

September 12, 2005

Mayor Horsey called the regular meeting of the Denton Town Council to order on this date at 7:00 PM, leading everyone in the Pledge of Allegiance to the Flag.

Mr. Scott Getchell provided the invocation.

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

Councilwoman Stockley made a motion to approve the minutes of the August 1, 2005 regular meeting and the August 23, 2005 special meeting, seconded by Councilman Foster, the motion passed unanimously.

Councilman Conway Gregory was appointed by the Council at the Aug. 23, 2005 meeting to serve until the end of the year to fill the vacancy created by the resignation of Councilwoman Goldsborough. Councilman Gregory was sworn into office by Karen Monteith, Clerk-Treasurer.

Public Hearings

Resolution #665 - Siesta Drive, et al

Mayor Horsey opened a public hearing at 7:05 PM to receive public comments on the proposed resolution of annexation for Siesta Drive. Mayor Horsey asked for any comments from the Caroline County Government, there were none. Mayor Horsey asked for any comments from State and County Planning Agencies, there were none. Mayor Horsey asked for any comments from Town Staff, Ms. Jennifer Shull provided an overview about the area to be annexed and conditions. Mayor Horsey asked for any comments from members of the general public and there were none. With no further comments Mayor Horsey closed this public hearing at 7:06 PM.

Resolution #668 - Diem, Foy Road, et al

Mayor Horsey opened a public hearing at 7:06 PM to receive public comments on the proposed resolution of annexation for Diem, Foy Road, et al. Mayor Horsey asked for any comments from the Caroline County Government, there were none. Mayor Horsey asked for any comments from State and County Planning Agencies, there were none. Mayor Horsey asked for any comments from Town Staff, Ms. Jennifer Shull provided an overview about the area to be annexed and conditions. Mayor Horsey asked for any comments from members of the general public and there were none. With no further comments Mayor Horsey closed this public hearing at 7:07 PM.

Ordinance #499 - Chesapeake Heritage Area

Mayor Horsey opened a public hearing at 7:07 PM to receive public comments on the proposed ordinance which would amend the Town's Comprehensive Plan to include the Stories of the Chesapeake Heritage Area and associated Management Plan. Mayor Horsey asked for any comments from the Caroline County Government, there were none. Mayor Horsey asked for any comments from State and County Planning Agencies - Mr. JOK Walsh, of the Caroline County Economic Development and Ms. Elizabeth Watson representing the Heritage Area Program provided an overview of the program asking for the Council's support. Mayor Horsey asked for any comments from Town Staff, Ms. Jennifer Shull advised that the Planning Commission has reviewed the program and recommended a memorandum of understanding. The Town Attorney reviewed and had raised concerns regarding the plan. Mayor Horsey asked for any comments from members of the general public and there were none. With no further comments Mayor Horsey closed this public hearing at 7:16 PM.

Petitions, remonstrances and communication

Resident Correspondence - Ms. Annette Dean provided a letter and came before the

Council with several concerns about property maintenance, animal control, and burning in town. Mayor Horsey advised that property owners have the right to file a complaint directly with District Court as well as going through the Police Dept. Staff advised that the Police Dept. works closely with the Zoning Dept. on the removal of untagged cars. Burning issues - there was a concern that the definition of approved containers is not clear enough. Councilman Branson asked for Staff to check back that he thought laws had been adopted for zero tolerance of burning in town. Staff also advised that citations have been issued with regards to some of Ms. Dean's concerns and that a court date is set for Sept. 22. Ms. Dean asked the Council to consider stricter enforcement and a quicker turn around time on issuing citations. Mr. Jeff Thompson recommended calling MDE with some of the burning concerns. Staff also recommended to start publishing the names of continuous violators. These concerns will be reviewed for ways to improve and to notify the owners and tenants both of the violations.

Resident Correspondence - *Genevieve Haller came before the Council with several neighbors to voice concerns and offer some suggest about the children's safety in their neighborhood. A child was struck by a car when he road his bike out into the street.*

Councilman Branson asked if the streets in this area have been turned over to the Town for maintenance yet and was advised no. Staff advised that the Developer made a request to lower the speed limit.

