

Town of Marshville
Town Council Meeting
Tuesday, September 7, 2010 at 7:00 PM
Marshville Community Center – 118 E. Union St.

Regular Meeting

Present: Town Manager Radford Thomas, Interim Clerk/FO Tonya Johnson, Mayor Frank Deese, Mayor Pro-Tem Margaret Bivens, Council Member Ned Beachum, Council Member Matthew Jefferson, Council Member Denise Whitley, Council Member Dora Bridget, Attorney Bobby Griffin, Chief Mike Gaddy, PD Alan Thifault, DPW Bivens Steele, and John Edmondson, editor of *The Home News*.

Mayor Deese opened the meeting of the Marshville Town Council at 7:00 p.m. and welcomed everyone in attendance. The invocation was given by Mayor Pro-Tem Bivens. All gave the Pledge of Allegiance.

Public Comments

There were no public comments.

Adopt Agenda

Council Member Denise Whitley made a motion, seconded by Mayor Pro-Tem Margaret Bivens, to adopt the agenda as presented. Vote: All ayes

Consent Agenda Items

- a. Receive Budget Report
- b. Approve Minutes (August 16, 2010 Meeting)

Council Member Denise Whitley made a motion to adopt the consent agenda as received, seconded by Mayor Pro-Tem Margaret Bivens. Vote: All ayes

Approve Proclamation for Constitution Week during September 17-23

Council Member Denise Whitley made a motion to approve the Proclamation for Constitution Week during September 17-23, and to authorize Mayor Deese to sign the Proclamation. The motion was seconded by Mayor Pro-Tem Margaret Bivens. Vote: All ayes

Designation of Voting Delegate and alternate Voting Delegate for the 2010 annual NCLM business meeting

A motion was made by Council Member Denise Whitley to designate Mayor Deese as the voting delegate, and Mayor Pro-Tem Margaret Bivens as the alternate voting delegate for the 2010 NCLM business meeting. The motion was seconded by Council Member Ned Beachum. Vote: All ayes

Discuss appointment to the Planning Board

TM Radford Thomas conveyed to council that both James Rowell (516 E. Union St., Marshville) and Judy Ingani (706 E. Union St., Marshville) have expressed an interest in serving on the Planning Board. TM Thomas discussed the terms of Planning Board members and indicated that somehow they have gotten away from staggered terms. He suggested making this appointment for a three year term. TM Thomas also conveyed to council members that his research indicated there is no limit to the number of terms a Planning Board member can be appointed to. He also stated that the Union County Commissioners appoint ETJ members. Council Member Jefferson questioned whether ETJ members attend meetings. Mayor Pro-Tem Bivens asked about the policy/procedure if members don't attend meetings regularly. Attorney Griffin suggested that council look at the ordinance. He also explained that Planning Board members may be appointed to serve a term, or merely at the pleasure of the Board. Council Member Jefferson asked if the council could incorporate expectations into the ordinance. Attorney Griffin commented that the ordinance could be amended or abolished. TM Thomas read some sections from the policy. Council Member Whitley asked if we could amend our policy. She feels the council should be kept informed by the Planning Board regarding issues with members. Mayor Deese suggested we look into amending the policy before filling the vacancy. He also suggested we postpone the joint meeting until we get the ordinance amended. TM Thomas asked Attorney Griffin if changing the ordinance would require a public hearing to which Attorney Griffin replied that it would. TM Thomas asked council if what he was hearing from them was to postpone the joint meeting with the Planning Board until some policy issues related to board member terms are worked out.

A motion was made by Council Member Denise Whitley to authorize TM Thomas to advertise for a public hearing for a proposed text change to the Land Use Ordinance at the October 4th, 2010 meeting, at 7 p.m. The motion was seconded by Mayor Pro-Tem Bivens. Vote: All ayes

Discussion and consideration of proposed Personnel Policy (Information)

