

January 4, 2010

Regular Meeting

Vice Mayor Clendaniel 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.

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

Councilman Gregory made a motion to approve the minutes of the December 7, 2009 regular meeting, and the December 21, 2009 working session, seconded by Councilwoman Case, passing unanimously.

Swearing in of New Denton Town Council Members

Dean W. Danielson was sworn into office to serve a four year term on the Denton Town Council by Vice Mayor Robert Clendaniel.

Agnes G. Case was sworn into office to serve a five year term on the Denton Town Council by Vice Mayor Robert Clendaniel.

2010 Annual Election of Officers

Office of Mayor

Councilwoman Case made a motion to appoint Conway Gregory to serve as Mayor of the Denton Town Council for 2010, seconded by Councilman Clendaniel, passing unanimously.

Office of Vice Mayor

Councilman Gregory made a motion to appoint Robert Clendaniel to serve as Vice Mayor of the Denton Town Council for 2010, seconded by Councilwoman Case, passing unanimously.

Office of Mayor Pro-tem

Councilman Gregory made a motion to appoint Dennis Porter to serve as Mayor Pro-tem of the Denton Town Council for 2010, seconded by Councilman Danielson, passing unanimously.

With the installation of officers now complete for 2010, Mayor Gregory presided over the remainder of the meeting.

Public Hearing

Ordinance #595 – Critical Area Lot Consolidation

Mayor Gregory opened a public hearing at 7:07PM to receive public comments on Ordinance #595 - An ordinance of the Town of Denton amending the Denton Town Code by amending §128-8 definitions, adding §128-42.1 to adopt procedures for notifying the critical area commission of project approvals and denials, and by amending §128-159 and §128-163 and adding §128-159.1 for the purpose of complying with House Bill 1253 to ensure that non-conforming lots in the critical area are brought into conformance with the critical area program and generally relating to the consolidation or reconfiguration of existing lots of record in the critical area in the Town of Denton.

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

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

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

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

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

Ordinance # 596 – Historic Trust Deed Preservation Easement –Caroline High School

Mayor Gregory opened a public hearing at 7:08 PM to receive public comments on Ordinance #596 - An Ordinance of the Town of Denton granting a deed of preservation easement to the Maryland Historical Trust for property located at 512 Franklin St.

Mayor Gregory asked for comments from the State – there were none
 Mayor Gregory asked for comments from the County – there were none
 Mayor Gregory asked for comments from the Council – Councilman Clendaniel asked for an explanation why this was necessary.

Mrs. Beth Brewster provided a brief history and stated that the property is within the Historic District and by entering into this easement agreement with the MD Historical Trust it will provide approximately \$350,000 in grant funds to be applied toward the rehabilitation of the school house building. The easement insures that the Town will stay within the guidelines of the Historic Trust.

Mayor Gregory asked for comments from the Public – there were none
 With no further comments, Mayor Gregory closed this public hearing at 7:10 PM.

Petitions, Remonstrance's and Communication
FY2009 Financial Report Presentation

Mr. John Montoro of Cherry, Bekeart & Holland provided an overview of the Town's FY2009 Annual Financial Report, advising that there were no findings to report.

Mayor Gregory asked staff if the reserve in the General Fund was sufficient. Staff responded that for FY2009 it was, however this will be affected and decrease in FY2010 with the State revenue cuts to the highway fund.

Councilwoman Case talked about her knowledge of fund accounting and complemented staff on doing a good job.

Lt. George Bacorn

Lt. George Bacorn came before the Council to announce that he is running for the Caroline County Sheriff's position in the 2010 elections. Lt. Bacorn took this opportunity to personally tell the Council that this in no way is an implementation that he is unhappy with the job he currently has. He stated that he sees this as a way to use the skills and experience he has acquired from working for the Town to benefit the County and Town in the future.

Boat Ramp Permit Fee Program Update

Ms. Sue Simmons, Director of Caroline County Recreation and Parks, provided an update on the Boat Ramp Permit Fee Program and the statistics.

The Town Attorney is presently drafting a local ordinance that would allow Denton Police Officers to issue Town citations for violations. This ordinance is scheduled to be presented to the Town Council in February.

Ordinances and Resolutions

Resolution #722 - De-annexation of Fortner, Davidson, and Gosnell properties

A resolution of the Denton Town Council to amend the Town Charter by detaching certain territory located on the east side of the Town of Denton on the eastern side of Pearson Road, and the northern side of Foy Road, on the south side of Market Street and on the west side of Mila Road, in the Third Election District, Caroline County, Maryland and consisting of 29.293 acres of land, more or less.

Councilman Clendaniel made a motion to introduce resolution #722, seconded by Councilman Porter.

