

**Council Meeting**  
**November 13, 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 Solicitor Scott Chambers, Cindy Lane, David Ross, Austin Moorhead, Jeff Lightcap, and Olayiwula Okesola 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. Mr. Smith asked for a moment of silence to remember past Police Chief Darrell Weber who passed away on 10/06/23.
- 3. Determination of a Quorum** – Mr. Smith determined a quorum was present.
- 4. Approval of Minutes** –

*Ms. DeBenedictis made a motion to accept the Council Meeting minutes of 10/09/23 as presented in their written form. Mr. Flatter seconded the motion. Motion carried unanimously.*

*Mr. Paisley made a motion to accept the Budget Committee Meeting minutes of 10/23/23 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 October 2023 Income and Expense Reports in its written form. Mr. Flatter seconded the motion. Motion carried unanimously.*

- 6. Communications** – N/A

- 7. Report of the Chief of Police** – Mr. Hutson stated there were 520 calls for service and 319 traffic arrests. Masten's Electric installed the EV chargers for the F-150 Lightning trucks on 10/02/23. Chief Hutson attended the Kent County Police Chief's Meeting on 10/03/23. Chief Hutson, Lt. Scott, Lt. Rau, and Christine Letterman attended the Mayor's Prayer Breakfast on 10/04/23. Lt. Scott, Sgt. Bishop, Cpl. Bishop, and Cpl. Perna assisted with the CR Homecoming Parade on 10/06/23. Lt. Scott, Cpl. Bishop, and Cpl. Andrews helped with Fire Prevention Open House at Clayton Fire Company on 10/09/23. Lt. Scott and Cpl. Hume assisted Clayton Elementary School with their Fall Fest on 10/12/23. Sgt. Bishop and Cpl. Andrews provided traffic control for the Great Clayton 5k for Clayton Elementary School on 10/14/23. Cpl. Bishop attended the DSP Homicide Conference in Rehoboth 10/16 – 10/19/23. Lt. Scott went to Smyrna High School and Cpl. Hume went to North Smyrna Elementary School on 10/18/23. Chief Hutson led Smyrna

Homecoming Parade on 10/20/23. Cpl. Hibbert attended Trunk or Treat at Clayton Fire Company on 10/22/23. Lt. Scott and Cpl. Hume were at PCA's football game on 10/26/23. Cpl. Hibbert and Cpl. Andrews attended FSMA's football game and dance on 10/27/23. Lt. Scott and Cpl. Hume attended PCA's dance on 10/27/23. Lt. Scott, Sgt. Bishop, Cpl. Hume, and Cpl. Andrews helped with Rehoboth's Sea Witch Parade on 10/28/23. Cpl. Hibbert helped with PCA's Fall Fest on 10/28/23. Ms. DeBenedictis stated Cpl. Hume is doing a good job at the school.

**8. Report of the Town Manager** – Mr. Smith stated the Town Manager has an excused absence. He has submitted his report in written form.

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

**10. Reports from Members of Council**

**a. Report from Electric Committee** – Ms. DeBenedictis had no report.

**b. Report from Street Committee** – Mr. Carrow wanted to acknowledge the work the Public Works guys have been doing with our street lighting project. The majority of the old part of town has been done. Bassett Street still has to be done around the curve which is all new lighting, but the majority of what was there has been replaced and I've heard a lot of good comments. Some people might not be happy with how bright the light is, but I think it is a public safety issue and it is going to help the town in the long run with our budget. Ms. DeBenedictis stated she is very pleased.

**c. Report from Sewer & Stormwater Committee** – Mr. Flatter had no report. Mr. Smith stated the RFP for Phase II of the sewer system is out. We are waiting on that response.

**d. Report from Equipment Committee** – Mr. Paisley stated he wanted to thank the Town Manager, Director of Public Works, and the Public Works Admin for working together over the past several months to find ways to get money for future equipment purchases. He referred to the minutes of the Budget Meeting for a further detailed explanation.

**e. Report from Personnel Committee** – Mr. Flatter stated we do have a potential candidate for the Accounting Finance Officer position. We did have an interview today with Horthy & Horthy who got to ask a lot of technical questions. It turned out well. The three of us are going to get together and have a discussion. Mr. Smith stated as he understands Horthy & Horthy is going to draw up a written recommendation as they have been hired for that consultation job. Ms. DeBenedictis asked how many applicants we had. Mr. Flatter stated we had quite a few applicants, but we had two that have expressed interest with the background. We had two interviews. One had cancelled.

