

September 14, 2009

Executive Session

At 6:11 PM Councilman Clendaniel made a motion to hold an executive session to discuss personnel and seek Counsel advice, seconded by Council Gregory, the motion passed unanimously.

Mayor Branson and Councilwoman Case were also in attendance. Staff present included Terry Fearins and Karen Monteith.

Discussion was held regarding personnel and to seek Counsel advice. No action was taken during this session that ended at 6:56 PM.

Regular Meeting

Mayor Branson 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. The Mayor held a moment of silence in memory of fallen Police Officer Chad Spicer and for the victims of 911.

Mayor Branson asked that the record reflect that all Council members were present.

Councilman Clendaniel made a motion to approve the minutes of the August 5, 2009 meeting, seconded by Councilman Porter, passing unanimously.

Swearing in Ceremony for Newly Appointed Council Member

Ms. Agnes Case was appointed at the August 5, 2009 Council meeting to fulfill the vacancy created by the resignation of the former Mayor John Foster.

Mayor Branson swore Councilwoman Agnes Case into office, and she was welcomed by all present.

Mayor Branson announced that the Council had held an executive session earlier to discuss personnel and seek Council advice.

Public Hearing

Ordinance #585 – Plat Approval

Mayor Branson opened a public hearing at 7:04PM to receive public comments on Ordinance #585- An ordinance of the Town of Denton amending the Land Subdivision provisions contained in Chapter 73 of the Denton Town Code with respect to approvals for plats.

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

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

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

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

With no further comments Mayor Branson closed this public hearing at 7:05PM.

Ordinance #586

Mayor Branson opened a public hearing at 7:06PM to receive public comments on Ordinance #586. An ordinance of the Town of Denton amending the Zoning Ordinance provisions contained in Chapter 128 of the Denton Town Code with respect to amendments for floating zones.

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

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

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

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

With no further comments Mayor Branson closed this public hearing at 7:07PM.

Petitions, Remonstrance's and Communication

Shore Health System Presentation

Mr. Michael Silgen, VP of Planning and Marketing, and Ms. Patti Willis, VP of Corporate Communications from Shore Health System, came before the Council to provide a Shore Health System update on the regional medical center, the Queen Anne Emergency Center, and their plans to relocate the Denton diagnostic service with expansion to include other medical services.

Traffic on Market Street

Ms. Sharon Lee Wright presented a petition with surrounding property owner signatures to the Council and voiced concerns about the noise of trucks and speeding on Market Street in the 600 to 900 blocks ever since the no parking had been instituted. Ms. Wright suggested that the Town look to enforce speed limits, monitor large truck traffic that should not be using Market St., and to consider installing additional stop signs.

Mayor Branson asked the Public Works Director to pull together a traffic study like what was done on South Second St. for the Council to review.

Mr. Rees stated that he was on the agenda for the same thing, noisy trucks, and that the repairs being made on the roads have been improperly done. Mr. Rees could not advise of specific repairs, but state they were all over town and that the Town needed to do something about the third world streets. Mr. Rees was asked to contact Mr. Getchell the Director of Public Works, directly to discuss specific road repairs to be looked at.

Going back to the Market St. concerns, Chief Cox advised that the study will tell what types of trucks are using the street, as well as speed and vehicle count. Staff will pull together the study and bring back before the Council for review.

Questions for Town Meeting

Mr. Michael Rees has written the Town requesting the opportunity to ask questions on repairing town roads and noisy motor vehicles.

See comments on above agenda item.

Ordinances and Resolutions

Resolution # 719 - Local Debt Policy

The Town Attorney, Mr. Steve Kehoe, provided an overview regarding the State of Maryland's new law that was adopted in 2009 which amends Chapter 693 Article 95, Section 22F of the Annotated Code of Maryland that requires each Municipality adopt a debt policy and to file it with the State Treasurer by October 1, 2009. Resolution #719 along with a debt policy was drafted by the Town Attorney to be consistent with the Town's Charter and comply with the new State Law.

Councilman Porter made a motion to adopted Resolution #719 and the attached debt policy, seconded by Councilman Gregory, passing unanimously.

Resolution #720 - Annexation of Ruff, Suppo and Caroline County properties.

Mr. Bill Kastning, Director of Planning and Codes, provided an overview of the request for the Town to annex in the Ruff, Suppo and Caroline County properties located along MD 313.

