

**June 7, 2010**

**Executive Session**

*At 6:05 PM the Mayor opened an executive session to discuss personnel, seek legal advice and consult with staff about pending or potential litigation.*

*Council members present included Mayor Gregory, Councilwoman Case, Councilmen Clendaniel and Danielson. Staff included Don Mulrine, Town Administrator and Karen Monteith, Clerk-Treasurer. Mr. Bill Kastning, Director of Planning & Codes joined the session at 6:20 PM. Attorney representatives Mr. Stephen Kehoe and Mr. Chris Jennings arrived at 6:40 PM.*

*The Council held discussion pertaining to the proposed FY2011 budget regarding personnel and benefits cuts; Water and Sewer funds; Comprehensive Plan rezoning, annexation agreement and property status. This was informational only, no action was taken.*

*At 6:57 PM the Mayor closed the executive session to relocate down stairs for the Council regular monthly meeting.*

**Regular Meeting**

*Mayor Gregory 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 Gregory announced that the Town Council had held an executive session earlier on this date to discuss personnel items, consult with staff and seek legal advice.*

*Mayor Gregory asked that the record reflect that all Council members were present with the exception of Councilman Porter. Councilman Porter arrived later around 7:55 PM.*

*Councilman Clendaniel asked to have the word “another” stricken from the May 25, 2010 minutes under the “Special Meeting” item.*

*Councilman Clendaniel made a motion to approve the minutes of the May 3, 2010 regular meeting, the May 17, 2010 working session notes and the minutes of the May 25, 2010 special meeting as amended. The motion was seconded by Councilwoman Case and passed unanimously.*

**Public Hearing**

**Ordinance # 601 – FY2011 General Fund Appropriations**

*Mayor Gregory opened a public hearing at 7:04 PM to receive public comments on Ordinance #601 - An ordinance of the Town of Denton to appropriate funds and estimate income in accordance with the budget adopted for fiscal year beginning July 1, 2010 and ending June 30, 2011.*

*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 is the budget was posted on the Town website, and the Town Administrator advised yes.*

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

*Mrs. Debra Lucas of Herring Lane asked if this was the time to talk about their proposed hotdog stand and the Mayor advised that they would come to that item later in the meeting.*

*With no further comments Mayor Gregory closed this public hearing at 7:06 PM.*

**Ordinance #602 - Stormwater Management Amendments**

*Mayor Gregory opened a public hearing at 7:06 PM to receive public comments on Ordinance #602 - An ordinance of the Town of Denton repealing and reenacting with*

amendments Chapter 106 of the Town Code regarding stormwater management.

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.

**Petitions, Remonstrance's and Communication**

**Denton Police Department – Life Saving Commendation**

Chief Cox presented a Life Saving Commendation Award plaque and pin to Patrolman Thomas Scott for initiating CPR and saving the life of a resident.

**Caroline County – Parking for Dept. of Corrections**

Chief Cox made a request on behalf of Caroline County Public Works asking for consideration to dedicate two parking spaces in front of Circuit Court House for use by the Dept. of Corrections for their vans, to help with safety concerns and to create better visibility of the crosswalks. Chief Cox recommended reserving the two spaces to the right of the Court House.

The Council unanimously agreed to approve the request. Chief Cox announced that the Denton Police Dept. received recognition from the Mid-Shore Council on Family Violence Center for their efforts in supporting the Family Violence Program. Citations were also received from Senator Colburn and from Delegate Addie Eckerd of the MD General Assembly.

**Main Street Economic Restructuring Committee**

Mrs. Ann Jacobs announced that the Denton Main Street Economic Restructuring Committee was recently honored by Main Street Maryland for their Economic Restructuring Excellence. Mrs. Jacobs thanked the Council and Town Staff for helping the committee achieve this award.

Councilman Clendaniel thanked Mrs. Jacobs and the Committee for their efforts.

**Minamoto Annexation Agreement**

Mr. Phil Riordan, a representative for Mr. Ben Minamoto provided a history and overview of the property and asked the Council for consideration to change the zoning of Mr. Minamoto's property. Mr. Riordan stated that based on the Town's desire to reduce residential growth they are requesting to zone part of the property highway commercial with restrictions.

