

## **Law & Legislature Committee Meeting**

### **July 25, 2023**

Present: Nick Smith, Shaun Flatter, Ryan Paisley, Mary Ellen DeBenedictis, Town Manager Robert Cote, and Sue Muncey were in attendance.

Mr. Paisley brought the meeting to order at 6:00 p.m. Mr. Carrow was excused from the meeting.

#### **Discuss and Vote on Ordinance #202302 – An Act to Amend Section 8.2 of the Clayton Municipal Code related to the Town Foreman**

Mr. Paisley stated the Town Foreman is no longer a position employed by the town and has been changed to the Town Manager. Therefore, the intent was to strike the entire ordinance. The Solicitor weighed in on this. The recommendation is to strike the reference of Town Foreman and replace with Town Manager. Section 8.2-1.1 should read: The Town Council determines that the people of the Town of Clayton would be best served by creating the position of the Town Manager, and that individual serving as the administrator under the Town of Clayton's Zoning Ordinance, granted with the power to enforce the zoning ordinance and other ordinances of the Town of Clayton which result in a civil summons. There were also a couple of grammatical corrections made. The Code Enforcement Officer will get his direction from the Town Manager. Section 8.2-1.2 to include but not limited to his/her designee. Mr. Paisley requested a motion to recess for five (5) minutes in order to retrieve a digital copy of the existing ordinance that the committee could make changes to.

*Mr. Smith made a motion at 6:17 p.m. to recess the meeting for five (5) minutes. Mr. Flatter seconded the motion. Motion carried unanimously.*

*Mr. Smith made a motion at 6:22 p.m. to reconvene the meeting. Mr. Flatter seconded the motion. Motion carried unanimously.*

Mr. Paisley stated in Section 8.2-1.3 change Town Foreman to Town Manager. Mr. Paisley asked for a motion recommending that Council pass the ordinance as amended.

*Mr. Smith made a motion to accept Section 8.2 of the Town Ordinance as amended in this meeting. Ms. DeBenedictis seconded the motion. Motion carried unanimously.*

#### **Discuss and Vote on Ordinance #2023-03 – An Act to Amend Section 1.2-7 of the Clayton Municipal Code related to Water Meter Connection and Enforcement Thereof**

Mr. Paisley stated the water system was sold to Artesian Water Company. Section 1.2-7 should read Mandatory Water Meter Connection within the Town Clayton. Section 1.2-7.1(a) should read: Every property within the municipal limits of the Town of Clayton shall have a water meter. It shall be the responsibility of the property owner to purchase and have installed all meters and accessories from

Artesian Water Company Inc. Section 1.2-7.1 (b), (c), (d), (e), (f), (g), and (h) should be removed in its entirety. Section 1.2-7.2, 1.2-7.3, 1.2-7.4, and 1.2-7.5 should be removed in its entirety. Mr. Paisley asked for a motion recommending that Council pass the ordinance as amended.

***Mr. Smith made a motion to accept and adopt Section 1.2-7 of the Town Ordinance as amended in this meeting. Mr. Flatter seconded the motion. Motion carried unanimously.***

### **Discuss and Vote on Ordinance #202304 – An Act to Amend Section 1.3-1 of the Clayton Municipal Code related to Requirements for Installation and Repair of Sidewalks**

Mr. Paisley stated the title should change to Sidewalks Within the Town of Clayton. In Section 1.3-1.1 Town Foreman should state Town Manager. Section 1.3-1.2 shall read: No building permit shall be issued unless and until the plans for the sidewalk shall have been set forth on the plans submitted and approved by the Town Manager or their designee. Section 1.3-1.2 shall be Section 1.3-1.3. Section 1.3-1.3 shall be 1.3-1.4. Town Foreman should be changed to Town Manager or their designee. Section 1.3-1 should read 1.3-1.5. The second line should say 1.3-1.4. Mr. Smith stated if they sell their property, how do we get paid? Mr. Cote referred to the next section. Mr. Smith stated there is nothing in place to collect our money. Ms. DeBenedictis stated Main Street belongs to the State. Ms. DeBenedictis asked what the Charter states. Mr. Paisley stated the Charter was changed. Mr. Paisley read the new section in the Charter. Mr. Cote questioned Section 1.3-1.2. Ms. DeBenedictis stated we should remove. Mr. Smith agreed. We need to change to Town Manager or designee. Ms. DeBenedictis questioned if tree roots grow under the sidewalk and they won't fix it. Mr. Smith stated for Section 1.3-1.5 change to due annually and remove with taxes. Mr. Paisley stated Section 1.3-1.9 has a new supremacy clause. Section 1.3-1.5(a) says 90 days, the Charter says 30 days. Recommended to change to 30. Mr. Smith stated to leave as is. They have 90 days to complete and 30 days to respond. Mr. Flatter wanted to reiterate we are removing annual taxes and changing to an annual bill. Section 1.3-1.5 (b) shall read: If the Town of clayton elects to repair, replace, or install sidewalks on, adjoining, along, or in front of properties owned by persons who share of the repair, replacement, or installation costs are under \$2,000.00, they will be permitted to pay the costs in five (5) equal payments due annually with a 9% APR interest added to the payment. Each payment shall be equal to twenty percent (20%) of the total cost of the repair, replacement, or installation, plus interest; or. Section 1.3-1.5 (c) shall read: If their share of the repair, replacement, or installation costs exceed \$2,000.00, that property will be permitted to pay the cost in ten (10) equal payments due annually with a 9% APR interest added to the payment. Each payment shall be equal to ten percent (10%) of the total cost of the repair, replacement, or installation, plus interest; or. Section 1.3-1.5 (d) shall read: If the Town of Clayton elects to repair, replace, or install sidewalks on, adjoining, along, or in front of properties owned by persons who cannot fulfill the options set forth in 1.3-1.5 (a), (b), or (c), that property owner may petition the Town Council for a public hearing where they can request an exclusive contractual agreement to resolve the specific issue(s) with their sidewalk(s). However, the Town Council will be the sole and final judge of whether or not the situation warrants such an agreement. If the Town Council affirms by majority vote to pursue an exclusive contractual agreement, the Mayor or his designee shall enter into negotiations with the petitioner over the terms and conditions of the agreement, which shall include, by way of example and not limitation, the total cost of the project, the amount of time the petitioner has to fulfill their obligations under the agreement, and any