Keith Heinlein the father of the child that was struck, spoke about the accident, the concerns of the neighborhood and asked the Council to consider lowering the speed limit to 15 mph. To consider adding speed bumps, crosswalks and signage to slow down traffic and to add a playground.

Ms. Haller asked if the Town code required amenities at certain times during the construction. Staff advised that the construction of amenities at specific times during the project is not a requirement, but can be reviewed by the Planning Commission.

Ms. Victoria Hoffman, representing the Developer advised that they fully support the residents efforts to have the speed limits reduced in the neighborhood. They have meet with Staff and advised that they are willing to work with Town to make the community safer and since these streets will become Town streets they want to make sure they are in compliance with Town codes. She advised that they community center has been on hold due to working out the permits with the state on the pool. Prior to this incident the developer ordered additional playground equipment and is finding another area for an additional playground.

Ms. Brynja Booth, Attorney for the Town advised the Council that it sounded like the Developer was willing to work with the residents, so set up a separate meeting to address the Town issues.

Councilman Branson made a motion to direct Town Staff to look into what can be done to adjust the speed limit, seconded by Councilwoman Stockley. Further discussion was held about traffic study requirements in which the Town Attorney will look at code and study state law. Councilman Gregory voiced concerns about responsibility of the developer verses Town responsibility. He suggested that the developer should be more proactive instead of reactive. Staff wanted to clarify and make sure that Councilman Gregory knows that the Town is not passing the issue around. The playground was already in the works prior to the accident. Storm water code does not require fencing.

With no further discussion the motion was passed unanimously.

Denton Planning Commission Correspondence - *A letter received from the Denton Planning Commission was reviewed in which they asked for the Town Council to take an official stand to support a new road in the area where Walmart is proposing to go and encourage the State Highway Administration to consider. Staff added that the request is for the connection of Gay Street to the Walmart project. Councilman Branson advised that it has been his past experience that the State will do what ever they want and suggested that Walmart building a four lane highway on Legion Rd.. Staff requested an opportunity to make request.*

Councilman Branson made a motion for a letter to be drafted and signed by all of the Council members to the State Highway Administration to open Gay St. up to Legion Rd., seconded by Councilwoman Stockley. Further discussion was held in which Councilman Gregory suggested that they letter be sent to Richard Lindsey. Staff advised that they will follow up with Jim Dooley too. Councilman Branson expressed the need to have a road that will handle the traffic including tractor trailers. With no further discussion the motion was passed unanimously.

Resolution and Ordinances

Resolution #665 - Siesta Drive Annexation: *A resolution to annex of a portion of Siesta Drive east of Second Street Map 105 Parcels 79, 216, 163, 172, 173 was presented for consideration of adoption. The annexation agreements were executed at time of introduction. Both the resolution and annexation agreement were prepared by the Town Attorney. The Planning Commission has given the annexation a positive recommendation. The resolution was introduced on July 11th, has been advertised.*

Councilman Gregory made a motion to adopt resolution #665, seconded by Councilman Foster. In discussion Councilman Branson inquired as to what happens with the one property that had no response. Town Attorney, Brynja Booth advised that this one property has no legal recourse. The Mayor called for the final vote, and the motion passed unanimously.

Resolution #668 - Foy Road Annexation-*Mr. and Mrs. Ronald Diem have submitted a petition for annexation for their property at Foy and Garland Road (Map 106 parcel 3). Included in the petition are eight small residential parcels that front on Foy Road. The entire length of Foy Road from Legion to Hobbs is included in the annexation. Hobbs Road is not included. The total area is 207.749 acres.*

Per the direction given at the July meeting the town attorney, Brynja Booth, prepared a resolution of annexation which was introduced at the August 1st meeting. The resolution and public hearing have been properly advertised, the annexation resolution and annexation agreement are presented for adoption consideration.

Staff advised the Council that the annexation agreements have not been executed yet and recommended waiting until that was completed.

Councilman Branson made a motion to table the adoption of resolution #668 until the annexation agreements can be executed, seconded by Councilman Gregory, the motion passed unanimously.

