

July 11, 2011

Regular Meeting

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.

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

Councilman Danielson made a motion to approve the minutes of the June 6, 2011 regular meeting, seconded by Councilwoman Case, passing unanimously.

Mayor Clendaniel took a minute to recognize former Mayor Goldsborough who was in attendance.

Public Hearing

Ordinance #632- Council Meeting Night

Mayor Clendaniel opened a public hearing at 7:01PM to receive public comments on Ordinance #632 - An ordinance of the Town of Denton amending Section 5-1 of the Town Code to change the date of regular council meetings from the first Monday of the month to the first Thursday of the month and omitting the meeting location.

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

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

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

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

With no further comments Mayor Clendaniel closed this public hearing at 7:02

PM.

Ordinance #633- Peddlers Regulations

Mayor Clendaniel opened a public hearing at 7:02 PM to receive public comments on Ordinance #633 – An ordinance of the Town of Denton amending the Town of Denton Code to add Chapter 92 regulating peddlers, solicitors, and distributors within the Town of Denton in order to promote public health, safety, and welfare.

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

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

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

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

With no further comments Mayor Clendaniel closed this public hearing at 7:04

PM.

Ordinance #634- Board of Appeals Variances

Mayor Clendaniel opened a public hearing at 7:04 PM to receive public comments on Ordinance #634 – An ordinance of the Town of Denton amending the zoning ordinance provisions contained in Chapter 128 of the Denton Town Code with respect to Board of Appeals variances.

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

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

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

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

With no further comments Mayor Clendaniel closed this public hearing at 7:05

PM.

Petitions, Remonstrance's and Communication

Proclamation – First Nichols Family Day

Mayor Clendaniel ratified a proclamation that was given to the Nichols family in honor of their first annual family reunion and for having been a part of the Denton community for over 5 generations.

Trash Collection Company Change

Staff took the opportunity to provide awareness to the Council and the public that the Towns current trash hauler Mid Shore M-T has sold their business to Waste Management of Delaware. The Mayor signed an identical hauling agreement reflecting the name of the new hauling company. This item was for informational purposes only, as no other changes in service are proposed at this time.

Tourism Presentation

Mrs. Kathy Mackel, Caroline County Tourism Director, and Ms. Christina Lippincott, her assistant, came before the Council to provide an update on the Tourism program and the benefits to the Town.

Mrs. Mackel explained the group bus Tour Market events and shared that in 2010 they held 6 tours resulting in approximately \$6,989 in sales for Denton area businesses and that in fiscal year 2011 they had 11 tours held resulting in revenues of \$8,328 in sales in Denton. Mrs. Mackel added that advertisements were placed in the Southern Living Magazine after which they received over 1700 request for additional information about the area and the ad placed in the USA Weekend received over 1,000 requests for information. Another ad is scheduled to appear in the Southern Living, August 2011 addition. Mrs. Mackel explained how the funding received from the town is utilized to bring visitors to Denton to spend money and shared the benefit rewards that the area businesses have gained from these special events and thanked the Council for their continued support.

Ms. Lippincott provided a portfolio full of copies of the marketing advertising design work that she has created promoting events held in and around Denton and gave an overview of each event. Ms. Lippincott stated that in working together with the Denton Downtown Main Street program and the merchants, they have been able to create co-op advertising and promotions, such as the Downtown coupon books, the Farmers Market, Haunted Tales, Shakespeare Festival, Car shows and Summerfest. Ms. Lippincott thanked the Council for their continued support.

Mr. Elijah Knight, Owner of the Salad Star, spoke in support of the Tourism Office and stated that with Christina's help she has given a new look that attracts Tourist, that is very important to his business and what is going on in Town.

Mr. Michael Owens, Owner of Color & Clay, expressed that the help received from the Tourism Office is incredible in promoting his business and that it provides a strong economic center for Denton and the local businesses. Mr. Owens asked for the Council's permission to use the Town's logo on some of his pottery to continue promoting Denton.

Councilman Danielson shared that Christina has done all the design work for the flyers for the Friday Night Cruise-ins and that she does a wonderful job and has been a key component in making the event so successful.

Councilwoman Case thanked both Mrs. Mackel and Ms. Lippincott for providing the data and information.

Councilman Porter made a motion giving approval for the use of the Town logo on pottery at Color & Clay, seconded by Councilman Danielson, passing unanimously.

Ordinances and Resolutions

Resolution #753 – Wal-Mart Temporary Easement Agreement

A resolution of the Town of Denton approving a second temporary construction easement agreement and an access easement agreement between the Town of Denton and Wal-Mart Real Estate Business Trust.

Councilwoman Case made a motion to grant the easement, adopting Resolution #753, seconded by Councilman Danielson, passing unanimously.

