

**Marshville Town Council
Regular Meeting
7:00 P.M. Monday, July 7, 2008
Marshville Town Hall
201 West Main St., Marshville, NC**

Present: Mayor Franklin D. Deese, Mayor Pro-Tem Gail 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 Bivens gave the invocation. All gave the Pledge of Allegiance.

Public Comments:

There were no public comments.

Department Head Comments:

PD Thifault reported that summer camp was going well with an average of 27 children per day. PD Thifault said that a July 4th event was held at the park the previous Friday. A flag that was erected on Thursday was stolen sometime before the event began. PD Thifault noted that a baseball tournament was scheduled for July 26th and 27th. He planned to have a concert on Saturday, the 27th at 7:00 p.m. PD Thifault said that an average of six to ten senior citizens were participating in the exercise class held at the Community Center.

DPW Steele said that he had been working with Mary Beck of Hobbs, Upchurch in preparation for the upcoming grant. DPW Steele requested to purchase the new tractor that was funded in the current budget.

Chief Gaddy reported that the recent saturation patrol involving other local agencies resulted in several tickets. He informed Council that all officers had completed intoxilizer classes. Chief Gaddy inquired about the hiring committee's decision regarding auxiliary police applicant Derry Simpson.

Mayor Deese thanked all the department heads.

Adopt Agenda:

Council Member Whitley made a motion to add to the agenda a discussion regarding the Elm Street Sidewalk project, second by Council Member Bivens. Vote: All Ayes. (Added as Item #16).

Council Member Bivens made a motion to add to the agenda a discussion and possible action regarding use of town-owned vehicles, second by Council Member Whitley. Vote: All Ayes. (Added as Item #17).

Mayor Pro-Tem Kiker made a motion to add to the agenda a discussion and possible action on the Veteran's Memorial fence, second by Council Member Whitley. Vote: All Ayes. (Added as Item #18).

Council Member Whitley made a motion to add to the agenda a discussion and possible action regarding the purchase of a tractor for public works, second by Council Member Beachum. Vote: All Ayes. (Added as Item #19).

Council Member Whitley made a motion to add to the agenda a discussion and possible action regarding the appointment of reserve officer Derry Simpson, second by Mayor Pro-Tem Kiker. Vote: All Ayes. (Added as Item #20).

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

Consent Agenda:

The consent agenda included only approval of the minutes from the June 9, 2008 Special Meeting and the June 16, 2008 Public Hearing and Regular Meeting. Council Member Bridget made motion to approve the consent agenda as presented, second by Council Member Beachum. Vote: All Ayes.

Consider execution of contract with Rural Economic Development Center regarding Sewer Rehabilitation Grant – Mrs. Mary Beck of Hobbs, Upchurch. Mrs. Beck congratulated Marshville on being awarded grant funds for sewer rehabilitation and discussed the next steps in the process. Mayor Deese thanked Mrs. Beck for her efforts in preparing the grant application. Council Member Bivens echoed Mayor Deese's compliment.

Presentation regarding Skate Board Park – Ms. Caroline Wine. Ms. Wine, representing Skatewave Skatepark Systems, confirmed that the tennis court area was ideal for a skatepark because of its size, location and solid surface. She gave a detailed overview of their products, assuring Council that they were safe and durable. The proposed design would cost approximately \$10,000. Ms. Wine said that the equipment could be easily reconfigured or moved off of the courts completely using a forklift.

Attorney Griffin advised Council to proceed with caution before approving a skatepark. He pointed out that Marshville was a "traditionalist" community and suggested that Council conduct a study to determine if there is a real need for a skatepark. Attorney Griffin warned that a skatepark may become an "attractive nuisance".

Council Member Whitley suggested another meeting with children and parents living within the city-limits of Marshville. Council Member Bivens concurred, pointing out that only a few Marshville residents had signed the recent petition requesting a skatepark. Council Member Bridget thought six Marshville residents had signed the petition. It was the consensus of Council to add such meeting to the next agenda. PD Thifault said that he would put something in the newspaper to notify the public. Concerned that the issue may arise, Mayor Pro-Tem Kiker asked if "Marshville residents" included the ETJ area residents. Council agreed that they were interested in hearing from those residents living within the city limits.

Consider new/renewal of lease property at 129 West Main Street to John Parker DBA Affordable Cleaners. Mr. Parker conveyed that he hoped to keep his business in Marshville and would like to enter into a long-term, flat rate lease agreement with the Town. He noted that there were some concern regarding fluctuating water bills, and although he did not believe the problem was on his end, he had not made an issue of it with the Town. He asked that Council return the favor. Mr. Parker pointed out that the lease agreement included contradicting statements regarding responsibilities. Attorney Griffin apologized for his oversight and confirmed that it should state that it is the tenant's responsibility to change filters, etc.

Council Member Bivens made a motion to offer a long-term lease of six years with a stationary rate to be determined, second by Council Member Bridget. Vote: 2 to 3 (Mayor Pro-Tem Kiker and Council Members Beachum and Whitley opposed).

