

Planning & Zoning Committee Meeting

October 25, 2023

Present: Wayne Stover, Bill Brockenbrough, Tom Ruppert, Jonathan Burnett, Robert Cote, Sue Muncey, and Jennifer Reitz were in attendance.

1. **Call to Order:** Mr. Stover brought the meeting to order at 7:00 p.m.
2. **Pledge to the Flag:** Mr. Stover led the pledge.
3. **Approval of Minutes:**

Mr. Ruppert made a motion to approve the meeting minutes of 09/27/23 in their written form. Mr. Burnett seconded the motion. Mr. Brockenbrough abstained. Mr. Stover approved.

4. **Determination of Quorum:** Mr. Stover stated a quorum was present.
5. **Old Business:** Mr. Burnett asked about the property for annexation. Properties were identified to potentially add to the annexation. It is broken down by New Castle and Kent County. I did a rough map to give everyone a visual. Mr. Cote asked if we could go to New Business and then go back to Old Business. Everyone agreed.
6. **New Business:**

Workshop to Discuss and Make Suggestions to the Town of Clayton's Comprehensive Plan

Mr. Cote introduced Jennifer Reitz from the University of Delaware Institute of Public Administration. Mr. Cote stated the committee has been meeting regularly to go through the latest update which was done in 2018 and signed in 2019. Mr. Cote reached out to Mr. O'Neill and Ms. Reitz from the University of Delaware IPA to see how we can partner with them and their services with the contract we already have and potentially an amendment to that contract to determine whether we actually need to go with a full update or a review. Mr. Cote stated she can explain the overview of how they normally do this, and then we can have a discussion on what we have already done so far, where we see this project going, how we can potentially be given guidance whether we really need to do a full update or review, and how to retain those services moving forward.

Ms. Reitz stated she did not have a formal presentation. I can just hear where you are. You have worked with the University of Delaware IPA on your comprehensive plans several times now. We offer a full range of services. We can do soup to nuts. We can write it from the beginning to the end obviously with your input and lead the community engagement. We can be there if there are areas you want to spearhead. Ms. Reitz stated she had just finished a comprehensive plan for Fenwick Island. Basically, they wanted to write it and she was there as a guide to make sure they

met the state guidelines and assist with the community engagement. You worked with Linda previously. We talked to you about the issues. We go to the office and write up drafts and present them to you with the goals and objectives for your review and comment. We can pick and choose if there are specific priority areas that you are really looking to dig into. We can help you with those partnerships or with those specific chapters in order to get them where you want them. You are at your five (5) year. You know that you don't need to do a full update. To what extent are those changes? Do you need to touch all the topics? If it is a bit of everything, a full update may make more sense. Once you do a full update, your 10-year timeline starts all over. If you do a hefty partial update, you are still on the hook to do a five (5) year. I will provide a proposal. We would take into account our existing contract and so it would be a discounted contract. It would be an addendum to it, but it would be discounted because we have been working with you and you have had a contract for many years of being on call. We honor that relationship. We would go on your time schedule. It could be every month that we come down and present a new chapter. We have a recent grad in our office who works closely with DelDOT. We have specific funding for us to work with municipalities and DelDOT and I would have him work on that chapter. He would be working with her and Sean with the demographics and the mapping. We are here to meet you where you are and where you want to go. I just need to get a little bit of information on where that is and then I can fill in the gaps from there.

Mr. Stover stated we have looked at different surrounding farms that we may want to put in the long-range plans, as far as annexing them, and if they want to come into town. The Comp Plan in general, there are several things we need to change. Mostly it is just wording. Ms. Reitz said tell us what you need. Mr. Brockenbrough stated they have the word processing files to the documents electronically. We could give them our changes and they could put those in. Mr. Burnett stated the key thing is to figure out what the cost would be. What do we need to build to get that accurate number from you? Ms. Reitz asked the committee to tell her a bit more about the wording and the areas that they are looking to change. We need to prioritize it. It sounds like the annexation areas are a priority. Along with any kind of growth and annexation we have to touch on the infrastructure and the transportation. There is also some discussion depending on what you are looking at in terms of the state strategies. Discussions need to happen with the state. Mr. Stover stated anytime you take a lot of annexation like we are proposing would be a full review. Five years is a long time. As fast as things are going now, we want to get it tied down. We need to get with the state so we can put it in their growth plan or if they don't want it in their growth plan. That is where we are trying to know what we can annex in and what we can't. If that possibility is out there, we want to take advantage of it. Ms. Reitz looked on the map and stated there are some pretty significant annexation areas in your current future land use map. Mr. Burnett stated some of those annexations we have already accomplished. There have been some park changes. We have a Town Manager instead of a Town Foreman. There is a lot of wording for those kinds of things. We bought a Public Works building and Public Works has moved over there so that needs to be clarified. We sold the water system. Mr. Burnett stated there are a lot of towns starting to move and approach around areas that he thinks as long term. We are wanting to move the town into quite a distance down the road and we obviously don't want to throw too much out there. Even this list that I've come up with is more than I think we are ever going to do. We need to establish our long-term growth areas so that towns and other areas don't encroach them where our plans were to go. We are looking at drawing a line in the sand. Ms. Reitz stated the checkered areas are what is currently in future land use in terms of annexation. Mr. Burnett

