

Council Meeting
January 8, 2024
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. Town Manager Robert Cote, Recording Secretary Sue Muncey, Chief Carl Hutson, Town Solicitor Scott Chambers, Alex Dias, Ryan Quackenbush, Daniel Wandless, Smyrna High School Volleyball Team, Jonathan Burnett, and David Ross 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. **Resolution to Recognize the Smyrna High School Girls Volleyball Team’s State Championship Title.**

Mr. Cote read the resolution in its entirety. Mayor Smith and Mr. Cote presented the resolution to the coach and team captains.

5. **Employee of the 3rd Quarter 2023 and Employee of the 4th Quarter 2023.**

Mr. Cote read the following for Employee of the 3rd Quarter: This is to certify that in the outstanding performance of his duties, Dave Ross has been recognized for superior achievement and is hereby awarded the Town of Clayton’s Employee of the 3rd Quarter for his exemplary service during the period of 1 July – 30 September 2023. During this period, Dave identified an essential need for the Department of Public Works team to receive critical confined space training in order to maintain a safe environment for his team to operate in. He collaborated with the Delaware Rural Water Association to schedule a two-day training session for his entire team. While attending the course, Dave discovered that the DPW staff was lacking several required pieces of confined space safety equipment to become compliant with industry standards. Dave expeditiously put together a purchase request and routed through the Town Manager and Council for an emergency spend authorization which was quickly and unanimously passed enabling his team to acquire and commission the equipment immediately thereby averting a potentially severe safety mishap. Additionally, Dave worked tirelessly with the Town Manager, Street Committee, Efficiency Smart Program, and Town Council in order to secure funding and approval to order and install 170 new LED streetlights throughout the town. To date, 130 new LED streetlights have been replaced throughout old town and N. Bassett Street. These improvements have contributed to an annual electricity savings of 53,946 kWh’s resulting in approximately \$7,013 in estimated first-year energy savings which is projected to net the Town of Clayton a 15-year estimated average lifetime of efficiency improvements for the project. Finally, Dave expertly showcased his ability to take command of an electrical emergency on two (2) separate occasions. On July 6th approximately 350 residents were without power for just under two hours due to a wild animal causing several blown fuses throughout the system. Additionally, on July 9th approximately 750

residents were without power for about five hours due to a tree coming into contact with the primary lines after a weather event. In both instances, Dave expeditiously responded to and created a safety perimeter at the scenes. He then oversaw the troubleshooting of the faults to identify the discrepancies and collaborated with both internal and external agencies to remedy the problems. Zero safety or technical mishaps were noted during the events enabling the proper restoration of power to our residents as safely and as quickly as possible. These efforts reflect great credit upon Dave Ross and the Town of Clayton, Delaware.

Mr. Cote read the following for Employee of the 4th Quarter: This is to certify that in the outstanding performance of his duties, Ryan Quackenbush has been recognized for superior achievement and his hereby awarded the Town of Clayton's Employee of the 4th Quarter for his exemplary service during the period of 1 October – 31 December 2023. During this period, Ryan identified a paramount need for better communication between the Town's Code Enforcement Department and its residents, specifically relating to the Town's licensing, permitting, and ordinance requirements. To successfully bridge this gap, Ryan created an inaugural newsletter that was published to the Town's website and social media pages, where he regularly disseminates pertinent information quarterly to our residents in a timely fashion. Additionally, Ryan stepped outside the box once again to further build public trust by initiating a new program by the Town where we reach out and provide positive feedback via a letter of appreciation to our residents who remedy code violations in a timely manner. Specifically, after closely collaborating with a resident who had several outstanding violations, Ryan was not only able to assist the resident in correcting their violations, he also inspired that resident to assist their elderly neighbor with their violations as well, thereby beautifying both properties far above and beyond their previous conditions and enhancing the overall curb-appeal of the entire block. Furthermore, Ryan successfully completed over 100 hours of the International Code Council's coursework, study materials, and final exams earning him both the Property Maintenance and Housing Inspector certifications in less than six (6) months on the job. Ryan also teamed up with the Town Solicitor's office where he authored several new forms and notices, including an expired building permit notice, building permit HOA waiver letter, ordinance violation warning letter, ordinance civil citation, and the ordinance violation appeal form. Finally, Ryan provided extremely valuable input and change recommendations to the Chairman of the Law and Legislature Committee in regards to several antiquated Town Ordinances that apply to the proper administration of his department. These efforts reflect great credit upon Ryan Quackenbush and the Town of Clayton, Delaware.

