

April 5, 2012

Regular Meeting

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

Councilman Clendaniel recommended a few typo corrections on the March 1, 2012 minutes on page 3183 and 3184. Councilman Danielson made a motion to approve the minutes of the March 1, 2012 regular meeting as amended and the minutes of the March 15, 2012 working session, seconded by Councilman Clendaniel, passing 4-0. With Councilwoman Case abstaining, stating that it would be hard to include all that was said and to fairly represent the intentions of what was discussed.

Public Hearing

None

Petitions, Remonstrance's and Communication

Proclamation – Mrs. Catherine Mason

Mayor Porter read a proclamation honoring the life of Mrs. Catherine Mason a life-long resident of Denton for 96 years.

Community Garden Pathway Project Withdrawal Letter

Discussion was held on a letter received from Linchester Trading Company LLC withdrawing their design and build proposal for the Pedestrian Pathway and Rain Harvest System for the ArtsWay.

Mayor Porter asked what the Town's options are.

Mr. Mulrine advised that he had contacted the other bidder, Harper & Sons, with regards to changing the materials included in their bid to be similar to those that Linchester Trading had originally proposed. The change would raise Harper & Sons bid price from \$47,906 to \$58,878. The Town has secured \$50,000 in grant funds for the project. Mr. Mulrine advised that there are two options; one to work with the Harper & Sons to scale back the project to fit within the allotted grant funding, or to seek new bids. The grant requires that work begin in June.

Councilman Danielson asked why such a difference in the proposals between Linchester Mill and Harper & Sons.

Mr. Glenn Collins, Project Manager for the DDC, said that it was a combination of factors, more than likely because Harper & Sons is a larger company, where as Mr. McCrea, Owner of Linchester Mill and as a business man of the community, would have done most of the work himself.

Councilman Danielson expressed disappointment if Mr. McCrea has withdrawn his bid and it has anything to do with Councilwoman Case's comments of being ethical.

Councilwoman Case said that she had felt it was a conflict of interest and that she did not say it was unethical.

Mayor Porter called the meeting to order and clarified that Councilwoman Case had abstained from voting and that she had stated that it was a conflict of interest and that it could be unethical.

Mr. Mulrine said that he could work with Harper & Sons to scale back the design. They could look at eliminating the rain barrel system to stay within the funding approved.

Councilman Gregory asked what was recommended.

Mr. Mulrine said that with the Microenterprise facility nearing completion, that it would be a benefit to get the pathway completed, as well as to comply and meet the grant requirements of starting the project in June.

Mayor Porter acknowledged that there seemed to be several in the audience from the Business Community and he asked for their opinion.

Mr. Tolbert Rowe, VP of the Downtown Main Street Board, said that they are planning for this year and next year, getting the pathway done is beneficial to the rest of the business community. He raised a concern that if the bids received were legal, there should be nothing unethical to question. He confirmed that the dollar amount of the bid that was awarded covered the scope of work and was under the allotted funding. He said that having to pay Harper & Sons \$57,878 now as opposed to the opportunity the Town had to pay Linchester Mill \$43,589 for the same thing was concerning. Mr. Rowe said that as a tax payer having to take \$14,000 less in amenities because there were some innuendos, from what he was gathering and interpreting from the statements this evening, is disheartening. He said this could be diminishing, that the Town should be trying to build business in the community.

Mrs. Susan Chambers asked why we do not want to try and keep our local people, in business in our community and providing work for them.

Mrs. Sue Cruickshank stated that she did not think anyone had said anything derogatory; just that it was a conflict of interest and that she felt it was derogatory that he withdrew.

Councilman Danielson questioned what Mr. McCrea's connection to the DDC was that would have created a conflict of interest.

Mr. Glenn Collins, Project Manager for the DDC, explained that Mr. McCrea owns property that leases space to the Downtown Main Street Board that ~~inter~~ (in turn) allows the DDC to occupy part of their space. He added that Mr. McCrea's partner in the property sometimes works for the DDC.

Councilman Danielson said that it is not fair to punish someone because of their affiliation.