Staff asked for Council's approval to obtain the necessary signatures on the out parcels separate from the Diem annexation.

Councilman Branson made a motion to direct staff to secure signatures on the

agreements, seconded by Councilwoman Stockley, the motion passed unanimously.

Ordinance #499 Amendment of the Comprehensive Plan: This ordinance was presented for consideration of introduction at the direction of the Town Council. If adopted, it would amend Denton's Comprehensive Plan to include the "Stories of the Chesapeake Heritage Area" and implement the strategies of the Stories of the Chesapeake Heritage Area Management Plan.

Councilwoman Stockley made a motion to introduce Ordinance #499, seconded by Councilman Branson. In discussion at the request of Councilman Gregory an explanation of the memorandum of understanding was provided. With no further discussion, the Mayor called for the final vote on the motion. The motion passed unanimously.

Ordinance #500 Life Safety Inspector: At the July meeting the Council requested the Town Attorney to prepare an ordinance creating the position of Life Safety Inspector, and authorizing the position to work in conjunction with the State Fire Marshall on matters related to fire safety. The ordinance describes qualifications for the position, and duties of the inspector which will be paid by fees established by the Denton Fire Department. This item is presented for consideration of introduction.

Councilman Branson made a motion to introduce Ordinance #500, seconded by Councilman Foster. In discussion Councilman Branson provided an overview of the Life Safety Inspector and the job description. With no further discussion, the Mayor called for the final vote on the motion. The motion passed unanimously.

Ordinance #501 Life Safety Inspection Fees: An ordinance was presented for introduction consideration which would identify fees to be charged by the Denton Volunteer Fire Department to support the position of Life Safety Inspector. The ordinance would permit the town to collect the fees on behalf of the fire department, and forward the fees to them for services of the Life Safety Inspector. The fees are not retained by the town.

Councilman Branson made a motion to introduce Ordinance #501, seconded by Councilwoman Stockley. In discussion staff advised that they would probably not use this position to test fire hydrants as the Town public works department already does this. Brynja Booth, town attorney advised that the agreement give the Town the option to hire the inspector to test the hydrants. Councilman Gregory raised concerns about the Town collecting the fees and not receiving any administration funding for doing so. Staff clarified that they will collect the fees in the form of a separate check made out to the DVFD and forward the check, the same as they presently do for soil conservation.

With no further discussion, the Mayor called for the final vote on the motion. The motion passed unanimously.

Ordinance #502- Authorization to Sell # 9 N. Fourth Street (SmithProperty)- Fourth Street Redevelopment project to EIS AS LLC.

Requesting approval of Ordinance #502 authorizing the Mayor to execute the purchase contract agreement and all related settlement documents, for the sale of #9 N. Fourth Street (Parcel 823-Lot #1). See the attached detailed description of the terms of purchase. This ordinance is before the Council for introduction.

Councilwoman Stockley made a motion to introduce Ordinance #502, seconded by Councilman Branson, the motion passed unanimously.

Ordinance #503- Authorization to Sell # 8 N. Fourth Street- Fourth Street Redevelopment project to EIS AS LLC.

Requesting approval of Ordinance #503 authorizing the Mayor to execute the purchase contract agreement and all related settlement documents, for the sale of #8 N. Fourth Street. See the attached detailed description of the terms of purchase. This ordinance is before the Council for introduction.

Staff advised that the plat has not been recorded and recommended for the Council to hold off taking any action until this is completed. This item was deferred.

Reports of Officers, boards and committees

None

Unfinished Business

Agenda No. 1 -Tribbett Acquisition

Staff advised the Council that the property has been purchased. There was an additional \$2,000 paid at settlement over what had been previously discussed. The tenants are scheduled to start moving out around Sept. 26, 2005. The tenants are very appreciative with the Town's help in relocating.

Other Unfinished Business

Staff provided an update to the Council on the status of the Market St. project. The re-bidding of phase II will be going out soon.

The Gannon project is waiting on water and sewer plan amendment from the County

The County is not planning on taking any action on the West Denton project until December.

