

*November 15, 2010*

**Denton Town Council Special Meeting**

*At 6:30 PM the Mayor called to order a special meeting to hold discussion with the residents of the Fairfield Subdivision regarding the stormwater management open space area issue.*

**Present**

*Mayor Gregory, Councilwoman Case, Councilman Danielson and Councilman Clendaniel were present.*

*Staff present included Don Mulrine, Town Administrator; Karen Monteith, Clerk-Treasurer; Scott Getchell, Director of Public Works; and Bill Kastning, Director of Planning & Codes.*

*Planning Commission Chairperson, Doris Walls*

*Residents and or Property Owners Present included:*

*Annette Lane – 1213 Fairfield Court*

*Ron Papineau - 1223 Fairfield Court*

*Wanda Lewis – 1217 Fairfield Court*

*Chris & Brandy Valltos – 1302 Chesapeake Drive*

*Bonnie Johnson – 1225 Fairfield Court*

*William C. Nicholls – 1230 Fairfield Court*

*Brenda Scanlon – 1220 Fairfield Court*

*Douglas Gunther – 1301 Fairfield Court*

*Shawn & Tina Ingram – 1305 Chesapeake Drive*

*Terry & Stacey Pindell – 1310 Chesapeake Drive*

*Kathy & Ted Parker – 1312 Fairfield Court*

*Joe & Josephine Kidwell – 1231 Fairfield Court*

*Barbara Smith – 1304 Chesapeake Drive*

*Kenneth Flynn – 1308 Chesapeake Drive*

**Agenda #1 - Fairfield Stormwater Management/Open Space Area**

*Mrs. Annette Lane of 1213 Fairfield Court asked if there was a plan in place if the property owners of Fairfield were not able to establish an HOA and the Town takes over, what would the duties to maintain the area be. She mentioned that she has been maintaining the stormwater management area behind her property for 12 years and wanted to know what the plan was for the future. She raised concerns about being assessed a fee, when she has maintained the area for free all this time.*

*Mr. Don Mulrine, Town Administrator, explained that if a Home Owners Association (HOA) was formed, the HOA would take over the responsibilities and maintain the open space area and the stormwater management ponds, and the residents would pay a fee to the HOA. The Fairfield Development was built without having an HOA. The Town has been asked to take over the ownership of the open space areas, which would cost the Town extra to maintain. Mr. Mulrine stated that if the Town takes over this area, the cost to maintain should be paid for by the property owners of that area. The fee has yet to be determined, but it is anticipated to be less than \$100 a year for each property.*

*Mrs. Lane stated that she has maintained the area behind her property because when she moved there she was advised that the Town did not own the property and was*

*not responsible for maintaining. Mrs. Lane wondered if there would be any compensation for all the years she has maintained.*

*Mr. Mulrine stated that this is a slowing moving process and if the neighborhood wants to and is able to create an HOA that would be preferred by the Town. If not, and the Town moves forward with accepting ownership of this area, the Town will have to assess a fee to those residents.*

*Mr. Chris Valltos, of 1302 Chesapeake Drive, stated that his deed grants the open space area to the Town and there is no word of any HOA mentioned in the deed or on the plat. The property owners should not have to pay for it, and therefore, the Town should not charge extra for this.*

*Mr. Mulrine stated that the open space area is not owned by the Town.*

*Mr. Valltos stated that HOA's have been around for a very long time and that this is a Town problem and not the residents.*

*Councilman Danielson advised that it was his understanding that it is not up to the Town to develop an HOA; it would be the responsibility of the developer and or neighborhood residents.*

*Mr. Bill Nichols of 1230 Fairfield Court questioned what the duties would be that would require the Town to take over. He asked if the community could take care of the duties with a scheduled maintenance program, and they would not have to form an HOA.*

*Mr. Mulrine stated that it may be possible for the community to create an agreement. The Town would have to check on this. However, first the Town needs to find out what needs to be done to the stormwater ponds and determine what it will cost to maintain. Mr. Mulrine added that the Town is not trying to make any money off this, but does have the ability to set a Utility Tax fee for each homeowner to pay for the cost associated with maintenance of the stormwater ponds.*

