

October 3, 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 September 12, 2005 regular meeting, seconded by Councilman Foster, the motion passed unanimously.

Public Hearing

Water Meter Fee

Mayor Horsey opened a public hearing at 7:02 PM for discussion regarding the proposed water meter fee, a fee proposed to be assessed quarterly on all municipal water system users with a meter of 3/4" or less. The fee of \$2.50 would become effective January 1, 2006 and would be included in the April 1, 2006 bill. Properties tied into the system with a meter larger than 3/4" will be responsible for the cost of their meter replacement.

The Mayor asked for any comments from the State - there were none

The Mayor asked for any comments from the County - there were none

The Mayor asked for comments from Staff - Mr. Scott Getchell, Superintendent of the Public Works provided an overview of the proposed fee and advised that this will allow the Town to establish a fund to replace water meters of 3/4" or less when they stop working properly.

The Mayor asked for any comments from the Public - Mr. Harry Cole of 309 S. 5th Ave. asked if there was a way that this could be adopted as a tax instead of a fee. Expressing if it was considered a tax on the property, then the homeowners could take as a deduction at the end of the year. Staff advised that this fee will be collected and used by the water fund which is a stand alone enterprise fund with no taxing authority. It will not be part of the general fund operating budget which is a taxing authority.

Mr. Jeff Wright of 316 S. 2nd St. inquired about being assessed the fee even if the meter is still working, and staff responded that the fee is scheduled to go over a 10 year period to help cover the cost of replacement when necessary.

Councilman Gregory asked if at the end of the 10 years will they be charged for a new meter, and staff advised no. Staff also explained that larger meters will not be assessed this fee but will have to pay for the meter at the time of replacement.

The Town Attorney, Ms. Brynja Booth expressed to both the Council and the audience that this ordinance allows the Town to charge the fee at \$2.50 per quarter, any changes in the fee will need to go through the same advertising and public hearing before adoption.

With no further business to discuss on this topic the Mayor closed this public hearing at 7:15 PM.

Petitions, Remonstrances and Communication

Mayor Horsey asked for consideration to approve the following proclamations:

Carl Scheffel - A proclamation for Carl W. Scheffel, Jr. in appreciation and gratitude for his contributions to the Denton Development Corp. and the Denton community as the Project Manager for the DDC.

Bells Chapel - proclamations in appreciation for the many years of service for Walter S.

Harris, Jr., Harry S. Hutchins and James L. Wayman.

Councilman Branson made a motion to approve the proclamations, seconded by Councilwoman Stockley, the motion passed unanimously.

Temple Lodge 128 Holding Corp - The Council reviewed a letter and photographs concerning trash removal from the Temple Lodge 128 Holding Corp. Mr. Jeff Wright a member of the Temple Lodge and tenant of 114 Market St. came before the council to express his concerns on the trash removal policy for the town and wanted the Town to review how they handle commercial property collections.

Mayor Horsey said that he noticed about 14 commercial properties that the Town presently pick up trash from. Staff advised that the Town does presently offer trash collection for small commercial properties that do not generate more than is allowed for a residential unit, which is up to 4 - 32 gallon cans. Staff asked the Council to review the totality of all commercial properties before making any changes to the policy and that any changes could also include other government agencies that presently do not pay any town taxes. Staff also reminded the Council of the discussion at a meeting a while ago with the public in which the Council chose to not make any changes at that time.

Councilwoman Stockley stated that in reviewing the letter and pictures it appeared as though the main concern was the abuse of the dumpster and that the property owner should take some kind of provisions to eliminate the problem. No decisions were made on this item.

Introduction and adoption of resolutions and ordinances

Resolution #668 - Foy Road Annexation

Mr. and Mrs. Ronald Diem 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. A public hearing was held on September 12th.

Per the direction given at the September meeting the town attorney, Brynja Booth, prepared a separate annexation agreement for the Diem property. The annexation resolution and annexation agreement are presented for adoption consideration.

Mayor Horsey asked for a motion from the Council, with no comments the Mayor advised that this item dies for a lack of a motion. This item was revisited later in the meeting.