Mr. Kehoe, Town Attorney advised that the Council would need to adopt a resolution to authorize an amendment to the annexation agreement in order for any changes to take effect.

Councilman Danielson expressed that he did not want to override what the Planning Commission has planned and that he would like to keep the zoning the same.

Councilwoman Case stated that she would be willing to entertain a modification to the agreement and support a highway commercial change.

Councilman Clendaniel stated that he was not opposed to the idea of changing it but he was uncomfortable going against the recommendation of the Planning Commission on the matter, and that he is sympathetic to the owner, but that he would vote to keep as is.

Mr. Kastning advised that the revised comprehensive plan will be before the Council for consideration at the July 12, 2010 meeting. The Planning Commission will be holding more discussions at their June 8, 2010 working session, unless the Council decides vote no tonight.

*Mr. Riordan stated that his understanding on the next Planning Commission meeting was to review and come up with changes to the agreement and find out what would easily fit on the acreage being request for a zoning change.*

*Councilman Clendaniel said that he would be supportive of the Planning Commission recommendation.*

*Mr. Riordan mentioned that at the last Planning Commission meeting, the members were not comfortable changing the zoning without the uses being changed in the annexation agreement.*

*Mayor Gregory stated that he is sympathetic to all, however is concerned with respect to the property owner's request, stating that he would vote to leave as is.*

*Mayor Gregory asked for all in favor of accepting as proposed by Mr. Minamoto to please say aye. Councilwoman Case vote – aye, the rest voted – no. The motion was defeated with a 3-1 vote against making any changes.*

*Mr. Kastning advised that since the Town Council voted against, the Planning Commission will not need to take any action.*

*Mayor Gregory asked each member that voted against to provide an explanation for their vote.*

*Councilman Danielson stated that he sees no need for commercial over on that end of Town.*

*Councilman Clendaniel is concerned about approving small pockets of zoning which is considered spot zoning, and that is not recommended.*

*Mayor Gregory felt that the acreage was very small, especially with part of it being in the Critical Area and if developed he would prefer to see residential.*

*Mr. Kastning mentioned that the property is currently zoned and was annexed as Planned Neighborhood Development with possibly up to 50 homes. The Council has the option to modify the annexation agreement and reduce the number of homes.*

*Councilman Clendaniel directed staff to work with Mr. Minamoto to modify the agreement and work with the Planning Commission.*

#### **Ordinances and Resolutions**

#### **Resolution #727 Wal-Mart\* Public Works Agreement & Stormwater Management Agreement**

*A resolution of the Town of Denton approving a Public Works Agreement and an Inspection and Maintenance Agreement of private stormwater management facilities between the Town of Denton and Wal-Mart\* Real Estate Business Trust.*

*Mr. Bill Kastning asked to have this item deferred until the July 12, 2010 meeting due to Wal-Mart needing more time to review.*

*This item was deferred.*

#### **Resolution #729- Queenstown Bank Financing**

*A resolution authorizing the Town of Denton to purchase property at 504 Choptank Ave. with financing from Queenstown Bank.*

*Councilman Clendaniel made a motion to accept Resolution #729 as presented, seconded by Councilman Danielson, the motion passed unanimously.*

#### **Ordinance #601 - FY2011 Appropriation Ordinance**

*An ordinance of the Town of Denton to appropriate funds and estimate income in accordance with the budget adopted for fiscal year beginning July 1, 2010 and ending June 30, 2011.*

*Councilwoman Case made a motion to adopt Ordinance #601, seconded by Councilman Danielson. The motion passed unanimously.*

**Ordinance #602 - Stormwater Management Ordinance Amendments**

*An ordinance of the Town of Denton repealing and reenacting with amendments Chapter 106 of the Town Code regarding stormwater management.*

*Councilman Danielson made a motion to adopt Ordinance #602, seconded by Councilwoman Case. In discussion: Mr. Kastning advised that this ordinance includes the latest amendments adopted by the State and that the Planning Commission recommended for adoption.*

*The motion passed unanimously.*

**Ordinance #603 – Donohue Historic Preservation Easement Ordinance**

*An ordinance of the Town of Denton to accept a Preservation Easement for property located at 808 South Fifth Avenue in the town of Denton.*