Resolution #754 – Fairfield Common Areas

A resolution of the Town of Denton approving and accepting two deeds for “Fairfield Court” (formerly known as “Harmony Court”), “Chesapeake Drive”, and four open space parcels in the Fairfield Subdivision.

Mr. Mulrine, Town Administrator, recommended that the Council defer this item to allow more time for comments from the residents that will be affected and to give the Public Works Dept. time to finish their review.

Mr. Gunther, owner of 1301 Fairfield Court, spoke in opposition to the Town charging a fee to the Fairfield property owners and said that the cost to take over the stormwater management ponds should be covered by his taxes.

Mr. Jason Willey, of 1200 Chesapeake Drive, thanked Mr. Mulrine for explaining what this was about and thanked the Council for extending their decision while additional review is completed. Mr. Willey added that the ownership and maintenance of the stormwater land was not a mistake made by the residents and that they should not have to pay for the Town to take over this land, nor to take this off the developers hands.

Mr. Michael Jantz, of 1202 Tuckahoe Court, asked who will maintain the grass behind his property. Staff advised that they would research and follow back up with him.

Councilman Porter made a motion to table action on this resolution until next month, seconded by Councilwoman Case, passing unanimously.

Resolution #755 – Fearins Crossing

A resolution of the Town of Denton approving an agreement with Reliable Fearins Group, LLC, regarding the posting of bonds and other matters related to improvements in the Fearins Crossing Subdivision.

Councilman Danielson made a motion to hold discussion on Resolution #755, seconded by Councilman Porter.

In discussion: Mr. Kehoe, Town Attorney, provided an overview and stated that the agreement does not have a time limit, but that they would not be able to obtain building permits without the bonds being reinstated.

Councilman Danielson questioned without a time line would it hold up the allocation.

Mr. Kastning, Director of Planning and Codes, explained that in most situations the water and sewer allocation is only good for two years, but since the allocation fees for this project were paid in full when it was recorded, that there is no expiration. The allocation is good until the property owner no longer needs them. Mr. Kastning stated that all the developer is asking for at this time is to relinquish the bonds.

Mr. Kehoe explained that according to the Maryland Dept. of Environment, any lot of record has an allocation assigned to it.

Councilman Danielson said that he would want a time limit.

Mayor Clendaniel concurred with Councilman Danielson, and supported having a reasonable time limit set in case another developer comes along and needs the allocation.

Mr. Kehoe recommended the Council withdraw their motion.

Mr. Barry Griffith of Lane Engineering, spoke on behalf of the property owner and explained that Phase 1 of the project, included a 2006 plat that was approved and recorded 59 lots. Then in 2009 another plat was approved adding another 12 lots. All 71 lots are recorded in the land records and are legal lots of record. Mr. Griffith added that the developer paid the allocation fees in full as was required by the Town at the time the plats were recorded. He stated that the water/sewer allocation is a separate item. Mr. Griffith explained that the developer has paid for the bonds and is asking for a release because of the economic downturn and the lack of a need for and/or sale of residential homes. Mr. Griffith provided an overview on how a surety release agreement works and explained that it is to protect the people that may buy homes, yet the development is not finished, then the town can use the bonds to finished the build-out. There has been no ground breaking on this particular development at this time. Mr. Griffith assured the Council that if they allow the release of the bonds that nothing can be built on the properties until a new surety agreement is approved reinstating the bonds.

The Council asked for additional information on this item.

Councilman Danielson withdrew his motion, seconded by Councilman Porter, agreed to by all members.

Mr. Kastning added that there is one other development in town that has already paid their allocations.

Ordinance ##632 – Council Meeting Night Change

An ordinance of the Town of Denton amending Section 5-1 of the Town Code to change the day of regular council meetings from the first Monday of the month to the first Thursday of the month and omitting the meeting location.

Councilman Danielson made a motion to adopt Ordinance #632, seconded by Councilwoman Case, passing unanimously.

Ordinance #633 – Peddlers Regulations

An ordinance of the Town of Denton amending the Town of Denton Code to add Chapter 92 regulating peddlers, solicitors, and distributors within the Town of Denton in order to promote public health, safety, and welfare.

Councilwoman Case made a motion to adopt Ordinance #633, seconded by Councilman Danielson.

In discussion: Councilman Danielson asked if the fees have been determined.

Mrs. Walls, Chairperson for the Planning Commission, said that they are leaving the fee structure up to staff.

Councilman Danielson gave his interpretation of Section 92-9 C ii where it states that No peddler shall be permitted to: “sell from the same location more than one time each day”. Mrs. Sue Cruickshank of the Planning Commission said that was not their intension. Councilman Danielson raised a concern and recommended the language be amended to delete 92-9 C ii and renumber C iii and C iv.

