

Council Meeting

June 12, 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, Alex Dias, Jeff Lightcap, Cindy Lane, Jonathan Burnett, Ray Hales, Wendy Hales, Kris Kennedy, Pat Kennedy, John Burris, Ted Foglietta, Drew Boyce, James Galvin, Kenny Getty, and Jeremy Rothwell 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. Flatter led the Pledge of Allegiance.
3. **Determination of a Quorum** – Mr. Smith acknowledged a quorum.
4. **Approval of Minutes** –

Mr. Carrow made a motion to accept the Council Meeting minutes of 05/08/23 and the Street Committee Meeting minutes of 05/22/23 as presented in their written form. Mr. Paisley seconded the motion. Motion carried unanimously.

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

Mr. Paisley made a motion to accept the May Income and Expense Reports in its written form. Mr. Flatter seconded the motion. Motion carried unanimously.

6. **Communications** – Ms. DeBenedictis read the letter from Alice F. DeVore dated 05/26/23. Mr. Smith stated a Street Committee meeting needs to be called. Mr. Carrow stated he will take care of it. Mr. Cote stated he had already reached out to Ms. DeVore with a letter.
7. **Report of the Chief of Police** – Mr. Hutson stated there were 462 calls for service, 264 traffic arrests, and 24 parking tickets. Chief Hutson, Lt. Scott, and Lt. Rau attended the Chief's Conference in Bethany Beach on 05/1 – 05/04/23. Sgt. Bishop and Cpl. Bishop went to DELJIS Training on 05/03/23 in Dover. Lt. Scott and Sgt. Bishop helped with the VFW Walk on 05/05/23 on Route 300. Chief Hutson participated in the FOP Golf Tournament at Jonathan's Landing on 05/08/23. Chief Hutson attended the Police Chiefs' Meeting on 05/09/23 in Dover. Lt. Scott went to Clayton Intermediate School to talk to them about the charging station for an electric car that Chief Hutson wrote a grant for. Clayton Elementary School's kindergarten class toured the Police Station and Town Hall on 05/11/23. Lt. Scott, Sgt. Bishop, Cpl. Bishop, and Cpl. Fox assisted with Delaware State University's graduation on 05/12/23. Lt. Scott and Cpl. Bishop helped with a

dodge ball tournament at Clayton Intermediate School on 05/18/23. Cpl. Bishop and Cpl. Fox were present at Clayton Intermediate School's Intruder Alert Drill on 05/19/23. Cpl. Hume attended SRO Training at Providence Creek Academy from 05/22 – 05/26/23. Chief Hutson, Lt. Scott, and Lt. Rau did a presentation at Clayton Elementary School's Jobs in the Community on 05/24/23. Chief Hutson and Lt. Rau attended Accreditation Training in Dover on 05/25/23. Lt. Scott and Cpl. Hibbert attended Field Day at Clayton Elementary School on 05/26/23. Lt. Scott and Cpl. Andrews attended Movie Under the Stars on 05/26/23 in Clayton. Chief Hutson led the Memorial Day Parade in Smyrna on 05/29/23. Mr. Hutson stated the two (2) EV's were ordered from Willis Ford in Smyrna. They should be in around October. Mr. Smith asked about the charging stations. Mr. Hutson stated they should be coming in a couple of weeks. Mr. Paisley asked about the accident at Main and Bassett Street with the bus. Mr. Hutson stated no one was hurt. Mr. Paisley also congratulated him on being the safest town in the state.

8. Report of the Town Manager – Mr. Cote stated he respectfully submits his report in its written form. Mr. Paisley stated the Public Works team went above and beyond resolving an electric issue. He asked the Town Manager to pass on his thanks.