Resolution #669 - Trice Meadows Public Works Agreement

A resolution was presented that would authorize the Mayor to sign a Public Works Agreement on behalf of the town for the Trice Meadows subdivision on Sharp Road. The public works agreement is a standard legal document prepared by the Town Attorney identifying the infrastructure improvement responsibilities of the developer, and the terms of the bond/letters of credit that must be posted. The subdivision is approved by the Planning Commission, appropriate agencies & the town's engineers.

Councilman Gregory made a motion to give permission for the Mayor to execute the Trice Meadows Public Works Agreement, seconded by Councilwoman Stockley. In discussion staff asked for permission for the Mayor to execute when the agreement was completed. The motion passed unanimously.

The Town Attorney reviewed parliamentary procedure with the Council and advised that

it was ok to have discussion on an item before making a motion.

Resolution #670 - DHCD Community Legacy Application - Staff requested approval of Resolution #670 and authorization to submit an application and execute a disclosure authorization certification for the 2005 Community Legacy Program to the Maryland Department of Housing and Community Development.

Councilman Branson made a motion to adopt resolution #670, seconded by Councilman Gregory, the motion passed unanimously.

Ordinance #498 Water Meter Fee - An ordinance which establishes a water meter fee at an initial rate of \$2.50 per quarter was presented to the Council for consideration. This is proposed to become effective January 1, 2006 and reflected in the April 1 billing. This would apply to 3/4" meters or less. A Public Hearing was required before this could be adopted. Ordinance #498 had been previously introduced, but has passed the 60 day period in which it can be considered for adoption (the delay due to the requirement to advertise and hold a public hearing.) This Ordinance was brought before the Council for consideration of introduction.

Councilman Branson made a motion to re-introduce ordinance #498, seconded by Councilwoman Stockley. Councilman Branson clarified that any changes in the fee would need to go through the same process before adopted. The motion passed unanimously.

Ordinance #499 - Amendment of Comprehensive Plan

This ordinance was introduced on September 12th. 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. Please see the recent correspondence from Eastern Shore Heritage Inc regarding the rejection of the Memorandum of Understanding.

Councilman Branson asked for the Town Attorney to provide an overview of the comments provided. Ms. Booth, Town Attorney advised the Council of the concerns of adopting the Ordinance with the changes that the state has suggested. These changes would amend the Town's Comprehensive Plan and the Attorney was concerned on how it will be implemented at the State level. Ms. Booth recommended that the Council adopt the ordinance as it was prepared by the Attorney and originally introduced at the last meeting and expressed the Planning Commissions concerns as well.

Mr. JOK Walsh advised the board that 4 counties and 11 municipalities have already adopted the plan. He would like to see Denton be able to obtain some of the funding that is available if this program is adopted, there are many places in Denton where the money can be used. Mr. Walsh advised that it was his understanding that the Town could drop out at any time.

Ms. Elizabeth Watson a representative for the Chesapeake Heritage Area program advised that there is some level of risk in participating in the program, but that it is intended to review historic preservation and provide resources, and that it does not reference water, sewer or development. Ms. Watson advised that the State will not allow any amendments.

Ms. Booth continued to recommended to the Council to adopt with the language that allows the Town's existing comprehensive plan to take priority, where there may be a conflict between plans, the Town's plan would take precedence.

Councilman Gregory stated that he did not see anything wrong with what the Town Attorney had prepared and expressed concern about how the program will be administered in

years to come. Ms. Booth advised that it will come down to interpretation.

Staff asked if there was a time frame that the Council needed to take action and Ms. Watson advised that they were looking for it to be done before the ESHI meeting on Oct. 31, 2005. But that there will be another round of funding consideration in March. Staff suggested to have the Town Attorney talk directly to the DHCD Attorney to work this out and if that could be done before the working session scheduled for Oct. 10, then maybe the Council could consider at that time.

Councilman Branson made a motion to have the Town Attorney contact Mr. Hughes with the State and work out the concerns, seconded by Councilwoman Stockley, 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. The ordinance was introduced on Sept 12th. This item is presented for consideration of adoption.

