

Minutes of November 5, 2020 Council

Regular Meeting of the Clayton, Ohio City Council
Clayton Government Center
November 5, 2020

Due to the Governor's orders on limited size of meetings and Montgomery County being under the level three alert for COVID-19, Clayton's City Council conducted its regularly scheduled City Council meeting on Thursday November 5, 2020 via the Zoom meeting format.

CALL TO ORDER

The meeting was called to order by Mayor Stevens at 7:30 PM. Present were Mayor Stevens and Councilmembers Bachman, Henning, Gorman, Merkle, Kelly, and Lieberman.

PUBLIC HEARING

Case# ZC-20-01: 6483 Kimmel Road, Tyler Donnelly

Request is for a Zoning District Change for the properties at 6483 Kimmel Road, Parcels M60 03201 0138, M60 03201 0017, M60 03201 0147, from PD-1 to A.

Seth Dorman, City Planner/Zoning Administrator, advised the applicant is requesting a change in the zoning district of the three parcels that comprise 6483 Kimmel Road from PD-1 to A. There are three parcels with an overall area of 13.42 acres. The applicant plans on expanding the agriculture use of the property including animals, a barn, growing and selling plants for use in making essential oils and for educational purposes. PD-1 was the most likely placeholder zoning placed on the property when annexed into Clayton back in the 1990's. Given the proposed agriculture uses for the property, the A zoning district is the most appropriate zoning classification. On September 28th the Planning Commission unanimously approved a recommendation to City Council to approve the zoning district change from PD-1 to A with the following conditions: (1) The applicant will not be required to obtain a Conditional Use Permit for their existing single-family residence as required in Section 1159.10 of the Zoning Code; and (2) The applicant has up to one year to combine the three parcels into one parcel and have it recorded at Montgomery County, then asked if there were any questions.

Gorman had a concern the applicant may plan on raising cannabis. Dorman stated based on what the applicant put in their letter of intent I don't think their intending to grow cannabis or have any plants they can make cannabis from. Gorman stated they can do that if they get an approval from the state down the road though, the way it sits if we approve what is in front of us tonight, they will be able to do that. I think that makes a difference in the proposal itself. Jack Kuntz, Director of Development, advised any type of cultivation, or any type of license in the State of Ohio goes through a pretty extensive vetting process. This is just agricultural tourism, which is just a very light intensity use, and the traffic that would be generated through the property would be insignificant, it falls more along the lines of what general home occupation is considered. Gorman stated where the applicant answered the application questions, four out of the five he answered to make money for the family, and that sounds like they are wanting to run a business, so we're putting a business in an agricultural area. Dorman stated based on the applicant's letter of intent and conversations they do have online sales and they intend to grow lavender, basil and other herbs to boost the family income. Gorman stated their letter also stated they rented two properties downtown and now plans on moving their operation to Kimmel Road. Mr. Donnelly stated they will still be selling at their two locations, and not selling at their home in Clayton.

They plan small, 4-5 people, educational classes and raising small livestock, a couple of goats, sheep, maybe a donkey, no cows or pigs, no large-scale operation. Merkle asked about the rezoning aspect, since we're changing from PD-1 to agricultural, for conditional use, what happens if the commercial, the educational operation that's being proposed stops operating, does that affect the agricultural rezoning aspect of this? Dorman stated today if the rezoning is approved agriculture, they would be permitted single-family residence and generally it's listed as agriculture use and the things you would typically associate with farming, which includes farm stands and things of that nature. There's already a little bit of retail aspect in the zoning code in the agriculture district today. When the zoning code update is approved, this becomes RCD the agricultural tourism, which is the education piece, that's a conditional use and they have to submit separately to the board of zoning appeals for the conditional use permit that will allow them to do the education piece on the property. Merkle asked if anyone spoke in opposition to this request at the BZA meeting. Dorman stated he did receive an e-mail from Matt Heck who stated he had no issues with the request. Additionally, the next-door neighbor stated during the meeting they had no objections. Martina Dillon, Law Director, asked to make one recommendation for Council's consideration. As was explained, the Planning Commission recommended approval of the rezoning with two conditions. One was the applicant would have one year to combine the three parcels. The second is the applicant is not required to obtain a conditional use permit for the existing single-family residence, and in discussing that with Jack it makes sense because my understanding is that house has been there for quite awhile so it does not make sense in this particular case, under these facts and circumstances, make sense. But rather than, from a procedural aspect, but rather than having it as a condition my recommendation would be that Council accept the recommendation of the Planning Commission to approve the rezoning but remove that condition and instead note for the record, and I can also put this in the legislation, that CCO 1159.10 in this particular case is not applicable because the house is already there and has been there. Procedurally I would prefer it that way, that is the better way to do it.

Stevens asked if there were any opponents who wished to speak. No opponents were heard. Mayor Stevens then asked if there were any proponents who wished to speak. No proponents were heard. Hearing no further comments, Mayor Stevens closed the public hearing.

CLERK'S REPORT

Clerk Seim presented the minutes of the October 15, 2020 City Council Meeting. Motion by Gorman, second by Merkle to approve the minutes as presented. All yeas, motion passed.

