

September 8, 2008

Regular Meeting

Mayor Foster called the regular meeting of the Denton Town Council to order at 7:00 PM on this date leading everyone in the Pledge of Allegiance to the Flag.

*Mayor Foster asked that the record reflect that Council members Branson and Clendaniel were present. The others were expected to arrive shortly.***

Councilman Clendaniel made a motion to approve the minutes of the August 4, 2008 meeting, with a question that under New Business Agenda # 6 he thought he had actually asked about having the Town Attorney research a limited residential moratorium. The Attorney stated that Staff could review the tape if he wished. The motion was seconded by Mayor Foster, passing. Councilman Branson abstained on voting on the minutes due to being absent at the prior meeting.

Swearing in of New Officer

Chief Cox introduced Daryl Willey as a new member of the Denton Police Dept., and Mayor Foster proceed with the swearing in of Officer Willey.

Public Hearing

Ordinance #560

Mayor Foster opened a public hearing at 7:06 PM to receive public comments on Ordinance #560 – An ordinance of the Town of Denton authorizing the Mayor of the Town Council to execute an option agreement with Top Orchids, Inc. for the sale of property described as Lot 9A as shown on a plat entitled “Lot #9B Denton Industrial Park”.

Mayor Foster asked for comments from the State – there were none

Mayor Foster asked for comments from the County – there were none

Mayor Foster asked for comments from the Council – there were none

Mayor Foster asked for comments from the Public – there were none

With no further comments Mayor Foster closed this public hearing at 7:08 PM.

Ordinance #562

Mayor Foster opened a public hearing at 7:08 PM to receive public comments on Ordinance #562 – An ordinance adopting the 2006 edition of the International Residential Code, as amended by this ordinance, as the Town of Denton Residential Code for one and two family dwellings, and repealing and reenacting sections 38-5 through 38-8.1 of the Denton Town Code.

Mayor Foster asked for comments from the State – there were none

Mayor Foster asked for comments from the County – there were none

Mayor Foster asked for comments from the Council – there were none

Mayor Foster asked for comments from the Public – there were none

With no further comments Mayor Foster closed this public hearing at 7:09 PM.

Ordinance #563

Mayor Foster opened a public hearing at 7:10 PM to receive public comments on Ordinance #563 – An ordinance adopting the 2006 edition of the International Mechanical Code, as amended by this ordinance, as the Town of Denton Mechanical Code, and repealing and reenacting Chapter 38, Article III of the Denton Town Code.

Mayor Foster asked for comments from the State – there were none

Mayor Foster asked for comments from the County – there were none

Mayor Foster asked for comments from the Council – there were none

*Mayor Foster asked for comments from the Public – there were none
With no further comments Mayor Foster closed this public hearing at 7:11 PM.*

Ordinance #564

Mayor Foster opened a public hearing at 7:11 PM to receive public comments on Ordinance #564 - An ordinance adopting the 2006 edition of the International Building Code, as amended by this ordinance, as the Building Code of the Town of Denton, and repealing and reenacting Chapter 38, Article I of the Denton Town Code.

Mayor Foster asked for comments from the State – there were none

Mayor Foster asked for comments from the County – there were none

Mayor Foster asked for comments from the Council – there were none

Mayor Foster asked for comments from the Public – there were none

With no further comments Mayor Foster closed this public hearing at 7:12 PM.

***Councilman Moore arrived at 7:13 PM*

Petitions, Remonstrance's and Communication

Greenly – Governor's Plaque

Mr. Greenly came before the Council requesting their support in placing a plaque on the corner of Second Street and Franklin in honor of the two Governors who grew up in Denton, former Maryland Governor Harry Hughes and former Delaware Governor Sherman Tribbett. Mr. Greenly stated that they were looking at a 24x18 bronze plaque to be installed around November on the Board of Education property. The plaque is estimated to cost approximately \$5,000 and donations are welcome.

The Council supported Mr. Greenly's request.

Summerfest Appreciation - Governor's Citations

Mayor Foster presented the State of Maryland Governor's Citation to Sue Simmons and Terry Fearins and thanked them for their dedication to Summerfest.

