

**Council Meeting**  
**July 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, Flatter, DeBenedictis and Paisley present. Mayor Smith was presiding. Recording Secretary Sue Muncey, Chief Carl Hutson, Town Manager Robert Cote, Scott Chambers, Marvin Pedigo, Cindy Lane, James Willis, John Gambacorta, Erik Johnson, Ryan Quackenbush, Melissa Knight, Terri DeSanto, Wendy Hales, Ray Hales, and Jeff Lightcap 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. Smith led the Pledge of Allegiance.
3. **Determination of a Quorum** – Mr. Smith determined a quorum was present.
4. **Approval of Minutes** –

*Mr. Carrow made a motion to accept the Council Meeting minutes of 06/12/23 and the Street Committee Meeting minutes of 06/29/23 as presented in their written form. Mr. Flatter seconded the motion. Motion carried unanimously.*

5. **Approval of Income and Expense Report** –

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

6. **Communications** – N/A

7. **Report of the Chief of Police** – Mr. Hutson stated there were 428 calls for service. Cpl. Hibbert attended First State Military Academy's graduation on 06/01/23. Lt. Scott and Cpl. Hume helped with Clayton Intermediate School's field day on 06/02/23. Lt. Scott, Sgt. Bishop, Cpl. Bishop, and Cpl. Hibbert assisted Townsend with their Town Fair on 06/03/23. Chief Hutson attended the Police Chief's Foundation Meeting at Sambo's on 06/08/23. Lt. Scott, Cpl. Bishop, and Cpl. Hume attended the Clayton Elementary School's Flyaway Ceremony on 06/09/23. Cpl. Perna attended Supervisory Leadership Institute the week of June 12-16. All officers attended intoxilizer training in Dover. Mr. Hutson stated the first checks in the amount of \$69,000 for the EV Grant came in. This is ½ the cost of the vehicles and 1/3 the cost of the charging stations. The trucks have been ordered. An October delivery date is estimated. The Tahoe has been built. It should be arriving in about three (3) weeks. Mr. Paisley thanked all the officers.

8. **Report of the Town Manager** – Mr. Cote stated the Code Enforcement Officer has been busy. His last day is 07/14/23. He is preparing a continuity program. The Code Enforcement Officer

and the Public Works Administrative Assistant completed 24 rental inspections at Railroad Square. The Public works Administrative Assistant made the first float that was in the 4<sup>th</sup> of July parade. Cordell Farms donated 18-20 straw bales for free. Mr. Smith asked Mr. Cote to draw up a thank you letter to sign. He also thanked Lt. Scott for tugging them around and the Public Works Administrative Assistant for creating the float. Mr. Paisley thanked the Town Manager for the use of his trailer. He echoed the Mayor's thanks. Ms. DeBenedictis thanked the Council for putting in a float.

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

**10. Reports from Members of Council**

- a. Report from Electric Committee –** Ms. DeBenedictis stated there was an outage yesterday. It was out for quite a while. Mr. Smith stated a tree hit a line outside of town. The outage on Friday was from a squirrel. Mr. Cote stated the town is out at a moment's notice. Safety first, then secure the scene. He stated he understands it is frustrating. He thanked Dave Ross and staff for handling the situation.
- b. Report from Street Committee –** Mr. Carrow had no report.
- c. Report from Sewer & Stormwater Committee –** No report. Mr. Smith stated Artesian is waiting on a meter to come in for the water plant. Ms. DeBenedictis stated she received a phone call that the meters don't fit the system. Mr. Smith stated they have been changing meters for months.
- d. Report from Equipment Committee –** Mr. Paisley stated he is going to reach out to the Director and Public Works Administrative Assistant for a meeting to get the budget numbers.
- e. Report from Personnel Committee –** Mr. Flatter thanked the Town Manager for reviewing the applications and setting up the interviews. Mr. Smith thanked Mr. Flatter for assisting.
- f. Report from Public Safety Committee –** No report.
- g. Report from Budget Committee –** Mr. Flatter stated a Budget Meeting will be scheduled for 07/17/23 at 6:30 p.m.
- h. Report from Economic Development Committee –** Mr. Carrow had no report.
- i. Report from Downtown Development Rebate –** Ms. DeBenedictis stated she has to complete the yearly report.
- j. Report from DEMEC –** Ms. DeBenedictis stated DEMEC had a luncheon at Legislative Hall. The Joint Briefing is on 06/28/23. The Annual Meeting is on 09/28/23 at Bally's. Mr. Smith stated for the public we purchase our electric from DEMEC. Ms. DeBenedictis stated DEMEC is concerned about EV's and can the grid handle it.
- k. Report from Board of Adjustments –** No report.