Council Member Whitley made a motion to offer a five year lease with a 3% escalation annually beginning at \$510.30, second by Mayor Pro-Tem Kiker. Vote: 3 to 2 (Council Members Bivens and Bridget opposed).

Attorney Griffin noted that Council may want to consider hazardous waste issues. Council Member Whitley made a motion to instruct the Town Attorney to include a clause in the lease agreement that states that the tenant would clean up any hazardous waste found during or after the term of the lease, second by Council Member Beachum. Vote: All Ayes.

Consider Speed Hump Petition – Griffin Lane; Direct staff to conduct Traffic Study. Council Member Whitley made a motion to direct staff to conduct a traffic study on Griffin Lane to ascertain the validity of installing a speed hump, second by Council Member Bivens. Vote: All Ayes.

Consider Minimum Housing Code Enforcement Proposal from CCOG. TA Webber noted that the proposal of \$10,416 was an estimated cost to continue current services. Council Member Bivens made a motion to accept the Minimum Housing Code Enforcement Proposal from CCOG, second by Mayor Pro-Tem Kiker. Vote: All Ayes.

Consider Cost of Living/Merit Raises for eligible employees. TA Webber explained that the budget included a 2.75% COLA increase for all employees not currently on a payscale with the exception of the police department. He noted that an increase of \$3,000 per employee had been budgeted for all police officers. Council Member Bivens asked about merit raises. TA Webber said that although there was a merit program in place, no merit raises had been given in the past several years. He explained that, according to policy, the combined COLA and merit increase could not exceed the percent increase given to State employees (2.75% proposed for FY 2009). Council Member Bivens made a motion to give every employee a 2.75% COLA increase including those on a payscale. TA Webber explained that the policy states an employee can receive a payscale increase or a COLA increase but not both in the same year. Council Member Bivens amended her motion to make the 2.75% COLA increase effective July 1, 2008 and to exclude employees eligible for a payscale increase from receiving the COLA increase. Council Member Whitley seconded the motion. Mayor Pro-Tem Kiker asked if the \$3,000 increase per police officer was a separate issue. Mayor Deese clarified that the motion was that all employees who are not eligible for a payscale increase would be given a 2.75% cost of living raise. Vote: All Ayes.

Consider participation in NCLM Green Challenge. TA Webber explained that the NCLM had issued a “green challenge” to encourage all municipalities to implement actions that would allow for more cost-effective and energy-efficient operations. The Town would be required to complete three steps (one of which the Town had already completed) in order to receive recognition at the 2008 NCLM Conference. TA Webber felt that the Town could easily complete the two additional steps. Council Member Bivens made a motion to participate in the NCLM Green Challenge, second by Council Member Whitley. Vote: All Ayes.

Consider Ordinance regulating Bicycles, Skateboards, etc. Council was provided with four draft ordinance amendments, each with varying restrictions regarding the use of bicycles and skateboards on public streets and sidewalks. After some discussion, Council Member Bridget made a motion to adopt the ordinance on pg. 44 (of the agenda packet) with the added wording as suggested by Attorney Griffin, to be effective August 1, 2008 with violation being a Class 3 misdemeanor. Attorney Griffin suggested modifying the wording in Section 4 (a) and (b) to specify “public” sidewalks. The ordinance would prohibit riding a bicycle, skateboard or similar device on any public sidewalk inside the city limits. The ordinance would also prohibit riding a skateboard or similar device on any public property (including streets and sidewalks) in the downtown business district. Council Member Whitley seconded the motion. Vote: 4 to 1 (Mayor Pro-Tem Kiker opposed).

Consider delay in planting of trees at Old Town Hall. TA Webber reported that the contractor for the Old Town Hall project had advised against planting the two trees in the summer because it would be much harder to keep them alive as opposed to planting them in the fall. Council Member Bivens said she was pleased with the work that had been done so far, but was disappointed with the size of the water structure. She thought that it would be larger. TA Webber agreed to research the matter and determine if the size was in compliance with the contract. Council Member Bridget made a motion to amend the contract to delay the planting of the trees at the Old Town Hall until fall and to adjust the payment accordingly, second by Mayor Pro-Tem Kiker. Vote: All Ayes.

Consider adding a 30-minute presentation by Pinky Marsh regarding Plaza De Toros to a future meeting agenda. Council Member Bivens said that Mr. Marsh had spoken with her and asked if he could be allowed to present to Council his idea to offer recreational/agricultural opportunities for area residents. CM Bivens reported that Mr. Marsh’s presentation would take at least 30 minutes. Council Member Kiker wondered what the purpose of the presentation was since his facility was outside city limits. Council Member Whitley said that it was her understanding that Mr. Marsh wanted the Town to be involved in his plans. Council Member Whitley made a motion to add to the next agenda a 30-minute presentation by Pinky Marsh, second by Council Member Bivens. Vote: 3 to 2 (Council Members Beachum and Bridget opposed).

