

## **Council Meeting**

**April 10, 2023**

**7:00 p.m.**

The Council Meeting of Mayor and Council was held on the above date and time with Council members Carrow, DeBenedictis and Paisley present. Mayor Smith was presiding. Recording Secretary Sue Muncey, Chief Carl Hutson, Town Manager Robert Cote, Scott Chambers, Marvin Pedigo, David Ross, Alex Dias, Terri DeSanto, Vince Dapaldi, Scott Stohrer, Cindy Lane, Alison Pedigo, Jeff Lightcap, Pat Kennedy, Ray Hales, and Patricia Belle-Scruggs were also in attendance.

- 1. Call to Order** - Mr. Smith called the meeting to order at 7:00 p.m.
- 2. Pledge to the Flag** – Mr. Paisley led the Pledge of Allegiance.
- 3. Presentation – Donation to Clayton Historical Society** - Mayor Smith and Mr. Cote presented Alison Pedigo with a donation check to the Clayton Historical Society.
- 4. Presentation – Donation to the Boys & Girls Club of Delaware** – Mayor Smith and Mr. Cote presented Patricia Belle-Scruggs with a donation check to the Boys & Girls Club of Delaware.
- 5. Approval of Minutes** –

*Ms. DeBenedictis made a motion to accept the Street Committee Meeting Minutes of 03/09/23 and the Council Meeting minutes of 03/13/23 as presented in their written form. Mr. Carrow seconded the motion. Motion carried unanimously.*

- 6. Approval of Income and Expense Report** –

*Mr. Paisley made a motion to accept the February and March Income and Expense Reports in their written form. Ms. DeBenedictis seconded the motion. Motion carried unanimously.*

- 7. Communications** – No communications

- 8. Report of the Chief of Police** – Mr. Hutson stated there were 447 calls for service, 246 traffic arrests, and 31 parking tickets for the month of March. They targeted the developments due to complaints. Lt. Scott, Lt. Rau, and Cpl. Bishop were present at the Intruder Alert Drill at Clayton Intermediate School on 3/2/23. Chief Hutson attended the Kent County Police Chiefs' Meeting on 3/7/23 in Wyoming. All officers attended the Memorial Service for Chief John Pridemore on 3/8/23 at the Clayton Fire House. Lt. Scott was present at the Public Hearing for Streets at Clayton Fire House on 3/9/23. Chief Hutson, Sgt. Bishop, Cpl. Bishop, Cpl. Hume, Cpl. Andrews, and Christine Letterman attended "I Love Smyrna School District Day" on 3/11/23 at Smyrna

High School. Chief Hutson led the St. Patrick's Day Parade in Smyrna on 3/12/23. Chief Hutson attended the Police Chiefs' Meeting in Dover on 3/14/23. Chief Hutson was present at the Police Chiefs' Foundation Meeting in Dover on 3/16/23. Cpl. Andrews was at First State Military Academy's Touch-A-Truck event on 3/18/23. Chief Hutson, Lt. Scott, Lt. Rau, Cpl. Bishop, and Cpl. Perna were present at the Intruder Alert Drill at Clayton Elementary School on 3/23/23. Lt. Scott and Christine Letterman attended the Special Olympics Delaware luncheon at Maple Dale Country Club on 3/30/23. Chief Hutson stated the EV Grant has been submitted. It will be approximately six (6) weeks before they hear anything. Mr. Carrow asked if they would receive this year. Chief Hutson stated yes.

- 9. Report of the Town Manager** – Mr. Cote stated he stands by the report in its written form. Mr. Paisley stated in the report it states there is an active investigation into a contractor. He asked if he had any further updates. Mr. Cote stated he will follow up with the Code Enforcement Officer tomorrow. This has been given to us and the Clayton Police Department. Mr. Smith stated he will speak to Mr. Paisley after the meeting. We cannot discuss it in a public meeting. Mr. Cote stated he had a discussion with the auditor and accountants. The audit is 65% complete. There are eight (8) key sections: cash/inventory 95%, A/R 40% (consulting with Horthy & Horthy), A/P 50% (consulting with Horthy & Horthy), debt 90%, compensated absents 95%, revenue and expenses 55%, and financial statements 50%. He estimates this will be closed out within 60 days. Mr. Smith stated we had to change our accounting format system and the auditor is following behind them.

- 10. Report of the Town Solicitor** – Mr. Chambers had no report.