6. Approval of Minutes –

Mr. Carrow made a motion to accept the Council Meeting minutes of 12/11/23 as presented in its written form. Mr. Flatter seconded the motion. Motion carried unanimously.

7. Approval of Income and Expense Report –

Mr. Paisley made a motion to accept the December 2023 Income and Expense Reports in its written form. Mr. Flatter seconded the motion. Motion carried unanimously.

8. Communications – N/A

9. Report of the Chief of Police – Mr. Hutson stated there were 453 calls for service. There were 983 more complaints for 2023. Lt. Scott and Cpl. Hibbert helped Harrington with their parade on 12/01/23. Chief Hutson led the Christmas in Clayton Parade while multiple officers provided assistance with traffic control on 12/03/23. Sgt. Graham attended Media and Public Relations training in Dover the week of 12/04/23. Chief Hutson provided a presentation to County Crime Watch at Kent County Levy Court on 12/04/23. Lt. Scott and Cpl. Bishop assisted Rehoboth Beach with their Christmas Parade on 12/04/23. Chief Hutson attended Kent County Police Chiefs’ Meeting on 12/05/23. Lt. Scott and Cpl. Hume attended Clayton Elementary School’s Christmas Play on 12/07/23. Lt. Scott and Cpl. Andrews attended Clayton Elementary School’s Craft Fair on 12/09/23. Sgt. Bishop, Cpl. Bishop, Cpl. Andrews, Cpl. Fox, and Cpl. Hibbert assisted with Camden’s Christmas Parade on 12/09/23. Chief Hutson attended the Police Chiefs’ luncheon at the University of Delaware on 12/11/23. Chief Hutson, Lt. Rau, Cpl. Hume, and Cpl. Bishop assisted with an Intruder Alert Drill at Providence Creek Academy on 12/12/23. Chief Hutson and Town Manager Cote went to the ribbon cutting ceremony for the new police station in Milford. Chief Hutson, Lt. Scott, Sgt. Bishop, Cpl. Bishop, Cpl. Andrews, Cpl. Hume, Cpl. Hibbert, and Cpl. Fox attended the John Pridemore Dedication Ceremony at Clayton Veteran’s Park on 12/16/23.

10. Report of the Town Manager – Mr. Cote stood on his written report.

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

12. Reports from Members of Council

a. Report from Electric Committee – Ms. DeBenedictis stated there were a couple of power outages.

b. Report from Street Committee – Mr. Carrow had no report.

c. Report from Sewer & Stormwater Committee – Mr. Flatter had no report.

d. Report from Equipment Committee – Mr. Paisley had no report.

e. Report from Personnel Committee – Mr. Flatter mentioned the AFO position. We have received about a dozen applications, and they are all being reviewed by the Town Manager and myself at this time.

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 had no report.

i. Report from Downtown Development Rebate – Ms. DeBenedictis had no report.

- j. Report from DEMEC** – Ms. DeBenedictis stated it was very quiet.
- 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 on January 24, 2024, at 7:00 p.m.
- m. Appeals Board** – Mr. Smith had no report.
- n. Law and Legislature Committee** – Mr. Paisley stated as you recall from last month, we were going title by title with our ordinance adjustments. We jumped from that to go to Title 7 which is the tax title because if we continued in the title-by-title progression we would have been doing the tax title at tax time. There are two (2) ordinances up for introduction tonight that will hopefully be referred into the Law & Legislature Committee. He would like to have a meeting within the next couple of weeks because in addition to these ordinances we also have some from previous months. If the solicitor is available, we would like to have him available at the meeting because he has some input on the Building Permits and the Business License Ordinances. With getting into taxes and different things of that nature, it will be greatly beneficial to have his legal expertise in the meeting as well. In the next couple of weeks, he will be working with the Town Manager and Clerk because we are getting close to election time. As you know, a lot of things in the Charter adjustment dealt with elections with different developments in State law. We had to update our provision significantly, so we need to make sure we are moving in the right direction.

13. Public Forum

Wayne Gladhill – Wanted to thank everyone for the Christmas celebration. He wanted to thank the fire company for the three or four nights they go out in the community at Christmas time. He also stated he wanted to speak with the mayor after the meeting.

Rodney Whalen – He stated he went in as of January 1st as the President of the Fire Company. He wanted to publicly come here and thank the Council for everything, whether it is money or services. The town crew helps them out tremendously during the day. He wanted to thank Council from himself and members the Clayton Fire Company for all that you do for us here.

