

**Marshville Town Council  
Regular Meeting  
7:00 P.M. Monday, December 17, 2007  
Marshville Town Hall  
201 West Main St., Marshville, NC**

Present: Mayor Franklin D. Deese, Mayor Pro-Tem Kiker, Council Members Ned Beachum, Dora Bridget, Margaret Bivens, and Denise Whitley, Director of Public Works Bivens Steele, Town Administrator Carl Webber, Park Director Alan Thifault, Police Chief Mike Gaddy, and Town Clerk/Finance Officer Shelley Maness.

Mayor Deese opened the meeting at approximately 7:00 p.m. and welcomed everyone in attendance. Council Member Beachum gave the invocation. All gave the Pledge of Allegiance.

Public Comments:

Rusty Johnson appeared before Council to convey his disappointment with how things transpired at the last Council meeting. Mr. Johnson felt that Council should have waited until all members were present to select the Mayor Pro-Tem rather than drawing a name from a hat. Mr. Johnson was also disappointed that a discussion about the skate park was removed from the agenda at the last meeting. He felt that Council should not put things off.

Mayor Deese pointed out that the skate park issue was included on the agenda to be discussed that night. He noted that it was not his intention to “put things off”, but to make a more informed decision. Mayor Deese thanked Mr. Johnson for his comments.

Department Head Comments:

PD Thifault said that things had been busy at the park. He had been working to get some of the leaves up himself in order to save a little money. He planned to winterize the sprinkler system and the concessions stands the following week. PD Thifault reported that he has scheduled to have Santa at the Mason’s Lodge on Friday, December 21<sup>st</sup> at 6:00 p.m. He had also scheduled to have a “lunch with Santa” on Saturday, December 22<sup>nd</sup> at 12:30 p.m. at the Community Center. Over 80 kids had registered at that time. PD Thifault invited the Mayor and Council Members to attend. PD Thifault informed Council that he would be on vacation the following week.

Council Member Whitley asked PD Thifault about seniors walking in the Community Center on days when no staff members are present. Mayor Pro-Tem Kiker and Council Member Beachum joined Council Member Whitley in reporting several complaints from citizens about certain individuals having a key to the facility. PD Thifault and Mayor Deese reminded Council that the issue had been discussed at a previous meeting and Council did not disapprove of the situation at that time. It was decided that there should be another discussion on the matter.

DPW Steele reported that leaf pickup was ongoing. DPW Steele informed Council that his workers ran into problems while working on the waterline in front of Affordable Cleaners, but everything should be done within the next few weeks.

Council Member Beachum commented that Public Works was doing a good job picking up leaves.

Chief Gaddy said that the cameras were scheduled to ship no later than December 21<sup>st</sup>. He planned to use another vendor if there were any further delays. Chief Gaddy thanked Council for the plaque that was presented to him at the Christmas Dinner for his 25 years of service. Chief Gaddy said the Town has been good to him and he will continue to stand behind the Town.

Mayor Deese thanked the Chief and all the department heads for their work.

Adopt Agenda:

Council Member Whitley made a motion to add to the agenda a discussion of seniors walking at the Community Center, second by Mayor Pro-Tem Kiker. Vote: All Ayes. (Added as Item #11.)

Mayor Deese requested a motion to add to the agenda a discussion about Town Hall accepting Duke Energy payments. Council Member Beachum made such motion, second by Council Member Bivens. Vote: All Ayes. (Added as Item #12.)

Council Member Bridget made motion to adopt the agenda as amended, second by Council Member Whitley. Vote: All Ayes.

Consent Agenda:

The consent agenda included only the minutes from the December 3, 2007 regular meeting. Council Member Beachum made motion to approve the consent agenda, second by Mayor Pro-Tem Kiker. Vote: All Ayes.

Request from First Baptist Church of Marshville to provide access to Town sewer for a parcel located outside the Town limits. Pastor Alex Martin appeared before Council and reported that his congregation was contemplating building a new church. Pastor Martin explained that there were many issues with the existing building and correcting the problems may not be cost effective. He discussed many options that have been considered as alternative solutions. One option in consideration is to purchase a parcel of land on Old Hwy 74 just outside the City limit but within Marshville's ETJ. The church has a contract on the parcel that is contingent upon, among other things, access to appropriate water and sewer resources. Pastor Martin was informed earlier that day that the land would not perk, so the Church's request for the Town to provide access to sewer service is even more dire. Pastor Martin had met with DPW Steele and they estimated it to be about 780 feet to the nearest manhole and an approximate cost to run the sewer line would be between \$45,000 and \$50,000. Although realizing it was not very likely, Pastor Martin noted that the Church would appreciate it if the Town would share in this cost. Due to time constraints, Pastor Martin asked that a decision be made as soon as possible. Following a brief discussion between Council and Pastor Martin, Mayor Deese thanked Pastor Martin for his presentation and said that the item would be included on the next agenda.