other stipulations that the Mayor and Council shall deem necessary and expedient. Once an agreement has been reached between the parties, the Town Council shall affirm it by majority vote to allow the Mayor to sign it. Section 1.3-1.5 shall be Section 1.3-1.6 and shall read: Should the owner or owners of the property fall subject 1.3-1.5, a lien will be assessed against their property, provided, however, that the owner or owners of the property shall be accorded an opportunity to be heard. Section 1.3-1.6 shall be Section 1.3-1.7 and shall read: All sidewalks shall be constructed pursuant to regulations established by the Town of Clayton, Kent County Levy Court, and the State of Delaware and shall be no less than 4 feet in width and shall be installed with a grade to permit drainage to the street. Section 1.3-1.7 shall be Section 1.3-1.8 and shall read: All sidewalks shall be completed according to the Town of Clayton's regulations and specifications as set forth in Section 1.3-1.7 above. These specifications may be updated as necessary and shall be available to all property owners. Section 1.3-1.9 is a new subsection. It shall read: Compliance with the Town Charter. If, at any time, the provisions of this article come into conflict with the Charter of the Town of Clayton as it stands or is hereafter amended – subject to applicable law, the Charter shall govern and take supremacy over this ordinance. Mr. Paisley asked for a motion recommending that Council pass the ordinance as amended.

***Ms. DeBenedictis made a motion to accept Section 1.3-1 as amended in this meeting. Mr. Flatter seconded the motion. Motion carried unanimously.***

#### **Discuss and Vote on Ordinance #202305 – An Act to Create Section 2.1-2 of the Clayton Municipal Code related to the Public Alcohol Prevention Act**

Mr. Paisley stated the Public Alcohol Act is a new ordinance prohibiting open containers and consumption of alcohol in town parks, sidewalks, and streets. Mr. Flatter asked if this was an issue. Mr. Smith stated no. Mr. Paisley stated this is well rounded in State law. Mr. Paisley stated he had a list of municipalities who have a similar ordinance. He stated children are on our sidewalks. Mr. Smith stated he has an issue with it. Mr. Smith and Mr. Paisley proceeded to have a discussion about this. Mr. Flatter asked if the police have authority. Mr. Smith stated only if intoxicated. Mr. Smith stated he does not agree with it. It is a solution for a problem we do not have. Mr. Flatter stated he was in mind with the Mayor. Is this what is needed? It is an overreach for us. Mr. Smith stated once you allow it, we accept the liability. Mr. Paisley stated it is a well-rounded provision. What is the benefit of having an open container? Mr. Paisley asked for a motion recommending that Council pass the ordinance.

***Ms. DeBenedictis made a motion to accept Ordinance 2.1-2 reference alcoholic beverages. Mr. Paisley seconded the motion. Mr. Paisley asked the Recording Secretary for a roll call. Mr. Smith voted no. Mr. Paisley voted yes. Mr. Flatter voted no. Ms. DeBenedictis voted yes. Mr. Paisley reported the ordinance was defeated in committee.***

## **Discuss and Vote on Ordinance #202308 – An Act to Amend Section 1.2-6 of the Clayton Municipal Code related to Water and Sewer Service**

