



**Town of Marshville  
Town Council Meeting**  
Monday, March 7, 2016, 7:00 PM  
Marshville Town Hall

**REGULAR MEETING AGENDA**

1. **Call to Order/Invocation/Pledge of Allegiance**
2. **Adoption of Agenda for the Meeting**
3. **Public Comment**  
*Please sign in at the podium. Before speaking, state your name and address and limit comments to two minutes.*
4. **Consent Agenda**
  - **February 1, 2016 Minutes - Regular Meeting**
  - **Proclamation - 2016 Sunshine Week (March 13-19, 2016)**
  - **Budget Report as of January 31, 2016**
5. **Police Department Updates**
6. **Discussion and action regarding approval of amended Taser Policy in accordance with new NC Standards - Chief Matt Tarlton**
7. **Public Works Updates**
8. **Parks & Recreation Updates**
9. **Discussion and action regarding request for a street closure - Marshville United Methodist Church requesting to close Church St. on Saturday, March 19, 2016 from 12 to 4 pm**
10. **Discussion and action regarding payout of additional compensatory time to former manager**
11. **Discussion and possible action regarding the AT&T Tower Lease proposal**
12. **Set date for FY2016-17 Budget work session(s)**
13. **Town Manager's Report**
14. **Mayor and Town Council Member Comments**
15. **Adjourn**

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Upcoming Meetings & Events:

*Planning Board Meeting - Town Hall*

*Thursday, March 10, 2016 - 7 pm*

## **Minutes**

- **February 1, 2016 Minutes – Regular Meeting**

**Town of Marshville  
Town Council Meeting  
Monday, February 1, 2016  
Marshville Town Hall  
201 W. Main St., Marshville**

**Regular Meeting**

**Council Members Present:** Mayor Deese, Mayor Pro-Tem Morgan, Council Members Rowell, Carpenter, Staton, and Bivens.

**Staff Present:** Town Manager, Fern Shubert; Town Clerk/Finance Officer, Tonya Johnson; Public Works Director, Bivens Steele; Chief of Police, Matt Tarlton; Town Attorney, Bobby Griffin; Planning, Zoning and Subdivision Administrator, Richard Flowe; Planning Staff, Robyn Stuber.

**Call to Order/Invocation/Pledge of Allegiance**

The meeting was called to order at 7:12 pm by Mayor Franklin D. Deese who welcomed and everyone in attendance and thanked them for their interest in the Town of Marshville. The invocation was offered by Council Member Margaret Bivens. The Pledge of Allegiance was given by everyone.

**Adoption of Agenda for the Meeting**

Council Member Bivens moved to add to the agenda a discussion of water bills. The motion was seconded by Council Member Staton and passed unanimously. This discussion was added as item #11. Council Member Rowell made a motion to adopt the agenda with the addition of item #11, a discussion of water bills. The motion was seconded by Council Member Bivens and passed unanimously.

**Public Comment**

Chass Helms, of 1142 Hwy. 205, Marshville, addressed the council and requested that his land on Hwy. 74 not be rezoned. Mr. Helms stated he has approximately 40 acres. Mr. Helms told the council that he purchased the property eight years ago and paid more than what agricultural land sells for. Mr. Helms explained that the property is currently listed for sale and it can't be advertised for sale as HC if it is zoned AGRI. Mr. Helms stated that the zoning change will have a negative financial impact. Mayor Deese clarified that the property is currently listed to sell as commercial property. Mr. Helms stated that his Real Estate agent explained that assumptions cannot be made when listing property as to what the future use will be. Council Member Rowell asked why Mr. Helms did not attend the public hearing.

Ronnie Moore, of 930 Hasty Road, Marshville, NC, addressed the council and requested that his property on Hwy. 74 remain zoned HC. The proposed plan will result in a change to AGRI. Mr. Moore stated that he can't list the property as commercial if it is zoned AGRI. Mr. Moore expressed that he wants to see fairness to all the people. He desires what is best for both himself and the Town of Marshville. Mr. Moore questioned why the area in which he owns land is being restricted but other areas are not. He commented that he is seeing red flags. Mr. Moore pointed out that Mr. Helms has property on Hwy. 74 and the railroad. He asked how N-Focus came up

with such nonsense. Mr. Flowe responded that he works with the town but does not make final decisions. Mr. Flowe asked that he not be accused. Mr. Moore expressed concern that someone is not doing their homework. Mr. Moore pointed out that Fern Shubert owns sixty-two acres near Mr. Helm's property. He suggested a conflict of interest. The Town Manager, Fern Shubert, explained how the property in question came to be zoned as it is, referencing Legacy Park. The town has a legal financial commitment to provide water and sewer when and if developed. Mayor Deese commented that these items will be discussed later in the meeting.

### **Consent Agenda**

A motion to adopt consent agenda as presented was made by Council Member Bivens. The motion was seconded by Mayor Pro-Tem Morgan and passed unanimously.

### **Swearing in of ABC Board Members**

Mayor Deese swore in the recently appointed ABC Board Members, Stephanie Baumer, Dora Bridget and Bob Morgan, as required by the ABC Commission.

### **Presentation of the FY2014-15 Financial Audit- *Deneal Bennett, J.B. Watson & Co., PLLC***

Ms. Deneal Bennett, CPA, provided a handout of financial information to the council members for review. Ms. Bennett stated that her firm enjoys working with Town of Marshville staff and that the staff is very efficient. Ms. Bennett briefly went through the financial audit, touching on some of the financial highlights. She pointed out the audit was given a clean opinion, meaning that based upon tests of data the information appears materially correct. Ms. Bennett explained that the MD&A (Management's Discussion and Analysis) is written by management and provides an overview of financial statement. Ms. Bennett explained that GASB 68 was implemented this year and that it has to do with accounting for pension/retirement. A new note to the financial statements deals with pensions. Ms. Bennett discussed internal controls and the lack of segregation of duties. She emphasized that this is common in small towns with fewer staff members. Ms. Bennett stated that there were payroll reporting issues with the new FMS software but that staff has worked with the software company and resolved the issues. Ms. Bennett encouraged any council member to call or email her with questions concerning the audit and financial statements. Mayor Deese thanked Ms. Bennett.

