

Council Meeting

May 13, 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, Paisley, and DeBenedictis. Mayor Smith was presiding. Recording Secretary Sue Muncey, Chief Carl Hutson, Town Solicitor Scott Chambers, David Ross, Barbara Paisley, Joanne Masten, William Carson, Richard Pratt, Alice DeVore, Kimberly Schlichtig, Tabitha Gott, Jim Masten, Ed Ide, Stephanie Dove, Kyra Hoffner, and Wayne Gladhill 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. **Presentation to Councilwoman Mary Ellen DeBenedictis** – Senator Hoffner, Representative Carson, Commissioner Masten, Kimberly Schlichtig, and Mayor Smith presented Ms. DeBenedictis with tributes.
4. **Swearing in of New Council Members** – Mr. Chambers sworn in Ryan Paisley.
5. **Determination of a Quorum** – Mr. Smith determined a quorum was present.
6. **Restructuring of Council – Election of Officers**

Mr. Paisley made a motion to nominate Nick Smith for Mayor. Mr. Carrow seconded the motion. Motion carried unanimously.

Mr. Carrow made a motion to nominate Ryan Paisley for Vice Mayor. Mr. Flatter seconded the motion. Motion carried unanimously.

Mr. Paisley made a motion to nominate Marvin Pedigo for Secretary. Mr. Flatter seconded the motion. Motion carried unanimously.

Mr. Paisley made a motion to nominate Shaun Flatter for Treasurer. Mr. Carrow seconded the motion. Motion carried unanimously.

Mr. Paisley made a motion to nominate William Carrow for Assistant Treasurer. Mr. Flatter seconded the motion. Motion carried unanimously.

7. Approval of Minutes –

Mr. Carrow made a motion to accept the Council Meeting minutes of 04/08/24, the Public Hearing minutes of 04/16/24, the Special Council Meeting minutes of 04/19/24, the Budget Committee Meeting minutes of 04/22/24, the Law & Legislature Committee Meeting minutes of 04/23/24, the Board of Election Committee meeting of 04/30/24, and the Board of Election Committee Meeting minutes of 05/01/24 as presented in their written form. Mr. Flatter seconded the motion. Motion carried unanimously.

8. Approval of Income and Expense Report –

Mr. Paisley made a motion to accept the April 2024 Income and Expense Reports as amended in its written form. Mr. Flatter seconded the motion. Motion carried unanimously.

9. Communications – N/A

10. Report of the Chief of Police – Chief Hutson stated there were 398 calls for service and 222 traffic arrests. Chief Hutson attended the Kent County Police Chief’s Meeting in Wyoming on 04/02/24. Chief Hutson attended the Chief’s Meeting in Dover on 04/09/24. Lt. Scott did a presentation at Lillian Smith Senior Center on 04/10/24. Lt. Scott, Sgt. Bishop, Cpl. Hibbert, and Cpl. Andrews helped out with Harrington’s parade on 04/13/24. Sgt. Bishop and Cpl. Andrews helped with Rehoboth’s marathon. Cpl. Fox went to Advanced MDT training in Bethany on 04/17/24 and 04/18/24. Chief Hutson attended Opening Day at Smyrna Clayton Little League on 04/20/24. Lt. Scott, Sgt. Bishop, and Cpl. Hibbert helped with an Intruder Alert Drill at Providence Creek Academy on 04/22/24. Lt. Scott, Lt. Rau, Sgt. Bishop, and Cpl. Bishop helped with traffic control at Dover Motor Speedway from 04/26/24 – 04/28/24. Lt. Scott, Lt. Rau, Sgt. Bishop, and Cpl. Bishop helped with an Intruder Alert Drill at First State Military Academy on 04/29/24. Lt. Rau went to a meeting for Carry the Load Meeting at the VFW on 04/30/24. Mr. Smith asked what Lt. Scott’s presentation was on at Lillian Smith Senior Center. Chief Hutson stated fraud. He is looking to do monthly presentations. Mr. Smith stated they lost a patrol vehicle in an accident.