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

10. Reports from Members of Council

a. Report from Electric Committee – No Report

b. Report from Street Committee – Mr. Carrow stated this will be discussed under New Business.

c. Report from Sewer & Stormwater Committee – No report. Mr. Smith asked about Phase II – an update. Mr. Cote stated DelDOT kicked back the permit again with 35 questions. We should have it back to them by Wednesday. Each time it is resubmitted, it is a 30-day turnaround time. Mr. Smith stated this is frustrating.

d. Report from Equipment Committee – No Report. Mr. Paisley stated he is waiting on Public Works for answers.

e. Report from Personnel Committee – No Report.

f. Report from Public Safety Committee – No report.

g. Report from Budget Committee – Mr. Flatter stated a Budget Meeting will be scheduled in July.

h. Report from Economic Development Committee – Mr. Carrow stated we have a new business in town – Stella's Pizza. It just opened last weekend. Jacks on Main is expanding to serve ice cream. Approximately 65-70 people attended the Movie Night. The next Movie Night will be 08/04/23. We will be playing the new Top Gun movie. The next upcoming event is the July 4th parade.

- i. Report from Downtown Development Rebate** – Ms. DeBenedictis stated she spoke to the owners of Stella’s Pizza. They must spend \$25,000. There is also the Façade Grant.
- j. Report from DEMEC** – Ms. DeBenedictis stated Senator Hanson introduced a bill on wind farms. There will be a DEMEC luncheon at Legislative Hall. The Joint Committee Meeting is 07/28/23 at DEMEC’s building. The Annual Dinner Meeting will be in September at Dover Downs (Bally’s). Ms. DeBenedictis stated we can use the green energy money for streetlights.
- k. Report from Board of Adjustments** – No report.
- l. Report from Planning & Zoning Committee** – Mr. Smith stated a meeting is scheduled for 06/28/23 at 7:00 p.m.
- m. Appeals Board** – No report.
- n. Law and Legislature Committee** – Mr. Paisley stated the charter was returned from the General Assembly with comments. He reviewed these with the Town Solicitor. Representative Carson will introduce HB 198 on Wednesday. Mr. Paisley stated he is looking through the Town Ordinances. He is introducing two (2) of them tonight.

11. Public Forum – Wendy Hales stated on Clayton Avenue there is a condemned property, and nothing is being done about it. The condemned notice has been posted twice. She stated she lives next door, and nothing is being done. If something happens to this home, her home could be affected. She is asking for help. Mr. Smith asked what her address was. Mrs. Hales stated 209 Clayton Avenue. Mr. Smith stated the Town Manager and the Code Enforcement Officer are working on this. He will have them follow-up.

Mr. Smith wanted to give an update on Artesian. The subdivisions are being divided and given back. It should be finalized in a few months. The long-term goal of the mains is to meet the requirements. An Artesian inspector will be on site when a road is open to evaluate.

12. Unfinished Business – N/A

13. New Business

a. Presentation/Feedback/Q&A Session to Council Regarding the Proposed Smyrna Clayton Blvd. Intersection Project.

Mr. Foglietta stated the MPO representative is doing a study of the intersection. They have been working on this since 2022. They have been studying the area and gathering data. The first workshop was on 01/30/23 at the Citizens Hose Company. There were 26 attendees. They studied the crash history from 2017 – 2022 of the Smyrna Clayton Boulevard and the Wheatley’s Pond Road intersection. The acute angle of the