### **Discussion and possible action concerning approval of the FY2015-16 Audit Contract**

Council Member Rowell moved to approve FY2015-16 Audit Contract as presented by J. B. Watson & Co., P.L.L.C. The motion was seconded by Mayor Pro-Tem Morgan and passed by unanimous vote.

### **Discussion and action regarding approval of the Town Plan 2035 - *Richard Flowe, NFocus Planning & Design***

Mr. Flowe informed the council that there have been no changes to the Town Plan 2035 (pointing to the map). He stated that the members of council have heard public comments. Mr. Flowe made a recommendation that any changes be included in the motion to adopt the Town Plan 2035. Mayor Deese pointed out Mr. Helms's property on the map and expressed that the property should not be zoned AGRI. Mayor Deese also pointed out some other AGRI property that should be changed to industrial. Discussion ensued. Council Member Rowell emphasized that this is a future plan. Mr. Flowe pointed out the red areas and stated that TMU areas are largely commercial. Industrial areas are generally areas where you don't have the general public. Mr. Flowe explained how changes can be made between the Land Use Plan and zoning changes. The council reviewed and made changes/revisions to the Town Plan 2035 Land Use Map. Council Member Carpenter expressed that one house per five acres seems a lot. Council Member Staton agreed. Council Member Rowell

made a motion to adopt the Town Plan 2035 Land Use & Comprehensive Master Plan including changes/revisions made to the Land Use map. The motion was seconded by Mayor Pro Tem Morgan and passed by unanimous vote.

**Discussion and action regarding approval of the Town of Marshville Development Ordinance and revised Zoning Map – Richard Flowe, NFocus Planning & Design**

Mr. Flowe explained that two votes must be taken. There must be a separate motion to adopt the consistency statement. Mayor Deese began a discussion of the zoning map stating that several requests were heard. Discussions ensued regarding the requests that were made during the public hearing. Council Member Rowell feels that Mr. Moore's and Mr. Huggin's property should be changed to C74. They are the only properties that will have an access road once the bypass is complete. Discussion ensued. Council Member Rowell suggested changing Mr. Chass Helm's property to industrial. It was the consensus of the council to change the strip of properties along the railroad to C74. Mayor Deese emphasized that everyone should be treated fairly. Council Member Rowell clarified that once this is voted on, then any changes must go through the re-zoning process.

Mayor Deese referenced land owned by Fern Shubert and questioned why the land is already zoned industrial. Town Manager Shubert spoke to how the property came to be zoned as it is. She referenced a letter of commitment (from years past) from the Town of Marshville to provide sewer to the property if developed. Council Member Rowell commented that it was likely left industrial because of Legacy Park.

Mayor Deese expressed concern about the town not having a seat at the table as future development occurs. Mayor Deese asked Mr. Flowe how much influence the town could have on the development of the property. Mr. Flowe stated that there would have to be overlay zoning. Developers would have to come before the town for rezoning; therefore, the town would have a seat at the table. Mayor Deese questioned potential development that is a use by right. Mr. Flowe gave an example of warehouse distribution center. There is nothing to negotiate except water/sewer for domestic use. Discussion ensued. Council Member Staton recalled back to the early 90's when that was adopted (referring to the letter of commitment). She asked how long the town has to be obligated. Attorney Griffin responded that it should be in the town's ordinances. Town Manager Shubert stated that there was a sewer commitment. Discussion ensued.

Mr. Flowe stated that every request that has been made has been accommodated. Mayor Deese asked if there are any other questions or discussion. Mayor Deese read the Statement of Consistency. Mr. Flowe recommended to remove the words "and" and "text". A motion to adopt the Statement of Consistency with the two corrections was made by Council Member Rowell. The motion was seconded by Mayor Pro-Tem Morgan and passed by unanimous vote. A motion to adopt Marshville Development Ordinance and zoning map with changes was made by Council Member Rowell. The motion was seconded by Mayor Pro-Tem Morgan and passed by unanimous vote.

**Discussion and action regarding the acquisition of property - PID #02301067**

Mayor Deese commented that the manager was instructed to negotiate for a piece of property near the park. Town Manager Shubert reported that Attorney Griffin is working on the title documents. She also reported that the contract is in the works. The purchase price is what the owner was asking, or \$84,900. The projected closing date is expected to be February 8 or 9. Mayor Deese stated that the council needs to approve a budget amendment for the acquisition of the property. It was moved by Mayor Pro-Tem Morgan to approve Budget Amendment 2016-08. The motion was

seconded by Council Member Staton and passed by unanimous vote.

### **Discussion of the water bill**

Council Member Bivens reported that she wasn't home for a month and had a bill as if she had consumed water. She recommended going back to only being charged for actual consumption. Town Manager Shubert stated that this brings up the topic of a budget work session. Town Manager Shubert stated that changes to billing were adopted after North Carolina Rural Water performed a rate study last year. Council Member Rowell stated that to change the billing process would require the adoption of a new fee schedule. Mayor Deese agreed that a budget work session is an appropriate time to discuss water bills and rates.

Town Manager Shubert stated that February 5 was the date set for budget work session. However, that date is too soon and not enough information is available. Town Manager Shubert proposed February 19 or 26 as prospective dates for a budget work session. Discussion ensued regarding a date for a budget work session. It the consensus of the council to call for a special meeting for a budget work session on February 26, 2016 from 3 – 6 pm at Town Hall. The clerk was directed to post notice of the special meeting as required. An additional work session was tentatively set for Saturday, March 19, 2016 at 9 am at Town Hall. Mayor Deese requested that Council Member Staton bring back dates that she will be available to meet.

### **Town Manager's Report**

Town Manager Shubert called on Chief Tarlton for an update from his department. Chief Tarlton reported that a new female officer has been hired. Her name is Romana Marks and she has military experience. Ms. Marks has a degree in Criminal Justice. Ms. Marks will be introduced at the March 7, 2016 council meeting.