***Councilman Porter arrived at 7:19 PM.*

John Seward, Fred Pomeroy, Travis Hollingsworth

These gentlemen requested an opportunity to come before the Town Council to discuss the impact of growth.

Mr. John Seward, Regional Land Use Planner for the Eastern Shore Land Conservancy, talked with the Council regarding concerns and issues surrounding development in Denton and stated that he supports the passage of a development moratorium.

Mr. Fred Pomeroy, President of Dorchester Citizens for Planned Growth spoke to the Council about mega developments posing a threat to the environmental integrity, agricultural viability and the quality of life, urging the Council to support a development moratorium.

Mr. Travis Hollingsworth came before the Council to discuss the impact of the proposed growth and suggested that the Council update the 2006 Housing and Economic Study to reflect 2008 data.

Caroline Chamber of Commerce -

The Caroline Chamber of Commerce extended an invitation to become a member of the publication Chamber Guide.

Councilman Porter made a motion for the town to take out a half page ad, seconded by Councilman Moore, passing unanimously.

Maryland Municipal League – Geocache Trail Project

The MML is initiating a new project called the MML Geocache Trail to promote awareness of and visits to Maryland's cities and towns. The Town received an invitation to become part of the project.

Councilman Porter made a motion to participate and attempt to locate on the Court House Green, seconded by Councilman Moore, passing unanimously.

Kathleen Freeman, Caroline County Director of Planning and Codes

The County is seeking municipalities' agreement to sign a Memorandum of Understanding to account for historic and natural resources when planning within the Upper Choptank River and Tuckahoe Creek watersheds. Caroline County, Templeville, Henderson, Marydel and Goldsboro have signed thus far. Ms. Freeman presented to the Denton Planning Commission at its August 26 meeting and the Commission recommends the Town Council sign the MOU.

Ms. Freeman was unable to attend, the Council deferred this item.

Ordinances and Resolutions

Ordinance #560 Authorization for Mayor to sign Option Agreement – Lot 9A

An ordinance of the Town of Denton authorizing the Mayor of the Town Council to execute an option agreement for the sale of Lot 9A as shown on Plat entitled "Lot 9B Denton Industrial Park".

Councilman Branson made a motion to adopt Ordinance #560, seconded by Councilman Porter. In discussion Councilman Clendaniel confirmed that this property would not have any crop issues. Councilman Branson confirmed with the Town Attorney that the agreement requires the buyer to pay all settlement cost.

The motion passed unanimously.

Ordinance #561 Authorization of Settlement of the Purchase and Acquisition - Lots 11 & 12

An ordinance of the Town of Denton authorizing settlement of the purchase and acquisition of Lots 11 and 12 in the Denton Industrial Park.

The Town Attorney asked the Council to defer this item until KRM has confirmed that the farm lease issues have been resolved.

Councilman Branson made a motion to table consideration of introduction of this ordinance, seconded by Councilman Clendaniel, passing unanimously.

Ordinance #562 Adoption of 2006 Edition of the International Residential Code

An ordinance of the Town of Denton adopting the 2006 edition of the International Residential Code, as amended by this ordinance, as the Town of Denton Residential Code for one and two family dwellings and repealing and reenacting sections 38-5 through 38-8.1 of the Denton Town Code.

Councilman Clendaniel made a motion to adopt ordinance #562, seconded by Councilman Branson, passing unanimously.

Ordinance #563 Adoption of 2006 Edition of the Mechanical Code

An ordinance of the Town of Denton adopting the 2006 edition of the International Mechanical Code, as amended by this ordinance, as the Town of Denton Mechanical Code, and repealing and reenacting Chapter 38, Article III of the Denton Town Code.

Councilman Porter made a motion to adopt ordinance #563, seconded by Councilman Moore, passing unanimously.

Ordinance #564 Adoption of 2006 Edition of the International Building Code

An ordinance of the Town of Denton adopting the 2006 edition of the International Building Code, as amended by this ordinance, as the Building Code of the Town of Denton, and repealing and reenacting Chapter 38, Article I of the Denton Town Code.

Councilman Clendaniel made a motion to adopt ordinance #564, seconded by Councilman Branson, passing unanimously.