intersection inhibits vehicle turning movements especially eastbound vehicles on Smyrna Clayton Boulevard turning right onto Wheatley's Pond Road. For future traffic, the growth factor is 1% per annum (per DelDOT). A 1.06% growth factor applied to 2022 traffic to obtain opening year volumes (2028). A 1.32% growth factor applied to 2022 traffic to obtain design year volumes (2050). From the Community Workshop 1: 8 comment forms completed and submitted at the workshop, 1 comment form completed and submitted to the Town, and 77 responses received from the online survey. Mr. Foglietta stated the comment that covered it all was "The skew discourages the right turn on eastbound Smyrna Clayton Boulevard and the left turn on northbound Wheatley's Pond Road. It impairs a slight distance on northbound right turn. It makes for a wide intersection to bicycle through." Community Workshop 2 was held on 03/30/23 at Citizens Hose Company. There were 25 attendees. The plans displayed included Concept Option 1 and Concept Option 2. A total of 12 comment forms were completed and submitted at the workshop, 1 online response to comment form (April 10 – May 10, 2023), and 153 online responses to town survey (May 4 – May 19, 2023). Out of the 12 comment forms completed and submitted at Workshop 2, 3 favor Option 1, 11 favor Option 2, 2 support both, and 4 were unsure. The one online response to the comment form was in favor of Option 2. Out of the 153 online responses to the Town Survey, 11 like the way it is, 48 favor Option 1, and 94 favor Option 2. Approximately 62% support Option 2. The cost of Option 1 is approximately \$3,647,440.57 and Option 2 is approximately \$6,873,519.33. Federal and State funds can be used for this project. Mr. Paisley asked about the accidents on Route 300 and Smyrna Clayton Boulevard and Route 300 and Carter Road. A lot of roads come into this. Have they entertained the idea of activating the light at Route 300 and Rodney Street and the light on Main Street. Mr. Foglietta stated the focus of this project is on Smyrna Clayton Boulevard. It could be studied. It could be an interim improvement. Mr. Rothwell stated this transportation issue can request MPO to do a study. Mr. Paisley asked since it is a state road, will it impede our request for a study. Mr. Rothwell stated no. Mr. Paisley asked what the timeline of this project is. Mr. Foglietta stated 2028 would be the opening year. Mr. Flatter stated there have been an average of eight accidents per year. What is the end goal? What is a win? Mr. Boyce stated it is not just a safety issue, it is a capacity issue. We didn't do a crash benefit analysis. Mr. Smith stated Option 2 is formula designed. What is the anticipated backlog? Can DelDOT scrap this? Mr. Boyce stated they could, but normally they do not. Mr. Smith asked for the presentation to be put on the Town's website. Mr. Carrow stated he has concerns with Option 2. This can be a hindrance to emergency vehicles. Past Chief Keen of Smyrna stated he supports Option 1. He has concerns about the stopping and starting and the turn lanes. Chief Lightcap of Clayton also supports Option 1. His concerns are the same as Smyrna's. He stated the stopping and starting could be a matter of saving someone's life.

b. Discuss and Vote to Partner with the Kent County Metropolitan Planning Organization (MPO) to File a Joint Application for a U.S. Department of Transportation Grant to Fund the Creation of a Comprehensive Regional Safety Action Plan.

Mr. Cote stated on May 15, 2023, he met with Marilyn Smith and Marsha Scott in reference to Safe Streets and Roads for All. This is a comprehensive safety action plan defined. Eight agencies attended the meeting. (Clayton, Milford, Smyrna, Dover, Camden, Kent County, Cheswold, and State Representatives). The term “comprehensive safety action plan” means a plan aimed at preventing transportation-related fatalities and serious injuries in a locality, commonly referred to as a “Vision Zero” or “Toward Zero Deaths” plan. The Comprehensive Safety Action Plan process is leadership commitment, planning structure, planning process inputs, and planning process outcomes. The required action plan components are: leadership commitment and goal setting, planning structure, safety analysis, engagement and collaboration, equity considerations, policy and process changes, strategy and project selections, and progress and transparency. Mr. Cote stated he is asking for a leadership commitment. Mr. Cote stated he spoke with Greg Patterson and municipalities can use Municipal Street Aid funds for this project. The Governor reached out to DeIDOT and if approved, will cover the \$40,000 (\$5,000 for each agency) which would be the municipalities portion.