Town Manager Shubert called on Public Works Director Bivens Steele for a report from public works. Public Works Director Steele provided an update on the Hwy. 74 Water Line project, informing that plans and encroachment agreements have been given to DOT. He also reported that two employees, Rick Mareth and Braxton Barrett attended water certification school and will test in March. The two have also been signed up for sewer training classes.

Public Works Director Steele also reported that an email from Bill Lester indicated that the town has been awarded money for a booster pump station. Staff is currently working on a location to construct the new pump station.

Town Manager Shubert reported that the town received approval for additional funding for water and for sewer. She stated that council needs to authorize herself or Mayor Deese to sign documents. Council Member Rowell made a motion that either Mayor Deese or Town Manager, Fern Shubert be authorized to sign the documents. The motion was seconded by Mayor Pro-Tem Morgan and passed by unanimous vote.

Town Manager Shubert reported that she has not heard back from the county. She stated that, with Council Member Rowell's help, the sewer documents were uploaded to the town's website for public viewing.

Town Manger Shubert reported that she received an invitation to attend a meeting to discuss intersections. She submitted list of dangerous intersections in Marshville.

### **Mayor and Town Council Member Comments**

Town Clerk/Finance Officer, Tonya Johnson, requested that action be taken to hire someone in Town Hall to train to replace Ms. Melton. Discussion ensued. Council Member Rowell stated that the manager needs to amend the job title and move forward with the personnel issue. All council members agreed with Council Member Rowell.

Mayor Pro-Tem Morgan referenced minutes from the park committee meeting and stated that the meeting went well. She reported that the committee will meet the 4<sup>th</sup> Wednesday of each month at 3 pm.

Council Member Staton reported that she is completing the packet to serve as the town's representative for the CRTPO.

Council Member Rowell reported that the sewer meeting documents have been uploaded to the town's website. Union County provided a copy of the CD and he is working on getting the cd uploaded. Council Member Rowell commented that the article by Luanne Williams with the Home News was good. He reminded everyone of the Chamber Banquet on February. 4, 2016 at 7 pm. Council Member Rowell encouraged council to come by Town Hall to see how hard everyone works. He expressed appreciation to Town Clerk/Finance Officer Johnson.

Council Member Carpenter wished everyone a Happy Valentine's Day. She also expressed her understanding of the need for help at Town Hall. Ms. Carpenter stated that without proper staff, stuff slips through the cracks.

Council Member Bivens reported that the Marshville Museum is doing good things. It is working with school system. Council Member Bivens suggested that the town provide the museum with software and that town look into applying for a grant for the museum. Mayor Deese stated that the Marshville Museum is a 501c (3), and therefore, should apply for the grant.

### **Adjourn**

A motion to adjourn the meeting was made by Council Member Rowell. The motion was seconded by Council Member Staton and passed by unanimous vote. There being no further comments the meeting adjourned at 9:40 pm.

These minutes approved this 7th day of March, 2016.

By: \_\_\_\_\_  
Franklin D. Deese, Mayor

ATTEST:

\_\_\_\_\_  
Tonya D. Johnson, Town Clerk

**Proclamation 15/16 - 03**

**Sunshine Week - Open Government**



**TOWN OF MARSHVILLE  
SUNSHINE WEEK  
OPEN GOVERNMENT PROCLAMATION**

**WHEREAS**, Sunshine Week is a national initiative to promote the importance of open government and freedom of information; and

**WHEREAS**, North Carolina has two Sunshine Laws to promote transparency in government: the Open Meetings Law and the Public Records Law; and

**WHEREAS**, every citizen in our participatory democracy has an inherent right of access to government meetings and public records; and

**WHEREAS**, an open and accessible government is vital to establishing and maintaining the people's trust and confidence in their government and in the government's ability to effectively serve its citizens; and

**WHEREAS**, the protection of every person's right of access to public records and government meetings is a high priority of the Town Council of the Town of Marshville; and

**WHEREAS**, the Town Council of the Town of Marshville is committed to openness and transparency in all aspects of its operations and seeks to set a standard in this regard; and

**WHEREAS**, the Town Council of the Town of Marshville commits during this Sunshine Week, March 13-19, 2016, and throughout the year 2016 to work diligently to enhance the public's access to government records and information and to ensure that all meetings are fully noticed and open to the public.

**NOW, THEREFORE**, I Franklin D. Deese, Mayor and on behalf of the members of the Marshville Town Council do hereby proclaim March 13-19, 2016 as Sunshine Week and encourage all of our staff and officials to follow the letter and the spirit of the Sunshine Laws as we carry out our daily duties.

**IN WITNESS THEREOF**, I have hereunto set my hand and caused the Seal of the Town of Marshville to be affixed this 7th day of March, 2016.