**l. Report from Planning & Zoning Committee** – Mr. Smith stated a meeting is scheduled for 07/26/23 at 7:00 p.m.

**m. Appeals Board** – No report.

**n. Law and Legislature Committee** – Mr. Paisley stated a comprehensive review was completed on the Charter over the past year. It went to the General Assembly. It passed through the House Administration Committee on 06/13/23, the House floor on 06/15/23, the Senate Executive Committee on 06/28/23 and the full Senate 06/30/23. It will now go to the Governor for consideration and his hopeful signature. Mr. Paisley stated he is now reviewing the ordinances. We will hold a Law & Legislature meetings monthly and will then bring ordinances before Council. Mr. Smith thanked Mr. Paisley for working on the Charter.

**11. Public Forum** – Mr. Hale: He stated the guys have been out taking care of business with the electric. He stated the electric and gas resources are being sucked away. Mr. Smith stated be regulated at the State level.

Mr. Lightcap stated there was an incident on Longwood Lane. There were cars parked on both sides. There was a residential fire in Ovations. We could only get as close as three (3) houses down. The ladder truck could not get down the street. Mr. Carrow stated we should revisit street widths. Can we make it wider? This will have to go through Planning & Zoning.

## **12. Unfinished Business**

### **a. Discuss and Vote to Update Ordinance #2023-01 An Act to Amend Town of Clayton Ordinance Article 1.2-3 Electric Service.**

This ordinance removes references to the Town Foreman since that is no longer a position employed in the Town of Clayton. In addition, this act adds a provision where electricity rates may be amended by the Town Council when required due to unforeseen circumstances. Furthermore, this amendment also provides for a more detailed appeals process. Finally, this ordinance adds a prohibition against disconnecting a customer's electricity when the temperatures in the Town of Clayton reach extreme levels. Mr. Paisley stated he and the Mayor had a disagreement on Section 2-3.4(d). They negotiated a joint compromise. The compromise on prohibited disconnections read: (1) If, at 8:00 a.m. EST on the date of disconnection, the temperature within the Town of Clayton is not 32 degrees Fahrenheit and climbing; or (2) If, at 8:00 a.m. EST on the date of disconnection, the National Weather Service forecasts that the heat index within the Town of Clayton will rise to or above 100 degrees Fahrenheit within the next twenty-four (24) hours. Mr. Smith stated we have been following this already for cold weather. The disagreement was the heat index. The State uses 105 degrees. Mr. Paisley researched the past 10 years, and it has reached a heat index of 100 degrees or above 91 times. Mr. Chambers stated the motion needs to reflect the amendments. Mr. Carrow asked if the disconnections would be the next day if they reached these conditions. Mr. Smith stated yes. Mr. Cote stated disconnections are done on Wednesdays. If it is on Thursday, Public Works has street sweeping and yard waste. Mayor Smith said that we will make it happen if that is the case.

*Mr. Paisley made a motion to amend Article 1.2-3 Electric Service as amended in this meeting. Ms. DeBenedictis seconded the motion. Motion carried unanimously.*

**b. Discuss and Vote to Update Ordinance #202308 An Act to Amend Town of Clayton Ordinance Article 1.2-6 Water and Sewer Service.**

Mr. Smith stated this is being sent back to the committee.