Review request from Habitat for Humanity to waive water and sewer tap fees on Braswell subdivision off West Union Street/Allen Circle. TA Webber reported that he had researched the

minutes to determine what the Town had done for Habitat in the past. TA Webber found that in 1997, the Town gave Habitat the taps at one house but required them to pay for the taps at the other house. During the same meeting, the Town agreed to partner with Habitat whereby Habitat would provide the materials and the Town would supply the labor to extend sewer service to the two houses on Glennie Street. About six months later in 1998, the Town agreed to provide one free tap and Habitat would pay for the tap at a second house. TA Webber also found a 1999 resolution from the City of Monroe that resolved that the City would pay for the utility connections and availability fees for three Habitat homes. It further stated that the funds for those fees would be appropriated from the General fund and transferred to the Utility Enterprise fund. The net effect was that tax dollars paid the fees for the three homes. Council had recently waived the water tap fee for the first of six houses, which already had a sewer tap. TA Webber noted that Habitat is currently requesting assistance on the remaining five homes. Sewer tap fees for each home is \$3,200 and water tap fees are \$1,000 for a total of \$21,000. Habitat had received grant funds for \$10,500 (one half of the total cost) and asked the Town to waive the remaining \$10,500.

Council Member Whitley commented that Habitat is a wonderful organization, but she did not feel that the Town was at a point where it can be that generous. Noting that the residents of the homes would be tax-paying citizens, Council Member Bridget felt that it was poor planning and poor assistance to Habitat for the Town to just “close the door on them.” Mayor Pro-Tem Kiker pointed out that she had voted against this before and she planned to stand behind her decision as she did not feel that it is the responsibility of the tax payers. Council Member Bivens commented that not everyone is fortunate enough to have a home and Habitat may be the only way for some folks. She felt that the Town should waive the fees. Council Member Beachum felt that it was a very worthwhile cause.

Council Member Bivens made motion to waive or pay one half of the water tap fee at a total of \$2,500. Motion died for lack of a second.

Council Member Whitley made motion not to waive or pay the water or sewer tap fees, second by Mayor Pro-Tem Kiker. Vote: 2 to 3 (Council Members Bivens, Beachum and Bridget opposed).

Council Member Bridget made motion to waive one half of the water and sewer tap fees for a total of \$10,500, second by Council Member Bivens. Vote: 2 to 3 (Mayor Pro-Tem Kiker, Council Member Beachum and Council Member Whitley opposed).

Mayor Pro-Tem Kiker made motion to deny waiving the tap fees, second by Council Member Whitley. Mayor Deese asked if that motion was the same motion that Council Member Whitley had made. There was some confusion about whether the same motion could be made by someone who voted for the motion the first time it was presented. Mayor Deese asked for a motion to table the issue until legal clarification could be obtained. Council Member Bivens made such motion, second by Council Member Bridget. Vote: 3 to 2 (Mayor Pro-Tem Kiker and Council Member Whitley opposed).

Report from Skate Board Park Committee. PD Thifault had distributed a packet of information to Council prior to the meeting that included pictures, brochures and waiver documents from other skate parks as well as information about various skate park issues such as liability. PD Thifault asked Council to look over the information and let him know what they wanted to do.

He also asked Council to consider changing the rules at the park immediately to allow kids to ride around the walking trail on skateboards, rollerblades and bikes.

Mayor Deese acknowledged and allowed an audience member, former Council Member Mitch Moretz, to speak. Mr. Moretz agreed with what PD Thifault was asking for, but felt that it should be limited to specific times as to not interfere with foot traffic during busier times such as ball games.

Council Member Bridget asked what time of day do senior citizens generally use the walking trail. PD Thifault said they most often use it in the mornings, usually before 9:00 a.m.

Mayor Deese thought that PD Thifault did a good job putting together the packet of information, but he did not feel as though he had had enough time to digest the information presented. Mayor Deese was not ready to discuss the skate board park itself (structures, etc.), but felt that Council could move forward with a decision about the rule change.

