

**Marshville Town Council
Special Meeting
7:00 P.M. Tuesday, January 22, 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, Director of Public Works Bivens Steele, Town Administrator Carl Webber, Park Director Alan Thifault, and Police Chief Mike Gaddy.

Mayor Deese opened the meeting at approximately 7:00 p.m. Mayor Pro-Tem Kiker welcomed everyone in attendance. Pastor Alex Martin gave the invocation. All gave the Pledge of Allegiance.

Public Comments:

Donna Helms of 612 Old Pageland-Marshville Rd. appeared before Council to discuss an incident between her daughter and a Marshville police officer. The following is a summary of Ms. Helms' account of the incident:

At approximately 9:45 p.m. on Sunday, January 20th, Ms. Helms' daughter, Ashlyn Stewart, was traveling through Wingate on her way home when a Wingate police car pulled in behind her, then beside her. Ms. Stewart then veered off on Old Highway 74. When she saw blue lights behind her, Ms. Stewart called Ms. Helms and asked her what she should do. Ms. Stewart said she had done nothing wrong. Ms. Helms advised her daughter to turn on her flashers and proceed home. Ms. Helms said she would be waiting for her and the policeman to arrive. Ms. Helms said that when she went outside to wait, she heard sirens and saw cop cars everywhere. Ms. Helms said that she saw one police car come around her daughter's car and block her off. Ms. Helms ran to the scene to find out what was going on and to explain that the driver was her daughter. Ms. Helms explained to the police officer that she had directed her daughter to turn on her flashers and proceed home, which was the first well lit place that she would come to unless she went into town. According to Ms. Helms, the police officer told her that if she came one more step forward she would go to jail, too. Ms. Helms told the officer that she knew Mike Gaddy and asked the officer to call him. The officer refused to call Mr. Gaddy, then gave Ms. Helms his card and said that she could call Mr. Gaddy the following day. Ms. Helms, still not knowing why her daughter had been pulled, saw her daughter standing with her hands up on the car. The Wingate Police Officer Philemon informed Ms. Helms that her daughter was going to jail. Ms. Helms asked why and the officer said she had an expired tag. Ms. Helms asked to talk to her daughter before they took her and Officer Philemon said no. Ms. Helms said she could hear her daughter saying, "Mom, help me. Please help me." Ms. Helms ran inside her home and called Mr. Gaddy. She asked Mr. Gaddy to call the magistrate and ask him not to lock her daughter up. He agreed to call and let the magistrate know that Ms. Helms was on her way. When Ms. Helms arrived, the magistrate had not seen her daughter. After waiting ten minutes, Ms. Helms discovered that her daughter had been searched. Officer Philemon came in with Ms. Stewart. The magistrate listened to what the officer had to say then released Ms. Stewart to her mother. The magistrate told Ms. Helms that he could not give her any advice, but that he hoped she

would have an understanding judge on her court date of March 6th and said that Ms. Stewart did the right thing. Upon reuniting with her mother, Ms. Stewart informed Ms. Helms that the Marshville police officer “threw a gun” on her. As Ms. Helms learned more about the incident, she had several concerns about the conduct of Officer Philemon as well. Ms. Helms said that she wanted to see disciplinary action taken against Mr. J. A. Scott.

Mayor Deese thanked Ms. Helms and asked her to submit a formal complaint in writing as a matter of procedure. Once received, the Mayor said that he would direct the Chief and Administrator to investigate the matter.

Mayor Pro-Tem Kiker made a motion to go into closed session after the public comments section of the agenda and to include only the Mayor and Council Members, with a Council Member to take notes, to discuss a personnel issue, second by Council Member Whitley. Vote: All Ayes.

Chris Stewart of 806 Allen Drive, father of Ashlyn Stewart, appeared before Council regarding the police incident that Ms. Helms had just discussed. Mr. Stewart was not happy with the way the situation was handled by the Marshville police officer. Mr. Stewart said that if no action was taken, “there will be a lawsuit on this Town like there never has been before.” He commented that this was the same officer involved in a Wingate shooting.