**13. New Business**

**a. Discuss and Vote to Update Ordinance Section 1.2-2 Payment of Utility Charges to Accept Direct Withdrawal Payments.**

Mr. Cote stated this is accepting direct withdrawal as a form of payment. The late fee is changing from water to sewer due to the water system being sold. Mr. Chambers stated this needs to be introduced at the next session. You can discuss and vote at the following session. Mr. Smith tabled this.

**b. Discuss and Vote to Take Ownership of Spelt Drive.**

Mr. Cote stated the development of Grain Mill Station was completed last year. The Director of Public Works and the Town Manager reviewed to ensure everything was completed. He recommends approving. The developer wrote a letter.

*Mr. Carrow made a motion to accept the letter from Tiger Eyes Developers LLC to take responsibility for the street Spelt Drive. Mr. Flatter seconded the motion. Motion made unanimously.*

**c. Discuss and Vote to Assign Funding for Street Repairs Approved at the Street Committee Meeting on 05/23/23. The Street Committee Recommends the \$50,000 to Come from the Street Capital Reserve Account.**

It has been recommended to assign the funding from the Street Capital Reserves. This is to repair manholes, catch basins, and potholes.

*Mr. Carrow made a motion to accept the recommendation from the Street Committee for the areas that need to be repaired. The \$50,000 will come from the Street Capital Reserves. The Town Manager and Director of Public Works will determine what needs to be repaired. Mr. Paisley seconded the motion. Motion carried unanimously.*

**d. Discuss and Vote to Accept the Proposal for Entrance into the DeLea Founders Insurance Trust (DFIT) which is a Self-Funded Worker's Compensation Program.**

Mr. Cote stated Terri DeSanto did a presentation a few months ago. A risk assessment was put together. Out of 57 municipalities, 30 are already members.

Ms. DeSanto stated they go through a very rigorous review. They do a safety assessment. Ms. DeSanto discussed the application process. Mr. Paisley asked to walk through the cost. Ms. DeSanto stated on the third page from the end is the Cost Calculation to Premium Contribution. There was confusion because this page was missing from the Council packet. Each class of employee has a manual rate. An experience modification factor is determined. This will modify the manual premium. A schedule rating adjustment is determined. The ending number is the estimated coverage period premium. Mr. Smith stated \$36,187 in worker's compensation was paid out this year. Mr. Cote asked Ms. DeSanto to explain the discount. Ms. DeSanto stated we can apply 25% of discretionary credits. The credit will decrease if the claims go up. Mr. Cote stated this package was sent out to all members of Council, the Police Chief, and the Office Manager on Saturday, July 1, at 6:01 a.m. for their review.

*Mr. Paisley made a motion to accept entrance into the DFIT program. Mr. Flatter seconded the motion. Motion carried unanimously.*

**e. Discuss and Vote to Approve the Letter Drawn up by the Town Solicitor to DelDOT Regarding Bridges on S. Bassett Street and S. Rodney Street.**

*Mr. Carrow made a motion to accept the letter drawn up by the Town Solicitor to the Secretary of Transportation. Mr. Paisley seconded the motion. Motion carried unanimously.*

**14. Motion to Adjourn into Executive Session to Consider Personnel Matters Pursuant to 29 Del.C §10004(b)(8) and (9)**

*Mr. Paisley made a motion to go into Executive Session at 8:00 p.m. Mr. Flatter seconded the motion. Motion carried unanimously.*

**15. Motion to Reconvene into Regular Session**

*Mr. Carrow made a motion to go back into regular session. Mr. Flatter seconded the motion. Motion carried unanimously. Adjourned at 9:52 p.m.*

## **16. Discuss and Vote on Action Taken in Executive Session**

*Mr. Paisley made a motion to hire Candidate Z as described in the Executive Session held on July 10, 2023; and further, to allow the Mayor and Town Manager to negotiate Candidate Z's salary and benefits within the stated range in the code enforcement job description approved at the June regular Town Council meeting. Mr. Carrow seconded the motion. Motion carried unanimously.*

## **17. Adjournment**

*Mr. Carrow made a motion to adjourn. Mr. Flatter seconded the motion. Motion carried unanimously. The meeting was adjourned at 9:27 p.m.*

Recording Secretary,

Sue Muncey