Mayor Pro-Tem Kiker asked if what was being considered was a skate park to be built on the existing tennis courts. PD Thifault said he had presented two different options in the packet. Mayor Pro-Tem Kiker asked if that discussion was to be included on another agenda. Mayor Deese confirmed that it was his desire to do so to allow time to digest the information. Mayor Pro-Tem Kiker thought they should at least talk about it.

Council Member Beachum commented that each Council Member should think seriously before making a decision to change the tennis courts to a skate park. He noted that he was not against a skate park, but that he was against converting a facility that the Town has spent a lot of money on to a skate park. In response to a question from Council Member Whitley, PD Thifault said that the tennis courts will need to be resurfaced again within the next year.

Mayor Pro-Tem Kiker does not want to see the Town spend \$40,000 or \$50,000 on something that may phase out within a few years. PD Thifault suggested Council take their time reviewing the information presented before making any decisions. Mayor Deese agreed and asked TA Webber to present the information he had received from the NC League of Municipalities (NCLM), the Town's property and liability insurance carrier.

TA Webber said that he and C/FO Maness had met with Lisa Kinsey, NCLM representative, to discuss the liability issues in having a skate park. He reported that there is specific legislation regarding skate parks. The legislation indicates that if you have an unsupervised skate park, there is less liability exposure. The legislation has yet to be tested in court. That being the case, TA Webber felt it was unnecessary for the Town Attorney to investigate the legal side of the matter any further. Mrs. Kinsey had shared that the most expensive insurance premium for a very elaborate skate park facility was approximately \$10,000 per year. TA Webber felt that the premiums for the kind of skate park the Town is considering would be significantly less than that. PD Thifault said that there would be a \$500 per year minimum flat fee plus an additional amount per obstacle depending on the height of the obstacle.

Council Member Bivens commented that she was against using the tennis courts for a skate park, but was fine with changing the rules to allow skaters to use the facility as it is until something else can be done.

PD Thifault suggested allowing bikes, skateboards and rollerblades on the asphalt (not sidewalk) between 9 a.m. and 6 p.m. seven days a week except when events are being held. TA Webber suggested that those “riders” must yield to the right-of-way of pedestrians.

Council Member Whitley made motion to allow skateboards, bicycles and rollerblades to be used between the hours of 9 a.m. and 6 p.m. everyday in designated areas to be determined by PD Thifault and marked with proper signage, second by Council Member Bivens. Vote: All Ayes.

Mayor Deese said that the issue about the skate park will be brought back before Council and he hoped that a decision could be made at that time.

Mayor Deese asked if the skate park committee had discussed ways to raise money to help pay for the cost of the skate park. PD Thifault said that they have a design and will have T-shirts printed to be sold as a fundraiser for the park. Mayor Deese asked where the money would be kept. PD Thifault said that he would need to discuss that with C/FO Maness.

Council Member Bivens felt that Council needed to focus on a place to put the skate park or even a basketball court. Mayor Deese acknowledged Council Member Bivens’ comment and reiterated the fact that Council needed to review the information presented and then decide whether or not to move forward with the project. If Council decides to move forward, then a location can be determined at that time. Mayor Deese wanted the skate park committee to be advised not to spend any money on fundraising until there has been official action by the board.

Adopt resolution recognizing “Non-Partisan Plurality” method as preferred method of election. TA Webber reported that the Town of Indian Trail had a contentious election and candidates for Mayor asked for a runoff. Their charter did not specify what means of election they were to follow. In such case, the method established as default is the “Non-Partisan Plurality” method, which does not provide for a runoff. The Union County Board of Elections decided to review other municipalities and discovered that the Town of Marshville does not have any specification in its charter either. Town Attorney Bobby Griffin recommended that the Town adopt a resolution to establish the Town’s means of election as the “Non-Partisan Plurality” method. TA Webber said that Attorney Griffin had approved the language of the resolution included in the agenda packet. TA Webber pointed out that this will not change the way that Marshville elections are conducted and only applies to general elections held by the Board of Elections.

Council Member Whitley made motion to adopt the resolution as presented, second by Council Member Bridget. Vote: All Ayes.

Discuss seniors walking at Community Center. Mayor Deese noted that several Council Members had received complaints from citizens about certain individuals having a key to the Community Center for the purpose of walking in the facility on days when senior exercise classes are not offered. Mayor Deese explained that some seniors were not physically able to participate in some of the senior exercise class activities. These seniors wanted to use the facility to walk on days when there were no classes. PD Thifault allowed at least one of the seniors to have a key to the Community Center for this purpose. Seniors using the facility for walking were not charged a fee. Mayor Deese pointed out that all this had been brought before Council in the past and there were no objections at that time.