Councilman Gregory stated that we don't know the real reason why the bid was pulled. But that it was inferred at the last meeting that it was unethical. He expressed his disappointment in that the Town Council was obtaining a history of not favoring downtown projects.

Mayor Porter added that they live in a small town, and that they can not eliminate every potential conflict.

Councilman Danielson asked if the Artsway Project was a DDC Project.

Mr. Collins said not directly, he explained that the DDC wrote the grant over a year ago on behalf of the Town of Denton and that the Arts Council is managing the project.

Councilman Gregory asked if the Town could go back and ask Mr. McCrea to reconsider withdrawing.

Ms. Abby Hill, Town Attorney, said since the bid was withdrawn that the Town can not go back and ask him to reconsider without rebidding the entire project.

Mr. Mulrine shared that the Town's Historical Review Board approved using the pavers and recommended that the Council authorize him to work with Harper & Sons to scale back the project in order to meet the project start date deadline in June.

Councilman Gregory asked about filing for a grant extension.

Mr. Mulrine responded that CDBG is putting restriction on extension of grants so that projects move forward within the allotted time frame.

Mr. Collins added that the State has been notified of the bid status and that they recommended working with the other bidder.

Councilman Danielson made a motion to contact Harper & Sons to work with them to bring the project within the scope of the grant funds, seconded by Councilman Gregory, passing unanimously.

Ordinances and Resolutions

Resolution # 767 – Parking Meter Fees

A Resolution of the Town of Denton proposing to increase the parking meter rates from \$.25 an hour to \$.50 an hour.

Councilwoman Case made a motion to adopt Resolution #767, seconded by Councilman Danielson, passing unanimously.

Resolution #768 – FY2012 General Fund Budget Amendment

A Resolution of the Denton Town Council to adopt the General Fund Budget amendments for the Fiscal Year July 1, 2011 through June 30, 2012. The Resolution reflects the updated year-end projections based on the actual activity that has occurred from July 1, 2011 through March 31, 2012.

Councilman Clendaniel made a motion to adopt Resolution #768, amending the FY2012 General Fund Budget, seconded by Councilwoman Case, passing unanimously.

Ordinance #642 –Amending Parking Violations

An Ordinance to amend certain provisions of Chapter 120 of the Town of Denton Code, relating to parking rules and parking violations. This Ordinance proposes to increase the over-parked citations to \$20.00, allow free parking on Saturdays, and change the hours of free parking at the meters on Monday through Friday's to be from 5PM – 8AM.

Councilwoman Case made a motion to introduce Ordinance #642, seconded by Councilman Clendaniel.

In discussion: Chief Cox mentioned that all of the other parking fines seemed to be in-line with surrounding communities.

Mayor Porter said that for the record that he wants to make sure that everyone understood that this would raise the over-parked fine from \$5.00 to \$20.00.

Councilman Clendaniel recommended that staff research allowing and accepting payments online.

With no further discussion, the Mayor called for a vote on the motion on the floor to introduce Ordinance #642. The motion passed unanimously.

Reports of Officers, Board and Committees

None

Unfinished Business

Agenda #1 -Dollar General Site - Offer Review

An offer has been received for the purchase of the Dollar General Lot at Third and Market Street in Downtown Denton. The \$40,000 offer is below the minimum purchase requirement set by CDBG. The offer has been rejected by CDBG. The bid received is also lower than the appraisal of \$140,000 received in June 2011. The Council was provided a letter from the Department of Housing and Community Development

outlining the repayment requirements in order to release the town of the grant restrictions and requirements.

Councilman Danielson made a motion to send the property out to bid, seconded by Councilman Gregory.

In discussion, Councilman Clendaniel questioned needing more parking.

Staff mentioned that the property is in a valuable location and if sold that it can be placed back on the tax roll and the Town will begin to receive tax revenues.

With no further discussion, the Mayor called for a vote on the motion on the floor to seek bids. The motion passed 4-1 with Councilman Clendaniel voting no.