*Mr. George Nier, Attorney representative for the Donohue’s addressed the Council and stated that they take exception to the ordinance as written and asked the Council to deny or not execute the easement ordinance.*

*Councilman Porter arrived and joined the board.*

*Mr. Kehoe, Town Attorney stated that the property owner would have to accept the easement as well in order for it to be enacted, and that this ordinance only addresses the historic easement and not the zoning.*

*Mr. Kastning stated that the easement is a separate issue from the zoning change, and that the property is has neighboring residential and program open space on most of the sides and there is a hedge that separates it from commercial properties.*

*Mrs. Donohue stated that they want to change the zoning to highway commercial from residential due to the increased traffic with the neighboring commercial..*

*Mr. Kehoe mentioned that this ordinance only address’s the easement for the property and that it ~~is~~ has nothing to do with the rezoning.*

*Mr. Kastning advised that the comprehensive plan as currently written does not propose any change in zoning.*

*Mr. Nier, stated that they want a change in zoning to highway commercial to be contiguous with the surrounding properties.*

*Councilman Danielson made a motion to not adopt Ordinance #603 but to withdrawal it, seconded by Councilman Porter. The Mayor asked for a vote on who was in favor of withdrawing the ordinance, and the vote was unanimous. The ordinance died for lack of support.*

**Ordinance #604 - Adult Oriented Business Ordinance**

*An ordinance of the Town of Denton amending the Town of Denton Code to add Chapter 30 regulating adult oriented business within the Town of Denton in order to promote public health, safety and welfare.*

*Councilman Clendaniel made a motion to introduce Ordinance #604, seconded by Councilman Porter. In discussion: Mr. Chris Jennings, Attorney, provided an overview of ordinance #604 and #605.*

*The Mayor called for a vote on the motion to introduce Ordinance #604, the motion passed unanimously.*

**Ordinance #605 - Adult Oriented Business Use Table**

*An ordinance of the Town of Denton amending the zoning ordinance to provide definitions, permitted locations, and supplemental standards for adult oriented businesses.*

*Councilman Clendaniel made a motion to introduce Ordinance #605, seconded by Councilwoman Case, passing unanimously.*

**Ordinance #606 - Historic Demolition**

*An ordinance of the Town of Denton amending the Denton Town Code Chapter 38, to add Article IV to Chapter 38 regarding protection of structures with historic significance.*

*Councilman Clendaniel made a motion to introduce Ordinance #606, seconded by Councilman Danielson. In discussion, Mr. Kehoe provided an overview. The Mayor called for a vote on the motion to introduce Ordinance #606, the motion passed unanimously.*

**Ordinance #607 - Moratorium Extension**

*An ordinance of the Town of Denton extending the current moratorium on the processing and approval of any residential floating zone, major subdivision, and any site plan which would permit development of more than three (3) residential dwelling units until September 30, 2010, pending consideration and adoption of a revised comprehensive plan and such other legislation as the Town Council may consider advisable to promote public health, safety, and welfare.*

*Councilman Danielson made a motion to introduce Ordinance #607, seconded by Councilman Clendaniel. In discussion: Councilwoman Case explained and expressed to the public the need to support the tax base and community development and to allow a certain amount of residential growth, stating that it was important not to lose sight of growth and have a system in place.*

*The Mayor called for the vote on the motion to introduce Ordinance #607, the motion passed 4-1 with Councilman Porter abstaining.*

**Ordinance #608 – Water Rates**

*An ordinance by the Denton Town Council revisiting the water rates for users of the municipal water system as recommended by the Denton Utility Commission.*

*Councilman Porter made a motion to introduce Ordinance #608, seconded by Councilman Danielson. In discussion, Councilwoman Case stated how dismayed she was that during the housing boom the funds lived off of the connection fees. Councilman Danielson stated that by law the water and sewer funds are required to pay for themselves, currently they are not, so the Council has no choice but to accept the Utility Commission's recommendation and increase the rates. Councilman Porter explained the need to increase the rates so that the funds are self supporting. Councilman Clendaniel stated that he was uncomfortable with the increase, but that it was necessary. Mayor Gregory gave a comparison with other towns and stated that the Council did not create the problem but needs to resolve it.*