*Mr. Bill Kastning, Director of Planning & Codes, presented a copy of the plat of Fairfield and showed the 4.62 open space area that is in question. Mr. Kastning mentioned that none of the roadways have been turned over to the Town yet.*

*Mayor Gregory said that the Council would need to check with the Town Solicitor and the State to see if this was possible for the residents to take on the maintenance individually.*

*Mr. Scott Getchell, Director of Public Works, explained what the Town has been taking care of, even though the roads do not belong to the Town. The Town is ready to accept the roadways at no cost to the residents. However, the Stormwater/Open Space area is separate and how to cover the cost to maintain needs to be resolved. The Town has been providing snow removal, which was done so the residents would be able to get out. Mr. Getchell added that since the roads technically do not belong to the Town, the Town is not responsible for any maintenance until ownership is transferred. Once transferred, the Town will maintain the roads and street lights.*

*Mr. Doug Gunther, owner of 1301 Fairfield Court, questioned how stormwater management is paid for in other areas of the Town. If Fairfield residents pay the same tax rate as everyone else in town, why wouldn't their property taxes cover this expense? Why burden them with another tax, if no other residents in Town pay this tax for the same services.*

*Mr. Kastning explained that the other subdivisions all have a HOA. The HOA pays for and is responsible for the stormwater needs and common areas of the individual neighborhood.*

*Mr. Gunther referenced property that he owns on Edenton Lane and that he does not pay for storm drainage there, why should this subdivision be treated any differently.*

*Mr. Kastning explained that subdivisions have a different level of stormwater management, ditches, vegetation growth, etc. and it that cost more to maintain, and this is specific to the Fairfield neighborhood.*

*Mr. Valltos questioned what the town would need the extra money for, stating that the stormwater pond behind his property is a dry pond and that it would never need any maintenance.*

*Mr. Getchell stated that it was good the way the pond was designed and that it is working properly. The pond is fairly new and that it will need maintenance in the future.*

*Mr. Nicholls questioned that the Town is speaking in the future as opposed to now and it could be years before any work is necessary. What happens to the fees that are collected now and then not used for many years?*

*Mr. Getchell added that the last estimate was over \$9,000 to dredge a half of a foot, silk and maintain. The area needs to be mowed at least once a month for proper maintenance.*

*Ms. Wanda Lewis, of 1217 Fairfield Court, asked when the fees will stop, that she has lived in Denton a long time, and is near retiring and wanted to know just how much can the property owners incur. She mentioned that there was a play yard proposed on her deed, but that never happened.*

*Mr. Shawn Ingram, of 1305 Chesapeake Drive, questioned if the Town takes over the open space and the roads will the school buses come into the neighborhood and pick up the children.*

*Mayor Gregory announced that the residents would need to talk with the Caroline County Board of Education regarding the buses. The Council has no control over the buses.*

*Mr. Ron Papineau, of 1223 Fairfield Court, stated that a HOA should have been done earlier and that the only person getting off on this is Chris Coile and Champion Realty. Mr. Papineau mentioned that when he bought his house he was told there was no HOA. The last house was built several years ago, so why has it taken so long to get this area turned over to the Town.*

*Mr. Joe Kidwell, of 1231 Fairfield Court, stated that he was told the property had already been turned over to the Town.*

*Mr. Kastning responded by stating that none of the conveyances have occurred to turn the property or the streets over to the Town. Mr. Kastning stated that the Town is working with everyone involved to come up with the best solution.*

*Mrs. Bonnie Johnson, owner of 1225 Fairfield Court, mentioned that Mr. Coile, of Champion Realty, inherited the common areas and that she, as a realtor for many of the properties, conveyed to the buyers that there was no HOA when she was selling the homes. Mrs. Johnson stated that the back stormwater management pond is completely dry and should not need any maintenance for many years and that it was not fair to impose fees for something that may not happen for twenty years.*

*Mrs. Doris Walls, Chairperson for the Town's Planning & Codes Commission, spoke up and stated that the properties changed hands many times, and that each time it should have been sold and required to have an HOA. Mrs. Walls expressed that she felt it was Chris Coile's problem to deal with and that it would not be fair to burden these residents.*