Other Unfinished Business

Subrecipient Agreement – DDC/Town for Crouse Park

Mr. Mulrine said that back in September 2011 that the Council had originally discussed entering into the Subrecipient Agreement with the DDC for the Crouse Park – CDBG Grant. At that time, the Council did not take any action and questioned if this was just a formality. Staff has confirmed that the State has approved the transfer of the grant from the County to the Town, and that as a formality they are waiting on the Subrecipient Agreement to finalize everything.

Councilman Danielson made a motion to authorize the Mayor to sign the CDBG Subrecipient Agreement between the Town and the DDC for the Crouse Park CDBG Grant for \$600,000. The motion passed 4-1, with Councilwoman Case voting no.

New Business

Agenda #1 Police Department Grant

At the March 15th working session, Chief Cox announced that Homeland Security Grant funding has been awarded to the Denton Police Department in the amount of \$7,754.68 for installing security cameras in the Department's Mobile Command Unit. In order to meet the deadline of the grant, the Council provided support and approved for the Chief to move forward in expending the grant funds at the March 15th working session. This item is placed on tonight's agenda to provide an opportunity for the Council to ratify their approval during a regular meeting.

Councilman Danielson made a motion to ratify their support and approval for moving forward with expending the grant funds to meet the grant requirements, seconded by Councilman Clendaniel, passing unanimously.

Agenda #2 Well 6 Bid Award & CA Agreement

Mr. Scott Getchell, Director of Public Works, provided the project summary of Well #6 to the Council. He asked, that contingent upon receiving adequate funding from MDE, for the Council to consider approving the lowest bid of \$544,256 from A.C. Schultes of Delaware to drill Well 6 and construct all associated appurtenances. In addition, Mr. Getchell asked for consideration to approve the construction, administration and inspection proposal from GMB, who designed this project in 2009, for the sum of \$65,500. The town has been awarded a grant from MDE for \$498,000. A formal request has been submitted to MDE to increase the grant by the amount of \$190,675.

Councilwoman Case made a motion to accept the proposal, contingent upon additional funding from MDE, seconded by Councilman Clendaniel. The motion passed unanimously.

Agenda #3 – Dan Foster/Allston Annexation Amendment/Reclassification of Zoning

A request from Mr. Robert Jarrell, Attorney for Dan Foster, for a reclassification of zoning on the Allston property annexed into the town as Rural Agriculture (RA) with a “PNE” (Planned Neighborhood Eligible) Overlay Zoning was reviewed by the Council. The applicant has requested the zoning classification for the property to be changed to Regional Highway Commercial (RHC).

Mr. Mulrine added that this item was discussed at the December 8, 2011, Town Council Meeting. Town procedures for an amendment (§128-167) requires the Town Council to refer the request to the Planning Commission for an investigation and recommendation to the Town Council.

Councilman Danielson made a motion to defer the request to the Planning Commission for a recommendation, seconded by Councilman Clendaniel, passing unanimously.

Agenda #4 - General Fund FY2013 Budget

As required by the Denton Town Charter, the first submission of the General Fund FY2013 budget was presented to the Town Council with a summary of the changes from the current year.

Mr. Mulrine announced that each Department Head will be present at the April 19, 2012 working session to provide an overview of their proposed requests for FY2013 and to answer any questions. As presented the General Fund budget proposed expenditures are estimated to be \$269,236 over the estimated revenues. Staff recommended that the Council may wish to set up additional working sessions to go over the budget details to work toward a successful adoption by the June 7, 2012 deadline.

Staff also provided information that based on the State Constant Yield Tax Rate notice the Town is exempt this year from having to hold a separate constant yield hearing unless the Council is considering increasing the Real Estate Tax Rate.

Staff advised that, in order to meet the County Tax Office deadline for billing that the FY2013 Tax Rates must be set in May.

Discussion will continue at the April 19, 2012 working session at the Denton Town Office at 6:00 PM.

Agenda #5 MML Nominations for 2012-2013 MML Board of Directors

The Maryland Municipal League is seeking nominees for their upcoming Board of Director’s Election on June 26, 2012. The Council was asked to review and submit nominations, if interested in participating.

Councilman Clendaniel said that he would consider nominating Councilman Gregory if he was in support of this.

Councilman Gregory asked for some time to consider, as this would require a lot of time and travel expense to attend the meeting in Annapolis and for campaigning.