Ordinance # 565 Adoption of 2006 Edition of Property Maintenance Code

An ordinance of the Town of Denton authorizing the adoption of the 2006 Edition of the International Property Maintenance Code and repealing and reenacting Chapter 94.

Councilman Clendaniel made a motion to introduce Ordinance #565, seconded by Councilman Branson, passing unanimously.

Councilman Clendaniel asked about inspection of residential houses. The Town Attorney explained the ordinances.

Ordinance # 566 Amendment to Chapter 20 of the Denton Town Code to add Section 20-13 Entitled “Administrative Search Warrants, Rights of Entry”

An ordinance establishing the standards and requirements for obtaining an administrative search warrant to enter a premise located within the Town of Denton.

The Town Attorney explained that this ordinance creates local law to establish a process for the Town to obtain an administrative search warrant, by court order, for a civil right of entry when there is a public health and safety issue. This would be utilized in property maintenances and public nuisance situations.

Councilman Porter made a motion to introduce Ordinance #566, seconded by Councilman Branson, passing unanimously.

Reports of Officers, Board and Committees

None

Unfinished Business

Agenda #1 Glenfield Growth Allocation Agreement

At the August 4th Council meeting, Ms. Cindy McCann provided an amended agreement for the Town Council’s consideration. This item was tabled to give the Council an opportunity to review.

Ms. McCann provided an updated status on the growth allocation agreement. The Town Attorney advised that once the County has approved the critical area portion, this will be brought back to the Council for the next step.

Councilman Porter made a motion to sign the growth allocation agreement, seconded by Councilman Branson. There was further discussion regarding the impact of new critical area laws and Ms. McCann advised that they will have to apply to the new standards. The motion passed with 3 voting yes and Councilman Moore and Councilman Clendaniel abstaining.

Agenda #2 - Market Street Parking / Traffic

Bill Kastning – Director of Planning and Codes, Scott Getchell Director of Public Works and Chief Cox of the Denton Police Dept. provided a follow-up assessment and

made recommendations on street parking and traffic impacts between Sixth Street and Gay Street. Staff recommended no parking on Market St.

Councilman Branson made a motion to ban parking on Market St. between 6th and Gay St. Extended, seconded by Councilman Clendaniel. Discussion was held in which Mrs. Doris Walls, Planning Commission Chair, recited the Road Safety Committee surveys and concern from March 8, 2004 in which the response was to have no parking or limited parking. At that time the Council took action approving no parking, followed by the Public complaints to the Council and it was changed back to allow parking.

Market St. resident Sue Cruichank spoke in favor of the parking ban.

Further discussion was held regarding the implementation method.

Mrs. Singer expressed that it was necessary but maybe the new construction contributed to the issue.

Mayor Foster expressed that the traffic flow is a valid concern for safety apparatuses going up and down Market St.

The Mayor called for the vote on the motion, the motion passed unanimously.

Councilman Branson made another motion to have the striping completed, seconded by Councilman Clendaniel, passing unanimously.

Agenda #3 Alley No. 5 Update

Staff provided a follow-up assessment on the alley traffic issues and recommended solutions to try to stop the problems. Staff will obtain a cost estimate for curbing and having a paved apron.

Agenda #4 Planning Commission Composition

The Town Attorney recited Article 66B which provides the ability to have an alternate position on the Planning Commission and allow there to be an alternate to the alternate.

Several Planning Commission members shared comments with the Council.

Councilman Branson made a motion to have the Planning Commission be composed of 5 members and 1 alternate, and to have an alternate to the alternate. Then Councilman Branson amended his motion to have 5 members plus 1 alternate, Councilman Clendaniel seconded the amended motion. The motion passed unanimously.

The Town Attorney will prepare an ordinance for the Council's consideration at the next meeting.

Agenda #5 – Sharp Road Park

This item was previously on the August 4th meeting agenda. The Town has since received Brandon Nier's correspondence regarding a breakdown of the responsibilities for payment, maintenance, etc. Staff advised that they would seek to privately contract portable toilets, and have the Public Works Dept maintain the grounds. The basketball court is presently estimated to cost \$26,580.

