a tool to assist with growth. He commented that the area is currently zoned by Union County and that the Town should not zone the property just to be consistent with Union County, but apply zoning that is consistent with the Town needs and plans and direction the Town wishes to go. He urged the Town Council to review surrounding uses and not Union County zoning. As the Planning & Zoning Administrator stated, consideration of commercial zoning requires discussion on four items. He asked that the findings of fact as they pertain to reasonableness be reviewed one by one.

1. *Size of the tract* – Mayor Deese stated that the property was not a small piece. It consisted of over 36 acres. The two parcels are being combined into one large tract that can accommodate a variety of uses. He questioned if any Council Member disagreed with this statement and if so, why. There was no response.
2. *Compatibility of the disputed zoning action with an existing comprehensive zoning plan* – Mayor Deese questioned if any member of the Town Council wished to address this item. Council Member Carpenter commented that commercial zoning would not be consistent with the Land Use Plan. Mayor Deese responded that it was not inconsistent with current Land Use Plan because it is not addressed in the current land use plan. It may be addressed in future plans. If the Town is attempting to bring business, it must have business zoning. Council Member Carpenter stated she did not believe it was consistent with neighboring uses. Council Member Bivens stated the Town had worked with economic development groups for years and questioned why the Town would want to do anything to block economic development. The Town has many empty storefronts and business zoning may spur economic development.
3. *The benefits and detriments resulting from the zoning action for the owner of the newly zoned property, neighboring properties, and the surrounding community* – Mayor Deese commented that the owner of the property will benefit from the sale of the property and the zoning will allow for additional uses of property. Additionally, the property owner of that and adjoining property has requested consideration of such zoning. There is also potential for the rezoning, annexation, and development of the adjoining property. Council Member Bivens stated that there was additional tax revenue. Mayor Deese stated he sees possibilities for things such as schools, recreational facilities, and community uses. He also sees the opportunity for water and sewer upgrades and expansion, employment opportunities and job creation, and the possible expansion of existing businesses as benefits. He stated the only detriment that he could see may be a minor increase in traffic. Council Member Carpenter stated the surrounding properties were zoned RA-40, the adjacent property owner just built a new home and she felt the zoning would devalue his property. She also stated the area had many family farms that should be preserved. Mayor Deese responded by stating that investment in neighboring properties was a benefit, not a detriment.
4. *Relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts* – Mayor Deese stated that uses in adjacent tracts met a B6 zoning standard with residential and non-residential uses. Surrounding uses include institutional uses like the Baptist Children's Home of NC and governmental for Town of Marshville old landfill and sewer lagoons and residential properties like that of Mr. Baker.

A motion to close public hearing was made by Council Member Bivens, seconded by Council Member Bridget and passed unanimously. A motion to establish zoning on the Hasty Road property as RA-40 as recommended by the Planning Board was made by Council Member Carpenter and seconded by Mayor Pro-Tem Jefferson. Council Members Bivens, Bridget, and Huntley voted against the motion. A motion to establish zoning on the Hasty Road property as B6 was made by Council Member Bivens and seconded by

Council Member Huntley. The motion carried 3 to 2 with Council Member Carpenter and Mayor Pro-Tem Jefferson opposed.

Mayor Deese stated that according to NC General Statutes a formal statement must be adopted. He read the following into the record:

Per NCGS 160A – 383, The Marshville Town Council hereby adopts the following statement regarding the zoning of annexed property to a B6 (office/institutional) district:

The B6 district is intended to accommodate a variety of residential and non-residential uses with an emphasis on office, institutional, governmental, educational, and limited commercial activities. The Town Council finds that zoning of this property to a B6 zone best promotes the public health and general welfare of the Town of Marshville, is reasonable and not inconsistent with the current Town of Marshville Land Use Plan. In accordance with that plan it is the goal of the Town to promote and encourage the further development of commercial, retail, office, industrial, and institutional uses. These uses provide employment opportunities and increase the overall tax base of the town to reduce the property tax burden of residents and citizens. The Land Use Plan encourages general business growth on the eastern side of Marshville. The annexed property is located in the eastern area of town, is owned by the same property owner, and is contiguous to a larger tract that connects to Highway 74. This property is unique given its size and the connectivity given the additional tract to both Highway 74 and Hasty Road. The Council further believes this designation will help facilitate the efficient expansion of water and sewer infrastructure to new areas currently not served by a public utility system. This zoning is consistent with current surrounding uses including institutional (ex. Baptist Children's Home of NC), governmental (ex. Town of Marshville), undeveloped property (ex. CW Horne Limited Family Partnership) and large tract residential properties (ex. Baker property). With a B6 designation, the Town Council believes this to be the first step in connecting a larger business district that will attract positive new business growth in Marshville and promote the overall public interest.

Mayor Deese polled the Town Council asking if they agreed with the statement. Mayor Pro-Tem Jefferson, Council Members Bivens, Huntley and Bridget stated that they agreed with the statement. Council Member Carpenter stated she did not agree with the statement read. A motion to adopt the formal statement as read into the record by Mayor Deese was made by Council Member Bivens and seconded by Council Member Bridget. The motion carried 4 to 1 with Council Member Carpenter opposed.

Discussion and possible action regarding Planning Board & Board of Adjustment Terms

The Town Manager and the Mayor stated that three seats on these boards are set to expire in November 2013. The Mayor asked if the Town Council desired to advertise for vacancies on these boards. It was the consensus of the Town Council to advertise for applications to for appointment to the boards.

Town Manager's Report

The Town Manager reported she has been attending regular meetings with Union County and the Town of Wingate for the purpose of sewer contract negotiations. Union County is currently projecting an increase in sewer charges. She would like to arrange a joint meeting with the Town of Wingate in January 2014. The Town Manager reported that the State Revolving Fund loan application has been submitted. The Highway 74 Sidewalk Project documents have had to be revised and resubmitted to NC DOT staff due to changes in personnel at the engineering firm. Currently the plans have the project being let January 2014. The CIP/Asset Management Plan should be ready for presentation in November.

Mayor and Town Council Member Comments

Council Member Huntley stated that he ran for council in an effort to move Marshville forward in a positive way. He also urged everyone to remember that October is Breast Cancer Awareness month.

Council Member Carpenter reported on the many activities at the Marshville Museum and commended the volunteers.

Mayor Deese requested that a future agenda review the policy on garbage collection fees and policies. The Mayor requests that the Town Council consider additional exemptions for residents and business owners in town.

Adjourn

A motion to adjourn was made by Council Member Huntley and seconded by Council Member Bivens. The meeting adjourned at 9:00 pm.

These minutes approved this 4th day of November, 2013.

By: _____

Franklin Deese, Mayor

Attest: _____

Tonya D. Johnson, Town Clerk