**11. Reports from Members of Council**

- a. Report from Electric Committee** – No Report
- b. Report from Street Committee** – No Report. Mr. Smith asked if there was going to be a meeting. Mr. Carrow said yes, referencing parking issues. It will be towards the end of the month.
- c. Report from Sewer & Stormwater Committee** – No report. Mr. Smith asked about Phase II – an update. Mr. Cote stated the permit is sitting with DelDOT reference the flow. The RFP cannot be started until after the permits are done.
- d. Report from Equipment Committee** – Mr. Paisley stated he had a meeting on 4/4/23 with the Director of Public Works and the Town Manager. We are working on a long-term plan. There are a few adjustments. He will have another meeting with the department.
- e. Report from Personnel Committee** – No Report
- f. Report from Public Safety Committee** – No report.
- g. Report from Budget Committee** – No report.

- h. Report from Economic Development Committee – No Report**
- i. Report from Downtown Development Rebate –** Ms. DeBenedictis stated there are two (2) projects. One is a roof and kitchen and the other is a property on East Street. Once the property on East Street is complete then a property on Highland Avenue will start.
- j. Report from DEMEC –** Ms. DeBenedictis stated 4/5/23 was DEMEC Day. She and Mr. Paisley met with the Governor. They had a good meeting. They discussed Indian River. There will be no meeting in April.
- k. Report from Board of Adjustments – No Report**
- l. Report from Planning & Zoning Committee –** Mr. Smith stated a meeting is scheduled for 04/26/23 at 7:00 p.m.
- m. Appeals Board – No report.**
- n. Law and Legislature Committee –** Mr. Paisley thanked the Town Solicitor for meeting with him. This is on the agenda to discuss.

**12. Public Forum – No comment**

**13. Unfinished Business – N/A**

**14. New Business**

- a. Presentation – DeLea Founders Insurance Trust (DFIT), Statewide Group Self Insurance Worker’s Compensation Program Exclusively for Delaware Municipalities. Discuss and Vote to Allow the Town Manager to Pursue the Application Process, then Return to Town Council for Final Approval Once a Cost is Determined.**

Terri DeSanto gave the presentation. DFIT is the first municipal joint insurance program for Worker’s Compensation in Delaware’s history. Currently 30 Delaware municipal members; more than half the State (which have employees/payrolls). Since DFIT’s inception in 2008 – under the previous Group Retro Plan – the group received the financial benefit of return premiums for that plan period which totaled approximately \$1.8 million. DFIT is now in its 9<sup>th</sup> year of operation as a self-insured plan. There is approximately \$6 million in unspent accumulated funds (subject to claims development from each year) from 2014-15 through 2021-22 policy years. These funds belong to the DFIT members, not an insurance company. With a traditional insurance policy, the carriers keep excess/unspent funds as profit. A portion of surplus funds were given back to the members in 2022 when the DFIT Trustees and the

Department of Insurance approved a \$1 million return premium of which each member received their pro-rata share. Funds continue to grow; reserves will accrue for future utilization by members for options such as investment funds, return premiums, stabilize, and offset rates and/or premiums. DFIT Program belongs to the membership. It is organized as a trust. Members elect a Board of Trustees to oversee governance of the program and to make financial decisions. Decisions are not made by a for-profit insurance company. **DFIT Philosophy** – Manage members’ cost of risk proactively by identifying the true cost drivers for each individual member. Mitigate (manage and reduce) costs of risk by developing annual Risk Mitigation and Safety Plans for both the group and the individual municipality members. Adjust these plans as necessary. Implement the plan continuously and monitor regularly at Membership and Safety Committee meetings. Develop a culture of safety awareness and best practices whereby all members commit to building and reinforcing these values within their local municipality. Cultivate a joint and several relationships with fellow members – “All for one and one for all” shared mentality. Provide better control of its members’ Insurance Destiny. **DFIT Program Protections and Controls – Regulatory:** Approval of the Fund and its financials by the Delaware Department of Labor and by the Delaware Department of Insurance. \$750,000 self-insurance bond posted with the State of Delaware. Continued oversight and monitoring of the self-insured plan by both agencies on an ongoing basis. **Program Controls:** Annual actuarial study performed by an independent firm to ensure levels of funding are sound and viable. Catastrophic protection over the fund in the form of excess insurance. Annual financial audits performed by an independent firm. Annual payroll audits performed by an independent firm. Third party claims administration by PMA companies. Legal review and attendance of all meetings by an independent firm. Monthly claims are reviewed by the DFIT Claims Committee. Payments of larger reserves and claims and acceptance/denials of a claim must be approved by this committee. **The Cornerstone of Our Success: The DFIT Safety Program** – The surplus funds are a direct result of claims reduction through proactive risk mitigation and training programs of the DFIT Safety Committee. The DFIT claims continue to outperform industry claims. Our group has seen over a 40% reduction in claims since 2008 and this has reaped financial benefits to the members. The Safety Committee continues to reduce and contain claims through their robust annual training and safety program which every DFIT member receives at no additional cost. Our annual training resources include, at no additional cost to our members, monthly safety committee “train the trainer” meetings, regional live training seminars, in person, one-on-one, on-site risk control services such as site safety inspections; driver safety ride-a-longs; building security assessments; playground inspections; and developing safety manuals. Annual risk/safety progress evaluations. In May 2017 DFIT was recognized by Safety National for leadership and collaborative efforts to facilitate education and risk reduction within the Law Enforcement Community in Delaware. For more information, please visit [www.dfitde.com](http://www.dfitde.com) or on Facebook at DFIT Safety Program.