**f. Report from Public Safety Committee** – Mr. Smith had no report.

**g. Report from Budget Committee** – Mr. Flatter had no report.

- h. Report from Economic Development Committee** – Mr. Carrow stated December 3<sup>rd</sup> is a pretty big day in the town for Christmas. Getting ready for the Christmas season. The Fire Company will be selling Christmas trees. They have their Breakfast with Santa in the morning. In the afternoon we have Christmas in Clayton which is a vendor event with a Santa hayride that will take place from 2:00 – 4:00 p.m. That rolls right into the Community Christmas Parade at 5:00 p.m. which is followed up by the Memorial Tree Lighting at the park at 6:00 p.m. It's a pretty big day, and he encourages you to try to make it out for those events. They usually bring out a very big crowd. It's a nice day. Mr. Smith thanked Mr. Carrow. He asked that Admin post it on the website and on Facebook.
- i. Report from Downtown Development Rebate** – Ms. DeBenedictis had no report.
- j. Report from DEMEC** – Ms. DeBenedictis stated DEMEC is coming to visit Clayton on December 6 around noon. It is between 12:00 and 1:00 to learn the history. It is amazing they have been here how many years right across the road and most of them never been in Clayton. I have a slide presentation of what they wanted to see, but it died in my phone so we couldn't print it out. Mr. Carrow is going to do a presentation and give a trip around the fire house. They wanted to first go to the military academy, but I told them it is not technically part of the history of the Town of Clayton. There will be about 13 of them coming. We will go to the fountain. It is such a cute little town. They are trying to go to all the municipalities that belong to DEMEC. As soon as I get the presentation, I will make sure everybody gets a copy of it.
- k. Report from Board of Adjustments** – Mr. Smith had no report.
- l. Report from Planning & Zoning Committee** – Mr. Smith stated the next scheduled meeting will be in January.
- m. Appeals Board** – Mr. Smith had no report.
- n. Law and Legislature Committee** – Mr. Paisley stated the first huge accomplishment was that the charter was signed by the Governor on 10/13/23. It is now in full force and effect. It's completely finished. It's crossed the finish line. Mr. Paisley wanted to thank council for all their hard work on this and the trust in letting me take a role in this. Also the staff that helped and the solicitor for his expertise and knowing what was right and what was not right. It was a big project. It was the first significant update in a really long time. I'm proud of what we did. In addition the ordinances – we will finish those that we did in previously in committee and introduced in other council meetings. There is only one new one for this month. It is time sensitive and needs to be done before the budget goes into effect. Mr. Smith said he wanted to thank Mr. Paisley in regards to the amount of time he put into the charter change. That would have been something that took council years to get done. I know he had well over 500 hours into it.

## 11. Public Forum

Olayiwula Okesola – Has there been any kind of traffic safety analysis of the Clayton Avenue and Main Street intersection? I’ve witnessed a couple of near misses there specifically in the morning with school buses. It’s just inadequate sight distance right there with the cars parked right up to the edge of the curb. I’m sure it is a known issue, but he was curious if there has been any kind of addressing of it or is there something planned. Mr. Smith stated not at this time. I know it has been in years past. It’s been a long time. With the traffic volume picking up, it is something we can bring up. It is going to be a dual battle though because Main Street is actually a state road. All the necessary steps that will need to be taken for any kind of safety adjustment would have to go through DelDOT. I don’t see why the town can’t put a request in for them to do a review on it and see traffic patterns and things of that nature. Mr. Okesola stated those first two spots could be no parking at least between 7:00 – 9:00 a.m. The main thing is just being able to see. Mr. Smith stated we do have some limited parking on Main Street so one affects the other. Obviously we do want safety first. Parking is something we can regulate, but he wants to see what DelDOT’s input is on it. Mr. Smith stated the flashing light was put in years back just as a cautionary sign, but now that traffic has picked up it might be something they look into. Mr. Smith stated he will make a note and have the Town Manager follow up with DelDOT and get the process rolling. It is not a fast process no matter what we do.

## 12. Unfinished Business

### a. Discuss and Vote on Ordinance #2023-18 – An Act to Amend Article 3.3-1.14 of the Clayton Municipal Code Related to Miscellaneous Parking. (RP)

Mr. Paisley stated this was passed in the Law & Legislature meeting. Hopefully it is going to help deal with some issues that town has been having regarding RV’s and campers being parked down the street. The change reads basically with new language. It says no boat, boat trailer, utility trailer, RV camper or off highway vehicle shall be stored, parked, placed, or maintained on any public roadway, street, or other public property for a period of time exceeding 72 hours. Synopsis reads this act amends the miscellaneous parking section of the Clayton Municipal Code making it applicable to RV’s and campers. In addition, the ordinance extends the time period that the stipulated vehicles may park on the streets and public property of the Town of Clayton from 24 to 72 hours.