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

12. Reports from Members of Council

- a. Report from Electric Committee –** Mr. Carrow stated there will be a discussion about electric rates under New Business.
- b. Report from Street Committee –** Mr. Carrow stated there is an item under New Business.
- c. Report from Sewer & Stormwater Committee –** Mr. Flatter had no report. Mr. Smith stated the sewer project will begin when school is out.

- d. **Report from Equipment Committee** – Mr. Paisley had no report.
- e. **Report from Personnel Committee** – Mr. Flatter had no report.
- 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** – Mr. Paisley had no report.
- j. **Report from DEMEC** – Mr. Smith had no report.
- 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 05/22/24 at 7:00 p.m.
- m. **Appeals Board** – Mr. Smith had no report.
- n. **Law & Legislature Committee** - Mr. Paisley stated they discussed the Police title. He thanked the Chief. Mr. Paisley stated they are moving to Title 4. He also thanked the Office Manager for typing up over thirty pages of minutes the last couple of months. Mr. Smith discussed the procedure of how ordinances are discussed. He stated they are first introduced at a Council Meeting. It is then sent to the Law & Legislature Committee for discussion. It is then brought back to the Council Meeting for voting.
- o. **Building Committee** - Mr. Carrow stated there is an item under New Business for discussion.

13. Public Forum

Mr. Gladhill stated he requested a meeting with the Mayor and Town Manager a few months ago. He realizes since then the Town Manager has left. Mr. Smith told Mr. Gladhill to reach out to the Town Office to schedule a meeting.

14. Unfinished Business

a. Discuss and Vote on Ordinance 2024-09 – An Act to Amend Article 3.3-5 of the Clayton Municipal Code Related to Abandoned, Wrecked, Dismantled, Inoperative, or Unregistered Vehicles. (RP)

Mr. Paisley read the synopsis: This act also gives the Town of Clayton's Code Enforcement Officer the ability to enforce the ordinance. In addition, this bill reforms the public hearing section clarifying that the Town will conform to the Freedom of Information Act in scheduling an appeal. Furthermore, this act gives the person liable for towing and/or storage costs the option to pay via an individual Town bill in addition to their tax bill. Finally, this includes grammatical corrections to the existing language.

Mr. Paisley made a motion to adopt Ordinance 2024-09, an act to amend 3.3-5 of the Clayton Municipal Code. Mr. Carrow seconded the motion. Motion carried unanimously.

b. Discuss and Vote on Ordinance 2024-10 – An Act to Amend Article 3.3-1 of the Clayton Municipal Code Related to Traffic, Parking and Vehicles. (RP)

Mr. Paisley read the synopsis: This act repeals the unattended motor vehicle section of the Clayton Municipal Code and conducts a general update of the remaining provisions.

Mr. Paisley made a motion to adopt Ordinance 2024-10, an act to amend Article 3.3-1 of the Clayton Municipal Code. Mr. Flatter seconded the motion. Motion carried unanimously.

c. Discuss and Vote on Ordinance 2024-11 – An Act to Amend Article 3.2-7 of the Clayton Municipal Code Related to Disorderly Use of Premises. (RP)

Mr. Paisley read the synopsis: This act removes the provision of code that allows the Town to dissolve a lease for disorderly use of a premises, as that issue is governed by the Landlord Tenant Code in Title 25 of the Delaware Code. In addition, it makes 3.2-7.2(c) applicable to Bluetooth speakers and transitions duties of the Town Foreman to the Code Enforcement Officer. Finally, this act makes technical corrections to existing language.

Mr. Paisley made a motion to adopt Ordinance 2024-11, an act to amend Article 3.2-7 of the Clayton Municipal Code. Mr. Carrow seconded the motion. Motion carried unanimously.

d. Discuss and Vote on Ordinance 2024-12 – An Act to Amend Article 3.2-1 of the Clayton Municipal Code Related to Making, Creating, or Permitting of Unreasonably Loud, Disturbing, or Unnecessary Noise Prohibited. (RP)

Mr. Paisley read the synopsis: This act updates the Making, Creating, or Permitting of Unreasonably Loud, Disturbing, or Unnecessary Noise section of code making it include Bluetooth speakers and similar devices. In addition, it codifies the exemptions for emergency vehicles and/or sirens, parades, public events, religious bells and/or chimes, law and small maintenance equipment operated in the proper manner and time, and also municipal services. Furthermore, this act removes the misdemeanor charge for violating the ordinance. Also, this includes grammar corrections to the previous language. Mr.