gave Ms. Reitz his list. Mr. Burnett stated we want to make sure we establish our southerly line. We are also touching a little bit into New Castle County. Ms. Reitz stated once a future land use map is adopted, the zoning has to be consistent with that within 18 months. So, within your boundaries, that is one thing you want to have that reflective, you have to implement within 18 months. For your annexation you do have a bit more flexibility. Mr. Burnett stated so it is an educated guess. Ms. Reitz stated correct with the annexation. When you are actually going through an annexation, there has to be an infrastructure services plan and your future land use plan does have to be consistent with the land use.

Mr. Stover stated there are a couple of things here which we were just talking about if we get this ambitious to go that far. I think we need to get the state here to see where they are and if they want us to do that. Once we get to that point, we need to talk to the Town Manager, and take it to the Council to see where they want to go. Do they want to be triple the size in 15-20 years or are they comfortable where they are at? Ms. Reitz stated she wholeheartedly agrees. That would be part of the process. That in itself would warrant a full update versus the amendment. Mr. Cote stated he has begun those conversations, and had them again this past Monday night when we did our fiscal year 24 budget review. We were looking at where all of our revenue was coming this year, but I also had them kind of look out 5, 10, 15 years from now and what those revenue lines are going to look like versus expenses due to the fact that a lot of our growth that is already established right now is going to dry up. Annexation and growth versus increase in taxes and fees is there to be able to sustain our capital health our budgetary health in the next 5 to 10, 15, 20 years. We are trying to set it up now. Mr. Ruppert stated we have made changes to all 15 chapters so far. A lot of it is a change of words. Ms. Reitz stated they would handle that. We try to make them a little more concise over time and those types of things and there might with that level of growth that you are looking at you might want to look at a visioning statement and core values or guiding principles that the town is really looking as part of this as well. It is not just the council and state, but the residents who are here. There is a community engagement aspect with something this ambitious. The state would push back without having community input from the beginning. There is a lot of community input required as part of the adoption. It is in as a foundation of where the town is going. Mr. Cote stated as the town manager it would be more beneficial to me to have the assistance of the University of Delaware IPA full blown versus the guiding you did in Fenwick Island just because I don't have the capacity to devote all of my time to just a comprehensive plan update in a small town like this where I don't have a planner or engineer on staff. I have to wear all those hats just a little bit and kind of try to guide it all magically so. From his standpoint Mr. Cote recommends that the committee take that under advisement and the funding piece of that he can tackle on his end. Mr. Cote is in the budget process right now and he can figure out where those monies are. Mr. Stover stated with that being said the committee gives the go ahead to get a price back to you. Mr. Cote stated pricing like a sequence of events or a schedule on how we are actually going to chop it up and the timeline when we would be complete. Ms. Reitz asked if you have a target in mind for adoption or a draft. Mr. Ruppert asked when is it required. Ms. Reitz stated you are required to do a review which doesn't necessitate that you touch it at all, just that you do a review and write a letter to the state that says you've reviewed it and done nothing. So that fact that you're doing an update you don't have that same pressure. Ms. Reitz stated about a year for the draft. Mr. Burnett stated the goal would be to have it completed by the end of 2024. Mr. Brockenbrough asked what the timeline would be for having a draft done with input from the public, PLUS and

Council. Mr. Burnett stated early 2025. Mr. Ruppert stated mid-2025. Mr. Cote stated all of that would be laid out in the project plan. The steps – when it’s adopted by Planning & Zoning, when it goes to Council, when it gets to the Governor. Ms. Reitz stated she would typically put that in the project management, month one through month twelve just so we are not locking ourselves in. If you are talking about this level of involvement with the state and with other agencies there is always time needed to coordinate those. Mr. Cote stated with going through all the classes in the last 1-1/2 years and trying to learn quickly and what I am hearing from the committee is we have a lot of recommended changes and thoughts, processes, and vision. So, in my mind I see a review required in 2024. Now if we make the decision, or the committee makes the decision to say yes, we are going to press on with an update do we simply write a letter or an e-mail or something to the state saying we are actually going to do a full update? How do we not get dinged for not doing a review? Ms. Reitz stated we would just let them know. She stated she already has. She had a brief conversation with Josh Thomas, who is your representative, just to let him know that I was going to be here.