*Mr. Paisley made a motion to adopt Ordinance #2023-18 an act to amend Article 3.3-1.14 of the Clayton Municipal Code related to miscellaneous parking. Ms. DeBenedictis seconded the motion. Motion carried unanimously.*

### b. Discuss and Vote on Ordinance #2023-19 - An Act to Amend Article 1.1 of the Clayton Municipal Code Related to Buildings. (RP)

Mr. Smith tabled this until next month.

**c. Discuss and Vote on Ordinance #2023-20 – An Act to Amend Article 4.1-1 of the Clayton Municipal Code Related to Business Licenses. (RP)**

Mr. Smith tabled this until next month.

**13. New Business**

**a. Introduction of Ordinance #2023-21 – An Act to Amend Article 7.1-2.4 of the Clayton Municipal Code Related to Rate of Tax. (RP)**

Mr. Paisley stated this ordinance does not adjust the tax rate. It changes the way it is set. Currently the tax rate is set in ordinance, but we set the tax rate via resolution at the budget. This will change that. The synopsis of this act reads this act changes the way the Town of Clayton sets the property tax from being in the form of an ordinance to a resolution adopted with the town's yearly budget. This amendment does not change the property tax rate. It modifies the way the rate is set. Mr. Smith stated with that just being an introduction, it will be tabled until next month for the final reading.

**b. Discuss and Vote on Employee Handbook Changes. (RC)**

Mr. Smith stated the standby schedule is an addition to the current handbook. Mr. Paisley read the following: The new addition reads 3.14 standby schedule. The Town of Clayton may have a need to create a standby schedule in order to fulfill our responsibilities of providing top notch customer service and the highest quality workmanship to our residents. The department heads with the approval of the Town Manager will create a schedule to be posted within their team's work center and electronic personnel schedule. An employee that is scheduled to be on standby will receive one (1) additional hour of regular pay per day respectively. If an employee is required to report to work during their standby period, they will receive not only the one (1) additional hour of regular pay but additionally the employee shall receive two (2) hours at time and a half of his/her straight time hourly rate. If more than two (2) hours of service is required, the employee shall be paid according to the overtime provision. For electric reconnections, employees will be paid two (2) hours all according to Section 3.11 Callback Pay as previously written in this handbook.

Mr. Smith moved on to Section 4 Vacation. He stated this is something that has come up in the past. Some of the vacation times were pretty old and outdated where employees had to work here for a significant amount of time to gain adequate vacation time. So it is being proposed for those vacation times to be adjusted for services of years. Service for 1-4 years is 80 hours. Service for 5-9 years is 120 hours. Service for 10-14 years is 144 hours. Service for 15-19 years is 168 hours. Service for 20-24 years is 192 hours. Service of 25 or more years will be 215 hours. The only other change in the handbook is the probationary period. With this change, years 1-4 80 hours essentially they receive the 80 hours upon hire but the probationary period is 90 days before that would take effect. Those are the changes that have been put for request at this time in the handbook. There is further to come. The Town Manager is ready to submit those changes and asked me if he could submit them in the December meeting. I've requested it be pushed to January. Mainly because it is going to be a long meeting in December. December is not a meeting we like to carry on very long like that. Mr.

Smith stated these changes are open for discussion. Mr. Paisley stated he thinks we are doing the right thing. We have a great team of people that take care of us and work very hard. It's the responsibility of all of us to make sure that they get enough vacation time. We are becoming more industry standard here and making it a little bit more fair. So I'm absolutely all for it. Mr. Smith stated it is to be understood that the change would take effect in 2024 and is not a retroactive change. Those years will be calculated at that point. Mr. Carrow stated when they did the job description for the town manager we were appalled that we were offering our employees at the time and it definitely was something that needs to be done. He totally agrees with the on call pay. He believes it is something that the Public Works guys have been doing for years now. Doing it out of their own goodwill and we just can't continue to do business that way. It is not fair to them. It is not fair to the public if we have an emergency. We need to make sure that there is somebody there. Before they were always doing it on their on time basically and not being compensated. So that's awesome. Mr. Carrow had a question about the vacation time. Are we talking hours or days? I see 80 hours and then I see 10 days. So we are really talking 80 hours right? Mr. Smith stated right. One being the same as the other. Mr. Carrow stated his concern is that the police patrol units work 12 hour days. So for them to take a day of vacation off it is actually a day and a half for them. I know in the long run the hours work out the same 40 hours a week. So I think we just need to be careful that we just not weigh heavily on the days but on the hours so we don't get into a little problem with that. Mr. Carrow stated his other concern is – I'm glad we reduced the years before we can move to the next step up but we really haven't changed the hours that we are getting. They are still staying at 80 hours. He stated he did some research with the US Labor Statistics. The average number of paid vacation days is 11 days. We are not even offering what the average is in the United States. Do we need to? I think we do. Mr. Smith questioned this. Mr. Carrow stated this is for somebody starting out – 11 days. Is there anything else we can do to maybe give them some more hours because we really haven't touch that at all. Yes we did reduce the years, they only have to wait now four years to move, before it was five or six years which is ridiculous. Eighty hours for four years is not a whole lot to give. I know they get comp time and stuff like that. What's the council's thought of maybe upping that a little a couple more hours? Is there a cap on carryover? Mr. Smith stated not currently. Mr. Carrow stated if they go on a seven day cruise they have used up 10 days. Mr. Paisley stated to get to 11 days we need to go from 80 to 88 hours. Mr. Smith stated he struggles with that. When you are taking into consideration year one and two maybe even three. For someone to come on and have more than two weeks' vacation in the first year they work here. Mr. Carrow stated he got seven weeks at his job. Christmas time is loaded into that too. Mr. Smith stated he hears him but that is a lot. Mr. Carrow stated he is just asking the question to council. Is there anything that we want to do to increase that number for them? When is the last time we talked about it 10-15 years ago? Times have changed a little bit. We kind of put emphasis on family and stuff like that. Keep in mind that vacation is a benefit and our managers are able to control that. It is not like it is going to cause overtime if you know if somebody takes a vacation day. You should still be able to function with the rest of the crew. Mr. Smith stated depending on the department you are right. But it could cost overtime in another department. Mr. Carrow stated it shouldn't. Even with patrol they have five people there on four shifts. They



