

**Marshville Town Council
Special Meeting
7:00 P.M. Monday, January 28, 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, Attorney Bobby Griffin, Director of Public Works Bivens Steele, Town Administrator Carl Webber, Park Director Alan Thifault, Police Chief Mike Gaddy and 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.

Mayor Deese noted that the special meeting was called to hear a report from the Town Administrator regarding resources to investigate a complaint against a Public Officer and to take any action that Council feels necessary as a result of hearing the report. Mayor Deese pointed out that he had included a public comments section on the agenda, although they are not usually included as part of a special meeting. Mayor Deese reminded everyone that public comments are the opinions of those speaking and sometimes comments that are made are unfortunate, but once spoken, the words cannot be taken back and the Town cannot be held responsible for such comments made by the public. With that said, Mayor Deese wanted any member of the public to feel free to say whatever was on their minds and hearts.

Mayor Deese modified the agenda to include the public comments section after the report from staff. Mayor Deese asked that anyone wishing to make a public comment try to limit themselves to two minutes.

Mayor Deese reminded Council that anything discussed in a Closed Session should be kept confidential and should not be discussed with anyone outside of Closed Session, including the media, friends, family and even each other. He also noted that Council Members are not to tear down other Council Members no matter what.

Report from staff regarding resources to investigate complaint against a Public Officer. TA Webber contacted the Town's Attorney, Bobby Griffin, who advised him that the incident should be reported to the North Carolina League of Municipalities (NCLM), who provides the Town's property and liability insurance, including Police liability, through the Interlocal Risk Financing Fund of NC. TA Webber contacted Steven Lee, Director of Claims for the NCLM, and reported the nature of the allegations to him and the fact that Council was looking for someone to investigate the matter. Mr. Lee, Mr. Robertson of the NCLM and Attorney Scott MacLatchie of Womble, Carlyle, Sandridge and Rice called TA Webber back on a conference call. Mr. Lee and Mr. MacLatchie felt strongly that it was in the best interest of the Town for the matter to be handled by the Town's insurance carrier. (Mr. Lee and Mr. MacLatchie were both in attendance at the meeting.) The cost of this action is included in the insurance plan, but subject to deductibles and claim limits. If the matter is investigated by a third party and a claim filed, the NCLM would still have to conduct an investigation and would defend the Town in any such

action. TA Webber also reported on his inquiries into several other entities, including the State Bureau of Investigation (SBI).

Having heard TA Webber's report, Mayor Deese asked for the legal opinion of Town Attorney Bobby Griffin. Attorney Griffin said that it was his opinion that this was a routine matter and that it would ordinarily be referred to the Town's insurance carrier and it was his recommendation to do just that. He further stated that the insurance carrier could conduct a full investigation and report back to Council from time to time throughout the process. Attorney Griffin also noted that there has been at least some indirect notion of a lawsuit being filed and the insurance carrier would be there for that purpose as well. Attorney Griffin strongly recommended turning the investigation over to the insurance carrier as a routine matter.

Mayor Deese summarized what he had heard from TA Webber and Attorney Griffin. He then asked if there were any questions from any Council Member. Council Member Bridget made a motion to turn the matter over to the Town's insurance carrier to do the investigation, to provide periodic reports and a final report back to Council at the end of the investigation, second by Council Member Beachum. Vote: All Ayes.

Public Comments:

Mayor Deese offered an opportunity for anyone wishing to speak to sign up to do so at that time.

Janie Dellinger of 1003 Forest Drive, Marshville appeared before Council and stated that she was the mother of a 16 year old daughter. Ms. Dellinger said that she had taught her daughter to never pull over for an officer in the dark. She advised her daughter to wait until she was in a well lit and populated area before pulling over, but to let the officer know she intended to stop by using her flashers. It was Ms. Dellinger's understanding that Ms. Stewart used her flashers, but maybe not as quickly as the officer would have liked. Ms. Dellinger stated that her biggest issue with the incident was the officer's excessive use of force. Ms. Dellinger said that children should feel safe when being stopped. As a mother, Ms. Dellinger wanted to know that her child would not be subject to being forced off the road, held at gunpoint and arrested for doing exactly what she had instructed her daughter to do. Ms. Dellinger commented that the officers in this case used questionable judgment and there should be consequences for their actions.

Mayor Deese thanked Ms. Dellinger for her comments.