In discussion the Town Attorney mentioned that the resolution dates need to be amended to reflect the new introduced date, public hearing date and effective dates.

Councilman Clendaniel amended his motion to reflect the new dates, seconded by Councilman Porter, the amendment was unanimous.

Further discussion was held in which Councilman Clendaniel expressed why he supported adopting this resolution.

Councilwoman Case expressed that after receiving additional information she could no longer support the adoption of this resolution and raised concerns stating that the citizens of Denton should not have to pay the cost to de-annex this property. Councilwoman Case supported providing a tax waiver from here on.

Councilman Danielson stated reasons why he supports this ordinance stating that the Town has large amounts of land that was annexed. He questioned why the Fortner's did not receive a tax waiver.

Councilman Porter stated that this is a difficult issue, but encouraged the need to make a decision so that everyone can move forward.

Mayor Gregory expressed that the history behind the entire circumstances has never been clear enough to justify making this decision and that it would be setting a bad precedence for others. He stated that the Fortner's have not agreed to pay for any of the overage cost to de-annex, and the Town has already rushed in making a decision to pay out for a survey and the legal fees.

Councilman Danielson stated that other similar annexations like the West Denton project had received tax abatements, why not this one.

Karen Monteith, Clerk-Treasurer, clarified that the West Denton project did not receive any tax waivers and has been paying real estate taxes all along. Staff also explained that in the prior annexations, the property owners initiating the annexation that were working with developers did not receive tax waivers. Tax waivers were only provided to those properties that needed to come in to avoid an enclave.

Mayor Gregory said that he would support giving the Fortner's a tax abatement from this point forward, stating that it was not fair to de-annex because there may be too much property on the books. Mayor Gregory provided the history for Councilman Danielson of prior conversations with the Fortner's.

Discussion continued as to whether the Fortner's had appealed their taxes with the Dept. of Assessments and how they would feel about staying in town but receiving a tax waiver, etc.

Bill Kastning, Director of Planning and Codes, updated the Council on the cost spent to date and the additional cost anticipated to move forward with this de-annexation. Mr. Kastning also advised the Council that if the resolution is adopted, that during the 45 days before it becomes effective 20% of the voters of Denton could petition against this action, and that the County Commissioners by 2/3 vote could also decline to take the property back into the County. If this were to happen, the de-annexation would be null and void and the Town would have already expended the cost.

Mayor Gregory said it would be better to know where the County stands before the Town moves forward and spends more money.

Mayor Gregory proposed to amend the motion to defer the adoption of Resolution #722 until they have something in writing from the County as to what their proclivities may be, seconded by Councilwoman Case.

Councilman Porter clarified point of order that only the member making the motion can amend it, and advised that the Mayor would need to make a new motion.

Mayor Gregory made a motion to table voting on this item until the Town hears something definitive from the County, seconded by Councilman Porter. In discussion Mayor Gregory clarified that the motion on the floor would be withdrawing taking action on Resolution #722 until the Town has an answer from the County Commissioners about their willingness to accept the Towns de-annexation proposal. The motion passed unanimously.

The Town Attorney was directed to draft a letter to be sent to the County Commissioners seeking their intentions.

Ordinance #594 – Sign Amendment

An ordinance of the Town of Denton amending the zoning ordinance provisions contained in Chapter 128 of the Denton Town Code with respect to signs. At the December 21st Working Session, the Town Council consensus was to defer this item until the February 1st Town Council Meeting.

Bill Kastning, Director of Planning and Codes, advised that the Planning Commission is scheduled to review the ordinance and make recommendations to the Council for consideration at the February meeting.

Ordinance #595- Critical Area Amendment

An ordinance of the Town of Denton amending the Denton Town Code by amending §128-8 definitions, adding §128-42.1 to adopt procedures for notifying the Critical Area Commission of project approvals and denials and by amending §128-159 and §128-163 and adding §128-159.1 for the purpose of complying with House Bill 1253 to ensure that non-conforming lots in the critical area are brought into conformance with the critical area program and generally relating to the consolidation or reconfiguration of existing lots of record in the critical area in the Town of Denton.

Councilman Porter made a motion to adopt Ordinance #595, seconded by Councilman Clendaniel, passing unanimously.

Ordinance # 596 - Historic Trust Deed Preservation Easement – Caroline High School

An Ordinance of the Town of Denton granting a deed of preservation easement to the Maryland Historical Trust for property located at 512 Franklin St. The Caroline High School project will be able to move forward with renovations with the approval of this easement.

Councilwoman Case made a motion to adopt Ordinance #596, seconded by Councilman Porter. In discussion Mayor Gregory stated that the easement does come with liability, but that the property is too valuable to lose to history.