have a floating guy that can handle it. Mr. Paisley stated he would almost be in favor of maybe tabling this until next month to allow the Town Manager talk to the Police Chief. Mr. Paisley asked Mr. Hutson if they are included under this. Mr. Hutson stated we follow the same. Our vacation mirrors this. Mr. Paisley stated so your vacation isn't in the police contract. Mr. Hutson stated it is in the contract, but it is basically verbatim what the town manual says. We took it right from the town manual. All our time is the same as any other employee. Mr. Smith stated the discussion needs to be had and we would have to call a meeting for that. Mr. Paisley stated or maybe give it a month. Allow the Town Manager to go back and consult with the Public Works Director or Office Manager and perhaps just get a better analysis of the cost and benefit. Mr. Smith stated his recommendation is that council members email the Town Manager any concerns they have or any adjustments they need they feel needs to be made to what has been proposed here today and then bring that back and the Town Manager will bring it back to next month's meeting. Mr. Carrow stated it has to be done next month one way or another. We have to make a decision because it needs to go into effect January 1<sup>st</sup>. Mr. Smith stated he doesn't know how many hires we have in January, but anything we change here only takes effect on their hire date. Mr. Carrow stated we could vote on the on call pay. Mr. Smith stated he doesn't have an issue with separating the two.

***Mr. Paisley made a motion to approve the addition of Section 3.14 as presented at tonight's meeting excluding the other provisions listed in the proposal. Mr. Flatter seconded the motion. Motion carried unanimously.***

Mr. Smith stated the remainder of the adjustments will be tabled at this time. I refer council to please send your emails to the Town Manager so he can come back to us with maybe some adjusted numbers or recommendations.

**c. Discuss and Vote on Fiscal Year 2024 Budget and Council Resolution. (RC)**

Mr. Smith stated everyone was given a copy of what was discussed at the Budget Meeting last month. Attached is a copy of the resolution. For the record the total revenues was \$7,045,467.08. Total expenses was \$7,120,647.85 with a net loss or deficit of \$75,180.77. Mr. Paisley read the resolution in its entirety.

***Ms. DeBenedictis made a motion to accept the 2024 Budget and Resolution in its written form. Mr. Flatter seconded the motion. Motion carried unanimously.***

**d. Discuss and Vote on Donation to the Concerned Citizens Association. (NS)**

Mr. Smith stated this is going to be tabled at this time. This is an organization that has requested some funding. I have requested their proper documentation of a 501c and it has not been provided at this time so I do not wish to pursue this. I will follow up with them.

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

*Mr. Carrow made a motion to go into executive session at 7:35 p.m. Mr. Flatter seconded the motion. Motion carried unanimously.*

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

*Mr. Flater made a motion to reconvene into regular session at 8:30 p.m. Ms. DeBenedictis seconded the motion. Motion carried unanimously.*

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

*Mr. Paisley made a motion to authorize the Mayor to re-negotiate the contract of the employee discussed within the executive session held on 11/13/23 and within the confines discussed within said executive session and return to council for approval of any amendments. Mr. Flatter seconded the motion. Motion carried unanimously.*

**17. Adjournment**

*Mr. Flatter made a motion to adjourn. Mr. Paisley seconded the motion. Motion carried unanimously. The meeting was adjourned at 8:30 p.m.*

Recording Secretary,

Sue Muncey