TM Thomas informed the Council that the proposed final draft of the Personnel Policy is complete. He stated that council needs to consider a resolution that puts the policy in place, and also an ordinance to abolish previous ordinances. He stated that the most significant change dealt with the grievance process. Mayor Pro-Tem Bivens directed a question to Pg. 36, Step C, regarding matters involving the Town Manager. TM Thomas gave detailed explanation of Step C. Town Attorney Griffin indicated this kept council out of any fray. Council Member Denise Whitley commented that she had spoken with people from three different towns. She expressed that she doesn't agree with this section. The attorney is not a town employee. The manager works for the council, not the attorney. The attorney shouldn't appoint a third party. TM Thomas stated that this doesn't supersede anything between the Town Manager and the Council. It doesn't change the relationship created by the employment contract. Council Member Whitley feels a situation such as this should come before the mayor and council. The policy, as written, leaves council out of the loop. Attorney Griffin commented that this language was recommended by staff at the NCLM. The theory is to keep council neutral so you can make an objective decision. It keeps council members out of any fray. Mayor Deese questioned doesn't the final decision comes back to the council? Council Member Jefferson stated his opinion that the final authority is going to be with the council. Council Member Whitley expressed her concern that there is no language in the policy that states the third party will report to the mayor and council. Mayor Pro-Tem Bivens asked who

the third party would be. Attorney Griffin commented you wouldn't know who the third party is until they were appointed. Mayor Deese stated that we don't need to be in the investigation because we may have to make a final decision regarding the town manager. It would be difficult to make an objective decision if you have been in the investigation. Council Member Whitley stated we need to add language to clarify that the findings of the third party should be reported to the council. TM Thomas suggested language such as, "Findings of a third party should be reported to the Town Council". Mayor Pro-Tem Bivens asked how council will know about a grievance. TM Thomas commented that the intent is not to remove council from any knowledge of what is going on. It is merely an attempt to remove council from any fray and to lend to objectivity. Mayor Deese read from Pg. 36, Step C, and suggested the following language be added, "Findings of the investigation shall be given to the council for a final decision." Council Member Whitley asked if a grievance could be given to the mayor who would, in turn, pass it along to the attorney. Council Member Jefferson feels it would be best for a complaint to go straight to the attorney instead of council members getting involved. Council Member Whitley strongly expressed that the policy needs to include council in the language. Council Members need to know what's going on. TM Thomas commented that what he is hearing from council is that the language on Pg. 36, Step C should include reporting procedures for complaints against the town manager. Mayor Deese stated that the text should be amended to say that findings of a third party investigation will be reported to the council for a final decision. Also, that whoever receives the complaint shall report it directly to the attorney. Attorney Griffin commented that if the third party cannot resolve the matter, then the final decision would be made by council. TM Thomas commented that what we want to state in writing is that when a complaint is filed from an employee whoever receives the complaint will report it to the attorney. The attorney will inform council of the nature of the complaint. Council will receive a report of resolution of the complaint, or that no resolution was reached and council needs to take further action. TM Thomas stated that he would add the requested language and amend the policy. Attorney Griffin asked council members if they felt the need to adopt everything except that tonight. He commented that this policy needs to be in place as quickly as possible.

Consideration and approval of Resolution for Personnel Rules, Procedures for the Town of Marshville

Council Member Jefferson made a motion to approve the Resolution for Personnel Rules, Procedures for the Town of Marshville, as presented in the agenda packet. The motion was seconded by Council Member Ned Beachum.

Mayor Pro-Tem Margaret Bivens commented she felt we need to amend the motion. This council shouldn't be so hasty in making decisions. There needs to be clarification to the Personnel Policy, as per our discussion regarding adding language. She added that TM Thomas agrees.

Vote: 3 to 2 (opposed: Mayor Pro-Tem Bivens and Council Member Denise Whitley) – Motion passed

Council Member Whitley asked Attorney Griffin if a resolution only requires a simple majority vote. Attorney Griffin stated that is correct. He also commented that an ordinance requires a super majority vote. Council Member Whitley asked if the ordinance fails what

happens to the resolution. Attorney Griffin replied that there are old ordinances on the books. There may be conflicts between the new resolution and some old ordinances.

Consideration and approval of Ordinance to Abolish Personnel Rules & Procedures

Council Member Jefferson made a motion to approve the Ordinance to Abolish All Previous Personnel Ordinances, Policies, Rules, and Procedures for the Town of Marshville. The motion was seconded by Council Member Ned Beachum.

Mayor Deese commented that an ordinance needs four votes to pass on the first reading. If it doesn't pass the resolution we just passed may be in conflict with existing ordinances. Mayor Pro-Tem Bivens stated we need to go through this policy. She feels everyone hasn't thoroughly gone over the policy. Mayor Deese reminded everyone that the Personnel Policy has already been approved by resolution. Council Member Beachum asked doesn't the council need to abolish old ordinances.