By: \_\_\_\_\_  
Franklin D. Deese, Mayor

SEAL

Attest: \_\_\_\_\_  
Tonya D. Johnson, Town Clerk

2015-2016

FUND 10 REVENUES	
Revenues	
10-3010-0000	Ad Valorem Taxes
10-3010-0100	Motor Vehicles
10-3010-0500	Prior Year Tax Collect
10-3170-0000	Tax Penalties & Interest
10-3250-0000	Vehicle Licenses
10-3260-0000	Vehicle Rental Tax
10-3290-0000	Interest on Investments
10-3317-0000	Controlled Substance Tax
10-3318-0000	Police Grant
10-3318-0050	Pedestrian Planning Gr
10-3318-0200	CMAQ Revenue
10-3319-0000	Police Calendar Sales
10-3319-0100	Police Protection Rev
10-3319-0200	National Night Out Proceeds
10-3350-0000	Miscellaneous
10-3350-0100	Sale of Fixed Asset
10-3350-0200	Cash Short
10-3360-0000	Insurance Proceeds
10-3360-0100	Reimbursement Proceeds
10-3370-0000	Franchise Tax - Utilities
10-3370-0100	Franchise Tax - Cable TV
10-3370-0200	Solid Waste Disposal Tax
10-3430-0000	Powell Bill Allocation
10-3450-0000	Local Option SalesTax
10-3450-0010	Sales Tax Art. 39
10-3450-0020	Sales Tax Art. 40
10-3450-0030	Sales Tax Art. 42
10-3450-0040	Sales Art. 44
10-3450-0050	Sales Tax Hold Harmless
10-3450-0200	Beer & Wine Tax Distr
10-3491-0000	Planning/Zoning Fees
10-3510-0000	Court Cost Fees & Charges
10-3590-0000	Refuse Collection Fees
10-3610-0000	Cemetery - Sale of Lot
10-3610-0100	Cemetery - Donations
10-3610-0200	Cemetery - Grave Opening
10-3650-0000	Recreation Activity Fees
10-3650-0100	Grant for Park
10-3650-0120	Community Development
10-3650-0130	Skatepark Donations
10-3650-0200	Park Concessions
10-3650-0300	Facilities Rental Fee
10-3710-0400	Late Fee
10-3834-0000	Property Leases
10-3984-0000	Transfer From 40 Fund
10-3990-0000	Encumbered Fund Balance
10-3990-0100	Encumbered Powell Bill
10-3990-0200	Encumbered Cont. Substance
10-3990-0300	Encumbered Solid Waste
Total Revenues for Fund 10	

Budget	YTD	Percent
	as of 01/31/16	
670,384.00	493,010.34	74%
69,550.00	45,749.68	66%
11,000.00	12,040.26	109%
4,500.00	2,761.27	61%
0.00	30.00	
0.00	0.00	
3,800.00	271.31	7%
0.00	0.00	
13,549.00	0.00	
0.00	0.00	
0.00	0.00	
300.00	280.00	93%
900.00	972.00	
0.00	0.00	
1650.00	2,244.08	136%
0.00	0.00	
0.00	0.75	
15614.00	18,290.20	
0.00	-2676.00	
185,000.00	107,474.96	58%
0.00	0.00	
1,600.00	767.05	48%
69,500.00	69,660.91	100%
0.00	0.00	
80,000.00	46,369.12	58%
55,000.00	32,277.82	59%
42,000.00	24,628.51	59%
0.00	5.43	
52,000.00	32,200.20	62%
10,500.00	0.00	
2,000.00	2,301.00	115%
1,100.00	1,007.29	92%
183,500.00	116,420.19	63%
3,750.00	1,500.00	40%
0.00	0.00	
0.00	0.00	
500.00	325.32	65%
0.00	0.00	
0.00	0.00	
0.00	0.00	
0.00	0.00	
2,500.00	1,865.00	75%
0.00	0.00	
65,000.00	38,177.76	59%
0.00	0.00	
202,734.00	0.00	
121,800.00	0.00	
313.00	0.00	
0.00	0.00	
1,870,044.00	1,047,954.45	56%

2014-2015

Budget	YTD	Percent
	as of 01/31/15	
727,000.00	582,234.56	80%
58,200.00	43,097.14	74%
11,000.00	7,934.41	72%
4,500.00	2,451.36	54%
2,500.00	2,382.00	95%
0.00	0.07	
7,000.00	199.87	3%
0.00	188.75	
0.00	0.00	
0.00	0.00	
0.00	0.00	
300.00	330.00	110%
0.00	968.00	
0.00	210.00	
2,300.00	2,383.40	104%
0.00	4455.00	
0.00	1.66	
0.00	2,299.80	
0.00	14.32	
170,000.00	94,922.97	56%
1,600.00	0.00	
1,500.00	750.49	50%
69,000.00	70,096.76	102%
0.00	0.00	
61,000.00	46,237.15	76%
47,000.00	32,659.04	69%
30,000.00	24,594.48	82%
0.00	11.24	
48,000.00	32,666.29	68%
10,000.00	0.00	
1,000.00	2,895.00	290%
1,200.00	645.88	54%
196,500.00	117,397.82	60%
3,750.00	3,750.00	100%
5940.00	5940.00	
0.00	0.00	
300.00	320.00	107%
0.00	0.00	
200.00	200.00	
0.00	0.00	
0.00	0.00	
0.00	0.00	
2,200.00	1,669.17	76%
0.00	0.00	
63,100.00	33,761.92	54%
0.00	0.00	
20,950.00	0.00	
56,000.00	0.00	
0.00	0.00	
9922.00	0.00	
1,611,962.00	1,117,667.55	69%

2015-2016

FUND 30 REVENUES	
Revenues	
30-1350-0000	Utility Refunds
30-2290-0100	Contrib. - Spec. Rev.
30-3290-0000	Interest on Investments
30-3350-0000	Miscellaneous Income
30-3350-0100	Sales of Fixed Assets
30-3350-0300	Donated Assets
30-3350-0400	Grant Proceeds
30-3360-0000	Insurance Proceeds
30-3360-0100	Reimbursements Proceeds
30-3710-0000	Charges Utilities Water
30-3710-0100	Charges Utilities Sewer
30-3710-0300	Delinquent Fees
30-3710-0400	Late Fees
30-3710-0500	Returned Check Fee
30-3710-0600	Service Initiation Fee
30-3710-0700	Service Call Fee
30-3710-0800	After Hours Reconnect
30-3710-0900	Tampering Fee
30-3730-0000	Tap Fees - Water
30-3730-0100	Tap Fees - Sewer
30-3740-0000	Bad Debts
30-3750-0100	Capacity Fees - Water
30-3750-0200	Capacity Fees - Sewer
30-3800-0000	Capital Contributions
30-3940-0000	Transfer From Gen Fund
30-3990-0000	Encumbered Fund Balance
Total Revenues for Fund 30	