Staff met with Judy Schwartz, Engineer for GMB regarding the Wastewater Treatment Plant and the handling of sludge discharged. They will reconvene in two weeks.

Staff met with the Walmart group and they are planning to submit a concept plan to the Planning Commission.

Mayor Horsey referenced the weekly notes in regarding state retirement for Council members advising that he was not interested in receiving this benefit. Staff advised that in researching for Councilman Gregory they found that in June of 2004 it became mandatory for newly elected council members to participate. Previous Council members have the option of participating.

New Business

Agenda #1 - Tax Waiver Request for Continuation

Council reviewed a request from Ms. Kathryn E. Berkey, who is requesting to have her Tax Waiver status continue on her property. Ms. Berkey added her sons names to her deed, with her having life estate rights.

Councilman Branson made a motion to direct Town Staff and the Town Attorney to review for clarification on a waiver of what constitutes a change in ownership, seconded by Councilwoman Stockley, the motion passed 3-2 with Councilman Gregory and Mayor Horsey voting against.

Agenda #2 - Police Vehicle Acquisition

The Police Department requests permission to acquire 2 Ford patrol cars from Southwest

Public Safety in Texas. These vehicles will replace current vehicles that are no longer suitable for service. The new vehicles will include new electronic equipment to upgrade old equipment. One of the vehicles is a 2001 model and the other vehicle is a 2003 model, both with 60,000 miles. We have purchased these types of vehicles from this same company in the past with success.

Chief Cox provided an over view. Councilman Branson asked how staff will fund the difference that is over budget. Chief Cox advised that the budget allows for \$25,000, the price of these vehicles is over by \$3,744.90. He is looking to review budget line items to see where he can absorb additional expense. Chief advised that Provident Bank offered the lowest interest rate.

Councilman Branson made a motion to allow Chief Cox to purchase two vehicles obtaining a loan from Provident State Bank, seconded by Councilwoman Stockley, the motion passed unanimously.

Agenda #3 - Small Business Loan Application

Annette Literal has applied for \$10,000.00 in funds from the Town's Small Business Revolving Loan fund. She would like to own and operate a Tea Room at her residence at 329 Market Street (former Gabby's location). She is seeking funds to assist with her business start up. The Town's loan review committee has reviewed the application and provided a recommendation to the Board to disapprove the loan application.

Councilman Branson made a motion to decline the loan request, seconded by Councilman Gregory, the motion passed unanimously.

Agenda #4 - Chesapeake Culinary School - Interim Facility Lease

A building use and contract has been prepared to enable the Chesapeake Culinary School students to use the Union Bethel AME Church fellowship hall and kitchen facility for their training. A copy of the contract was provided to the Council. The contract would be between the Town and Union Bethel AME Church. The Council needs to agree or disagree to the contract terms.

Councilman Branson questioned who pays the daily fee. Staff responded that the rent is covered by a grant that the Town is administering from the Human Services Council. The Town currently provides the liability insurance. Staff will be working with Dr. Shirley of the Caroline County Board of Education on their next budget for to seek funding through them to continue the program. The Human Services Council grant will expire in June 2006.

Councilwoman Stockley made a motion to renew the lease, seconded by Councilman Gregory, the motion passed unanimously.

Agenda #5 -Denton Development Corporation

The Mayor requested an opportunity to discuss with the Council potential funding for the Denton Development Corporation. The Mayor advised that they DDC would like for Town Staff to send out letters seeking funding to cover the salary of the Denton Development Corporation Staff. All of the grants have dried up. The question was asked if we can solicit funds from Developers, and Brynja Booth advised that only if they negotiate with the developers at the time of annexation. They can ask for pledges to help defray the cost.

Councilman Branson made a motion to direct staff to seek option for funding for the Denton Development Corporation, seconded by Councilwoman Stockley, the motion passed unanimously.

Cahall Recycling Trash Service Request

A letter of request from Cahall Recycling was reviewed by the Council. Since the price of fuel has increased they are asking for consideration for an addendum to the current contract to include a \$40 a month fuel surcharge until the price goes below \$2.00 per gallon. This company presently provides trash collection service for the Town of Denton.

