

**Marshville Town Council
Regular Meeting
7:00 P.M. Monday, January 7, 2008
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, Town Attorney Bobby Griffin, 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 Whitley gave the invocation. All gave the Pledge of Allegiance.

Public Comments:

Fern Shubert appeared before Council to discuss her concerns about Marshville's long-term infrastructure problems. Ms. Shubert hoped that Council would address the things she cited as problems, including: 1) streets that residents mistakenly think are public alleys, 2) parking in front of businesses that is not public parking and 3) numerous water and sewer problems. She noted that her comments were in no way a complaint about Town staff.

Mayor Deese thanked Ms. Shubert for her comments and asked if there were any other public comments.

Jackie Horne, member of First Baptist Church, asked Council to commit to provide access to the Town's sewer system at First Baptist Church's proposed new location just outside of the city limits. Ms. Horne pointed out that the Church was the entity requesting the service, not the landowner. Ms. Horne said that if sewer service was granted, the Church members must then give final approval to purchase the property. Responding to a question from Council Member Bivens, Ms. Horne explained that the cost to acquire access to the sewer system would be at the full expense of the Church.

Mayor Deese thanked Ms. Horne for her comments and asked if there were any other public comments. There being none, Mayor Deese closed the public comments section of the agenda.

Department Head Comments:

PD Thifault reported that everything was going ok at the park and Community Center. He noted that things had been slow during the holidays. PD Thifault made Council aware that there had been a couple of incidences of graffiti at the park.

Council Member Bivens asked PD Thifault if there had been any problems with the lights not being turned off at the park. PD Thifault said that there was one night that the field lights were left on. Council Member Bivens asked who was responsible for making sure the lights are turned off each night. PD Thifault said that there was no one person designated to check the lights at night, but there hasn't been much of a problem with the lights in the past. He said the

person or organization that uses the lights are supposed to turn them off at the panel box prior to leaving. Council Member Bivens asked if anybody could go to the park and turn the lights on and PD Thifault answered yes. DPW Steele noted that a panel box cannot be locked for safety reasons.

Mayor Pro-Tem Kiker commented that PD Thifault did a great job with the Christmas events. She thought that it was a great thing for the community and the children of Marshville really appreciated it.

DPW Steele said that his department was in the process of taking down all the Christmas lights. A lift was scheduled to be on site the following day and everything would be taken down along Highway 74 at that time.

Chief Gaddy reported that things had been rather quiet. Chief Gaddy commented on the issue with the lights at the park, stating that Officer Paul Lemmonds had noticed the lights were on one night at the tennis courts. It was raining hard that night and Officer Lemmonds did not know where the panel box was located. Officer Lemmonds called Chief Gaddy who instructed the officer to do nothing, given the conditions. Chief Gaddy agreed to have his officers keep a check on the lights in the future.

Council Member Beachum commented that the Chief's report looked great and noted that he was doing a great job.

Adopt Agenda:

Mayor Deese requested to add three items to the agenda as follows:

- 1) Request from Joanne Griffin to return rent for Marshville Park.
- 2) Contribution to UNC School of Government for local government wing.
- 3) Reschedule January 21st Council Meeting due to Martin Luther King holiday.

Council Member Bivens made a motion to add these three items to the agenda, second by Council Member Beachum. Vote: All Ayes. (Items added as Items #17, 18, & 19, respectively.)

Council Member Whitley made a motion to add to the agenda a discussion of purchasing a table at the MLK Breakfast, second by Council Member Bivens. Vote: All Ayes. (Added as Item #20.)

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

Consent Agenda:

The consent agenda included only approval of the minutes from the December 17, 2007 regular meeting. Council Member Bridget made motion to approve the consent agenda, second by Council Member Whitley. Vote: All Ayes.

Presentation by Union County Public Schools related to the need for Uniform Land Use Regulations for Schools. TA Webber explained that Union County Public Schools had identified the need for Uniform Land Use Regulations for the construction of schools across all Union

County municipalities and Union County as opposed to having fifteen varying land use regulations. TA Webber reminded Council that they had approved staff to participate in a series of staff-level workshops regarding the matter. The forthcoming presentation by David Pope was intended to demonstrate the need for the Uniform Land Use Regulations. TA Webber said that the next step would be for the Planning Board to review the information and make a recommendation to Council.

In his presentation to Council, David Pope reported that Union County had the fastest growing school system in the state with an 81% growth since the 1996/97 school year. Most of the schools are either over capacity or soon to be. Mr. Pope provided a list of numerous schools currently under construction or planned to be built throughout Union County within the next few years. Mr. Pope explained the difficulty in having to plan and budget for these schools to be built given the fourteen municipalities' varying land use regulations.