*Councilman Porter mentioned that if the State approves the grant fund amendment to offset the \$175,000 in debt, that the proposed rates could possibly be tweaked a bit.*

*The Mayor called for a vote on the motion to introduce Ordinance #608, the motion passed 4-1 with Councilman Clendaniel voting no.*

**Ordinance #609 – Sewer Rates**

*An ordinance by the Denton Town Council revisiting the sewer rates for users of the municipal sewer system. This is consistent with the Denton Utility Commission's recommendations.*

*Councilman Danielson made a motion to introduce Ordinance #609, seconded by Councilwoman Case. In discussion: Mayor Gregory provided an overview as was discussed with the previous ordinance. The motion passed 4-1 with Councilman Clendaniel voting no.*

**Ordinance #610 – Fifth Avenue Infrastructure Improvement Bond**

*An ordinance by the Town of Denton authorizing the issuance, upon the full faith and credit of the Town of general obligation installment bond in the amount of \$1,834,000 for the Fifth Ave. Infrastructure Improvements Project.*

*Councilman Danielson made a motion to introduce Ordinance #610, seconded by Councilman Porter, passing unanimously.*

*Mr. Mulrine announced that the Town has received written approval from USDA to move forward with the bid process.*

**Reports of Officers, Board and Committees**

*None*

**Unfinished Business**

**Agenda #1 - McKenrick Water Bill**

*The owners of 306E South 4<sup>th</sup> Street, Mr. & Mrs. Owen McKenrick, came before the Town Council at the May 3, 2010 meeting contesting their last water bill. The total bill being contested amounts to \$1,719.54. After diligent review, staff credited the account \$577.32, which was equivalent to 102,000 gallons of sewer (half of the total usage billed). This item was brought back before the Council to decide whether or not any additional credit is due.*

*Mr. McKenrick said that there is no explanation of why the usage has decreased since the meter reading.*

*Mr. Getchell, Director of Public Works stated that he could not explain where the water was used during the prior quarter, but since the leaks have been fixed the usage is back to normal.*

*Mayor Gregory confirmed with Mr. McKenrick that leaks occurred on the property.*

*Mr. Getchell stated that once the inside leaks were repaired the usage dropped in half and that is how staff came up with the proposed sewer credit for half of the usage.*

*Mayor Gregory made a motion asking who was in favor of not requiring Mr. & Mrs. McKenrick to pay the bill, seconded by Councilman Danielson. The motion did not pass as no one responded when the Mayor called for a vote.*

*The Mayor stated that they were all done, the action from staff stands as proposed.*

**Agenda #2 - FY2011 General Fund Budget**

*The FY2011 General Fund budget final draft was presented to the Town Council for consideration of adoption. The budget also reflected amendments to the FY2010 General Fund Budget. The Town Charter C6-5 C specifies that the budget shall be adopted on or before the 10<sup>th</sup> day of June of the fiscal year currently ending.*

*Seeking consideration to adopt the General Fund FY2011 Budget and the FY2010 budget amendments as presented.*

*Councilwoman Case made a motion to accept the General Fund FY2010 amendments and the FY2011 as presented, seconded by Councilman Danielson, passing unanimously.*

**Agenda #3 - FY2011 Highway Fund Budget**

*The FY2011 Highway Fund budget final draft was presented to the Town Council for consideration of adoption.*

*Councilman Clendaniel made a motion to adopt the FY2011 Highway Fund Budget, seconded by Councilman Porter, passing unanimously.*

**Agenda #4 - Fortner De-annexation**

*Mr. Robert Jarrell, Attorney representing the Fortner's, asked the Town Council to take no action on Resolution #722. Mr. Jarrell stated that he had talked with the Town Attorney about language giving a tax waiver and that the Fortner's are agreeable to amending the annexation agreement. The Tax Assessment Office had advised Mr. Jarrell that if the property is zoned Agricultural that it could be easier for a real estate tax assessment adjustment. Mr. Jarrell suggested to keep the De-annexation on the back burner until the Assessment Office confirms zoning and the tax assessment change and to make sure the waiver is given on all three parcels including their son's property.*