Mayor Deese thanked Mr. Stewart for his comments.

Patti Woods of 318 N. Elm Street appeared before Council to discuss an issue with trash. Ms. Woods explained that she lived behind the businesses on Union Street and that she was getting tired of seeing lots of trash. Ms. Woods went on to say that there have been numerous bags of trash piled up in plain view of her windows and yard. Ms. Woods asked how she could go about having the area cleaned up and trash put in proper containers.

Mayor Deese said that he would have someone look into the situation and get back with Ms. Woods.

Sue Helms of 315 C. M. James Road appeared before Council regarding the police issue previously discussed. Ms. Helms said that she was troubled by the process in which the incident actually happened. Ms. Helms explained that she had been told not to stop for blue lights unless in a well lit area and she would not have stopped in this case. Ms. Helms felt that there should be a number a person could call to let the police know their intentions to stop at a well lit area. Ms. Helms also felt that “proper procedures” should be established for such situations and the community be made aware of such procedures.

Mike Gaddy informed Ms. Helms that a person can call 911 in such situations. Mayor Deese thanked Ms. Helms for her comments.

Reverend Alex Martin of 424 N. Elm Street and pastor of First Baptist Church appeared before Council to personally thank them for their positive response to the Church’s request for sewer service. Rev. Martin informed Council that the congregation would hold an information session on the last Sunday in January. An actual vote will be taken on the second Sunday in February to determine whether or not to move forward with the purchase of the property and begin to make plans for the possible construction of a new facility. Rev. Martin said that whatever the Church

decides he looks forward to the Church continuing to serve the community. Rev. Martin closed with a final thanks to Council.

Mayor Deese thanked Rev. Martin for his comments.

Mayor Pro-Tem Kiker asked Ms. Donna Helms who moved the car out of the way. Ms. Helms responded that the officers asked them if they would take the car to their house. Mayor Pro-Tem Kiker asked if the flashers were on and Ms. Helms said that they were. Mayor Pro-Tem Kiker asked Ms. Helms to please stick around while Council goes into Closed Session.

Siting General Statute 143-318.11(a)(6), to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee, Mayor Deese announced that Council would go into Closed Session at that time.

Chief Gaddy said that he was not trying to take sides, but he did want to remind Council that they had only heard one side of the story. Mayor Deese said that he understood and then asked everyone to please leave the room so that they could proceed with the Closed Session.

In reference to Mayor Pro-Tem Kiker's asking Ms. Helms to stick around during Closed Session, John Edmondson of *The Home News* asked if it was Council's intention to invite Ms. Helms into the Closed Session. He did not believe that this was legal according to the General Statutes regarding Closed Sessions.

Closed Session began at approximately 7:30 p.m. Open Session resumed at approximately 8:10 p.m.

Council Member Whitley made a motion to direct TA Webber, once a written complaint is received, to research an outside agency to conduct an investigation into the matter that was complained about previously and report back to Council at the next meeting, whether it be a regular or special meeting, and to suspend Officer James Scott with pay, effective immediately for a period of 30 days at which time Council will revisit the suspension, second by Council Member Bridget. Vote: All Ayes.

Council Member Whitley made a motion to call a special meeting of the Marshville Town Council on Monday, January 28, 2008 at 7:00 p.m. to receive a report from TA Webber regarding his research on an outside agency and to determine at that time what action to take, second by Council Member Bivens. Vote: All Ayes.

Department Head Comments:

PD Thifault said that the signs regarding skateboard use in the park have been ordered. PD Thifault stated that he has been talking to someone about running the concession stand for the upcoming season. He also reported that the portable fencing purchased with grant funds had come in. An Easter egg hunt is planned for the week before Easter, likely March 15th or 16th. PD Thifault said that he had received several requests for a knitting/crocheting class to be held at the Community Center. He had contacted a potential instructor for the class, but was waiting to hear back from them. PD Thifault noted that he had placed a memo in each Council Member's box informing them that he will coach the East Union Middle School boys' baseball team this coming season. He clarified that this would not interfere with his work schedule for the Town of Marshville. PD

Thifault reported that he was working on a grant with Union County to make the land behind Dr. Henry's office a "green space" park, to include a walking trail, picnic tables and park benches. He also received notice from the NCLM that they no longer insure the use of inflatable swimming/water devices, therefore he will be looking into purchasing some kind of slide or other insurable water feature for summer camp.