PD Thifault felt that it was a good thing for the seniors. He noted that the door is open to anybody for this purpose. Council Member Whitley said that one of the issues was that a non-taxpayer has a key to the facility.

Following further discussion of the matter, Council Member Whitley made motion to discontinue walking on Mondays and Wednesdays and that the Community Center will not be used for that purpose and to retrieve the key, second by Mayor Pro-Tem Kiker. Council Member Bivens did not want to see the walking discontinued, but felt that a fee should be charged. Council Member Bridget thought that the Town should provide the use of the facility to seniors for this purpose. Council Member Beachum believed that if one pays, all should pay. Vote: 2 to 3 (Council Members Beachum, Bridget and Bivens opposed).

Mayor Pro-Tem Kiker made motion to direct PD Thifault to set a schedule for walking in the Community Center and that he be present to unlock and lock the facility and collect a fee (\$2 for out-of-town users, \$1 for in-town users) and retrieve the key, second by Council Member Beachum. Vote: 3 to 2 (Council Members Whitley and Bridget opposed).

Discuss Town Hall accepting Duke Energy payments. Mayor Deese reminded Council that Duke Energy had approached the Town about a year ago. The Clerk/Finance Officer at the time was opposed to the idea and did not feel that the Town should take on that responsibility. The Mayor himself chose to accept the payments at his place of business. Mayor Deese said he chose to do it as a service to the citizens more so than a money-making opportunity, commenting that there is really no money to be made by doing it. Mayor Deese explained that since that time he has closed his cell phone business and it no longer makes economical sense to continue offering the service. Duke Energy has asked, once again, if the Town would be willing to accept their payments. Mayor Deese said that he asked C/FO Maness to look into the matter, discuss it with her employees and do a cost analysis.

C/FO reported that her conclusions were based on three months of transaction history provided by Mayor Deese and Duke Energy. Using that data, C/FO Maness projected the annual cost and revenues that could be expected if the Town chose to accept the Duke payments. She reported that the Town would basically break even with indirect costs and revenues equaling about \$4,600. C/FO Maness did have concerns that one of the highest transaction days seems to be the 10<sup>th</sup> of the month, which is a very busy time for her staff because water bills are due no later than the 10<sup>th</sup>. C/FO Maness said that she would plan to spend that day of the month collecting the Duke payments herself so that her staff could focus on their primary duties. She was also concerned about the time involved and extra burden of staff having to maintain a separate cash drawer that would need to be balanced and a separate deposit made each day. She offered to take on that daily duty herself to share in some of the additional demands that will be placed on staff as a result of accepting the Duke payments. C/FO Maness said that her staff was very concerned that their regular work may be effected by the additional interruptions and time required to process the payments and answer questions. C/FO Maness noted that Mayor Deese had assured her that a phone would be installed by Duke Energy with a direct connect to them for the purpose of answering any customer questions. C/FO Maness thought that there may be a tough transition period, but she felt that it was doable. Noting that she was not strongly in favor or against the matter, C/FO Maness indicated that she was willing to do whatever Council desired.

Mayor Deese reiterated that this was not a money making venture, but more of a service to the citizens. He stated that, regardless of what Council decides, he will no longer offer the service at his place of business. Mayor Deese pointed out that the nearest place that accepts Duke payments is in Matthews and he has continued to accept the payments at his shop for that reason, even though he no longer has the cell phone business. He felt that the citizens of Marshville deserved that service.

Council Member Beachum asked if there was a specific length of time that the Town would be obligated to provide the service. Mayor Deese said that the Town would not be penalized for discontinuing the service. He noted that the Town would be required to sign a contract stating that the Town will be held responsible for the money and would be required to cover any amount that comes up short.

Council Member Whitley was concerned that this would be a lot of extra work for staff and understood why they would be apprehensive about taking on the additional duties. Council Member Bivens thought the idea was great and the Town should try providing this service to its citizens. She noted that if it does not work out, that the Town is not obligated to continue. Council Member Bivens commented that she would like to see the Town accept Alltel payments as well. Council Member Bridget acknowledged her support of accepting Duke payments and providing that convenience to the citizens of Marshville. She felt that the Town should do all it can for its citizens.