*Mr. Carrow made a motion to allow the Town Manager to pursue the application process then return to the Town Council for final approval once a cost is determined. Ms. DeBenedictis seconded the motion. Motion carried unanimously.*

Mr. Paisley thanked Ms. DeSanto for coming. Mr. Smith stated there are only 10 members on the board. Not every town is represented. Ms. DeSanto stated under the bylaws members elect who is on the Board of Trustees. Mr. Smith asked if the claims committee is independent. Ms. DeSanto stated the claims committee is comprised of the DFIT membership. They offer to sit on the board.

**b. Discuss and Vote to Sign a Resolution to Request the General Assembly to Change the Town of Clayton Charter.**

Mr. Paisley stated when he came on Council, he was given the task of reforming the Town Charter. This will need to go to the General Assembly and needs to receive 2/3 the vote to pass. Two items need to be discussed. Section 3.4.1 and Section 13.5 contradict each other. It deals with unanimous consent vote. Should it remain in its current state or be changed? If you remove, you have the what if. He opened it for questions. Mr. Smith stated he is concerned about limiting Council's ability. It gives the option to say no. He stated he is not inclined to remove it. Mr. Paisley said strike Section 3.4.1 and retain Section 13.5. The second item was to amend from \$100 to \$1,000. Mr. Smith passed control of the meeting to Mr. Paisley.

*Mr. Smith made a motion to remove Section 3.4.1 and keep Section 13.5 in its entirety. Also, to adjust the sum from \$100 to \$1,000. Mr. Carrow seconded the motion. Motion carried unanimously.*

Mr. Smith took back control of the Council Meeting.

*Mr. Paisley made a motion to authorize the signing of the resolution and sending it to the General Assembly. Mr. Carrow seconded the motion. Motion carried unanimously.*

**c. Discuss and Vote to Change the September Yard Sale from the 3<sup>rd</sup> Saturday in September to the 2<sup>nd</sup> Saturday in September**

Mrs. Muncey stated Railroad Days falls on the same Saturday as the September Yard Sale. She requested to have the September Yard Sale fall on the 2<sup>nd</sup> Saturday going forward. Mr. Carrow concurred.

*Mr. Carrow made a motion to change the September Yard Sale from the 3<sup>rd</sup> Saturday in September to the 2<sup>nd</sup> Saturday in September. Mr. Paisley seconded the motion. Motion carried unanimously.*

**d. Discuss and Vote on Interested Party Inquiring to Purchase Town of Clayton Lot Located at the Corner of S. Bassett Street and Smyrna Avenue**

Mr. Smith stated a third-party religious organization was interested in purchasing the lot. Ms. DeBenedictis asked if they gave a figure. Mr. Chambers stated an independent appraiser should give their opinion on fair market value. Ms. DeBenedictis stated she is not in favor of selling the lot. Mr. Paisley agreed. Mr. Carrow agrees. He stated we have very little open space.

**e. Update from the National League of Cities Conference**

Mr. Smith stated he and Mr. Paisley attended. Mr. Smith stated it was very informative. Mr. Paisley stated they discussed how to combine money for ARPA. They discussed the ring camera for safety. It is free to members but if a crime occurs, they must send it to the police department. Mr. Paisley stated Senate Bill 4295 could upend all financial municipal reports. The fed's want to mandate what to report. It was intended for muni's who are selling debt. It is not supposed to go into effect until 2026. Mr. Paisley stated he brought back an ARPA report if anyone wanted to look at it.

**15. Adjournment**

*Mr. Carrow made a motion to adjourn. Ms. DeBenedictis seconded the motion. Motion carried unanimously. Adjourned at 8:03 p.m.*

Recording Secretary,

Sue Muncey