Vote: 3 to 2 (opposed: Mayor Pro-Tem Bivens and Council Member Denise Whitley) – Motion failed.

Mayor Deese commented that the previous personnel ordinances are not abolished. Chief Gaddy questioned where this leaves department heads. Council Member Whitley commented that all she wanted was to amend the text. Mayor Deese commented that we now have two conflicting policies on the book. TM Thomas commented that from the standpoint of implementing a Personnel Policy going forward, we have a mix of old and new policy. The new policy has been adopted by resolution. We essentially have two policies. Mayor Pro-Tem Bivens asked why this board couldn't come together to change the wording in the policy.

Council Member Jefferson stated that he wants this policy in place tonight!

Council Member Jefferson made a motion to amend the resolution that was just approved to include the language TM Thomas has been instructed by council to include in Pg. 36, Step C of the Personnel Policy, and to be implemented immediately. The motion was seconded by Mayor Pro-Tem Bivens. Vote: All ayes

TM Thomas conveyed to council that he will put in the requested language. Mayor Deese asked TM Thomas to send a memo to council so they know the requested changes are made.

Mayor Deese stated that we still need a motion to approve the ordinance to abolish previous personnel ordinances.

A motion was made by Mayor Pro-Tem Bivens to approve the Ordinance to abolish all Previous Personnel Ordinances, Policies, Rules, and Procedures for the Town of Marshville. The motion was seconded by Council Member Ned Beachum. Vote: All ayes

Comments

Council Member Jefferson expressed his feeling that this personnel policy needs to be in place immediately. He is glad we passed it. This issue was #1 at our retreat. He commented his interest in pushing business incubation. Marshville needs businesses and jobs.

Council Member Ned Beachum commented that we still have issues with streetlight outages. He rode around and counted eleven out. He commented that we are paying for the lights even though they aren't burning. Chief Gaddy commented that Officer Jeff Carrier handles the streetlight outages/reports. He will have him look into it and make a report.

Mayor Pro-Tem Margaret Bivens commented that she wasn't making light of what Council Member Beachum was saying about streetlight outages. She commented that some lights are being deliberately shot out near her home. She feels that Carelock Drive needs extra patrolling. She commented to Council Member Jefferson that she isn't angry with him. Everyone is entitled to their own opinion. She feels this is a good personnel policy and commended TM Thomas. She stated that if she has questions or issues she will bring them to the board.

TM Thomas informed council that he has tickets to the Farm City Dinner for the Town council.

He conveyed to council that since Mr. Luster came to the meeting there has been lots of activity with the properties discussed. He has that information in a file if council desires to review it. He commented that Mr. Luster did send the requested notices and will have some follow-up information.

TM Thomas advised council members that the ad for the Police Chief position went out last week. To date he has received ten applications. He plans to receive applications until the position is filled, but will begin reviewing them around October. He plans to do interviews in early November. He will set up an interview panel and would welcome suggestions for names of participants to serve on the panel.

Also, he has concluded interviews for the Town Clerk/Finance Officer position. He will be formulating a decision and hopes to have it made by the end of the month.

TM Thomas updated council members regarding the CMAQ Sidewalk Project. The information has been sent to CMAQ. The town has an opportunity for 100% funding. Construction is scheduled to begin in late spring.

Also, some water and sewer projects are being investigated. He informed council that he will be bringing opportunities to council for some water/sewer projects.

TM Thomas reminded council of the NCLM meeting. He has confirmations and registrations. He will be providing that information to council members closer to the meeting date.

TM Thomas invited the mayor and council members to a reception honoring Chief Mike Gaddy on September 30, 2010, from 3 p.m. to 5 p.m.

TM Thomas concluded by reminding council that the #1 item they wanted to accomplish from the mini-retreat was policy related. He commended them for doing a good job of staying behind that. We need to start checking things off the list and continue working on our goals for the Town. He expressed his appreciation to council for adopting the Personnel Policy.

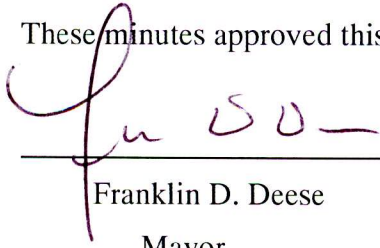
Mayor Deese informed council members that Union County Commissioners are looking to put a referendum to change the number of at-large commissioners from 5 to 7 on the ballot. This will not give the eastern part of the county any better representation. Wingate may have already adopted a resolution opposing this. Mayor Deese suggested asking TM Thomas to draft a resolution opposing this referendum for the Town of Marshville.