Mayor Branson inquired about the removal of the underground fuel tanks on two of the properties and Mr. Kastning advised that these will be reviewed. The tanks located on the Cindy's Country Store property have not been decommissioned and the property

owner is researching whether they are going to use the tanks or not. Staff advised that all parties are aware of the underground storage tanks and that as part of the annexation process will consider including language that, if they are not going to use the tanks within one year, they will be removed. The annexation will have to go before the Planning Commission for approval as well.

Councilwoman Case confirmed with staff that these properties are included in the comp plan area.

Councilman Porter inquired as to whether the private road beside these properties will come in town and was advised by Mr. Parker, Attorney for the Ruff's, that none of the private road is included in the annexation area.

Councilman Clendaniel made a motion to introduce Resolution #720, seconded by Councilman Gregory, passing unanimously.

Ordinance #585 - Plat Approval

An Ordinance brought before the Town Council for consideration of adoption, amending the land subdivision provisions contained in Chapter 73 of the Denton Town Code with respect to approvals for plats.

Councilman Porter made a motion to adopted Ordinance #585, seconded by Councilman Clendaniel, passing unanimously.

Ordinance #586 – Floating Zone Amendments

An Ordinance brought before the Town Council for consideration of adoption, amending the zoning ordinance provisions contained in Chapter 128 of the Denton Town Code with respect to amendments for floating zones.

Councilman Porter made a motion to adopt Ordinance #586, seconded by Councilwoman Case, passing unanimously.

Ordinance #587 – Adult Oriented Businesses Moratorium

An ordinance of the Town of Denton adopting a temporary moratorium of applications, site plans, permits for construction of, processing of, and approval of adult oriented businesses within the Town of Denton for a period of nine (9) months.

Councilman Gregory made a motion to introduce Ordinance #587, seconded by Councilwoman Case, passing unanimously.

Ordinance #588 – IRC and IBC Footing Amendments

An Ordinance brought before the Town Council for consideration for introduction, amending Chapter 38 of the Denton Town Code regarding building construction.

Mr. Bill Kastning, Director of Planning and Codes, provided an overview and advised that this ordinance will take away the requirement for full footings for decks. When a property owner wants to enclose the deck, they would need to come for a building permit first.

Councilman Gregory made a motion to introduce Ordinance #588, seconded by Councilman Porter, passing unanimously.

Ordinance # 589 – Re-approving the Establishment of a Redevelopment District Floating Zone

An Ordinance brought before the Town Council for consideration for introduction, re-approving the establishment of a redevelopment district floating zone for the CIII Builders properties on Gay St.

Councilwoman Case made a motion to introduce Ordinance #589, seconded by Councilman Porter, passing unanimously.

Ordinance ##590 – Zoning Amendment – Adult Oriented Business

An Ordinance brought before the Town Council for consideration for introduction, amending the Town of Denton Zoning Ordinance to create the use adult oriented business and to provide supplementary use standards for adult oriented businesses.

Mr. Bill Kastning, Director of Planning & Codes provided an overview and advised that the Town can not deny this type of business. However, by having ordinance #587 that places a moratorium in place, will allow time to define the comprehensive plan and zoning by the Planning Commission for these types of establishments.

Councilman Porter made a motion to introduce Ordinance #590, seconded by Councilman Gregory, passing unanimously.

Reports of Officers, Board and Committees

None

Unfinished Business

Agenda #1- Comprehensive Plan Update

Mr. Bill Kastning, Director of Planning & Codes, provided an overview on the status of comprehensive planning efforts by the Planning Commission. The process will help the Town come to terms with how large the Town will become and define the growth area and greenbelt around town. Questionnaire survey responses have been received and are being reviewed. A preliminary overview shows that everyone desires more retail, commercial, and industry, and less residential. So far there has been a 40% response to the surveys that were sent out. Staff will continue to compile the results and provide to the Council for review.

Mayor Branson took the opportunity to publicly thank the Planning Commission members and the Planning Dept. staff for all their hours that have been put into updating the comp plan.

Councilman Clendaniel asked Mr. Kastning what the effect of the residential moratorium has been. Mr. Kastning advised that we are still in the economy slump and that there is not much action at this time. There was talk about the moratorium ordinance and when it is set to expire. The Council asked staff to verify when it will expire, so they can consider an extension.