In response to questions from Council Member Whitley, PD Thifault said that the concession stand operation issue would be brought before the board for their vote of approval at a later date. Council Member Bridget commented that she was certainly glad they hired Mr. Thifault noting that he stayed busy working for the community.

DPW Steele made Council aware that his crews were repairing the sidewalk and installing new steps at the old Police Department (107 N. Elm Street), a building that the Town rents.

Mayor Pro-Tem Kiker asked DPW Steele when he thought the Town could get a fence at the Veteran's Memorial. DPW Steele said that he would check on it.

Chief Gaddy reported that the cameras had arrived earlier that day and that all cars (except his and Matt Tarlton's vehicles) would be equipped with them by the end of the following week.

Mayor Pro-Tem Kiker asked what all would the camera show. Chief Gaddy said it would show everything in front of the camera. He explained that if the blue lights are on, the cameras are automatically on and it even captures one minute prior. Chief Gaddy agreed to give a demonstration of the cameras at a future meeting.

Adopt Agenda:

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

Consent Agenda:

The consent agenda included only approval of the minutes from the January 7, 2008 regular meeting. Council Member Bridget made motion to approve the consent agenda, second by Council Member Beachum. Vote: All Ayes.

Discuss "Old Town Hall" landscape construction project; consider amended "Application for Certificate of Appropriateness" to be submitted to Union County Historic Properties Commission. TA Webber explained that he had tried to contact the Historic Properties Commission, but was not able to reach anyone. Council Member Bivens explained that a change to the type of water fountain did not require an amended application since it did not involve any construction. TA Webber explained that the estimate for the project was less than \$10,000, which falls well below the bid requirements as set out by General Statute. TA Webber asked Council if they would like to proceed with the original proposal (which may need to be amended due to the amount of time that has passed) or if they would like the project to be bid out. Council Member Whitley said that it is a good idea to get a couple of quotes no matter how small the project. Council Member Whitley made a motion to go with Council Member Bivens' suggestion of changing the fountain and direct TA Webber to bring back a bid package at the next regular meeting for that scope of work, second by Council Member Bivens. Council Member Bridget asked for a description of the new water

fountain. TA Webber said that the original plans included a five to six foot 3-tiered water fountain. Council Member Bivens suggests changing it to a small surface-level pond with a water spraying device in the middle of it. Vote: All Ayes.

Discuss guardrail along West Union St.; report from staff on use of Powell Bill Funds to install additional guardrail. TA Webber said that he had contacted Betsy Williams of the NCDOT Powell Bill division. Ms. Williams said, provided that the improvement is along the public right-of-way and would serve to protect the motoring public it would be considered an allowable Powell Bill expense. TA Webber explained that the area across the road from the church that is currently used for parking would not qualify as an allowable Powell Bill expense since it would serve to protect those parking there, not the motoring public. DPW Steele explained several options for guardrail installation previously presented to Council. Council discussed the various options. Council Member Bridget made a motion to use Powell Bill funds to install a guardrail from where the pavement begins on West Union Street and past Allen Circle and an additional portion in front of Van Eudy Rd. at a cost of \$17,200, second by Council Member Beachum. Vote: All Ayes.

Discuss scope of work for any Attorney representing the Board of Adjustment. TA Webber explained that he had received a letter from an attorney with Parker Poe Law Firm that established the scope of service that he would be willing to provide. The attorney offered to provide at an hourly rate general representation to include reviewing agenda materials and preparing for Board meetings, attending Board meetings, and drafting Board decisions. For an increased hourly rate, the attorney would also handle litigation matters, if necessary. It was the consensus of Council to use the scope of work presented as the criteria in determining which attorney to represent the Board of Adjustment. Council Member Whitley made a motion to direct staff to bring back several different applications or letters from attorneys that would be interested and qualified to provide this scope of work, second by Mayor Pro-Tem Kiker. Vote: All Ayes.