	Budget	YTD		Percent
		as of 01/31/16		
	0.00	0.00		
	0.00	0.00		
	1,500.00	237.95		16%
	0.00	353.00		
	0.00	0.00		
	0.00	0.00		
	0.00	0.00		
	0.00	4,021.45		
	0.00	0.00		
	655,400.00	392,069.22		60%
	759,000.00	462,800.75		61%
	18,000.00	12,950.00		72%
	25,000.00	19,800.00		79%
	0.00	425.00		
	3,500.00	2,425.00		69%
	0.00	0.00		
	0.00	80.00		
	0.00	557.00		
	10,800.00	1,200.00		
	31,500.00	7,000.00		
	0.00	0.00		
	12,900.00	1,441.00		
	29,600.00	6,594.00		
	0.00	0.00		
	0.00	0.00		
	0.00	0.00		
	1,547,200.00	911,954.37		59%

2014-2015

	Budget	YTD		Percent
		as of 01/31/15		
	0.00	-2179.34		
	0.00	0.00		
	9,000.00	101.61		1%
	0.00	0.00		
	0.00	0.00		
	0.00	0.00		
	0.00	0.00		
	0.00	0.00		
	0.00	41.79		
	571,600.00	387,794.36		68%
	759,170.00	448,392.12		59%
	18,000.00	13,050.00		73%
	25,000.00	16,121.12		64%
	0.00	525.00		
	3,500.00	2,625.00		75%
	0.00	0.00		
	0.00	200.00		
	0.00	686.00		
	4,800.00	0.00		
	14,000.00	0.00		
	0.00	0.00		
	0.00	0.00		
	0.00	0.00		
	0.00	0.00		
	1,405,070.00	867,357.66		62%

FUND 30 EXPENDITURES	
Expenses	
30-5310	Safety
30-6601	Contingency
30-7000	Transfer
30-8280	Water Operations
30-8290	Sewer Operations
Total Revenues for Fund 30	

	Budget	YTD		Percent
		as of 01/31/16		
	0.00	0.00		
	5,000.00	0.00		
	0.00	0.00		
	700,600.00	288,054.61		41%
	841,600.00	236,221.37		28%
	1,547,200.00	524,275.98		34%

	Budget	YTD		Percent
		as of 01/31/15		
	0.00	0.00		
	5,000.00	0.00		
	0.00	0.00		
	640,900.00	269,872.75		42%
	759,170.00	219,096.02		29%
	1,405,070.00	488,968.77		35%

\*\*Total Outstanding Payables to Union Co. Sewer as of 01/31/2016 = \$

**Discussion and action regarding approval of  
amended Taser Policy in accordance with new  
NC Standards**

## Marshville Police Department General Order

Number 24

### TASER

Revised February 23, 2016

#### TASER Usage and Deployment Guide

In accordance with North Carolina General Statute 15A-401 (d), a Marshville Police officer is justified in using force upon another person when and to the extent that he/she reasonably believes it necessary:

- To prevent the escape from custody or to affect the arrest of a person who the officer reasonably believes has committed a criminal offense, unless the officer knows that the arrest is unauthorized.
- To defend him/her or a third person from what the officer reasonably believes to be the use or imminent use of physical force while effecting or attempting to affect an arrest or while preventing or attempting to prevent an escape.
- The following graduated levels of force represent steps in the use of force decision-making process:

**1. Step One *Professional-Verbal Command***

The officer assumes control of the situation through announced and/or uniformed appearance and professional bearing. If presence alone fails, the officer begins verbal persuasion, dialog, and command warning if necessary.

**2. Step Two *Soft Empty Hand Control***

The officer places hand(s) on the suspect and advises the suspect that he/she is under arrest. Any resistance beyond this point is unlawful and must be countered by the officer.

**3. Step Three *OC Spray***

Officers may utilize the OC Spray to temporarily subdue the suspect. The officer must discontinue the use of the OC spray once the suspect is in compliance with the directives or is in immediate control of the officer.

**4. Step Four *TASER***

Officer may deploy the TASER device in either probe or drive stun mode, only when an individual presents an immediate danger to the officer or a third person. The TASER device should not be used to gain compliance of a subject who is non-combative and presents no immediate danger.

**5. Step Five *Mechanical Compliance***

Usual methods of mechanical compliance include wrist-locks and arm bar or other "come along" techniques. These techniques counter joint pressure using leverage that may be applied using handcuffs, the PR-24 baton. Orthopedic injury may occur at this step.

## 6. Step Six *Impact*

Impact weapons are used only when mechanical control methods are ineffective or inappropriate. Authorized impact weapons include the PR-24 baton and the ASP baton, which an officer may carry only after being trained. When practical, blows should be initially directed toward soft tissue areas such as the back of the legs or buttocks prior to a strike at a joint or bone. Force used by the officer should be appropriate to the force used against the officer.

## 7. Step Seven *Deadly Force Using Firearm*

An officer will apply deadly force using a firearm only to protect himself/herself or others from death or serious injury, or to apprehend a fleeing felon when all other means of apprehension have been exhausted and the suspect presents an imminent risk to the community. When practical, a verbal warning will be given. Officers' reactions will be dictated by the hostile actions of the suspect and the need for immediate control.

### I. Definitions

- **TASER** – a conducted energy weapon as defined by the US Department of Defense as “weapon systems that are explicitly designed and primarily employed so as to incapacitate personnel or material, while minimizing fatalities, permanent injury to personnel, and undesired damage to property and the environment” that is designed to produce and emit electrical pulses which affect the central nervous system and the muscular-skeletal system. It is important to note that the Department of Defense policy does not require or expect non-lethal weapons “to have zero probability of producing fatalities or permanent injuries”. Rather, non-lethal weapons are intended to significantly reduce the probability of such fatalities or injuries as compared with traditional weapons which achieve their effects through physical destruction of targets.
- **Probe** – A metallic tubular shaped object with an affixed point on one end that is deployed from a TASER and designed to penetrate clothing and skin.
- **Hit** – The act of receiving an electrical impulse from a TASER.
- **Deployment** – The activation of a TASER resulting in the arcing of the unit, and/or the discharge of an air cartridge whether or not the probes make contact with their intended target, and/or using the drive stun technique. The mere display of the TASER is not considered deployment.
- **Drive Stun** – The deployment of a TASER without an air cartridge attached, or with a spent air cartridge attached, while the TASER makes contact against its intended target.
- **AFID Tags (Anti Felon Identification Tags)** – Small circular, colored pieces of paper that have a serial number printed on them that is identical to the serial

number of the air cartridge that they were deployed from. These are used to trace back to the original purchase of the air cartridge.