Mr. Paisley made a motion to continue pursuing the partnership with MPO and the other seven jurisdictions to file a joint application for a U.S. Department of Transportation Grant to fund the creation of a Comprehensive Regional Safety Action Plan not to exceed \$5,000. Mr. Carrow seconded the motion. Motion carried unanimously.

c. Discuss and Vote to Accept Direct Withdrawal for Utility Payments

Mr. Cote stated this is a convenience for our residents. Pros are: no cost to the resident, automatically paid on due date, no longer have to come to office to pay, call in payment, mail payment, or log on to make payment, less phone payments, less foot traffic, less late notices to be mailed, save on ink, postage, envelopes and paper, some residents order checks to pay our bill, no more rushing to make the payment by 4:30, less chance of being lost or late in the mail, more secure than taking credit card payments over the phone, and less people being sent to collections. The cons are: risk of overdraft, customer closes account and doesn't notify the town, customer cannot pay extra to have credit on account, cannot split payments, bill paid twice, cannot be paid at the beginning of the month. Mr. Carrow asked if there is an obligation for the resident to sign up. Mr. Cote stated there is no obligation. Mr. Paisley stated he is fine with the program. He would like the fees listed. Mr. Flatter asked about con #4 and #5 – is there a large

amount of people? Mrs. Muncey stated no. Maybe just a handful of people would be affected in this way. Mr. Smith asked about the number of bad checks. Mrs. Muncey stated you can write two bad checks within one year. Mr. Cote had a question for Mr. Chambers. The highlighted area of the ordinance we would just amend to say direct withdrawal. Mr. Chambers stated it would be a three-sentence amendment to the ordinance.

Mr. Paisley made a motion to accept the direct withdrawal for utility payments. Mr. Carrow seconded the motion. Motion carried unanimously.

Mr. Smith stated we will start this policy once everything is in place.

d. Discuss and Vote on Recommendations from Street Committee Meeting to Address Parking Restrictions on Island Lane, Spelt Drive, Old Creek Drive, N. Longwood Lane, and S. Longwood Lane.

Mr. Carrow stated we had a meeting on 05/22/23 referencing parking. This involved town and emergency vehicles. On Island Lane and Old Creek Drive there is a circle with grass in the middle. Spelt Drive we will have to put on hold. There is limited parking on Island Lane and Old Creek Drive. For Longwood Lane it is a hardship for the residents. A letter was sent to the residents stating the problem. We are giving them until 09/30/23 to police themselves. There is limited parking on the inside circle in Providence Crossing.

Mr. Carrow made a motion to accept the recommendations of the Street Committee meeting. Mr. Paisley seconded the motion. Motion carried unanimously.

Mr. Flatter stated people park in the grass. Does it affect that? Mr. Carrow stated that would be a homeowner's association issue. Mr. Dias asked if signs would be put up. Mr. Carrow stated yes.

e. Discuss and Vote on Phase I of LED Street Light Project

Mr. Carrow stated we need to replace the streetlights in town. It is a safety issue, and it will be a savings to the town. We have 170 fluorescent lights in town. There are 276 fluorescent lights in the developments. The cost would be \$50,000 - \$60,000 in town and \$134,000 in the developments. This would be phased out over several years. Mr. Carrow stated we would start with old town first. This would include N. Bassett Street from Industrial Boulevard to Dump Road where there are no lights. The cost for Phase I would be \$65,000.

Mr. Carrow made a motion to allow Public Works to go forward with Phase I. Ms. DeBenedictis seconded the motion. Motion carried unanimously.

Mr. Smith stated this will be for old town and N. Bassett Street. The \$65,000 will come out of Municipal Street Aid Fund. Mr. Cote stated the lights require an arm change on N. Bassett Street. The cost includes this.

f. Discuss and Vote on Plaque to Honor Thelma Knight Way

Mr. Carrow stated Mrs. Knight was a 98-year-old resident who spent her entire life in Clayton. The walkway would be from West Street to Main Street. We have two options for the plaque – color or bronze. The cost is around \$650.00.

Mr. Carrow made a motion to adopt a plaque with a colored picture for Thelma Knight Way. Ms. DeBenedictis seconded the motion. Motion carried unanimously.