Approve \$175.00 for Planning and Zoning training session for Elected Officials and Planning Board Members; authorize CCOG to conduct this training in Marshville Community Center, date to be announced. Note: the regular rate for this training is \$275.00, CCOG is offering a reduced rate if we allow them to use the Community Center for this training. TA Webber reviewed what would be covered in the training session and noted that it would be a good overview of Planning and Zoning. He also pointed out that the single cost of \$175 covers any number of Council and Planning Board Members that wish to attend. Council Member Whitley made a motion to approve the \$175 for Planning and Zoning training for Elected Officials and Planning Board Members and to further authorize CCOG to conduct this training in Marshville Community Center, second by Council Member Bivens. Vote: All Ayes.

Mayor Deese strongly urged all Council Members to attend the training. TA Webber said that they would like to have the training on Thursday, February 28th at 6:30 p.m.

Discuss prohibiting the use of skateboards on sidewalks, streets and other public ways within the Town of Marshville. TA Webber said that he had a request from a Council Member to include this item on the agenda for discussion. TA Webber noted that a comment had been made that there has been an increase in skateboard activity in Marshville since the Town of Wingate had taken some steps to prohibit such activity. For the purpose of discussion, TA Webber referenced an email from Wingate Town Administrator Dryw Blanchard that contained three ordinances pertaining to skateboard use in the Town of Wingate. Following a discussion of the issue, Council Member Whitley made a motion to direct staff to bring back language that Council can consider to prohibit

skateboarding, etc., on public sidewalks and streets that the Town of Marshville has jurisdiction over, second by Council Member Bivens. Vote: All Ayes.

Approve contract for asbestos abatement at 200 South Carelock Drive as part of on-going code enforcement action on that property. TA Webber referred to a letter from Mr. James Luster describing the process he used to secure a bid. The lowest bid was by Enpuricon, Inc. in the amount of \$2,650. Council Member Bridget made a motion to approve the contract as proposed by Enpuricon, Inc. in the amount of \$2,650 to remove the asbestos on 200 South Carelock, second by Council Member Whitley. Vote: 4 to 1 (Council Member Bivens opposed).

Discuss repairs to kitchen area of Town Hall. TA Webber reminded Council that the roof on Town Hall had been replaced a few years previously due to leaks. The leaks had caused significant damage to the walls and ceiling in the kitchen area and in the administrator's office, neither of which have been repaired. TA Webber said that he had received a bid of \$1,250 from a local company willing to do the repair work in these areas. He acknowledged that he had not sought other quotes, but would be willing to do so if Council so desired. TA Webber clarified that the work would include removing the wallpaper and painting the kitchen, and repair and paint the ceilings in both the kitchen and the administrator's office. Council Member Whitley made a motion to accept the bid of \$1,250 from TLC for the repairs previously mentioned, second by Mayor Pro-Tem Kiker. Vote: All Ayes.

Comments:

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

Council Member Bivens questioned the status of the sidewalk project on West Main Street. TA Webber explained that West Main Street was not one of the three chosen projects as determined previously by Council. Council Members Whitley and Bivens both requested to revisit this matter. TA Webber agreed to include the item on the agenda for the second meeting in February. Council Member Bivens also commented that there was a lot of garbage along Old Hwy 74 and asked TA Webber to look into the matter.

Administrator Webber pointed out that C/FO Maness was attending Clerk's School in the Research Triangle Park area and would not be back for the remainder of the week. He encouraged Council to review the materials that had been placed in their boxes.

Mayor Deese commented that there was probably a better chance of the property owners agreeing to a sidewalk on the right-hand side of West Main Street.

There being no further comments, the meeting was adjourned at approximately 9:30 p.m.

These minutes approved this ____ day of _____, 2008.

Franklin D. Deese
Mayor

Attest: _____
Shelley H. Maness
Town Clerk