Agenda #2 - Sharp Road Park Fence

Mr. Brandon Nier requested for the Council to consider awarding the proposal for the construction of a fence around the new basketball court on Sharp Rd. Staff advised that \$10,000 of the funding was approved in the FY2010 budget. The lowest bid came from Long Fence and was quoted at less than \$7,800.

Councilman Gregory made a motion to accept the Long Fence bid, seconded by Councilman Porter. In discussion Councilman Gregory questioned why there was such a large gap between the two bids received. Staff advised that the Town is providing the funding for the Choptank Athletic Assoc., and they have reviewed the bids and recommended awarding to Long Fence. Mr. Kastning mentioned that the Planning & Codes staff has been in contact with CAA regarding the repairs needed to improve the dimpling in the pavement of the courts, this should be done prior to the installation of the fence.

With no further discussion the Mayor called for the vote on the motion to award the fencing to Long Fence. The motion passed unanimously.

New Business

Agenda #1 – Ruff/Suppo/Caroline County Water and Sewer Allocation

Mr. Bill Kastning asked the Council to approve to allocate 6.25 ERU water and sewer allocations at a rate of 1,406.25 gpd and begin the County Water and Sewer plan amendment process, both contingent upon completion of the annexation.

Councilman Clendaniel made a motion to grant the allocation conditioned upon successful annexation, seconded by Councilman Porter, passing unanimously.

Agenda #2 - Wesleyan Home Care Assisted Living Water and Sewer Allocation

Lane Engineering, LLC, submitted a request for water and sewer allocation for the Wesleyan Home Care addition. The Wesleyan Home Care received final site plan approval contingent upon water and sewer allocation approval at the August 25th Planning Commission meeting. The allocation is for 8 units and is at a rate of 1,800 gpd or \$9,000 a unit.

Dr. Paul Mills, Executive Director/CEO of the Wesleyan Center, came before the Council to ask for relief of some of the allocation fees. Dr. Mills expressed that the existing units at the center currently uses less than the allotment and, therefore, asked that the Town consider reducing the fee. Dr. Mills also shared some history on the prior project and how it came about.

The Council asked the Director of Public Works to validate the usage for the existing units.

Mayor Branson questioned if the Town can actually provide relief since the Water and Sewer funds are considered enterprise funds.

Councilman Porter, as a member of the Utility Commission, also questioned if the Town could actually lower the fee.

Dr. Mills shared some history regarding the project and advised that had the Wesleyan not provided the land several years ago, that the Town would not have a tower.

Mayor Branson stated that the Town received a UDAG grant and administered the project, while the resources were given for the Wesleyan to be able to build their center, and recommended to table a decision until staff has time to review.

The Town Attorney advised that under the current laws in the Charter, the Town does not have any flexibility and can not legally reduce the fees at this time. The Attorney went on to advise that the Town could consider new legislation that would amend the usage for certain circumstances.

Councilman Clendaniel made a motion to table subsequent to an opportunity to discuss with Public Works Director and seek Counsel advice. Councilman Clendaniel's motion was withdrawn.

Councilman Clendaniel made a new motion to refer to the Public Works Director and obtain legal advice from Counsel, seconded by Councilwoman Case. In further discussion, Councilman Gregory stated that there must have been a trade with the Wesleyan for the initial tower and that he did not want to rush into a decision. Need to have staff validate report.

Councilman Porter stated that he would accept the motion if amended to include this being reviewed by the Utility Commission. Councilman Clendaniel and

Councilwoman Case accepted the amendment. The Mayor called for the vote, there were 4 voting yes and Mayor Branson abstained.

Staff asked for consideration of approval of the allocation, so that the Wesleyan could move forward with their plans and pull permits while waiting for the review of potential legislation to reduce the fees.

Mayor Branson asked if anyone wanted to make a motion to grant the allocation for 8 units at the existing rate.

Councilman Gregory asked to go back to the previous motion, and stated that he wanted to change his vote to no.

Councilman Porter made a motion to grant the allocation for 8 ERU's to the Wesleyan Center at \$9,000 per unit, seconded by Councilman Clendaniel, the motion was amended to include 1800 gallons per day, with no permits to be issued until allocation fees are paid. The amended motion passed 4-1 with Mayor Branson abstaining.