Councilman Branson made a motion to adopt Ordinance #500, seconded by Councilwoman Stockley, the motion passed unanimously.

Ordinance #501 Life Safety Inspection Fees

An ordinance was introduced on Sept. 12th 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. The ordinance was presented for consideration of adoption.

Councilman Branson made a motion to adopt Ordinance #501, seconded by Councilwoman Stockley, 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). A detailed description of the terms of purchase was provided to the Council.

Staff provided a memo to the Council asking them to hold off adopting this ordinance so that some further research can be completed.

Councilman Branson made a motion to defer until the November 7, 2005 meeting per memo provided by staff, seconded by Councilwoman Stockley, the motion passed unanimously.

Ordinance #503- Authorization to Sell # 8 N. Fourth Street- Fourth Street Redevelopment project. 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 to Leslie Schwing, LLC. A detailed description of the terms of purchase was provided to the Council.

Councilman Branson made a motion to introduce Ordinance #503, seconded by Councilwoman Stockley, the motion passed unanimously.

Ordinance #504- Authorization to Sell Lot 9A in Denton Industrial Park. Hershey Creamery Company would like to enter into an option agreement to purchase Lot 9A in the Denton Industrial Park. The option would be valid for six months. This ordinance is before the Council for introduction.

Councilman Branson made a motion to introduce Ordinance #504, seconded by Councilman Foster, the motion passed unanimously.

Councilman Gregory asked for an opportunity to revisit Resolution #668, and the Mayor said they would come back to it later.

Reports of officers, board and committees

Mayor Horsey provide the Council with upcoming dates of events that they may want to consider participating in.

Unfinished Business

Agenda #1 -Tax Waiver Request for Continuation- At the request of the Denton Town Council, Town Attorney, Brynja Booth prepared a letter which provides the Council with background to consider the continuation of the Tax Waiver for Ms. Kathryn E. Berkey.

Councilman Branson made a motion to continue the tax waiver status with the clarification being made by the attorney, seconded by Councilwoman Stockley, the motion passed unanimously.

Agenda # 2 - Caroline County Comments- A draft letter prepared by Brynja Booth, for the Newspaper and a copy of the letter from the County with regards to the Diem Annexation and a draft response for the Council's consideration of a reply were provided to the Council for consideration.

This item was placed on hold until after the executive session.

Other Unfinished Business

None

New Business

Agenda #1 - Utility Commission Appointments – The Utility Commission requests the Town Council to appoint Mr. Albert McCullough and Mr. Andy Mackel to serve on the Commission. Both are residents of Denton. Please refer to the Utility Commission's September 22, 2005 meeting minutes for more detail.

This item was placed on hold until after the executive session.

Agenda #2 - Transfer Development Rights - The draft guidelines being considered by Caroline County regarding TDR's was provided to the Council. Brynja Booth reviewed the draft and provided a letter concerning the proposed amendments.

Councilman Branson made a motion that he was totally apposed to TDR and entering into an agreement with the County, seconded by Councilman Gregory, the motion passed unanimously.

Agenda #3 - County Commissioner Meeting- A copy of the invitation from the Caroline County Commissioners to meet with the entire Denton Town Council was provided to the Council. They have tentatively set up a meeting for Tuesday, October 25 at noon at the Christ Episcopal Church.

Councilman Branson asked for an opportunity to seek legal guidance in executive session, this item was deferred until later in the meeting.

Agenda #4 - Burning Ordinance- *At the September 12th meeting there was discussion with regards to Denton's existing Burning Ordinance. A copy of the ordinance was provided to the Council. This item is on the agenda for further discussion.*

Councilman Branson made a motion to direct the Town Attorney to write an ordinance to eliminate any burning in town with the exception of controlled burning by the Fire Dept. and to raise the fine to \$100, Councilman Gregory amended the motion to raise the fine to \$500. Discussion started before the motion was seconded, and the motion was withdrawn by Councilman Branson. Staff asked the Council to define no burning, what was being proposed would not allow anyone to light a candle, use a grill, etc. The burning issue was reviewed due to a complaint about outside burning in containers and the Police Chief asked for a definition on the types of approved burning containers.