14. Unfinished Business

a. Discuss and Vote on Ordinance #2023-07 – An Act to Amend Article 8.3 of the Clayton Municipal Code Related to Procedure to Annex Unincorporated Territory Contiguous to the Town. (RP)

Mr. Paisley stated going back to the Charter, this was a section that received a significant update. We had operated on a system where if someone wanted to come into the town that was a contiguous property, it went to an election whereas in the new charter if 2/3 of the property owners in the area wish to come into the town, instead of going to an election it would just go to a simple vote by town council. Mr. Paisley read the synopsis: This act reforms the annexation process and makes it consistent with the Town's new Charter. Specifically, it allows the Town to annex a contiguous territory if

and when 2/3 of the property owners in the area sign a petition requesting inclusion into the Town. In such a case, the Council would first issue a resolution proposing the annexation and calling for a public hearing to be held. Furthermore, this act spells out the Town's requirement to submit a Plan of Services to the Office of State Planning Coordination, the power to initiate conversations on potential annexations and negotiate an annexation agreement with the property owner(s), and the requirement to formally notify newly annexed residents. Mr. Paisley stated this act was introduced on 09/11/23 and was approved by the Law & Legislature Committee on 08/29/23.

Mr. Paisley made a motion to adopt Ordinance #2023-07 – an act to amend Article 8.3 of the Clayton Municipal Code related to the procedure to annex unincorporated territory contiguous to the town. Mr. Flatter seconded the motion. Motion carried unanimously.

b. Discuss and Vote on Ordinance #2023-10 - An Act to Amend Article 2.3-3 of the Clayton Municipal Code Related to Dangerous Buildings. (RP)

Mr. Smith stated this will be stricken. It will be introduced at February's meeting.

c. Discuss and Vote on Ordinance #2023-16 – An Act to Amend Article 2.1-1 of the Clayton Municipal Code Related to Tobacco Use Within the Town's Buildings and Automobiles. (RP)

Mr. Smith stated this will be stricken. It will be introduced at February's meeting.

15. New Business

a. Discuss and Vote on the Purchase of a New Police Vehicle. (CH)

Mr. Hutson stated we had an accident with one of our vehicles a couple of months ago. Luckily, nobody was hurt in the accident, and it was not the officer's fault. However, the vehicle was totaled by the insurance company so he would like to replace that vehicle. We have obviously already budgeted in the budget for the year for the first payment of the new vehicle as we always do per year. The insurance company has given us roughly \$14,000 for the totaled vehicle. If we do the three-year payments, the payment would roughly be the same. Mr. Hutson is proposing a vote that we can use the insurance check of \$14,000 to make the first payment on a vehicle to replace the totaled vehicle. At that point it won't affect the budget line as far as the vehicle payments for this year moving forward. That is something we can discuss at a budget meeting later on in regard to next year's budget. The option would be either we just pick up an extra vehicle payment next year or we forgo purchasing a vehicle next year. Mr. Carrow stated we could. Mr. Hutson stated it could be discussed at a budget meeting at a later date. Just to be clear, the only additional cost I will see in the purchasing of a new vehicle obviously will be to outfit the equipment and to have it installed. That will be \$7,000-\$8,000. That will have an impact on this year's budget. Mr. Hutson stated I.G. Burton does have a vehicle

currently in stock on the lot, which is unusual. We have been ordering vehicles and waiting five to six months for them to come in. They are holding one for us. He told them that we had a meeting tonight and he should know something hopefully within the next few days. Mr. Carrow had a couple of questions. Just to clarify, you will be replacing one from the accident and also purchasing the one that is normally our cycle this year. Mr. Paisley stated the only real budget adjustment would be the cost to outfit it. Mr. Huston stated yes for the one vehicle. Mr. Paisley asked where that was in the line of vehicles. Mr. Hutson stated it was the older vehicle, the 2013. It was currently being used by one of the School Resource Officers. It was unmarked. An unmarked Tahoe. Mr. Dias asked what kind of vehicle they were purchasing. Mr. Hutson stated they are looking at purchasing a new police Durango. His preference honestly would be a Tahoe, but you can't even order a police Tahoe now. Mr. Smith stated that would put two (2) new Durangos in the fleet.