George Kenyan of 203 E. Phifer Street, Marshville stated that he was there in support of the officers. Mr. Kenyan said that an officer must use every means possible to evaluate their threats. Once they know there is no threat, then the police should get rid of the gun. Mr. Kenyan said that is their only means of protection. Mr. Kenyan asked that the officer be put back on duty immediately until the investigation is complete.

Mayor Deese thanked Mr. Kenyan for his comments.

Chris Stewart of 806 Allen Drive, Marshville, father of Ashlyn Stewart, felt that the officers were too aggressive in this matter. Mr. Stewart stated that even after the officers realized she was a minor, his daughter was handcuffed and put in the front seat of a police car and her seat belt was not even buckled. Mr. Stewart questioned other actions by the police, such as why they didn't run the tag to determine where she lived and where she was going. Mr. Stewart reminded

everyone that Officer Scott was “not fired yet...he is being paid.” Mr. Stewart also commented that Officer Philemon was involved in a lawsuit three years ago against him and the Town of Wingate for harassing teenagers. Mr. Stewart concluded by saying that his daughter had been traumatized by the incident and has had chest pains as a result.

Mayor Deese thanked Mr. Stewart for his comments.

Donna Helms of 612 Old Pageland-Marshville Rd., Marshville, mother of Ashlyn Stewart, thanked Council for how they handled her complaint the previous week against Officer J. A. Scott. Ms. Helms realized that there have been some questions raised as to why Chief Gaddy and TA Webber were not allowed in Closed Session at the previous meeting. She also stated that her sister, Mayor Pro-Tem Kiker, did try to remove herself from the vote. Ms. Helms noted that her next comments were not personal, but to “keep in mind that personal is personal and business is business.” Speaking to Chief Gaddy, Ms. Helms said that he was quoted as saying that it was a conflict of interest for Mayor Pro-Tem Kiker to call for a Closed Session. Ms. Helms said that had he been included in the Closed Session, she could say the same thing about him since he hired Officer Scott. Ms. Helms then directed her comments toward TA Webber stating that he was and still may be a police officer himself and that it would be hard for him not to be partial to the police officer. Ms. Helms addressed Mayor Deese and said that he was the one that told her that Officer Scott had been involved in the shooting death of a Wingate College student. She claimed that he went on to say it sounded like Officer Scott likes to throw his gun a little too quickly. Ms. Helms asked that the video tape and any other documentation regarding the incident be made available. She also asked to have a polygraph test done for everyone involved, noting that she and Ashlyn were ready.

Mayor Deese thanked Ms. Helms for her comments.

Randy Shankle of 5505 E. Hwy 218, Monroe, Senior Pastor of Hope Church in Marshville and Marshville business owner, acknowledged his respect for the members of Marshville’s Town Council. He did believe, however, that there were some decisions made that have traumatized a lot of people. Mr. Shankle said that he had been a law enforcement officer serving this township with his blood on these streets. Mr. Shankle reported that he was aware that there are protocols and that there are ways that people are disciplined when they do something wrong. Mr. Shankle was surprise by how that protocol was stripped from the Chief, the Lieutenant, and the Town Administrator by the actions of the Board without hearing everything that needed to be heard. Mr. Shankle pointed out that the Town lost 50% of its police coverage at night. Mr. Shankle said that questions have been raised about Officer Scott’s involvement in the Wingate shooting. He agreed that a life may have been taken, but that there were also lives saved because of Officer Scott’s actions. He also pointed out that the shooting was investigated and Officer Scott was cleared of any wrongdoing. Mr. Shankle said that the officer should be treated with better respect.

Mayor Deese thanked Mr. Shankle for his comments.

Bob Morgan addressed Council and said that they must look at the future and at the past in reference to how this situation was handled. Mr. Morgan was most concerned about teenager safety and police officer safety and the message the Board is sending out regarding what occurred that Sunday night. Mr. Morgan said that has been a police officer and has been in the same situation. He is also the father of a daughter who is almost 16 years old. Mr. Morgan said

he is concerned about the next teenager in this situation and wondered if Council would handle it the same way. He emphasized that Council must be consistent with the messages they send out and that should be “everyone must abide by the law.” Mr. Morgan said that Council must also consider the message that they are sending out to other law enforcement officers that may consider working for the Town of Marshville.

Mayor Deese thanked Mr. Morgan for his comments.

There being no further comments, the meeting was adjourned at approximately 7:30 p.m.

These minutes approved this ____ day of _____, 2008.

Franklin D. Deese
Mayor

Attest: _____
Shelley H. Maness
Town Clerk