Ms. Reitz stated your Downtown Development District plan is pretty recent. That was also 2019. That wouldn’t be due for a five-year review. Mr. Stover stated there are a couple things that come to mind. Mr. Burnett stated we might want to.

Mr. Brockenbrough made a motion to have the University of Delaware give us a proposal to do a full update. Mr. Ruppert seconded the motion. Motion carried unanimously.

Mr. Ruppert asked about a timeframe for the proposal. Ms. Reitz stated ten days to two weeks. Mr. Stover stated that Ms. Reitz will keep in good contact with Mr. Cote, and he will update us. Mr. Cote has a question about the process. Is there going to be a POC or a project officer? How do you typically coordinate with someone from the town and the Planning & Zoning Commission? Ms. Reitz stated our contract requires a POC. It could be you or someone on the commission. That is solely up to your discretion. Mr. Cote asked has it ever been a town manager and a committee member or typically just one person? Ms. Reitz stated typically just one person. Mr. Cote stated when we get into the middle of the update is it going to be done in a workshop in an open meeting? Is it going to be behind the scenes by IPA coordinating questions and answers. Ms. Reitz stated every town has their own way. It depends on how much hands on you want to be. If I were to propose something, I basically say I’d like to come to you with an outline of existing conditions, goals, recommendations. Discuss an outline before coming. Mr. Stover stated they have done that in the past once we got them on board to help us. They would pick one person and it would be taken to Council. They would come to a Planning & Zoning meeting and give a presentation of what they recommend. We would give our recommendations and go on from there. Mr. Ruppert agreed that this is how it was done in the past. Mr. Cote stated he was just trying to look at the next twelve months and build a schedule.

Mr. Stover asked if there was any old business. Mr. Burnett stated he would like to go over his presentation. After speaking with Ms. Reitz, he thinks we need to amend. He stated we are looking at 2500 acres of land listed here. We are not going to get there in 10 or 20 years. Mr. Burnett thinks we need to be strategic and definitely keep the ones we have. We should establish what we wanted to do with just those key properties to the north and those key properties to the south. We should include K4 because it is a realistic potential because it is so close to town to be

developed. It is right next to Jockey Hollow. Mr. Brockenbrough stated it is in our last plan. Mr. Burnett stated K1 and K2 are Hanover properties. They would only be strategic for us to annex if something happens to Hanover. Mr. Brockenbrough asked about the veterinarian bordered by K3 and K4. There was discussion back and forth looking at the map. Mr. Burnett stated K11 would be strategic for what we are trying to accomplish. K12 would be strategic to list. K6 we would leave in. Mr. Cote showed Heritage Trace on the map. Is that annexed into Smyrna or is it in Kent County? Mr. Burnett stated Kent County. We need to be aggressive in establishing our boundaries. Mr. Brockenbrough asked if there was a map of areas of concern. It is not currently in our annexation area but if something happens with it. There used to be a designation for things. You weren't necessarily planning to annex, but they were of interest to the town. If somebody was looking to go into Smyrna, we want to hear about it. Ms. Reitz stated it basically is being informed of something happening there, not necessarily annexation. It is always the developer's choice. Even if it is in your annexation plan, it is the developer's choice. The developer can always say no. Mr. Burnett stated realistic growth is strategic around Providence Crossing and Towne & Country in projected growth areas. He thinks the biggest ones to knock out will be the New Castle ones. We can get those. Mr. Brockenbrough stated it would be useful to have the ones on the north side of Underwood Corner Road just because of individual septic. Mr. Stover stated what has happened in the past is they would not come to the town; they would go to the county because the county is going to supply it anyway. Mr. Burnett stated it dumps into Kent County's line. The only thing they would get from us is the police. Mr. Stover stated we are already doing that. They are within one (1) mile of town. Mr. Brockenbrough stated he thought that was sewer, potential to provide sewer relief. Mr. Cote asked where are we talking exactly. Mr. Burnett said right behind Jeff's house. Mr. Cote asked is Jockey Hollow septic or do they have county sewer? So right now, the only sewer lines running up and down Underwoods Corner Road are the Town of Clayton's. The houses that are on the road currently have septic. They are tied into us because there is one house that is tied into us. Mr. Brockenbrough stated that is what I was saying. I was right. Mr. Cote stated we could get somewhere with them. So, if any of this was to ever get developed, it would get pumped over here. (shown on map) Right now all the sewer, whether it is Old Country Farms, Huntington Mills, or Providence Crossing, all gets sent across the railroad tracks into Southern View. Then it goes down to Kent County. Anything that is currently septic we could get the sewer from them. I'm going to go out and that would be part of the recommendation to council that if we are going to annex this in, we are going to get the sewer, electric, and taxes. We are going to take all that sewage and we are going to pump it right through here like we already do, and it is going to go to Kent County. We are going to get charged by the EDU.