Mr. Flatter stated he has hesitation about the color. Will it fade over time? Mr. Carrow stated he is sure it is treated to protect. He will ask.

g. Introduction of Ordinance #202301 An Act to Amend Town of Clayton Ordinance Article 1.2-3 Electric Service

Mr. Paisley read the introduction and redaction portion of the ordinance. Mr. Chambers stated this can only be an introduction. It can only be read. Mr. Smith asked about changes. Mr. Chamber stated next month.

h. Introduction of Ordinance #202308 An Act to Amend Town of Clayton Ordinance Article 1.2-6 Water and Sewer Service

Mr. Paisley read the introduction and redaction portion of the ordinance.

i. Discuss and Vote on the Lions Club's Use of the Police Building on West Street

Mr. Smith stated the Lions Club requested to use the Police Building on West Street. They currently have two sheds on the property. The President of the Lions Club, John Burris, stated they keep supplies and hospital equipment. They are requesting one bay. Mr. Carrow asked if they would be keeping the portable buildings there. Mr. Burris stated yes. Mr. Carrow asked the Chief if the Humvee, Crown Vic, and the motorcycle could be moved to the old Public Works building. Mr. Hutson stated yes. Mr. Carrow stated the Town Manager and the Police Chief can coordinate this.

Mr. Carrow made a motion to approve letting the Lions Club use the white garage on West Street. The Town Manager and Police Chief will coordinate the removal of equipment in the garage. Mr. Flatter seconded the motion. Motion approved unanimously.

j. Discuss and Vote to Fill an Upcoming Code Enforcement Officer Vacancy for the Town of Clayton.

Mr. Cote stated the Code Enforcement Officer's last day is 07/14/23. Mr. Cote gave the Council a proposed job description for a full-time hourly non-exempt Code Enforcement Officer. Mr. Cote stated he prefers a full-time position. For the cost Mr. Cote looked at the local market. He reviewed Kent County, Milford, and Dover. The median is \$51,000 - \$79,000 giving an average of \$65,000. The current part-time employee works 15 hours weekly. The town is growing in population, licensing, and permitting. Mr. Paisley stated this was not in the packet to review over the weekend. He stated he would have preferred to have it over the weekend to review. He doesn't like making financial decisions without having time to review. Mr. Smith stated where it says training and experience, he would like to see it say preferred instead of minimum. Mr. Carrow stated we need a full-time position so things can be addressed in a timely manner. Mr. Chambers stated have the Town Manager advertise, get resumes, and gather for Council. The Town Manager can do the interviews. Mr. Smith stated the Town Manager and the Personnel Chairman can interview.

Mr. Paisley made a motion to allow the Town Manager to post the Code Enforcement Officer position. The Town Manager and Personnel Chairman will interview and report back to Council with recommendation. Ms. DeBenedictis seconded the motion. Motion carried unanimously.

k. Discuss and Vote to Approve the Public Works Department's Purchase of Critical Confined Space Safety Equipment.

Mr. Cote stated the Director of Public Works attended training with Delaware Rural Water Association. The following equipment is needed to be compliant: two gas detectors, one confined space entry tripod, two CMC atom harnesses, two manhole guard rail barricades, one blower system, and one rescue rope. The cost is \$6,868.06. We need to have a safety culture mindset. This could come from Sewer Capital Reserve or Stormwater Capital Reserve.

Mr. Carrow made a motion to immediately purchase the safety equipment from the General Fund. Mr. Flatter seconded the motion. Motion carried unanimously.

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

Mr. Paisley made a motion to go into Executive Session at 9:14 p.m. Mr. Flatter seconded the motion. Motion carried unanimously.

15. Motion to Reconvene into Regular Session and Adjournment

Mr. Flatter made a motion to adjourn. Mr. Carrow seconded the motion. Motion carried unanimously. Adjourned at 9:52 p.m.

Recording Secretary,

Sue Muncey