- Less Lethal Force – Force used to subdue or render a subject non-threatening, with a lower probability of effecting fatal consequences.
- Violent Subject – A subject through his actions refuses to follow commands either by verbally threatening violence and/or by his body language showing that he intends violence to prevent the officer from performing his duties.

## **II. Purpose of Training**

- The purpose of training is to provide officers with the theory and practical training necessary to effectively and safely operate the TASER as a conductive energy weapon.

## **III. Certification Requirements**

- In order to carry a TASER device on duty, officers of the Marshville Police Department are required to complete an in-service department TASER training course, or complete a TASER Instructor course through TASER International, pass a written and practical exam, and complete an annual TASER refresher course.

## **IV. Deployment Guide**

- All officers of the Marshville Police Department will comply with the Marshville Police Department general Orders Manual's policy on the Use of Force when utilizing the TASER device in the field.
- TASER devices will only be issued, handled, or deployed by officers who have successfully completed a TASER training program and have been certified in its use.
- TASER devices should be used as instructed in the training course, and only in accordance with agency policy.
- As with any level of force applied by a Marshville Police officer to effect an arrest or control a subject to prevent them from harming themselves, the public, and/or law enforcement, officers will utilize only the amount of force necessary in each particular situation. The TASER will be handled with a high degree of care and discretion. The TASER will not be used in a playful manner, on or off duty.
- TASER devices shall not be used in conjunction with Oleoresin Capsicum and/or Chemical Munitions that are flammable based (alcohol, oil, etc.). If deploying officer is in doubt of the flammability of the base of the Oleoresin Capsicum and/or Chemical Munitions, the officers shall not deploy the TASER.

- TASER devices shall not be used if the subject has a flammable liquid or explosive vapor (i.e. gases found in sewer lines) on him or in the immediate area surrounding him.
- Whenever a TASER is to be deployed, it is the responsibility of the deploying officer to make certain that officers on the scene understand that the TASER is being deployed prior to its deployment, if possible. When possible, this shall be accomplished through the warning announcement "TASER! TASER!" to alert other officers, as well as provide the subject an additional opportunity to cease the conduct that has given rise to the deployment of the TASER.
- When on duty, Marshville Police officers will carry TASER and ensure it is in proper working order.
- Officers may carry the TASER on the strong draw side or the cross draw side of the duty belt. The placement of the TASER on the duty belt will not interfere with the drawing action of the service weapon from its holster, the radio from its pouch, or the Oleoresin Capsicum from its holster.
- The TASER should only be deployed when a police officer is confronted with a circumstance that creates an immediate risk to safety and that is reasonably likely to be reduced by use of the TASER. Such circumstances may include the following:
  1. Violent or threatening behavior.
  2. Flight to avoid arrest/detention in circumstances where an officer reasonably perceives that allowing the suspect to run would create an immediate safety risk to themselves or others.
  3. Other situations where an officer can articulate an immediate safety risk that is reasonable likely to be resolved by use of the TASER.

The TASER should not be deployed in situations where subjects are non-compliant or resistant, unless the non-compliance or resistance creates an immediate risk to safety that can be diminished by use of the TASER.

#### **V. Probe Removal**

- Once the subject has been safely secured, the deploying officer shall place protective gloves on and remove the probes as trained.
- Of one (1) or more of the probes have penetrated the subject's eye, face, neck, breast (female), or groin, emergency medical personnel shall remove the probes or transport the subject to the nearest medical facility for probe removal. The deploying officer or his designee shall remain with the subject.
- Officers will be trained in probe removal and should only do so as indicated in said training.



**VI. Post Deployment**

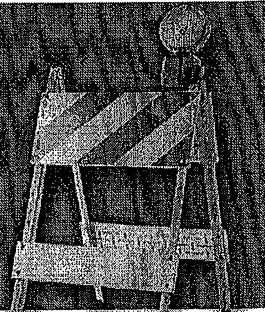
- The spent cartridge(s), probes, and two (2) or more of the AFID tags shall be collected and preserved as evidence.

**VII. Reporting and Documentation**

- Officers will immediately report the use of a TASER device to their immediate supervisor who will contact the Lead Supervisor. The Lead Supervisor will make a determination on whether to contact the Chief of Police.
- Officers who deploy the TASER device will submit a departmental Use of Force Report and an Incident report to his immediate supervisor at his/her first opportunity.

# RISK MANAGEMENT BULLETIN

308 WEST JONES STREET  
RALEIGH NC 27603  
919-775-4000



**NC LEAGUE**  
OF MUNICIPALITIES  
RISK MANAGEMENT SERVICES

HEALTH BENEFITS TRUST | WORKERS' COMPENSATION | PROPERTY & LIABILITY

**January 2016**

## **Fourth Circuit Court of Appeals Taser Use**

To all Chiefs,

A very important U.S. Fourth Circuit Court of Appeals case related to law enforcement Taser-use was recently published. This case will very likely have an impact on the future deployment of Tasers and might increase the number of claims based on the findings.

The case is *Armstrong V. The Village of Pinhurst*, and involves the use of Taser devices on a subject that was passively resisting officer's attempts in executing an involuntary commitment order. The doctor had only indicated in the order that the subject was a threat to himself but did not indicate him being a threat to others.

As officers were trying to gain control of the Plaintiff-Armstrong, he reacted by sitting down and wrapping himself around a sign post. A total of six people including three officers struggled to remove Armstrong from the post while he continued to resist their efforts. Within thirty seconds of the officers indicating that they had an involuntary commitment order to be served, Armstrong was drive-stunned five separate times within a two minute period resulting in his increased resistance. After the unsuccessful Taser use, Armstrong was eventually taken under control by the officers and hospital staff. He was handcuffed and placed face down in the grass. A short time later Armstrong was found to be unresponsive and his skin turning a "bluish" color. Life-saving efforts were attempted and Armstrong was transported to a hospital where he was later pronounced dead, shortly after admission.