Paisley stated there was discussion in the meeting on this section. Section 3.2-1.4(b) will now read: Radios, Bluetooth speakers, tape recorders, and similar devices. The playing of any radio, Bluetooth, wireless and/or wired speaker, tape recorder, musical instrument, or similar device in such a manner or with such volume, as to annoy or disturb the quiet, comfort, or repose of any reasonable person in any dwelling, hotel, business, or other type of residence or on the public streets and allies of the Town of Clayton. Section 3.2-1.6 will not read: Penalty. Any person, firm, association, partnership, corporation, or any group of individuals acting or in concert violating this article shall pay a fine of \$50.00 for the first offense and for each subsequent offense pay a fine of \$100.00. Provided, however, that any violation of this act committed between the overnight hours of 10:00 p.m. and 8:00 a.m. shall pay a fine of up to \$100.00 for the first offense and up to \$200.00 for the second and any subsequent offense committed during the aforementioned overnight time frame. Mr. Paisley read the synopsis of the amendment: This amendment comes at the request of the Law & Legislature Committee. During the meeting held on 04/23/24, the committee requested a new version of the section that dealt with Radios, Bluetooth Speakers, Tape Recorders, and Similar Devices be drafted and placed with the act that was more uncomplicated and did not set different time frames for different violations. This amendment fulfills that request by simplifying the section and also reforms the penalties clause, adding a separate and increased fine for violation in the overnight hours.

Mr. Flatter had a question about the “up to” fines. Mr. Smith stated we will table this for now and send it back to the committee.

Mr. Paisley made a motion to table Ordinance 2024-12. Mr. Flatter seconded the motion. Motion carried unanimously.

e. Discuss and Vote on Ordinance 2024-13 – An Act to Amend Article 3.2-2 of the Clayton Municipal Code Related to Disorderly Conduct. (RP)

Mr. Paisley read the synopsis: This act conducts a general update of the Disorderly Conduct section of the Clayton Municipal Code for the purpose of enhancing clarity and grammatical mechanics. Furthermore, it also repeals the use of obscene and abusive language as a form of disorderly conduct and makes clear that this ordinance shall not be used or construed to violate the freedom of speech as guaranteed by the First Amendment to the U.S. Constitution.

Mr. Paisley made a motion to adopt Ordinance 2024-13, an act to amend Article 3.2-2 of the Clayton Municipal Code. Mr. Carrow seconded the motion. Motion carried unanimously.

15. Appointment of Committees

Mr. Smith read the assignments for the committees.

Electric – Paisley, Carrow, Flatter, Burnett, Pedigo

Street - Pedigo, Paisley, Carrow, and two open seats

Sewer and Stormwater - **Carrow**, Paisley, Flatter, Pedigo, Burnett

Equipment – Pedigo, Paisley, Flatter, Carrow

Personnel – Disband – All will go through Council

Public Safety - This will be changed to PAC through the PD. Mr. Carrow asked about the civilian members. Mr. Smith will look into this with PAC.

Budget - Smith, Flatter, Carrow, Paisley, Pedigo

Law & Legislature – Paisley, Smith, Carrow, Flatter, Pedigo

Building – Carrow, Paisley, Flatter, Dias, Whalen, Hutson, and the Town Manager

Economic Development – Carrow, Burnett, Ide, and Young

Downtown Development Rebate Representative – Paisley

DEMEC - Paisley. When the new Town Manager comes on board, that person will be the primary and Paisley will be the alternate.

Board of Adjustment – Petro, Thomason, Kennedy, Cimaglia, and one open seat

Planning & Zoning – Brockenbrough, Stover, Getty, Burnett, and one open seat

Appeals Board – Jones, Watts, Ide

Mr. Flatter made a motion to accept the Appointment of Committees as read by the mayor. Mr. Paisley seconded the motion. Motion carried unanimously.