The title of this section shall be known as Sewer Service. Section 1.2-6.1 (a) shall read: Supervision and Control. The Town Manager shall have supervision and control of the municipal sewer system. Owned or operated by the Town of Clayton, whether located within or without the municipal limits of the Town. Section 1.2-6.1 (b) (1) shall read: Right to inspect. The Town Manager or any agent or employee of the Town of Clayton duly authorized for that purpose by the Town shall have the right to inspect any premises within the Town of Clayton or, if connected to the Town sewer, any premises outside the Town of Clayton during normal business hours and upon reasonable notice to the owner or occupant for any purpose within the scope of this article. Section 1.2-6.1 (b) (3) (i) – remove water and/or in the first line. Section 1.2-6.1 (b) (3) (ii) – 1.2-6.10 shall read 1.2-6.7. Section 1.2-6.1 (b) (3) (4) (i) – remove water and/or from the second line and water and from the third line. Section 1.2-6.1 (b) (3) (4) (iii) delete water and/or from the second line. Mr. Paisley stated in Section 1.2-6.2 we need to coordinate with Artesian Water Company. Section 1.2-6.2 – the title shall read: Obligation to connect to town sewer systems where available. Section 1.2-6.2 (2) shall read: Water. Where any land and/or building(s) abuts a street, alley, or way in the Town of Clayton in which there is an Artesian Water Company water main, it is the responsibility of the owner of such land and/or building(s) to coordinate the connection of all plumbing facilities on such land or in such building(s) with Artesian Water Company. Section 1.2-6.2 (c) – remove water and/or from the second and third line. Change 1.2-6.10 to 1.2-6.7 in the fifth line. Section 1.2-6.3 shall read: Connections to town sewer system; violations; connection fees; repair fees. Section 1.2-6.3 (a) – remove and/or water from the second line. Remove water and from the fourth line. Section 1.2-6.3 (b) – change 1.2-6.10 to 1.2-6.7 in the second line. Section 1.2-6.3 (c) shall read: Town's responsibility. In connecting any premises to the Town sewer system, the Town of Clayton will extend service from the sewer main to the edge of the public street, alley, way, or thoroughfare abutting the property to be connected and will provide all labor and materials to install a sewer clean out, and the road resurfacing. The title to Section 1.2-6.3 (d) shall read: Repair fees. Remove water connection and fee from the chart. The sewer connection fee shall change from \$500 to \$1,000. Under the second chart, water or was removed and water curb stop or Town's was removed. Mr. Cote asked if this was in line with the going rate. Mr. Paisley stated the ordinance had to be changed. Sewer rates will only increase. Mr. Cote stated if Kent County changes and they raise their rate, we are only handcuffing ourselves. Mr. Flatter stated to change to sewer rate set by Town Council and amended as needed. Section 1.2-6.4 (a) – water and/or was removed from the first line. Section 1.2-6.4 (a) (1) was removed in its entirety. Section 1.2-6.4 (a) (2) and (3) was changed to Section 1.2-6.4 (a) (1) and (2). Section 1.2-6.5 was discussed. Section 1.2-6.5 Water emergencies was removed in its entirety. Section 1.2-6.6 was changed to Section 1.2-6.5 entitled Sewer rates. Section 1.2-6.5 shall read: Rates. Sewer rates shall be set by the Town Council as needed. The title for Section 1.2-6.5 (b) shall read: Billing due date; late payment penalty. Section 1.2-6.5 (1) shall read: Sewer bills will be prepared and submitted by the Town on a monthly basis and shall be sent out at least fifteen (15) calendar days before the bill is due – subject to applicable law. Section 1.2-6.5 (3), (4) was removed in its entirety. The title to Section 1.2-6.5 (c) shall read: Advance payment required by customers receiving sewer service outside town limits. Section 1.2-6.5 (c) (1) shall read: Whenever the Town elects to extend sewer service to serve properties outside the Town limits the Town shall require in advance, prior to connection of such service, an advance payment from such customer in an amount estimated to equal 150 percent of that customer's reasonably estimated average bill for such service (s) but in no event less than \$10.00. The amount of such cash advance payment may be increased

by the Town or reduced at the request of the customer based upon actual billings for the first 3 consecutive months. Section 1.2-6.5 (c) (2) – remove water and/or in the first and second line. Section 1.2-6-7 is removed in its entirety. Section 1.2-6-8 is removed in its entirety. Section 1.2-6.9 shall be Section 1.2-6.6 and the title shall read: Damages, obstructions, and interference with the town sewer s system. Section 1.2-6.6 (a) shall read: No person shall damage, obstruct, or in any manner interfere with any part of the Town’s sewer, nor permit any refuse or other substance tending to obstruct or damage any part of said system to get into same. Section 1.2-6.10 shall become Section 1.2-6.7. Section 1.2-6.7 (b) shall read: Penalties. Upon conviction before any court of competent jurisdiction, persons violating this article shall forfeit and pay restitution in the amount of any and all damages incurred. Section 1.2-6.11 shall be Section 1.2-6.8. Section 1.2-6.12 shall be Section 1.2-6.9. Mr. Paisley asked for a motion recommending that Council pass the ordinance as amended.

***Mr. Smith made a motion to adopt Ordinance 1.2-6 as amended in this meeting. Mr. Flatter seconded the motion. Motion carried unanimously.***

Mr. Paisley asked for a motion to adjourn.

***Mr. Flatter made a motion to adjourn the meeting. Mr. Smith seconded the motion. Motion carried unanimously. Meeting adjourned at 7:30 p.m.***

Recording Secretary,

Sue Muncey