Mr. Carrow made a motion to allow the Police Chief to enter into an agreement to replace the police vehicle that was destroyed in the accident. Ms. DeBenedictis seconded the motion. Motion carried unanimously.

b. Discuss and Vote to Authorize the Town Manager to Re-Invest the Town's 22 (CD's) Certificates of Deposit into Subsequent 11-Month Term CD Accounts Upon Maturity of the 22 CD's Invested in March 2023. (RC)

Mr. Cote stated what we did last year was invest \$5.2 million into 22 CD's. They were 11-month terms. For a 4.35% and the expected return for all 22 of those CD's is going to be a total of \$206,900 which will be distributed upon maturity the first week in February. So, our initial investment of \$5.2 million will grow to \$5,406,900. So, members of Council, if you recall, last year when we approved this, the terms of the CD were if we didn't make any moves within 10 days of the maturity date the CD's would automatically roll into a six (6) month term at whatever rate was prevalent at the time. As of this week, the six (6) month term is about 5% versus the 4.35%. Mr. Cote's recommendation to Council would be to just roll it over into new 11-month certificates – the entire \$5.4 million into the same 22 CD's because now our banking institution is offering 5% so almost $\frac{3}{4}$ of a percent higher than what we achieved last year. This would take our initial investment from \$5.2 million to \$5.677 million. It is extremely safe. We are at the end of our initial investment and his recommendation to Council would be to authorize him to just simply move this money plus the interest we gained into 22 more accounts exactly broken down the way it was last year. Mr. Paisley stated it makes sense. Unfortunately, inflation and everything has increased our cost and to be able to recoup some of that by investing in CD's which are incredibly safe at a higher interest rate makes complete sense. Mr. Smith stated foreseeable for 2024 the biggest expense being Phase II of the sewer system. Those funds are still available and are in the ARPA account. Those are not invested and available to make that purchase.

Ms. DeBenedictis made a motion to re-invest the money for another 11 months. Mr. Flatter seconded the motion. Motion carried unanimously.

c. Discuss and Vote to Establish a New Clayton Town Hall/Police Department Building Committee. (RC)

Mr. Smith stated this is in the infancy phase. It is the very first step. He is coming to the Council asking for permission to create such a committee, and once that committee is created, then call a meeting later this month, early next month just for the infancy phase. Does anybody have any questions about that committee?

Mr. Carrow made a motion to authorize the mayor to establish a committee to replace the town hall and police department. Mr. Flatter seconded the motion. Motion carried unanimously.

d. Introduction of Ordinance 2024-01 – An Act to Amend Article 7.1-2 of the Clayton Municipal Code Related to Property Taxes. (RP)

Mr. Paisley stated this is the first of the two ordinances that will come from the taxes title of our code. The synopsis of this ordinance reads: This act updates the property tax section of the Clayton Municipal Code. It redefines the ordinance from operating on a property tax year beginning on July 1st and ending on June 30th to a property tax season starting on July 1st and ending on September 30th, the dates when property tax bills are sent and are due. Additionally, this further elaborates that the Town can either employ the Kent County assessment roll or conduct its own assessment. Furthermore, it clarifies that the Town may either mail a property tax statement or send it to the owner's designated escrow provider. Nevertheless, it stipulates that the Town may pursue a lien for unpaid taxes and fees when the outstanding balance exceeds \$2,500 and the Town's attempt to notify the owner has no resolution. Finally, the act establishes the Town's right to postpone the property tax season in the event of unforeseen challenges, which, in such case, the Council will issue a resolution describing the issue and noting the new tax season. Mr. Smith stated he would like to send this to the Law & Legislature Committee for review.

e. Introduction of Ordinance 2024-02 – An Act to Amend Article 7.2-1 of the Clayton Municipal Code Related to Partial Tax Exemptions for Totally Disabled Property Owners and Property Owners 65 Years of Age and Older. (RP)

Mr. Paisley stated this is the second ordinance from the tax title and the synopsis reads: This act doubles the senior citizen's and disabled person's tax credit. Furthermore, it updates and renames the ordinance. The partial property tax exemption for certain citizens of the town, aka Protect Program. In addition, it raises the unexcused income limit to qualify for participation in the program to \$18,000 individual, \$24,750 for couples, and an additional \$3,100 for each dependent in the residence. In addition, this act transfers the responsibility of ensuring eligibility from the Town Council to the Town Manager and/or their designee and clarifies the existing provision that an appeal would be before Council. Finally, this act contains grammatical changes to the previous

language. Mr. Smith asked that this be moved to the Law & Legislature Committee for review before being brought back to Council.

16. Adjournment

Mr. Carrow made a motion to adjourn. Mr. Flatter seconded the motion. Motion carried unanimously. The meeting was adjourned at 7:36 p.m.

Recording Secretary,

Sue Muncey