Mr. Cote wanted to ask a question because he didn't completely understand. Lebanon Chemical Facility was purchased by a developer officially. It is quiet right now. It is in our future use. We've identified Lebanon Chemical to be annexed for either commercial or industrial. Smyrna has not identified on their future use for annexation. Could that owner still go to Smyrna even though it is not in their plan, or do they have to come to us? Ms. Reitz stated they don't have to do anything. Mr. Cote asked if they wanted to be annexed by somebody because they wanted to get away from the county, which is what I'm hearing, because they have met with me and the mayor, do they even have the option to go to Smyrna if it is not in Smyrna's book? Ms. Reitz stated Smyrna would have to jump through a bunch of hoops. It would be frowned upon by the state. Mr. Stover stated they would have to cross over the railroad track to get to their sewer.

That would be a very expensive project. So, the developer most likely wouldn't want to pay that extra money to go to Smyrna when they can come to us and save money. Mr. Cote stated there is not a Kent County sewer line there right now. Mr. Brockenbrough stated Smyrna would have to amend their plan. Mr. Ruppert stated that is not a big piece of property. Mr. Burnett stated they are looking at putting multiple uses. Mr. Ruppert stated contaminated soil. They are talking about doing strips – renting out individual buildings. Mr. Cote stated right now it has a no further action required letter from DNREC. It is good as it stands. The minute they put a shovel into the ground, they have to run the brownfield process. There is \$600,000 in grant money available for people that are trying to do brownfield work. The developer mentioned that when he met with the mayor and me. Mr. Ruppert stated that has been a sore spot especially for the fire company for years. Mr. Cote stated when they met with myself and the mayor in my office it was explained to me what is actually going on with that piece of property. I said I would not recommend to the Council all day long that we pick up in an annexation a piece of contaminated land. Now if you are going to run the brownfield process and get this restored to a point where it can be developed to a certain point then I would. I would be willing to give my recommendation to Council based on that, but I don't recommend any day of the week that the Town of Clayton take on a contaminated piece of land like that. It wasn't well received by the developer. Mr. Stover stated he thinks we leave all these properties in for now. Once we have state guidance, they will tell us if we are being too aggressive because they have got their set areas that they want to leave open and they can advise us on that. We are just telling what we would like to have. Mr. Brockenbrough said this gives us a good starting place. Mr. Burnett stated with the New Castle County map, NC2 would at least establish our boundary. Mr. Stover suggests leaving them all in for now. State Planning is going to let us know if we are biting off more than we should. Mr. Burnett stated at that point get more strategic about establishing our boundary to the north and south. Ms. Reitz stated we will have to map it one way or another. State strategies and whether you annex some of them in or not, the level of infrastructure investment they would want to be consistent with those state strategies. Mr. Burnett asked about farm preservation easements. Can you buy those rights back? Ms. Reitz stated she is not familiar with that process. She believes there is a penalty cost involved. Would you list farm preservation parcels as a potential annexation? Ms. Reitz stated it is framing the plan and kind of the guiding principles of why you are approaching. There are towns that might want to annex all of that farm preservation to make sure that they keep a greenbelt around them. That is one motivation. It is a different motivation to want to buy and develop the properties. There are going to be different parameters to that discussion. Mr. Cote wanted to review what was said. Are we allowed to annex this with the intent of keeping it to grab this to develop. That is a possibility? Ms. Reitz stated anything is a possibility. The thinking behind farmland preservation is that farms that are surrounded by other working farms are more likely to be preserved in perpetuity. The emphasis is preserving open space. She said there may be pushback. Mr. Cote stated from his aspect as the town manager, and he knows Planning & Zoning have different reasons, but my aspect and why I'm pushing Council is I need a way to balance the budget without raising taxes and growth will allow me to do that. I am not trying to turn into a city. The more homes we put out there, the more fees we get, and I don't have to recommend a tax increase. Mr. Cote showed on the map what was left for current development. It is either grow this way or raise taxes. The Council and the people of Clayton can decide what they want to do if it has to happen. One of the two has to happen. Mr. Stover stated we have exhausted all thoughts for tonight.

7. **Next Meeting:**

Mr. Stover wanted to talk about the November and December meetings. He would like to not have them and have our next meeting on January 24, 2024, at 7:00 p.m. Mr. Stover made the motion and Mr. Burnett seconded.

8. **Adjournment:**

Mr. Ruppert made a motion to adjourn. Mr. Brockenbrough seconded the motion. Motion carried unanimously. Meeting adjourned at 8:06 p.m.

Recording Secretary,

Sue Muncey