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

Reports of Officers, Board and Committees

None

Unfinished Business

Agenda #1 – MSCFV Lease Amendment

As directed during the Dec. 7, 2009 Council meeting, the lease for the Mid Shore Council on Family Violence has been amended and was brought before the Council for consideration.

Steve Kehoe, the Town Attorney, disclosed for the record that he accepts clients of Mid Shore Council.

Councilman Clendaniel made a motion to accept the amended lease, seconded by Mayor Gregory. In discussion Mayor Gregory provided an overview of the history and explained why the changes to the lease had been requested.

Councilman Porter inquired about the insurance requirement for \$150,000 in coverage and suggested that this be changed to state replacement cost value.

Councilman Clendaniel amended his motion to accept the change in the insurance section to state replacement cost value. The amendment was seconded and accepted by Mayor Gregory, the motion passed unanimously.

New Business

Agenda #1 - Planning Commission Alternate Appointment

New appointment would be for Sue Cruickshank's unexpired position as Alternate which expires December 31, 2013. One applicant, Marina Dowdall, has sent a letter requesting appointment to the Planning Commission.

Councilman Clendaniel mentioned that he had received an email from another interested person and didn't know if the Council should give him consideration to sit on this board.

Mayor Gregory asked if Ms. Dowdall sits on any other boards and she replied that she sits on the Main St. Board. The Mayor stated that maybe it would be good to hear from the other person.

Councilman Danielson stated that there is normally a set date in the announcement requesting letters of interest, and that it would not be fair to put off appointing Ms. Dowdall when she followed the deadline request.

Councilman Clendaniel made a motion to appoint Ms. Marina Dowdall to serve as an alternate on the Planning Commission, seconded by Councilman Porter, passing unanimously.

Agenda #2 - Board of Appeals Appointment

Scott Brewster resigned from the Board of Appeals effective December 31, 2009. New appointment would be for Brittani Thomas to finish the unexpired term of Scott Brewster which expires December 31, 2011.

Councilwoman Case made a motion to appoint Brittani Thomas, seconded by Councilman Clendaniel, passing unanimously.

Agenda #3 - Board of Appeals Alternate Appointment

New appointment would be for Brittani Thomas' unexpired term which expires December 31, 2011. Florence Doherty submitted a letter of interest to be reappointed to the Board of Appeals.

Councilman Danielson made a motion to re-appoint Ms. Florence Doherty to serve as an alternate on the Board of Appeals, seconded by Councilman Clendaniel, passing unanimously.

Agenda #4 - Maryland Municipal League Convention

The Annual MML Convention is scheduled for June 27 – June 30. Notification for reservations is generally provided by MML by the third week in January. Town staff asked for direction on attendance for this year's event as well as participation in the Municipal Main Street. The Town had participated as an exhibitor for the past three years.

The consensus of the Council was to attend the MML Convention this year and for staff to go ahead and reserve booth space.

Agenda #5 - Council of Governments Meeting

Councilman Danielson made a motion for Councilman Robert Clendaniel to continue representing the Town of Denton in attending the COG meetings, seconded by Councilwoman Case, passing unanimously.

Agenda #6 - 4 S. First St. - lease request

The Town Attorney has reviewed the request from the Farina's regarding the repairs and closure of the lease at 4 S. First St.

Executive Session

At 8:40 PM Mayor Gregory made a motion to hold an executive session to seek legal advice on Agenda Item #6 and discuss property, seconded by Councilman Danielson, the motion passed unanimously.

All Council members were present as well as the Clerk-Treasurer and Steve Kehoe, Town Attorney, and Ms. Beth Brewster.

Ms. Brewster provided an overview and the Council held discussion with the Town Attorney on the lease repair request.

At 8:57 PM Councilman Clendaniel made a motion to close the executive session and reopen the regular meeting, seconded by Councilman Porter, the motion passed unanimously.

Agenda #6 - 4 S. First St. - lease request

Councilman Porter made a motion to go ahead and get estimates and empower the Attorney to hold discussion with Dennis Farina, seconded by Councilwoman Case, the motion passed unanimously.

Misc.- Town Administrator Applicants

Staff provided copies of the resumes received for the Town Administrator position to the Council. The Mayor asked for each Council member to review the resumes and to select 5-7 candidates to interview. The Mayor announced that the Council will hold a special meeting on Monday January 25, 2010 to discuss the selections and to work on scheduling interviews. The special meeting will be held at 6:00 PM at the Denton Police Dept.

With no further discussion, Mayor Gregory adjourned this meeting at 9:07 PM.

Respectfully submitted,

*Karen L. Monteith
Clerk-Treasurer*