As a result of these events, the Appellant sued the officers involved pursuant to 42 U.S.C. 1983 claiming excessive force. As a result, summary judgement was granted to the officer-defendants which lead to the recent Fourth Circuit appeal.

Upon appeal, the Fourth Circuit upheld the finding of summary judgement based on qualified immunity. However, the Fourth Circuit was very clear in their findings that the officers used “unreasonably excessive force in violation of the Fourth Amendment”. The case brief that is attached to this document outlines the case and the courts findings in detail.

Although this case involved the officer’s use of force on a person that was being taken into custody for a mental commitment, and not a criminal matter, it will likely nonetheless have an impact on criminal cases involving the use of Tasers. Based on the case brief and detailed analysis on Taser usage, the court is clearly looking for the use of Tasers to be proportional to the situation encountered and the level of threat to the officers or third parties.

Given that all future Taser use is subject to the Fourth Circuit’s review, the League is recommending that departments immediately review their use of force policies and Taser use to verify that they address the issues raised by the Fourth Circuit. The League’s risk management services is also providing an advanced use of force training that covers many of the concerns raised by the court.

Please do not hesitate to contact me for assistance.

Sincerely,  
Tom Anderson  
NCLM Public Safety Risk Management Consultant  
[tanderson@nclm.org](mailto:tanderson@nclm.org) 704-517-8496

*This Bulletin is intended to assist in minimizing potential exposure to financial loss and is not intended to insure compliance with federal, state or local laws, regulations or rules, nor is it intended to be a substitute for legal counsel, actuarial assistance or other professional services. By offering periodic information on safety or risk management topics, neither the League nor its sponsored risk pools undertake to assume or guarantee safety or risk from injury or loss.*

[Print](#) | [Close Window](#)

**Subject:** RE: Taser Policy

**From:** Bobby Griffin <bobby@cgm-attys.com>

**Date:** Wed, Mar 02, 2016 3:19 pm

**To:** kclark@marshvillepd.org

**Cc:** manager@marshville.org, TJohnson@marshville.org, fdeese@gmail.com

Chief Tarlton:

After reviewing the policy and discussing it with you, in connection with the recent 4<sup>th</sup> Circuit court case, it appears to me your policy complies with the mandates of that court case, as well as the statutory rules in North Carolina.

A pre-planned out of state trip prevents me from attending the next session of TOM Council, so I wanted to communicate this to you, the Manager, Clerk, and Mayor if you should have this placed on the agenda for approval at the 7 March meeting.

Regards,  
BHG

Bobby H. Griffin  
Clark, Griffin & McCollum, L.L.P.  
238 E. Franklin Street  
P. O. Box 308 (28111)  
Monroe, NC 28112  
704-283-8148, Extension 1  
704-289-6642 (Fax)

---

**From:** [kclark@marshvillepd.org](mailto:kclark@marshvillepd.org) [mailto:kclark@marshvillepd.org]

**Sent:** Wednesday, March 02, 2016 1:57 PM

**To:** [bobby@cgm-attys.com](mailto:bobby@cgm-attys.com)

**Cc:** Matthew Tarlton; [tjohnson@marshville.org](mailto:tjohnson@marshville.org)

**Subject:** Taser Policy

See attached form.

**Kassie Clark**

Marshville Police Department  
113 W Main Street  
Marshville, NC 28103  
(704) 624-6767

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## **Discussion and action regarding request for a street closure**

[Print](#) | [Close Window](#)

**Subject:** Fwd: MUMC Easter Egg Hunt request for Church Street to be clos3d  
**From:** Bivens Steele <bsteede@marshville.org>  
**Date:** Thu, Mar 03, 2016 12:07 pm  
**To:** tjohnson@marshville.org

Sent from my iPhone

Begin forwarded message:

**From:** Amy and Brandon Crist <eutslandscaping@hotmail.com>  
**Date:** March 3, 2016 at 11:37:56 AM EST  
**To:** "bsteede@marshville.org" <bsteede@marshville.org>  
**Subject:** MUMC Easter Egg Hunt request for Church Street to be clos3d

Dear Town of Marshville,  
Marshville United Methodist Church will be hosting an Easter Egg hunt for surrounding families of Marshville on Saturday, March 19, 2016 from 1 to 3 pm. To ensure the safety of our community we are requesting that Church Street be temporarily closed from 12 to 4 pm.

You may contact Amy Crist with your decision as well as any questions /concerns you may have.

Thank you for your consideration.

Sincerely,

Amy  
704.201.2411 (mobile)

Sent from my Verizon Wireless 4G LTE smartphone

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**Discussion and possible action regarding the  
AT&T Tower Lease proposal**

**Fern Shubert**

---

**From:** Tim Boddye <tboddye@blackdotwireless.com>  
**Sent:** Tuesday, September 22, 2015 4:00 PM  
**To:** manager@marshville.org  
**Subject:** AT&T Lease Optimization Program LTE/4G 158188  
**Attachments:** ATT Sample Lease Amendment National.pdf; 158188ts.pdf

Ms. Shubert,

Thank you for your time to discuss our cell site. As we discussed AT&T is analyzing this site for the Long Term Evolution/4<sup>th</sup> generation program. AT&T needs to amend the lease to conform with other sites in the network. The amendment will secure the future rent and strengthen your relationship as a strategic partner. Please review the attached Term Sheet and Sample Amendment. Please call me if you have any questions regarding the attached documents.

Regards,

**Tim Boddye**  
**Senior Lease Consultant**

**BLACKDOT**

27271 Las Ramblas - Suite 300, Mission Viejo, CA 92691

Phone: 949-502-3895 | Fax: 949-502-3995

[www.blackdotwireless.com](http://www.blackdotwireless.com)



**AT&T LEASE OPTIMIZATION TERM SHEET**

**To:** Fern Shubert  
**From:** Tim Boddye, Lease Consultant Landlord Initial: \_\_\_\_\_  
**Subject:** WS-158188.1 Tenant Initial: \_\_\_\_\_  
**Date:** 9/22/2015  
**Version:** AT&T Traditional Program (V.1.0.12)

I would like to thank you for the many years that you have been a landlord with AT&T or its predecessors. We have shared a mutually beneficial relationship which AT&T has truly appreciated.