16. New Business

a. Presentation – Dover/Kent County MPO – Discuss and Vote on FY’25 UPWP Project at Wheatley’s Pond Road and School Lane Intersection. (NS)

No show

b. Discuss and Vote on Hiring a Project Manager for Anticipated Construction of a New Municipal Building. (WC)

Mr. Carrow gave the floor to Mr. Ide of i3a. Mr. Ide stated he submitted a proposal for consideration. We will start at the infancy stage and continue until the end of the project. Mr. Carrow stated it will be either a Project Manager or a Construction Manager. We do not have anyone to do that. He stated he is comfortable going this route. Mr. Chambers asked if there was a cost associated with this. Mr. Carrow stated on page two it is 10% of the total cost. Mr. Chambers stated he is concerned about it going out to bid. Mr. Ide stated he does not have a total cost of a project this magnitude. Mr. Ide stated it should fall under professional services. Mr. Chambers mentioned time and material. Mr. Carrow stated we do not know the cost until we design it. Mr. Smith stated this is the first step of design. Mr. Paisley asked if there was a way to reform the agreement. Mr. Smith stated maybe we should put to bid. Mr. Chambers stated start with an RFP. Mr. Smith asked if we could work with Mr. Ide – give a 30-day window.

Mr. Paisley made a motion to table hiring a project manager at this time. Mr. Flatter seconded the motion. Motion carried unanimously.

c. Discuss and Vote on Electric Rates. (NS)

Mr. Smith stated an increase was put on the entire State of Delaware. The generation cost is effective June 2024. It is being absorbed within 12 months. We could possibly be getting a rebate from Indian River. Mr. Paisley stated it would be manageable to absorb for one month. Mr. Smith stated if we do it now, it will be a smaller increase. If we do it in January, it will be a larger increase. It will be an even larger adjustment if you wait the 12 months.

Mr. Carrow made a motion to table the discussion until next month. Mr. Flatter seconded the motion. Motion carried unanimously.

d. Discuss and Vote on the 2024 Paving Project – Wheatley’s Farm Drive and Sammon Drive at the Intersection. Wilson Street, West Street, S. Bassett Street (Two Patches Near the Bus Lot), and S. Bassett Street between Main Street and Smyrna Avenue. (WC)

Mr. Carrow stated this was approved last year. We are just reaffirming. Vendor C was recommended by the Director of Public Works. Mr. Paisley asked when we can start. Mr. Carrow stated after it was approved. It will not affect the sewer projects. Mr. Smith asked Mr. Ross if there was a factor he looked at besides cost. Mr. Ross stated they did work for us previously and he was pleased with it. The communication was good. Mr. Carrow stated we got bids from three vendors.

Mr. Carrow made a motion to hire Vendor C for the 2024 Paving Project. Mr. Paisley seconded the motion. Motion carried unanimously.

e. Discuss and Vote on the Amended Budget and Resolution. (NS)

Mr. Smith stated the budget was amended. This was largely due to the health insurance and property insurance. The health insurance increased by 27%.

Mr. Paisley made a motion to amend the 2024 budget and resolution as presented. Mr. Flatter seconded the motion. Motion carried unanimously.

f. Introduction of Ordinance 2024-14 – An Act to Amend Article 2.2-2 of the Clayton Municipal Code Related to Handling and Disposition of Garbage, Trash, and Rubbish. (RP)

Mr. Paisley introduced the ordinance.

g. Introduction of Ordinance 2024-15 – an Act to Create Article 4.1-6 of the Clayton Municipal Code Related to Mobile Food Vendors. (RP)

Mr. Paisley introduced the ordinance.

h. Introduction of Ordinance 2024-16 – An Act to Create Article 4.1-7 of the Clayton Municipal Code Related to Peddling and Soliciting. (RP)

Mr. Paisley introduced the ordinance.

Mayor Smith referred all introduced ordinances to the Law & Legislative Committee for review.

17. Adjournment

Mr. Carrow made a motion to adjourn. Mr. Flatter seconded the motion. Motion carried unanimously. The meeting was adjourned at 8:00 p.m.

Recording Secretary,

Sue Muncey