Councilman Moore made a motion to have staff move forward with negotiations with the Choptank Athletic Association and bring back to the next meeting, seconded by Councilman Branson, passing unanimously.

Mr. Dean Danielson asked the Council if before moving forward with new business would they consider opening the floor for additional citizen comments on the Eastern Shore Land Conservatories growth discussion, expressing that there were several in the audience that wished to comment.

Mayor Foster went ahead and asked if anyone had any additional comments as mentioned.

Mr. Nick Carter from Goldsboro introduced himself to the Council advising that he has been a biologist for 35 years and that he has studied the river. He stated that the river is overloaded with nutrients and additional growth will only harm the river. Mr. Carter expressed support for the Council to consider a moratorium.

With no one else having any comments to share the Mayor moved on to new business.

New Business

Agenda #1 – Dollar General Redevelopment Site

At the August 4th Council meeting a request was made to have the Denton Development Corporation attend the September meeting and provide an update on the progress of this project.

JOK Walsh provided an update on the Dollar General Property, advising that the Town used CDBG funds to help the Town purchase the site, that was eventually sold to Mr. Maloney. Mr. Maloney has not been able to develop the site within the two years that was required in the purchase contract and has asked for an extension.

The Denton Development Corporation suggested that the Town consider re-purchasing the property or require Mr. Maloney to 1) break ground within 6 months, 2) sign a jobs agreement 3) develop the site with a desired use (retail/office) and 4) have an approved design.

Councilman Clendaniel asked if the Town were to buy the property back would it cost more, and staff responded that the purchase agreement allowed for the Town to buy back if not developed within 2 years at the original purchase price.

Councilman Porter made a motion to proceed with moving forward with the 4 criteria recommendation with a letter under the Mayor's signature to Mr. Maloney, seconded by Councilman Branson, passing unanimously.

Agenda #2 - North Denton Project Bid Award

The Public Works Director, Scott Getchell, came before the Council requesting consideration to approve a bid from David A. Bramble in the amount of \$1,119,120.00 to perform the North Denton infrastructure improvements. Included in the request is a proposal from Lane Engineering in the amount of \$22,000.00 to perform the construction administration. The original project scope of work has been scaled down to match funding levels available. A funding sheet, project map, and the construction administration proposal were provided. The original project scope of work has been scaled down to match funding levels available.

Councilman Branson questioned funding and staff advised that the Town's share was included in the FY2009 adopted budget. Staff had made a request for an additional \$80,000 from the State but it is not available. The proposed phasing of this project would include reducing the scope of work shown on the map amended by Scott Getchell. Staff will look to see if there are any State School Safe grant funds available to be used towards this project.

Councilman Porter made a motion to award the bid to David Bramble keeping the scope of the project within the revenues available and to award the construction administration to Lane Engineering, seconded by Councilman Moore, passing with 4 yes and Councilman Branson abstaining.

Agenda #3 Acquisition of Firearms

Chief Cox came before the Council seeking authorization to upgrade and purchase new side arms for the Police Department and to trade in some Glock firearms, estimated net cost of \$4,324.80.

Councilman Branson made a motion to upgrade the firearms as requested, seconded by Councilman Clendaniel. In discussion Councilman Porter asked how the firearms will be paid for and Chief Cox advised that it will come out of the capital fund as budgeted. The motion passed unanimously.

Agenda #4 - Gay Street Redevelopment Zoning Lapse

The Town Attorney held discussion with the Council regarding the lapsing of the Redevelopment floating zone approval by Town Council and lapsing of final site approval by Planning Commission for Gay Street Redevelopment.

Mayor Foster stated that he would like to seek legal council.

Staff indicated that the time allotted to pull building permits by the ordinance may not be long enough for a project to get through the planning process.

Councilman Porter made a motion to introduce ordinance #567 and review with the attorney before holding a public hearing and adopting, seconded by Councilman Moore, the motion pass 4-1 with Councilman Clendaniel voting no.

Agenda #5 Wal-Mart Traffic Studies

Mark Heally from Traffic Concepts made a presentation on their traffic impact analyses and findings in comparison to The Traffic Group.

Mr. John Seward questioned why the study did not take in to account the other developments in the pipeline. Mr. Heally responded that the study only takes into account the affect of Wal-Mart and that as the other developments move forward they will be required to have their own traffic study completed.