Councilman Case amended her motion to delete on Page 7, 92-9 Cii and to renumber the remaining items in that section as mentioned. The amended motion was seconded by Councilman Danielson.

Mayor Clendaniel stated that he was concerned that this ordinance was adding one more regulation.

Councilman Danielson stated that the Ordinance will help to protect the business and the citizens of Denton.

Mayor Clendaniel mentioned that it will add more public safety.

The motion passed unanimously.

Ordinance #634- Board of Appeals Variances

An ordinance of the Town of Denton amending the zoning ordinance provisions contained in Chapter 128 of the Denton Town Code with respect to the Board of Appeals variances.

Councilman Porter made a motion to adopt Ordinance #634, seconded by Councilman Danielson.

In discussion: Councilwoman Case questioned if this was necessary to comply with State law.

Mr. Kehoe provided an overview of the compliance needs.

Mayor Clendaniel asked if the Planning Commission members supported this change, in which Mrs. Walls and Mrs. Cruickshank responded that most of the members were against it, but it passed 4-1.

Councilman Danielson questioned that the current law puts the Planning Commission in an awkward position to have to defend the decision they make.

Mr. Kehoe explained that the Council could make it so the Planning Commission can review and comment, but as the code is currently written, it can not require them to review and comment. He explained the different types of appeals and that the Board of Appeal acts as a quasi judicial review board and must make specific findings of fact.

Councilman Danielson added that the Board of Appeals can override a Planning Commission decision.

Mr. Kastning provided a review and mentioned that the law, as it is currently written, requires the Planning Commission to review all Board of Appeals variances, if changed to "may", then who will determine if it goes to the Planning Commission or not. That by changing the language to "may" instead of "required" still would not clarify how variances should be handled and would be up to interpretation.

The motion to adopted Ordinance #634 as presented passed 3-2, with Councilwoman Case and Mayor Clendaniel voting against.

Reports of Officers, Board and Committees

None

Unfinished Business

Agenda #1 9 N. Fourth Street Restoration

A Lease Agreement between the Town and Mr. Edward Bombaro of Choptank Design & Custom Furnishings, LLC was provided to the Council for consideration. The agreement would allow Mr. Bombaro to refurbish 9 N. Fourth Street in exchange for 6 years of office space in the building, rent free during the rehabilitation of the building.

Mr. Mulrine mentioned to the Council that the insurance review was not completed and the Attorney needed to finish the review, so he recommended deferring action on this item.

Mr. Bombaro mentioned that the porch support beam is falling and that every time he goes by the property, that the dwelling is deteriorating and that he would like to occupy the property soon to begin the rehab.

Mayor Clendaniel said that he didn't want to delay this very long and asked if there was a way to allow Mr. Bombaro to occupy the building while the lease is being finalized.

Mr. Kehoe advised that the Council could allow occupancy contingent upon final execution of the lease.

Councilman Danielson made a motion to allow for occupancy pending the final ratification of the lease at the August meeting, seconded by Councilwoman Case.

Further discussion was held in which Mr. Kehoe said that once the detail of the lease is worked out, that the Mayor could sign it and Mr. Bombaro can occupy it and then the Council could ratify the lease at the Aug. 4, 2011, meeting.

Agenda #2 - Dollar General Lot

Mr. Mulrine provided the Council with a copy of the appraisal received on 303 Market St. and advised that it has been forwarded to CDBG for review. Once reviewed by CDBG, the town will know what will have to be paid back to the State to comply and close the grant, so the Town can work toward selling the property to Mr. Brodie. This item was informational only, no action was necessary.

Agenda #3 - Crouse Park Grant Transfer – Letter of Confirmation

The Department of Housing and Community Development has sent a letter confirming they have received all information from the Town to transfer the \$600,000 Grant for the Crouse Park Restaurant from Caroline County to the Town. This item was for informational purposes only, no action was necessary.

New Business

Agenda #1 – Board of Appeals Appointment

Brittani Thomas recently resigned from the Board of Appeals and staff requested the Alternate, Dallas Lister, be appointed to fill the regular member's term which expires December 31, 2011.

Councilman Porter made a motion to appoint Mr. Dallas Lister to serve as a regular member on the Board of Appeals, seconded by Councilman Gregory, passing unanimously.

Agenda #2 – Water & Sewer Allocation

Mr. Ted Cusimano, Allright Rentals, requested approval for three (3) additional ERU's for second floor apartments at 755 Crystal Avenue. The cost of the additional water and sewer allocation is \$27,000.

Councilman Danielson made a motion to approve the allocation, seconded by Councilman Gregory.

In discussion: Mr. Kastning provided an overview of the request and his conversation with the County.