AT&T is actively reviewing its portfolio of sites to determine ways to make its network more efficient and economical. Specifically, AT&T is requesting a rent reduction for the site located at:  
**307 East Main Street , Marshville, North Carolina, 28103**

<b>Date of New Amendment:</b>	<b>12/1/2015</b>
-------------------------------	------------------

<b>New Rent</b>			<b>Year(s)</b>	<b>Monthly</b>
A.	New Base Rent	\$1,200.00	Yr 1 :	\$1,200.00
B.	New Rent Frequency	Monthly	Yr 2 :	\$1,200.00
C.	New Escalation	10.00%	Yr 3 :	\$1,200.00
D.	New Escalation Frequency	Term	Yr 4 :	\$1,200.00
<b>New Term</b>			Yr 5 :	\$1,200.00
A.	New Initial Term (mo)		Yr 6 :	\$1,320.00
B.	Number of Renewal Terms		Yr 7 :	\$1,320.00
C.	Additional Term Length (mo)		Yr 8 :	\$1,320.00
D.	Total Term (mo):		Yr 9 :	\$1,320.00
<b>Rent Guarantee</b>			Yr 10 :	\$1,320.00
A.	Rent Guarantee (mo)	180	Yr 11 :	\$1,452.00
B.	Rent Guarantee Value	\$238,320.00	Yr 12 :	\$1,452.00
<b>New Termination Notice</b>			Yr 13 :	\$1,452.00
A.	New Termination Notice (days)	30	Yr 14 :	\$1,452.00
			Yr 15 :	\$1,452.00

**Other**

- A. Verify or write in the correct legal ownership for this Site. **Is this correct? Yes / No**  
**Town of Marshville**
- B. Verify or write in the correct physical address for this Site. **Is this correct? Yes / No**  
**307 East Main Street , Marshville, North Carolina, 28103**
- C. Verify or write in the correct address for notice and correspondence. **Is this correct? Yes / No**  
**Town of Marshville, 201 West Main St., Marshville, North Carolina, 28103**

\*\*This proposal is not a binding commitment and is subject to review and approval of documentation by all parties. Participating in this program is not required and AT&T will continue to abide by the terms of your original Lease Agreement, including exercising termination rights where they exist.

**Fern Shubert**

---

**From:** Marc Anthony <marc.anthony@blackdotwireless.com>  
**Sent:** Wednesday, October 28, 2015 12:01 PM  
**To:** manager@marshville.org  
**Subject:** Unlock the value of your assets



Dear Fern,

As a property owner receiving rent from a wireless communications facility lease, I wanted to reach out to demonstrate how [Black Dot](#) can help you unlock the value of this untapped asset.

Liquidity continues to be a valuable commodity in today's economic climate. We understand you are constantly searching for ways to leverage your investment and raise capital without adversely affecting your clients' or tenants' needs. As a cellular leaseholder, we have innovative financial options that can help convert your leasehold interest into immediate cash.

Simply [Click Here](#) to calculate the value of your lease.

**Who we are**

[Black Dot](#) is an international real estate solution and services company. We have helped thousands of property owners, commercial and residential, unlock millions of dollars in future cell site rent value to use today. Regardless of whether you have one cellular lease or hundreds, I welcome the opportunity to discuss secure solutions that can work for you, without any risk.

Please let me know if you are available for a brief call in the next couple of days to discuss how you can join the growing list of property owners who have received an immediate payout to their cash flow.

To help prepare for this call, I will leave you with a few articles regarding the state of the wireless industry. Please [click here](#) to read a **CNBC** report on the future of cell towers, or [click here](#) to better understand the value of your lease. Thank you for your time, and I look forward to speaking with you.

Sincerely,

**Marc Anthony, CEO**



27271 Las Ramblas, Suite 300, Mission Viejo, CA 92691  
P 888-880-0944 | [marc.anthony@blackdotwireless.com](mailto:marc.anthony@blackdotwireless.com)

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View this email online.

27271 Las Ramblas  
Mission Viejo, CA | 92691 US

This email was sent to [manager@marshville.org](mailto:manager@marshville.org).  
To continue receiving our emails, add us to your address book.



# Cell Tower Lease Cash Flow Comparison

Blackdot Offer	Original Lease	2014 Amendment	Present Total	Difference			
1200	14400	1776.29	21315.48	1040	12480	33795.48	19395.48
1200	14400	1847.34	22168.08	1081.6	12979.2	35147.28	20747.28
1200	14400	1921.23	23054.76	1124.864	13498.37	36553.13	22153.13
1200	14400	1998.08	23976.96	1169.859	14038.3	38015.26	23615.26
1200	14400	2078.01	24936.12	1216.653	14599.83	39535.95	25135.95
1320	15840	2161.13	25933.56	1265.319	15183.83	41117.39	25277.39
1320	15840	2247.58	26970.96	1315.932	15791.18	42762.14	26922.14
1320	15840	2337.48	28049.76	1368.569	16422.83	44472.59	28632.59
1320	15840	2430.98	29171.76	1423.312	17079.74	46251.5	30411.5
1320	15840	2528.22	30338.64	1480.244	17762.93	48101.57	32261.57
1452	17424	2629.35	31552.2	1539.454	18473.45	50025.65	32601.65
1452	17424	2734.52	32814.24	1601.032	19212.39	52026.63	34602.63
1452	17424	2843.9	34126.8	1665.074	19980.88	54107.68	36683.68
1452	17424	2957.66	35491.92	1731.676	20780.12	56272.04	38848.04
1452	17424	3075.97	36911.64	1800.944	21611.32	58522.96	41098.96
	238320		426812.9		249894.4	676707.3	438387.3