No decision was made at this time.

Agenda #6 - Tornado Drill Volunteer

The County will be conducting a Tornado drill on April 26, 2012 from 9a.m.-12p.m. They would like to have a representative from each Municipality present during the drill. The Council is respectfully requested to appoint a volunteer to represent the Town during this drill.

Councilman Gregory added that during the local Association of Municipalities meeting that it was recommended that Denton have someone participate in the training exercise that would be the point of contact for the other municipalities to relay needs to the Central Command Unit, should an event occur in the County.

This item will be discussed further at the April working session.

Agenda #7 - Tanglewood Conservatories, LTD

A letter has been received from CNB (Centreville National Bank) requesting the Town of Denton subordinate their lien position on East Shore Development, LLC (operating company is Tanglewood Conservatories) business loans from first place to third place.

Staff advised that Tanglewood currently has two business loans with the Town. The first 20 year loan began in 1997 in the amount of \$23,000. This loan has a current balance of \$10,188 and will end in 2017. The second 20 year loan began in 1999 in the amount of \$44,000. This loan has a current balance of \$20,340 and will end in 2019. Tanglewood is a well established business in the Industrial Park and staff confirmed that there is no history of late payments for either loan.

Councilman Danielson made a motion to approve the subordination, seconded by Councilwoman Case, passing unanimously.

Agenda #8 - Denton Child Development Center

The Denton Child Development Center is applying for USDA funding to repair their roof which is approximately 23 years old. A draft letter of support was provided for the Council to review and consider approving for the Mayor to sign it.

Mayor Porter recommended confirming the dates the facility was built before signing the letter.

Councilwoman Case made a motion to approve for the Mayor to sign a letter of support for the DCDC, seconded by Councilman Clendaniel.

In discussion, and for the record, Mayor Porter disclosed that his child attends the DCDC for child care.

The motion passed unanimously.

Miscellaneous

Maryland Municipal League Convention

Attending the MML Convention was cut from the FY2012 budget. Mr. Mulrine said that there is funding for Council members to attend the one day session on Tuesday, June 26.

Councilman Gregory made a motion to authorize for Council members to attend the one day; seconded by Councilman Danielson, passing unanimously.

Earth Day

Mr. Getchell reminded everyone that the Denton Public Works Dept. in partnership with the Mallard Landing Home Owners Association will be cleaning out the stormwater ponds on April 21, 2012. Mr. Getchell invited and encouraged everyone to join them.

Closed Session

At this time the Mayor entertained a motion to hold an Executive Session for discussion on the Town Administrators Performance Evaluation, by Authority of the 2009 Md. Code, State Government 10-508(a)(1) and to obtain legal advice.

At 8:31 PM Councilman Danielson made a motion to hold an Executive Session to discuss the Town Administrators performance evaluation, seconded by Councilman Clendaniel, the motion passed unanimously.

The Council took a short break while waiting for others to leave the room.

At 8:39 PM the Council reconvened to hold the Executive Session.

All Council members were present as well as Mr. Don Mulrine, Town Administrator, and Ms. Abigail Hill, Town Attorney.

The Council held discussion on the Town Administrators performance evaluation and reviewed his employment contract.

At 9:07 PM, Councilman Danielson made a motion to close the Executive Session and reopened the regular meeting, seconded by Councilman Gregory, passing unanimously.

With no further discussion, Councilman Danielson made a motion to close the meeting at 9:08 PM, seconded by Councilman Clendaniel, passing unanimously.

Respectfully submitted,

*Karen L. Monteith,
Clerk - Treasurer*

Minutes amended at the May 3, 2012 as following:
(Brackets) indicate new ~~Strike~~ through indicates deleted.

Correction made on page 3196, paragraph 7 to change the wording from ~~intern~~ to (in turn)

See the May 3, 2012 minutes for additional clarification on the following items:

Pg 3196 - (paragraph 3) – discussion on Community Garden Pathway

Pg 3197 – Agenda #1 – Dollar General Site

Pg. 3198 – Other Unfinished Business – Subrecipient Agreement