Councilman Danielson expressed that the property when it went before the Planning Commission was previously approved to be apartments upstairs, but he questioned if they can designate parking for the apartments. Mr. Kastning said that he met on sight with Mr. Cusimano and that the parking can be designated.

The motion to approve the allocation passed unanimously.

Agenda #3 - Glenfield Growth Allocation & Water/Sewer Allocation

Mr. Kastning announced that the Glenfield Subdivision approval expired June 30, 2011 and that at this time the growth allocation required for the subdivision should be re-evaluated and returned back to LDA. The Water and Sewer allocation approval is also expiring.

Councilman Porter made a motion to have Mr. Kastning draft a letter for the Mayor's signature to notify the proper authorities of the expiration and the changes to the zoning, seconded by Councilman Gregory, passing unanimously.

Agenda #4 Corporation Tax Abatement

Staff came before the Council seeking approval to abate the corporation taxes for the TJ&J Corporation who was previously doing business as Caroline's Hallmark that was located in the Denton Plaza. They closed their store several years ago leaving a delinquent 2008 Corporation Tax of \$624.30 plus penalties for a balance due the Town of \$767.82. Staff has been unsuccessful with collection attempts and all mail is being returned undeliverable.

Councilman Danielson made a motion to abate the delinquent corporation taxes for TJ&J Corporation as requested, seconded by Councilwoman Case, passing unanimously.

Agenda #5 – FY2012 Highway Fund Budget

Staff submitted the FY2012 Highway Fund balanced budget in the amount of \$407,243 for the Council's approval.

Councilman Porter made a motion to adopt the Highway Fund Budget as presented, seconded by Councilman Danielson, passing unanimously.

Agenda #6 – FY2012 Water Fund Budget

Staff submitted the FY2012 Water Fund balanced budget in the amount of \$633,765 for the Council's approval. Staff advised that the Utility Commission has reviewed and approved the budget presented with no recommendation to adjust rates at this time.

Councilman Porter made a motion to adopt the Water Fund budget as presented, seconded by Councilman Gregory, passing unanimously.

The Council commended Staff and the Utility Commission for all their efforts in balancing the budget.

Agenda #7 – FY2012 Sewer Fund Budget

Staff submitted the FY2012 Sewer Fund balanced budget in the amount of \$1,368,492 for the Council's approval. Staff advised that the Utility Commission has reviewed and approved the budget presented with no recommendation to adjust rates at this time.

Councilman Gregory made a motion to adopt the Sewer Fund budget as presented, seconded by Councilman Case, passing unanimously.

Agenda #8 – Board of Appeals Alternate Appointment

With the approval of Dallas Lister to serve as a regular member on the Board of Appeals earlier on this date, the Council was asked to appoint a new person to serve as the Alternate through December 31, 2011.

Mr. Mulrine advised that they had received three letters of interest for persons wanting to serve on the boards and interviews had been conducted. Staff also mentioned that they had just received another letter of someone that was interested in serving on the

Historic Review Committee; however the interview had not been conducted for this position yet.

The Council reviewed the three letters of interest and held discussion on all the vacancies on the agenda for consideration this evening, as well as, one vacancy on the Utility Commission and the following appointments were approved.

Councilman Porter made a motion to appoint Mrs. Tara Lightner to serve as the alternate on the Board of Appeals, to appoint Mr. Matthew Breedlove to serve on the Planning Commission and to appoint Mr. Walter Johnson to serve on the Utility Commission, if he so desires. The motion was seconded by Councilman Danielson, passing unanimously.

Agenda #9 – Planning Commission Appointment

Ummu Bradley Thomas resigned from the Planning Commission. Staff requested an appointment to fill the regular member's term which expires December 31, 2014.

See the appointment on the above agenda item.

Agenda #10 – Historic Review Commission Appointment

Mr. Ray Claytor resigned from the Historic Review Commission. Staff requested an appointment to fill the unexpired member's term which expires December 31, 2012.

The Council deferred this appointment to the August meeting pending an interview.

MML Convention Update

Staff thanked the Mayor and Councilman Gregory for monitoring the booth during the MML convention.

Councilwoman Case mentioned that she attended the Ethics Training Class.

Mayor Clendaniel advised that he met with the Maryland Secretary of Planning and received a brief overview of the Plan Maryland Program.

Miscellaneous

Councilman Porter took a moment to congratulate the Denton Little League 10-11 Year Old Boys for their success during the season and announced that they were headed to the State Tournament in Brunswick the following week.

With no further discussion Councilman Danielson made a motion to close the meeting at 9:16PM, seconded by Councilman Porter, passing unanimously.

Respectfully submitted,

*Karen L. Monteith
Clerk-Treasurer*