A motion was made by Council Member Denise Whitley and seconded by Council Member Ned Beachum, to instruct TM Thomas to draft a resolution opposing putting a referendum on the ballot to change from 5 to 7 at-large commissioners. Vote: All ayes.

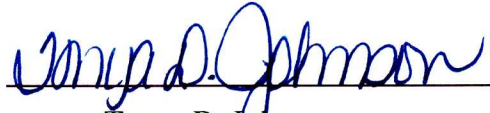
Adjourn

Mayor Pro-Tem Margaret Bivens made a motion to adjourn at 8:29 p.m., seconded by Council Member Dora Bridget. Vote: All ayes

These minutes approved this 20 day of September, 2010.



Franklin D. Deese
Mayor

Attest: 

Tonya D. Johnson
Interim Clerk

**A brief recess may be called every 45-60 minutes, as desired by Council.*

WHEREAS: The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

WHEREAS: September 17, 2010 marks the two hundred twenty-third anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS: It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and

WHEREAS: Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week

NOW, THEREFORE I, Frank Deese, by virtue of the authority vested in me As Mayor of the City of Marshville in the State of North Carolina do hereby proclaim the week of September 17 through 23 as

CONSTITUTION WEEK

AND ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through the guardian of our liberties.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City to be affixed this 7th day of September of the year of our Lord two thousand and ~~nine~~ ten.

Signed Frank Deese

SEAL

Attest Sonya Johnson



**RESOLUTION FOR PERSONNEL RULES, PROCEDURES
FOR THE TOWN OF MARSHVILLE**

WHEREAS, the Mayor and Town Council of the Town of Marshville recognize the importance of its municipal employees in meeting the service needs of Town residents; and

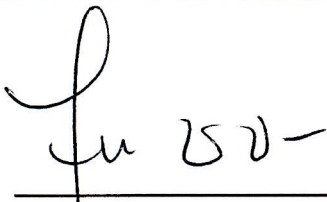
WHEREAS, it is the desire of the Mayor and Town Council to maintain a municipal work force composed of qualified, competent, dedicated employees; and

WHEREAS, the Mayor and Town Council recognize the necessity of equitable rates of pay and reasonable conditions of employment in the maintenance of such a work force; and

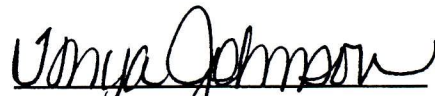
WHEREAS, it is the desire of the Mayor and Town Council to establish a system of personnel administration that will assure equity of compensation and fair and reasonable employee treatment;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MARSHVILLE that the following rules and regulations shall govern the appointment, classification, salary, promotion, demotion, dismissal, and employment conditions of the employees of the Town of Marshville, North Carolina, replacing all existing ordinances, articles and sections on personnel, pay plans, class specifications and benefits effective the 7th day of September, 2010.

So resolved this the 7th day of September, 2010 by appropriate motion and vote of the Marshville Town Council.



Franklin D. Deese, Mayor



Attest: Tonya Johnson, Clerk



**AN ORDINANCE TO ABOLISH ALL PREVIOUS PERSONNEL
ORDINANCES, POLICIES, RULES, AND PROCEDURES
FOR THE TOWN OF MARSHVILLE**

WHEREAS, the Mayor and Town Council of the Town of Marshville recognize the importance of its municipal employees in meeting the service needs of Town residents; and

WHEREAS, it is the desire of the Mayor and Town Council to maintain a municipal work force composed of qualified, competent, dedicated employees; and

WHEREAS, the Mayor and Town Council recognize the necessity of equitable rates of pay and reasonable conditions of employment in the maintenance of such a work force; and

WHEREAS, it is the desire of the Mayor and Town Council to establish a system of personnel administration that will assure equity of compensation and fair and reasonable employee treatment;

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MARSHVILLE that the all previous policies, rules and procedures governing the appointment, classification, salary, promotion, demotion, dismissal, and employment conditions of the employees of the Town of Marshville, North Carolina, shall be abolished effective the 7th day of September, 2010.

So ordained this the 7th day of September, 2010 by appropriate motion and vote of the Marshville Town Council.



Franklin D. Deese, Mayor


Attest: Tonya Johnson, Clerk

(SEAL)