Mayor Deese thanked Mr. Pope for his presentation and stated that Council will consider the Planning Board's recommendation regarding the Uniform Land Use Regulations.

Discuss retaining Attorney to assist the Board of Adjustment during quasi-judicial hearings.

Mayor Deese reminded Council that the Board of Adjustment (BOA) is a quasi-judicial board and their decisions are appealed to the court system, not to Town Council. Mayor Deese asked Council to consider providing an attorney to assist the BOA during quasi-judicial hearings.

TA Webber added that the BOA meets infrequently (as little as once a year), whereas the Planning Board meets almost monthly. Although both boards are comprised of the same members, they act in different capacities while serving each board. The BOA is bound by the rule of evidence and those that appear before them are sworn and must offer testimony and evidence. Some of the board members feel under-represented in that there is no legal counsel to advise them.

In polling other small towns, TA Webber determined that most have some kind of representation. Some towns use the services of the Town's attorney and some use another attorney to represent their BOA. Using a different attorney would eliminate any conflicts of interest should the Town Council and the BOA ever be at odds in a dispute.

TA Webber had talked with a couple of attorneys that came highly recommended by Centralina COG, as well as other municipalities. A Union County practicing attorney showed a willingness to provide services on a non-retainer fee. In other words, she would not be paid a monthly amount, but for services actually provided. The attorney indicated that she would provide services in the ballpark of about \$150 per hour. Another highly recommended attorney was from Charlotte and would charge a little over \$200 per hour. Both attorneys showed a willingness to perform the service.

Mayor Deese asked for Council's thoughts on the matter. Council Members Bivens and Whitley both agreed that the BOA does need representation. Council Member Bridget made motion to obtain attorney representation for the Board of Adjustment whenever there is a need for such services, second by Council Member Bivens. Vote: All Ayes.

Mayor Deese asked if the attorneys mentioned previously had experience serving other Boards of Adjustment and TA Webber said they both had such experience. In response to discussions

about using his services, Town Attorney Bobby Griffin explained that it may pose a conflict of interest to represent both boards, but thanked Council for their interest in his services.

Council Member Bivens made motion to direct TA Webber to contact and secure the services of the Union County attorney to serve the Board of Adjustment and have the attorney come to the next Council Meeting where Council will determine whether to hire, second by Council Member Kiker. Council Member Bivens wanted to know the name of the attorney. TA Webber said the attorney's name is Shawna Collins and that she has a practice in both Weddington and Monroe.

Discuss request by First Baptist Church to provide access to Town sewer. Mayor Deese explained that the issue was brought up at the last meeting and Council had decided to discuss the issue at this meeting. Mayor Pro-Tem Kiker asked if Council could specify that, if sewer access were granted to the Church, could it be specified that the decision only applies to the Church if they decide to move forward with their plans to construct the new church at this location. After some discussion, it was the opinion of Town Attorney Bobby Griffin that the Town could make such stipulation.

Council Member Bivens asked when did the Town start providing sewer services to non-annexed properties outside the city limits. DPW Steele responded that the Town has never extended a line to provide sewer service, but some people outside of the city limits did have sewer service as a result of pre-existing sewer lines.

Mayor Pro-Tem Kiker clarified that this would be provided at no cost to the Town, but would be at the full expense of the Church. She asked why would the Town not do it. Council Member Beachum asked if the Church would be charged at the rate of outside sewer service. Mayor Deese and TA Webber both confirmed that the Church would be charged outside rates.

Council Member Beachum made motion to grant the right to sewer service to First Baptist Church only and upon their approval to move forward with construction on the property being considered and at no cost to the Town, second by Council Member Kiker. Vote: All Ayes.

Discuss Skateboard Park. Mayor Deese noted a letter received from a citizen opposing the skate park. PD Thifault informed Council that he had visited a \$9 million skate park in Miami on the 21st of December. The park had just opened on the 15th and was already covered with graffiti. Council Member Bivens was concerned, as the citizen's letter pointed out, that the petition previously presented to Council may have been signed by many non-Marshville residents. Council Member Bivens said that Council should get together with other towns and consider a "regional" park.

After much discussion about a skateboard park, Mayor Pro-Tem Kiker made a motion that the Town provide one tennis court for the purpose of a non-supervised skateboard park to be funded by those requesting it, not at the expense of the Town. Motion died for lack of a second. Council Member Bivens commented that maybe there is an entrepreneur in Town that will see the need and provide a facility for the Town's youth.