Dr. Mills asked how soon they would have a decision about waiving any of the fees and staff advised that they would make this a priority.

Agenda #3 - Fortner/Davidson/Gosnell De-Annexation Requests

This item was deferred until October.

Agenda #4 - Planning Commission Alternate Appointment

One letter of interest was received for consideration for appointment to the Alternate position on the Planning Commission. Appointment would be for the unfinished term of Agnes Case; which expires December 31, 2013.

Councilwoman Case made a motion to appoint Sue Cruickshank to fill the alternate position on the Planning Commission, seconded by Councilman Clendaniel, passing unanimously.

Back to Unfinished Business #1

Staff returned with a copy of the residential moratorium ordinance #571, indicating that it expires in December. The Council directed the Town Attorney to draft an extension.

Agenda #5 - Town Hall Project – Debt Service Comparison – New vs. Rehabilitate

The Director of Planning and Codes presented the Council with a financial analysis to either rehabilitate the existing town hall verses a new building.

Mayor Branson stated that in times of budget cuts, and in hearing those speak tonight about much needed road improvements that the Council should look to fund the 5th Ave project and hold off spending any money on the town hall.

Councilman Gregory agreed with the Mayor and expressed that the streets need to come first and Councilwoman Case concurred.

Staff was advised to stop moving forward on future planning for the town hall.

Agenda #6 - Fairfield Common Areas (roads, lawns and stormwater)

The Director of Denton Public Works and the Director of Planning & Codes came before the Council to discuss a potential solution to maintenance of common areas due to the lack of a homeowners' association. Recommending some solutions to deal with the present failing storm water system, common grounds needing maintenance and some of the roads that have not been turned over to the Town.

Further discussion was held about having a special taxation on the surrounding property owners to cover the cost of maintenance and upgrading, also the possibility of

giving the residents a choice to either create a homeowners association to take care of the maintenance or have the Town charge a special tax.

The Council directed the Town Attorney to draft legislation for consideration of a special tax and to have the Director of Public Works to review the cost to maintain the open space and upgrading the storm water management areas.

Agenda #7 – Wal-mart Update

The Director of Planning and Codes provided an update on the status of the Wal-Mart project.

Agenda #8 - Public Notices in Local Newspapers

The Director of Planning & Codes presented some research information based on input from Chesapeake Publishing about the estimated circulation to town residents of the Times Record verses the Star Democrat. This was pulled together to provide an awareness that when placing notices in the paper as to how many residents actually receive the information. The Town Administrator suggested that depending on the topic it may be beneficial to advertise in both papers. This was informational only.

Agenda #9 - Central Business Commercial District Parking

The Director of Planning & Codes discussed the idea of instituting an 18-month moratorium or an amnesty on Planning Commission consideration of parking to encourage economic development of the downtown. This would not apply to new construction.

The second part of this request is in regards to where the code states that an administrative simplified site plan is approved by the Planning & Codes Director; while another section states that parking should go to the Planning Commission. Staff is looking to correct and make the language consistent.

Mr. Brian Tyler, the owner of the Market St. Public House, spoke on behalf of the moratorium/amnesty stating that he would not want a project to stall because of parking issues in the downtown.

Councilman Porter made a motion to authorize the Director of Planning & Codes to institute an amnesty on parking requirements in the central business commercial district parking, seconded by Councilman Gregory, passing unanimously.

Agenda #10 - 5th Ave Financing

USDA has provided notice of funding for financing the Fifth Avenue Infrastructure Project, which includes a loan for \$1,834,000 and a grant for \$463,494. The Town has also received confirmation of funding through the ARRA in the amount of \$416,000. The Town would have additional forestation funding of \$21,872 and \$29,623 from the Sewer fund. Staff provided an overview of the project and asked for consideration to accept the funding by resolution and to allow staff to proceed with receiving bids. Staff advised that the loan payments would be 80% from the Highway Fund and 20% from the water fund.

The Mayor mentioned that the Town was looking to incur debt to rehab 5th Ave from Market St. to Legion Road and to include the tributary streets, as well as replace water lines, sewer, streets, and sidewalks.

Ms. Kathy Mackel of 5th Ave questioned if the existing sidewalks along the area would be repaired. Mr. Scott Getchell, the Director of Public Works, replied that the sidewalks that are ok will be left alone, and those that are in disrepair will be fixed. Mr. Getchell advised that the project is estimated to take about a one year to complete.