Discussion included concerns about setting a precedence, the price may never be below \$2.00 a gallon again. The Council took into consideration that this has been a good contractor with few complaints.

Councilman Foster made a motion to pay the fuel surcharge, seconded by Councilman Branson. Further discussion was held in which Councilman Branson questioned who determines the price of gas. Staff recommended for the Council to pay the surcharge until the end of the contract. With no further discussion, the Mayor called for the final vote on the motion. The motion passed unanimously.

Agenda #7 - Boys and Girls Club

A Board of Directors is forming for the Caroline Boys and Girls Club. This club would be under an umbrella of clubs on the Eastern Shore. The Board is seeking a proposal from Denton and Federalsburg for a potential facility. Ideally the best site would be the Armory, however there remains improvements which need to be completed there. Town Staff is requesting an opportunity to offer the Community Center at Fifth and High Street. The Boys and Girls Club would be staffed and would also have volunteers.

Councilman Branson questioned liability, and staff advised that the lease agreement would be structured to list the responsibilities and define the liabilities. Staff is seeking to have a cleaning agreement and remove that responsibility from town staff. Councilman Foster was concerned that the community center is too small. Mr. Robert Clendaniel commented that he sees this as a starting place.

Councilman Branson made a motion to offer for the Boys and Girls Club to use the Community Center facility as a temporary place, and for staff to make sure they are aware of the size, seconded by Councilwoman Stockley, the motion passed unanimously.

Agenda #8 -Vineyards Request for PN Zoning

Following a public hearing on July 26th the Planning Commission has forwarded a recommendation for the rezoning request of the Didonato family for their project known as the Vineyards at the corner of Legion and Foy Road. PN (Planned Neighborhood) zoning is a floating zone granted by the Town Council following a recommendation by the Planning Commission. Prior to granting said request the Council would conduct their own public hearing and enter into a Developer Rights and Responsibilities Agreement (DRRA). The Planning Commission would continue to review and monitor the infrastructure and architectural design of the project thru the subdivision development phase.

The Council may wish to schedule a working session with the town attorney and representatives of the project prior to scheduling a public hearing on the request.

Mayor Horsey asked for the Planning Commission members to be invited to attend the

working session.

Councilman Branson made a motion to hold a working session for this project, seconded by Councilwoman Stockley, the motion passed unanimously. Staff will set up a meeting time.

Agenda #9 Adult Oriented Business/Massage Establishment

A copy of the draft ordinances prepared by the Caroline County Commissioners was presented to the Council. Mayor Horsey requested that this be on the agenda for discussion.

Councilman Branson asked if the Town has the right to adopt an ordinance like the County. Brynja Booth advised that the Town can not ban this type of establishment, but can regulate where they can be located. Councilman Foster advised that it needs to be defined what is considered adult entertainment, then adopt an ordinance regulating. Brynja Booth recommended to involve the planning commission.

Councilman Branson made a motion to direct staff and the Town attorney to look into drafting an adult ordinance in the Town of Denton, seconded by Councilman Gregory, the motion passed unanimously.

Councilman Branson asked to amend to include the Planning Commission's view point, and staff advised that there was no need to amend as the Zoning Ordinance already has a clause included in it.

Agenda #10 - Caroline County Comments

This is an opportunity for the Council to discuss comments made by the County Commissioners on Denton which had appeared in the Times Record.

At 10:29 PM Mayor Horsey asked to hold an executive session to obtain legal advice, seconded by Councilman Gregory, the motion passed unanimously.

At 10:50 PM Councilman Branson made a motion to close the executive session, seconded by Councilwoman Stockley, the motion passed unanimously.

Councilman Branson made a motion to direct Town Staff and the Town Attorney to draft a letter to the editor of the Times Record in response to remarks made by the County Commissioners to be published in the paper, seconded by Councilwoman Stockley, the motion passed unanimously.

With no further business to discuss at 10:51 PM Councilman Foster made a motion to close the meeting, seconded by Councilman Gregory, the motion passed unanimously.

Respectfully submitted,

*Karen L. Monteith
Clerk-Treasurer*