Mr. Heally advised that the regional study was still being worked on.

No action was taken on this item and it will be brought back before the board once the regional study is finished.

Agenda #6 Caroline High School Architect and Remediation

The Caroline High School Building Committee has gone through the application process for architects. They are recommending BMK for this project. The Committee would also like to proceed with the bid process for remediation of hazardous waste. Mrs. Beth Brewster and Chuck Petrick came before the Council for discussion and seeking approval.

Motion 1 - Councilman Moore made a motion to allow Chesapeake Culinary Center to use CDBG monies to enter into an agreement with BMK for architectural services for the Old High School, seconded by Councilman Porter.

Motion 2 – Councilman Moore made a motion to allow the CCC to proceed with developing a scope of work for the remediation of hazardous materials of the Old High School, seconded by Councilman Porter.

Motion 3 – Councilman Moore made a motion to authorize the Mayor to send a letter to the Maryland Dept. of Housing & Community Development to change the National Objective from Slum and Blight to Low and Moderate Income Benefit, seconded by Councilman Porter.

Motion 4 – Councilman Moore made a motion to have the Town Attorney draft a lease between the Town of Denton and the Friends of the Grape, Inc. for the Chesapeake Culinary Center, seconded by Councilman Porter.

All of the motion passed unanimously.

Agenda #7 - 323 Market Street Retail Incubator Project

JOK Walsh and Abby McNinch of the Denton Development Corp. made a presentation to the Council advising that they are preparing to submit an application to the State of Maryland for funding consideration through their Small Cities Block Grant Program. (The Town of Denton will be the applicant for this project.) As part of the funding request, the DDC is seeking to cover the remaining cost of acquisition and rehabilitation of the property to support a retail incubator. The DDC asked the Town Council to consider approving to purchase 323 Market St. from the DDC with CDBG monies (if awarded) and then lease the facility to the DDC for the incubator program.

The Town had previously adopted an ordinance to purchase 323 Market Street, and requested the DDC to consider the acquisition. Brynja Booth, Town Attorney, advised that if the Council were to approve this request, they would need a new ordinance.

County Commissioner Jeff Ghrist spoke in favor of the incubator program expressing that it could help business's get started.

Councilman Clendaniel made a motion for an application to be submitted for funding and directed the Town Attorney to prepare an ordinance for acquisition, seconded by Councilman Branson, passing unanimously.

Agenda #8 - A&E District Community Legacy Project

Abby McNinch, Project Manager for the DDC provided an update on the A & E District and asked the Council for consideration for authorization to move forward with selection of an architect to begin the exterior renovations on 7 and 9 N. Fourth St. properties. Funding for this endeavor is through the Community Legacy Program.

Councilman Moore made a motion to access funds from the Community Legacy Program to select an architect to begin exterior renovations on 7 and 9 N. Fourth St., seconded by Councilman Clendaniel, passing unanimously.

The following items were added to the agenda.

Residential Moratorium

Councilman Clendaniel made a motion for a resolution to study the issue of a limited residential moratorium.

Councilman Branson recommended finding out the legality of having a moratorium without a health and public safety issue to the citizens of the Town of Denton.

Councilman Moore expressed that the Council needed to know what the ramifications would be and asked for a round table discussion.

Councilman Porter mentioned that legal council had previously provided an opinion and he would like to have further discussion with the Town Attorney.

The Council agreed to hold an executive session at 6:00 on October 6, 2008 to seek legal advice on this. The motion died for the lack of a second.

Councilman Clendaniel asked to set up a workshop.

Staff announced that the next scheduled working session is October 20, 2008.

The Council agreed to hold further discussions on October 20, 2008.

Holiday Parade

Staff advised to the Council that the Holiday Parade is scheduled for Dec. 4, 2008 and asked about selecting an alternative date in case of inclement weather. The Council decided to have the alternative date be Dec. 5, 2008.

With no further discussion Councilman Branson made a motion to close the meeting at 10:45PM, seconded by Councilman Porter, passing unanimously.

Respectfully submitted,

*Karen L. Monteith
Clerk-Treasurer*