TA Webber reported that there were two other municipalities accepting Duke payments a year and half ago when Duke first approached the Town. He pointed out that C/FO Maness had contacted Greg Allison, a financial guru with the Institute of Government, and he was not aware of any legal reason why the Town would not be able to do it. TA Webber said that it could be done on a trial basis particularly since there are concerns about additional burdens on staff. Council Member Beachum thought that the Town should try it for six months.

Council Member Bivens made motion to accept the Duke payments for a trial period of six months at which time C/FO Maness will report back to Council, second by Council Member Bridget. Vote: 4 to 1 (Council Member Whitley opposed).

Comments:

Council Member Beachum said that the Christmas party was very enjoyable and the food and fellowship was great.

Council Member Bivens asked about the guardrail on West Union Street. DPW Steele said that he had contacted a company that installs guardrail and was waiting to hear back from them with a cost estimate. Council Member Bivens also asked about the Faulkner driveway issue. TA Webber explained that it was a private driveway. Mayor Deese pointed out that the Town cannot spend public dollars on a private drive. TA Webber said that if the Town takes it over and maintains it, it must meet DOT standards. Mayor Deese said that he has been thinking about how to provide a solution to the problem legally.

Mayor Pro-Tem Kiker and Council Members Bridget and Whitley had no comments.

Clerk/Finance Officer Maness said that her department was busy preparing for the upcoming holidays. She said that she was beginning to train and/or refresh her staff on the Finance Officer's duties in preparation for her upcoming maternity leave. She also reminded Council to submit their timesheets.

Administrator Webber reviewed some of the correspondence he had recently received including: a letter from the NC Red Cross thanking the Town for its participation in their blood drives one of which was to be held the following day at the Community Center between 2:30 p.m. and 7:00 p.m.; a trash complaint on South White Street that had already been resolved; a letter sent to the NC Department of Administration regarding the Hobbs, Upchurch sewer rehabilitation project; a letter from Time Warner Cable regarding channel changes; and CPI documentation that showed a 4.3% increase over the last 12 months.

TA Webber informed Council that Larry Helms, former Union County Commissioner, had resigned his position on the State Board of Transportation several months ago. Governor Easley appointed Tony Dennis, Chair of Stanly County Board of Commissioners as well as Chair of the Transportation Advisory Committee of the Rocky River RPO. TA Webber noted that Centralina COG was offering an Elected Officials Planning training to potentially be held on February 26<sup>th</sup> – 28<sup>th</sup> in Union County. TA Webber reminded Council that the Essentials of Municipal Government class is to be held January 8<sup>th</sup> – 10<sup>th</sup> at the Hilton at University Place in Charlotte.

TA Webber reviewed a notice of public meetings held by the Commission Council of the Environmental Review Commission on the water allocations study due to the drought. The meetings will be held from 4 p.m. to 7 p.m. at various locations on various dates. The closest location is in Charlotte scheduled for Thursday, December 20<sup>th</sup>. TA Webber planned to attend. A memorandum was sent out earlier that day as a reminder that the Beautification Committee meeting is scheduled for Thursday, December 20<sup>th</sup> at 6:30 p.m. at Town Hall. TA Webber reminded Council that the Town would be closed Monday, Tuesday and Wednesday for Christmas as well as New Year's Day. Trash pickup is scheduled for Thursday, December 27<sup>th</sup> and Thursday, January 3<sup>rd</sup> and will return to regular schedule the following Wednesday. TA Webber concluded by thanking Council for hosting the Christmas party and wished everyone a Merry Christmas.

Council Member Bivens asked why the seating arrangements were changed and Mayor Deese responded that he chose to do so in preparation for a new year.

Mayor Deese mentioned that the Town Charter is in dire need of attention and he will bring the matter before Council to authorize the Town Attorney to review the charter and update it. The Land Use Plan will also need to be updated. Mayor Deese commented that everyone is not always going to agree and that was ok, but it should be done with respect for each other. He said that there was no need to leave and be mad at each other and talk about other members. Mayor Deese invited each Council Member to talk with him and share their vision for Marshville.

Council Member Bivens commented that communication needed to come from the top as well. She felt that Council Members should have known about the change in seating arrangements prior to the meeting.



There being no further comments, the meeting was adjourned at approximately 9:50 p.m.

These minutes approved this \_\_\_\_ day of \_\_\_\_\_, 2008.

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Franklin D. Deese  
Mayor

Attest: \_\_\_\_\_  
Shelley H. Maness  
Town Clerk