Councilman Clendaniel made a motion to go out to bid on the project, seconded by Councilman Porter, passing unanimously.

Councilman Porter made a motion to adopt Resolution #721 for the ARRA funding and to authorize the signing of the Memorandum of Understanding, seconded by Councilman Gregory, passing unanimously.

Agenda #11 - Highway User Fund Reduction

The Mayor announced that Town of Denton received notice from the State of Maryland that there would be a reduction of funding received from the Highway Fund of approximately \$236,384 and a cut of State Police Aid of \$23,821.

The Town Administrator advised the Council that the Highway budget presently includes a roadway repair appropriation of \$55,635 and a reserve of \$37,420, using these funds to apply toward the cuts from the State the Town would need to use \$143,329 of the General Fund reserve funds to cover the difference.

Councilman Gregory stated that this may take care of FY2010 but the Council may have to increase real estate taxes next year to help cover future cuts.

The Town Administrator will bring an amended budget to the Council in October for consideration of adoption.

Agenda #12 – Engineering Services

Councilman Gregory advised that the Engineering committee received proposals from 13 firms to perform services for the Town and they narrowed it down and interviewed 3. The committee consisted of Councilman Gregory, Councilman Clendaniel, Director of Planning & Codes William Kastning, and the Director of Public Works Scott Getchell.

The committee submitted a proposal to the Council to allow for George, Miles & Buhr (GMB) to continue their work with the WWTP ENR upgrade design, plus to see the storm water ordinance update process to completion for consideration.

Then to have Kercher Engineering, Inc (KEI) immediately assume the role as the Town Engineer, replacing GMB. KEI would perform plan review and construction management services on behalf of the Town for the Wal-Mart project and any other current and future commercial projects. In addition, KEI would perform new public infrastructure design and construction management services for the Town.

The proposal allows Lane Engineering to continue to perform private non-commercial plan review and continue to perform construction management services on behalf of the Town for private residential developments. Lane would also provide construction management services for the 5th Ave. infrastructure improvements and continue with the North Denton Infrastructure improvements construction management.

Councilman Gregory made a motion to accept the proposal of the committee for engineering services, seconded by Councilman Clendaniel, passing unanimously.

Agenda #13 – Chesapeake Culinary Loan

The Chesapeake Culinary Center submitted a requested for consideration of a waiver of their late fees in the amount of \$596.70.

Councilman Gregory made a motion to approve the request of a waiver of late fees, seconded by Councilman Clendaniel. In discussion Councilman Gregory stated that he does not support giving a waiver for any late fees or setting a precedence for others, expressing that there should not be a waiver of fees that are legitimately owed to the Town.

Councilwoman Case expressed that the fees are actually owed to the tax payers.

The Mayor called for the vote on the motion on the floor to allow the waiver, the motion did not pass, with all five members voting no.

The letter also mentioned the possibility of extending the loan and staff advised that they will need to re-apply for another loan that would go through the business loan committee for review.

Agenda #14 - Rice Farm Settlement

Mr. Steve Kehoe, the Town Attorney advised the Council that they had reached a settlement with Mr. Rice regarding the farm crops on the Hershey Property. If the Town approves paying \$400 in the settlement, the item will settle in compromise without any fault on the Town.

The Town Administrator asked the Council to consider also paying the \$400 for the Hershey share, since the Town purchased the lot in good faith and sold it to Hershey.

Councilman Porter made a motion to sign the settlement agreement and pay the \$400, seconded by Councilman Clendaniel, the motion passed 3-2 with Mayor Branson and Councilman Gregory voting no.

Mayor Branson asked is there was another motion to reimburse Hershey for its \$400 share. Councilman Gregory made the motion, seconded by Councilman Clendaniel. In discussion Mayor Branson stated that he supported covering Hershey's share. The Mayor called for the vote, and the motion did not pass with Mayor Branson voting yes while the other 4 voted no.

The Mayor asked if there was any other business.

Ms. Terry Fearins, the Town Administrator, announced that she had provided the Council with notice that she will be retiring on Oct. 1, 2010.

With no further discussion, Mayor Branson adjourned this meeting at 10:20 P.M.

Respectfully submitted,

*Karen L. Monteith
Clerk-Treasurer*