Discuss Habitat for Humanity request for tap fee waiver. Mayor Deese reminded Council that Habitat for Humanity had requested a waiver of one-half of the water and sewer tap fees for four Habitat houses to be built on Allen Circle/Braswell Street. Mike Reece explained that they have grant funds available to pay one-half of the fees and they would like for the Town to waive the

remaining half equal to \$8,400. Council Member Bivens asked what other Towns have done for Habitat. Mr. Reece said that Wingate had reduced fees, the City of Monroe used CDBG funds to offset fees and Union County chose to waive the entire fee amount of about \$9,000. Mr. Reece explained that the total infrastructure cost to build the houses on Allen Circle/Braswell Street would be approximately \$150,000.

Council Member Bridget made a motion to waive one half of the water and sewer tap fees for four houses (a total of \$8,400) that are to be built on Allen Circle/Braswell Street, second by Council Member Bivens. Vote: 2 to 3 (Mayor Pro-Tem Kiker and Council Members Beachum and Whitley opposed.)

Council Member Beachum thought the project was a great thing, but Council did not need to set a precedent in waiving fees. He felt that they should develop some other way to help. Mr. Reece said that another way to help would be to make a contribution toward the cost of one of the homes. Council Member Bivens stated that Council allowed Habitat to come into the community and should be willing to help them. Council Member Bridget noted that Council was not setting a precedent saying “this is not the first time we’ve done something like this for Habitat.” Council Member Bivens pointed out that the residents of these homes will be tax-paying, sewer-paying citizens. She wondered if the houses were in another part of town if Council would think differently about it. Mr. Reece said that the Town should be able to recoup the cost in about two years through utility payments and taxes.

Mayor Deese called for a five minute break at approximately 9:20 p.m. The meeting was called back to order at approximately 9:25 p.m.

Discuss request for funding for Law Enforcement Memorial. Mayor Deese reminded Council that representatives from the Monroe Union Fraternal Order of Police had appeared before Council at a previous meeting and requested funding for a Law Enforcement Memorial. Council Member Bridget understood that the funding request was for each municipality to give \$2,500. She did not feel that it was fair for Marshville to match what other communities give, considering the differences in population. Council Member Whitley agreed, but felt that the Town could do something. Council Member Whitley made a motion to donate \$500 to the Law Enforcement Memorial, second by Council Member Bivens. Vote: All Ayes.

Discuss constructing Public Road on “Faulkner Driveway”. Mayor Deese explained that there were obvious issues with the Faulkner driveway, but that it was in fact a private driveway. He noted that one alternative would be to make the driveway a public road, which would require obtaining right of ways and construct and maintain a road that meets DOT standards. Council Member Bivens asked if the whole road was private and TA Webber explained that no portion of the road was public.

TA Webber offered the options of 1) taking no action or 2) direct staff to cause an easement survey to be undertaken at a cost to the Town of approximately \$1,600, then decide whether or not to move forward and make the road public (at an approximate cost of \$100,000).

Mayor Deese pointed out that there really was not much Council could do as a board to maintain the private driveway. He said that each member could act as an individual and raise funds to help pay for the maintenance to be done if they so choose. Council Member Bivens asked that

the Town send a letter to inform the residents that Council cannot provide any assistance to them. Mayor Deese agreed to write a letter.

Discuss constructing Guard Rail along portions of West Union Street. DPW Steele presented Council with two options in response to a request for guard rails to be constructed on West Union Street. One option was to construct a 100 ft. section and a 270 ft. section of guard rail at an approximate cost of \$8,000. The second option was to do option one and extend the guard rail to the end of the pavement on West Union at an approximate cost of \$16,200.

Council Member Whitley asked if the Town had money to do this. TA Webber believed that Powell Bill funds could be used for the project, but he would need to find out for sure.

Council Member Bivens made a motion to direct TA Webber to find out if Powell Bill funds could be used to pay for the guard rail project and report back to Council, second by Council Member Bridget. Vote: All Ayes.

Adopt amended Resolution authorizing application for funding of Pedestrian Planning Grant. TA Webber explained that Council had previously adopted a resolution to apply for the Pedestrian Planning Grant. The RPO assisted staff in applying for the grant and had understood that there was a maximum amount of \$25,000, but discovered after the application was submitted that there was a minimum amount of \$25,000. The Town had applied for \$24,800. The amended resolution would authorize applying for \$25,000 with matching funds of \$5,000 (\$40 more than what was stated on the previous resolution). Council Member Whitley made a motion to adopt the amended resolution authorizing application for funding of Pedestrian Planning Grant, second by Council Member Bivens. Vote: All Ayes.