*Mr. Ted Parker, of 1312 Fairfield Court, asked if there has already been a lot of cost incurred by the Town to maintain.*

*Mr. Getchell responded by stating that the only cost incurred by the Town so far has been for the snow removal. The Town does maintain a portion of the grass that is located in the entrance; this area has already been turned over to the Town. The Town does not maintain the areas still owned by Mr. Coile.*

*Mr. Kastning added that Mr. Coile has maintained the grass & ponds upon the Town's request and has been maintaining the drainage ditches. They have to make sure the ditches remain open and the grass is cut.*

*Mr. Getchell repeated that the Town has maintained some of the area and contacted Mr. Coile to maintain the portions owned by him as needed.*

*Mr. Valltos stated that the Maryland standard requires that a dry pond be created so that it does not affect any creeks and that the pond near his property is dry and that he did not feel the Town should assess a fee because it will never need maintenance.*

*Mr. Terry Pindell, of 1310 Chesapeake Drive, questioned if the pond was located on someone's property.*

*Mr. Getchell advised that the storm water ponds are located on a separate piece of property.*

*Mrs. Lane stated that the pond behind her property has been there longer and that it does hold water and does need work due to sediment and growth and that eventually the other pond will need maintenance as well. Mrs. Lane expressed that she was concerned about having to pay a fee.*

*Mr. Valltos added that the cost to maintain the 1994 pond should not be the burden on all of the homeowners in Fairfield, especially those that built in 2000 or later. Mr. Valltos stated that this should be the developer's problem and that the residents should not have to share in that maintenance cost.*

*Mr. Kenneth Flynn, of 1308 Chesapeake Drive, questioned who would maintain the area, that an HOA would control the whole neighborhood and stated that they would be better off to pay a fee to the Town than and HOA.*

*Mr. Kastning stated that other developments have an active HOA. If the Town decides to move forward with taking over ownership of this area, the Town will need to determine the cost to set a fee to subcontract out the maintenance.*

*Mr. Shawn Ingram expressed that they are frustrated with another fee and are concerned with what it will cost and where all the money will go to.*

*Mrs. Bonnie Johnson stated that she remembers Mr. Coile being asked by the Town to plant a tree buffer, which would mean that nothing will need to be cut, and since the development is finished, all the homes have been built, how can a HOA be imposed on the property owners that built homes without this being required.*

*Mr. Kastning responded that having read through the history, it was with the last change in ownership that in lieu of a tot lot and other amenities Mr. Coile agreed to put in the tree buffer along Rt. 404.*

*Mrs. Brenda Scanlon, of 1220 Fairfield Court, asked if there was a property tax rate difference, if the residents agree to do this, and that they should not have to pay an extra fee for town owned properties.*

*Mr. Kastning expressed that Mr. Coile is the current owner and has maintained at the Town's insistence, but no longer wished to do so.*

*Mrs. Scanlon stated that if deeded to the Town, their property taxes should pay for maintaining this area and that there should not be an extra fee.*

*Mr. Kastning explained that if the common area is owned by the Town, that it becomes public property, which means that any resident of Denton can use the land. The Town does not want to own this area because of the cost to maintain.*

*Mrs. Stacey Pindell, of 1310 Chesapeake Drive, stated that if the Town does not want the area and the Homeowners do not want it, then Chris Coile should continue to own and maintain.*

*Mrs. Kathy Parker, of 1312 Fairfield Court, expressed that she supports and sees advantages of having a HOA. That it provides an opportunity to organize the community, hold regular neighborhood activities, and to have more control, rather than rely on the Town of Denton to maintain. If they establish an HOA, it may cost less to maintain and provide an opportunity for beautification of the neighborhood.*

*Mayor Gregory thanked everyone for coming and expressed that the Council appreciated what everyone has had to say. The Mayor added that the Council has a very open mind on this item and that no decision has been made. The Council will work towards the best resolution for all of the citizens of the Town of Denton.*

*With no further discussion, Mayor Gregory adjourned this special meeting at 7:30 PM.*

*Respectfully submitted,*

*Karen L. Monteith  
Clerk-Treasurer*