*Mr. Kastning expressed the need to have this item resolved in order to move forward with adopting the comprehensive plan.*

*Mayor Gregory stated that if the Council moves forward with amending the annexation agreement the Fortner's would need to pay for the legal fees to do so, as the Town has already incurred expenses for considering the de-annexation.*

*Councilwoman Case made a motion to have the property owners to pay the fees to amend the annexation agreement, seconded by Councilman Danielson, passing unanimously.*

*Mr. Kastning stated if acceptable to Planning Commission will rezone Agricultural without the Planned Neighborhood overlay, then the annexation agreement can be amended.*

*The Mayor asked Mr. Kastning to let the Planning Commission know that the Council supports to change the zoning to Agricultural.*

**Agenda #5 - Employee Benefits**

*At the May 17, 2010 working session the Town Council was provided a listing of employee benefits with recommendations from the Town Administrator and Clerk-Treasurer for consideration of suspending and or eliminating due to the lack of funding and the potential to place a burden on the budget. Staff is seeking direction from the Council.*

*Councilwoman Case made a motion to give guidance to the Town Administrator to suspend the items, seconded by Councilman Clendaniel. In discussion: Councilman Porter stated that he was a proponent of the home buying program and that he did not want to see this item eliminated, but would support suspending and reviewing on an annual basis. Councilman Porter made a proposal to amend the motion to accept the one employee request pending for the home buying and consider suspending. Motion amended to suspend the employee home buying for 1 year, passed unanimously. The original motion with amendments passed unanimously.*

**New Business**

**Agenda #1 - APPI Energy Agreement**

*Les Katona, Energy Consultant with APPI Energy, made a brief presentation to the Council on how the Town could reduce their energy costs. Mr. Katona will continue working with staff on a proposal.*

**Agenda #2 - Caroline County Council of Arts Small Business Loan Extension**

*Mrs. Marina Dowdall with the Caroline Co. Council of Arts came before the Council and respectfully requested an extension of 6 month to repay their Small Business Loan. Mrs. Dowdall stated that the Arts Council needs time to recoup the money used to install the sprinkler system at the foundry building.*

*Mayor Gregory asked for comments from the Town Administrator. Mr. Mulrine advised that he supported the extension.*

Councilman Clendaniel made a motion to give a 6 month extension on the small business loan to the Caroline County Council of Arts, seconded by Councilman Porter. In discussion: Councilman Danielson asked if there would be any change in the interest. The Town Administrator advised there was no proposed change to the interest, expressing that the requirement for the sprinkler system created a hardship. The motion passed unanimously.

**Agenda #3 - Community Arts Block Party**

Marina Dowdall, from the Caroline County Council of Arts, announced that the Community Arts Block Party is set for July 17, 2010 and asked for the Town Council's support for the event and in submitting the application for the liquor license.

Councilman Clendaniel made a motion to support the Caroline County Council of Arts, seconded by Councilman Porter, passing unanimously.

**Agenda #4- 2009 Planning Commission Annual Report**

The 2009 Planning Commission Annual Report was presented.

The Council commented on a job well done and wished to commend the Planning Commission and Staff for all the hard work.

Councilman Porter made a motion to accept the annual report, seconded by Councilman Danielson, the motion passed unanimously.

**Agenda #5 – Minamoto Annexation Agreement**

This item was discussed earlier.

**Agenda #6 – Hotdog Cart Vendor**

Mrs. Deborah and Mr. Evan Lucas came before the Council to seek approval to place a hotdog stand on the old Dollar General Lot.

Mr. Kastning advised that if the Council supports the Evan's will need to go before the Board of Appeals for final authorization.

Councilman Clendaniel made a motion to concur the Council's support for a hot dog stand on the lot, pending the Board of Appeals approval, seconded by Councilman Danielson, passing unanimously.

Councilwoman Case made a motion to adjourn the meeting at 9:45 PM, seconded by Councilman Porter, passing unanimously.

Respectfully submitted,

Karen L. Monteith  
Clerk-Treasurer

\*\*Page 3044 amended at adoption July 12, 2010 (is)