Discuss "Old Town Hall" landscape construction project. TA Webber recalled that the Beautification Committee had made a recommendation last year to do some landscape improvements at the Old Town Hall. He noted that the site and building exterior are a part of the Union County Historic Properties Commission's jurisdiction. Staff had sought and received a project description from a contractor that the Town uses for landscape maintenance. The project was approved by the Historic Properties Commission in October 2007. The project cost is less than \$10,000. Some individuals have questioned whether or not the project should be bid, although there is no statutory requirement to do so.

Council Member Bivens pointed out that the Beautification Committee had decided to use a different color brick than what was originally proposed. TA Webber acknowledged that the change had been approved by the Historic Commission. Council Member Bivens also said that they would like to change the three-tier fountain to a waterfall. TA Webber wondered if this request would need to be resubmitted to the Historic Commission for approval. Council Member Bivens said that the Historic Commission had approved a water fountain and felt that the type of fountain was not significant. Mayor Deese said that he would like to have something in writing from the Historic Commission approving any changes. He suggested that Council Member Bivens take the issue back to the Beautification Committee and get a consensus on the changes to be made and then report back to Council at which time they can consider resubmitting the application. Council Member Bivens agreed to do so.

Request from Joanne Griffin to return rent for Marshville Park. Mayor Deese referenced a letter written by Joanne Griffin requesting refund of her money for the rental of the Marshville Park.

Ms. Griffin rented the shelter not knowing that there was another event scheduled. Ms. Griffin claimed that the shelter was in disarray as a result of the other event and she had to clean it up for her event. She requested that her \$30 rental fee be returned to her. Council Member Whitley asked if this occurred back in October and Mayor Deese confirmed that was true. Council Member Whitley made a motion to deny the request to refund the \$30 to Ms. Griffin for the rental of the Marshville Park, second by Council Member Bivens. Vote: 4 to 1 (Council Member Bridget opposed.)

Contribution to UNC School of Government for local government wing. TA Webber stated that he had received a letter from the UNC School of Government asking for a donation of \$291, which is equivalent but in addition to the Town's membership fees. The donation would go toward a campaign to name the NC Local Government Wing at the Institute of Government. Council Member Whitley made a motion to make a donation of \$291 to the UNC School of Government, second by Council Member Bridget. Vote: 3 to 2 (Council Members Bivens and Beachum opposed.)

Reschedule January 21st Council Meeting due to Martin Luther King holiday. Mayor Deese pointed out that the next Council Meeting is scheduled for January 21st, which is Martin Luther King holiday. Council Member Bridget made a motion to hold a special meeting on Tuesday, January 22nd to make up for the meeting that will be missed on Monday, January 21st due to the MLK holiday, second by Mayor Pro-Tem Kiker. Vote: All Ayes.

Discuss purchasing a table at the MLK Breakfast. Mayor Deese reminded Council that there would be a Martin Luther King Breakfast held at 6:00 a.m. on January 21st and they had the option to purchase a table at the event at a cost of \$160. Council Member Bridget made a motion to purchase a table at the MLK Breakfast event, second by Council Member Whitley. Vote: All Ayes.

Comments:

Council Members Beachum, Bivens and Whitley had no comments.

Council Member Bridget asked what the plans were for the MLK parade to be held on Sunday, January 20th. Mayor Deese said that an entry form had not been submitted, but there was no cost to do so. Mayor Deese asked if Council wanted to submit an entry. It was the consensus of the board to participate in the parade.

Mayor Pro-Tem Kiker asked Mayor Deese to confirm the dates of the aforementioned events. It was then decided that those wishing to participate in the parade would meet at Town Hall at 12:30 p.m. on January 20th.

Clerk/Finance Officer Maness reported that she and TA Webber had met with representatives from Duke Energy and it was agreed upon that the Town would start accepting payments around the third week in February. C/FO Maness said that there would be a contract for Council to approve prior to the start date.

Administrator Webber reviewed some upcoming events, including: a Connect Carolina Charlotte Regional meeting on Tuesday, January 22nd at the Cotton Factory in Rock Hill, SC; Centralina COG's Planning and Zoning training for elected officials to be held in Union County

in February; a meeting of the Environmental Review Commission at 9:30 a.m. on January 23rd at the Legislative Office Building in Raleigh; and the Essentials of Municipal Government workshop to be held the following morning. TA Webber asked that those attending the workshop be at Town Hall by 7:00 a.m. TA Webber also asked Council to complete the elected officials information request form and submit it to him so that the information can be included on the Town's website. He referenced several reports that were given to Council including a Minimum Code Housing Enforcement report and a list of zoning permits for the year.

Mayor Deese had no comments.

There being no further comments, the meeting was adjourned at approximately 10:15 p.m.

These minutes approved this ____ day of _____, 2008.

Franklin D. Deese
Mayor

Attest: _____
Shelley H. Maness
Town Clerk