Discussion of Elm Street Sidewalk project. Council readdressed the issue of the Elm Street property-owner who requested the Town replace any tree(s) that may be killed by the installation of the new sidewalk. After some discussion on the matter, Council decided to have TA Webber negotiate with Mrs. Drake and bring back a revised agreement to be considered by Council. Attorney Griffin suggested including specific details that the Town would be willing to do such as a dollar limit, limit to the number of trees to be replaced, and also establish who would determine if the Town was indeed “at fault”.

Discussion and possible action regarding use of Town-owned vehicles. Council Member Bivens said that she was concerned about fuel cost and suggested requiring all town employees living outside city limits to drive their personal vehicles to work, with the exception of the police chief.

Council Member Whitley said she had been getting calls about the distance that some employees drive to and from home and concerns that the vehicles were being used when not on duty. Chief Gaddy said that no one had brought it to his attention that any of his employees were suspected of using town vehicles to do personal business. He said that if Council Members would come to him with these concerns, he could address the issue.

TA Webber offered an apology to Chief Gaddy for not relaying a complaint that he had received from Council Member Whitley. He explained that he had investigated the matter where an officer was seen driving a patrol car outside city limits at a time that he would not normally report to work. TA Webber discovered that the officer had comp time and therefore, reported to work later than his normal schedule. TA Webber also apologized to Council Member Whitley for not reporting that information back to her.

Chief Gaddy said that if the cars are taken away, it will cause problems and his officers will leave. He noted that his officers are the lowest paid in Union County and are on-call 24/7. Chief Gaddy said he was no different than his officers; if Council took their cars, they could take his, too.

Mayor Pro-Tem Kiker said that citizens had called her and asked why Marshville Police Officer cars were being driven in Indian Trail. She said the citizens did not like it and noted that she does not get paid to drive to work. Chief Gaddy said that all of his officers live outside of Marshville city limits, including two from Indian Trail.

Noting that gas was \$4.00 per gallon and that Wingate Police and Union County Sheriff's Office served as backup for the police department, Mayor Pro-Tem Kiker wondered why officers needed to take the cars home. Chief Gaddy said that it was one of the few benefits they had.

Council Member Bridget reminded Council that the Town uses Fuelman and does not have to pay full price for gasoline. Mayor Deese asked to go on record as saying that he felt it would be a bad move for council to take the vehicles. Council Member Beachum agreed.

Mayor Pro-Tem Kiker wondered why the detective would need to have a car and said she had seen firsthand officers doing personal business in the Town's car. TA Webber said that there were legitimate reasons for officers to be in Monroe and other places and asked for Council to give staff the opportunity to investigate these matters.

After intense debate, Chief Gaddy tossed his radio on the table and said, "do what you want to with this department," and walked out of the meeting at approximately 9:45 p.m.

Mayor Deese called for a five-minute recess. The meeting reconvened at approximately 9:55 p.m. Mayor Deese announced that he had excused Chief Gaddy for the rest of the meeting. Council Member Bivens asked if they should go into a closed session to discuss a personnel matter. Mayor Deese said there was no need to. Council Member Whitley made a motion to go into closed session pursuant to G.S. 143-318.11 (a)(6) to consider a matter of personnel, second by Council Member Bivens. Vote: 3 to 2. (Council Members Bridget and Beachum opposed).

CLOSED SESSION

In open session, Council Member Whitley made a motion to call a Special Meeting for Thursday, July 10th at 7:00 p.m. to deal with a personnel issue, second by Council Member Bivens. Vote: 3 to 2 (Council Members Beachum and Bridget opposed).

TA Webber distributed information that showed the cost to the Town for officers to drive the patrol cars home was about \$197 per month per employee.

Council Member Bivens said that they are not the only ones considering taking cars away. Mayor Deese asked which towns had taken such action. Council Member Bivens said that there were some, but could not specify which towns.

Council Member Bridget made a motion to table the issue until a later meeting, second by Council Member Beachum. Vote: All Ayes.

Council Member Whitley made a motion to have the discussion included on the next agenda (July 28th), second by Council Member Bivens. Vote: 3 to 2 (Council Members Beachum and Bridget opposed).

Discussion and possible action on Veteran's Memorial Fence. Council Member Bridget made a motion that money be appropriated and actions taken to the Veteran's Memorial fence not to exceed \$5,200.00, second by Mayor Pro-Tem Kiker. Vote: All Ayes.

Discussion and possible action regarding the purchase of a tractor for Public Works. Mayor Pro-Tem Kiker made a motion to allow DPW Steele to purchase a tractor as budgeted, second by Council Member Whitley. Vote: All Ayes.

Discussion and possible action regarding the appointment of reserve officer Derry Simpson. Council Member Whitley made a motion to table the issue until a future meeting, second by Council Member Bivens. Vote: 4 to 1. (Council Member Bridget opposed).

There being no further comments, the meeting was adjourned at approximately 10:40 p.m.

These minutes approved this ____ day of _____, 2008.

Franklin D. Deese
Mayor

Attest: _____
Shelley H. Maness
Town Clerk