Councilman Branson made a motion to refer to the Town Attorney and Staff to review for amendment, seconded by Councilman Gregory, the motion passed unanimously.

Agenda #5 - Stormwater Management Ordinance- *There was brief discussion regarding the Town's stormwater management ordinance with reference to fencing. Presently Denton's Ordinance does not require any fencing. Often a stormwater management structure may become a feature of a developed area. A copy of the ordinance was presented to the Council for further discussion.*

Staff advised that they were in the process of polling other communities to see how they handle stormwater management during and after construction. Staff advised that some of the responsibility falls back on the parent, the incident that was referenced in the last meeting had a lot to do with children being unaccompanied. Staff advised that the projects are inspected daily and asked to allow staff to finish obtaining information from other communities. Staff referenced that it would be no different in some of the other areas in town and that you can not fence the river.

Councilman Foster referenced CTPEDs and suggested that during the environmental design perhaps these items be considered.

Mayor Horsey asked if sidewalks and stormwater liabilities should be handled the same, and the Town Attorney advised they are not the same. The Town Attorney advised that most of the time stormwater management ponds are privately owned by the homeowners association and not the Town. Discussion went on that usually once a project is completed the Town takes over the infrastructure such as water/sewer lines, the streets are dedicated to the Town. The Town Attorney stated that what the Town takes over to maintain once the project is complete is really depends on the how the public works agreement is defined.

Councilwoman Stockley made a motion to refer to Ms. Shull and staff to continue their research for the Council to review, seconded by Councilman Gregory, the motion passed unanimously.

Other New Business

Executive Session

Mayor Horsey asked for a motion to hold an executive session to seek legal advice on the Utility Commission appointment request and County Issues.

Councilman Branson made a motion to hold an executive session at 8:52 PM, seconded by Councilman Gregory, the motion passed unanimously.

At 9:40 Councilman Branson made a motion to close the executive session and reopen the regular meeting, seconded by Councilman Foster, the motion passed 4-1 (Councilman Gregory excused himself for a minute)

Resolution #668 - Diem Annexation

Councilman Gregory returned.

Councilman Branson made a motion to adopt Resolution #668, seconded by Councilman Gregory, the motion passed unanimously.

Ms. Booth asked for a separate motion from the Council to allow for the execution of the annexation agreements that go with the resolution.

Councilman Gregory made a motion for the adoption of the two annexation agreements that were attached to the Diem annexation resolution #668, seconded by Councilman Foster, the motion passed unanimously.

New Business #1 - Utility Commissioner Appointments

Councilman Branson made a motion to appoint both Mr. Albert McCullough and Mr. Andy Mackel to the Utility Commission, seconded by Councilwoman Stockley. Councilman Gregory asked to amend the motion to have the vote on both individuals separately, the amendment was seconded by Councilman Foster, all were in favor of the amended motion.

Mayor Horsey called for the vote for Mr. Albert McCullough, the appointment was approved with the vote being 3 for and 2 against, Councilmen's Gregory and Foster voting against.

Mayor Horsey called for the vote for Mr. Andy Mackel, the appointment was approved with a unanimous vote.

Old Business

Agenda # 2 - Caroline County Comments

Staff asked for action authorizing the submission of a letter to the Times Record in response to the County comments on Town planning and for a letter to be sent to the County in response to their letter regarding the Diem Annexation and for a third letter with comments from the Attorney to be sent to the County regarding the proposed TDR plan.

Councilman Branson made a motion to send three letters as requested to the Caroline County Commissioners and the Times Record, seconded by Councilman Gregory, the motion passed unanimously.

With no further business to discuss Councilman Branson made a motion to adjourn the meeting at 9:45 PM, seconded by Councilman Foster, the motion passed unanimously.

Respectfully submitted,

*Karen L. Monteith
Clerk-Treasurer*