OLD BUSINESS

None

NEW BUSINESS

Ordinance No. O – ZC – 20 – 01 An Ordinance Approving the Planning Commission Recommendation to Approve the Application of Tyler Donnelly for a Change in Zoning from PD-1: Planned Development Residential to A: Agriculture for Property Located at 6483 Kimmel Road and Bearing Parcel I.D. Numbers M60 03201 0138, M60 03201 0017 and M60 03201 0147 Within the City of Clayton, Ohio. Law Director Dillon suggested we amend the Ordinance by making a motion adopting the recommendation of the Planning Commission to approve the application of Tyler Donnelly for a change in zoning from PD-1: Planned Development Residential to A: Agriculture for the property located at 6483 Kimmel Road and specified within

Ordinance O-ZC-20-01 with one modification, and that modification being that the condition, a recommendation, from the Planning Commission that the applicant is not required to obtain a conditional use permit for the existing single-family residence per CCO 1159.10 be stricken and instead be replaced with a determination that CCO 1159.10 in this particular instance is inapplicable to this particular situation and that will be noted in the final Ordinance. Motion by Lieberman to approve the Ordinance as amended by the Law Director's clarification, second by Merkle. All yeas, motion carried.

Resolution No. R – 11 – 20 – 55 A Resolution Authorizing the City Manager to Enter Into an Agreement with Phoenix Safety Outfitters, LLC for the Purchase of Personal Protective Equipment (PPE) at a Cost Not to Exceed \$45,000.00. Brian Garver, Fire Chief, advised this is part of the fire department's PPE replacement program where the PPE is replaced every 10 years or earlier depending on the condition and cost to repair the PPE. Motion by Gorman to approve the Resolution, second by Kelly. All yeas, motion carried.

Resolution No. R – 11 – 20 – 56 A Resolution Approving Appointments to the Plan Clayton Implementation Committee. Jack Kuntz, Director of Development advised earlier this fall, Council approved the creation of the PLAN Clayton Implementation Committee to work with staff in identifying and creating projects from the PLAN Clayton Implementation document to undertake within the City. By legislation, Council is tasked with nominating and appointing those members. Staff desires to begin working with the Committee by the end of this calendar year to begin discussing strategies and projects for staff to work on in 2021, specific to PLAN Clayton. Stevens recommended the following people to the Committee: Two Elected Officials: Stevens and Bachman, one Planning Commission Member: Seth Powless, one Real Estate Professional: Kim Williams, and one Clayton Resident per ward. For Ward 3: Dan Foley, Ward 2: Derek Muncy. We had two recommendations for Ward 1: Mindy Craddick and Chris Haring. Lieberman stated he recommended Ms. Craddick and justified his nomination. Merkle recommended Mr. Haring and justified his nomination. After discussion, Lieberman made a motion to appoint Ms. Craddick to represent Ward 1, second by Gorman. Voting yeas were Bachman, Henning, Gorman, Kelly, Lieberman and Stevens, voting no was Merkle. Motion passed. Henning made a motion to appoint Derek Muncy to Ward 2 and Dan Foley to Ward 3, motion was second by Gorman. All yeas, motion passed. Law Director Dillon identified the following nominations for the PLAN Clayton Implementation Committee: Two elected officials-Stevens and Bachman; one Planning Commission Member-Seth Powless; one Real Estate Professional-Kim Williams; Ward 1 Resident-Mindy Craddick; Ward 2 Resident-Derek Muncy; and Ward 3 Resident-Dan Foley. Motion by Gorman to approve the appointments as read to the Plan Clayton Implementation Committee, second by Merkle. All yeas, motion carried.

Resolution No. R – 11 – 20 – 57 A Resolution Consenting to the Assignment of Contract with Calfee Zoning to Zoneco, LLC Related to Zoning Code Update Services. Kuntz advised we were notified by Sean Suder, our project manager/consultant from Calfee Zoning, that he was leaving Calfee to form his own law firm and consulting company, Zoneco, LLC. As the result of Sean leaving Calfee, Calfee will no longer be operating a zoning consulting arm of the parent company, Calfee, Halter & Griswold, LLP. All terms and conditions of our original service agreement with Calfee will be transferred to Zoneco, LLC, Sean will remain our zoning consultant and the zoning code project will be completed per the terms of our original agreement. This development will not impact the current timeframe to complete the project in early 2021. Motion by Merkle to approve the Resolution, second by Bachman. All yeas, motion carried.

Resolution No. R – 11 – 20 – 58 A Resolution Approving Amendment of 2020 Appropriations and Estimated Resources. Kevin Schweitzer, Finance Director, advised we received final round relief monies from State and County. The Police would like to use monies from the Law Enforcement Trust fund to purchase laptops for cruisers; there is monies in the Golf fund that needs transferred to the General fund to close out the Golf fund; and the Fire department needs to appropriate FEMA reimbursement for firefighter Maurer's time on Ohio Task Force One and we received a grant from the EMS billing company for COVID assistance. Motion by Gorman to approve the Resolution, second by Merkle. All yeas, motion carried.

CITY MANAGER'S REPORT

The Police body camera work session presentation slated for tonight has been moved to December 3rd at 6:30 pm. Staff is requesting that Council hold a second work session on November 19, 2020 at 6:30 pm to hear a presentation on the zoning code update. We are looking to join the Ohio Benefits Cooperative (OBC) it is a not-for-profit partnership of government and public entities throughout Ohio and gives us a better rate on health insurance. If we join the OBC we are looking at a savings of \$89,543.30. Our current plan has come back with an increase in premiums of 19.26% making the 2021 annual premium for the City \$822,533.98. The OBC has presented us with a renewal rate of 5.9% making the premium for 2021 \$732,999.67. The average increase for the City of Clayton from 2014-2020 was 9.8% the average increase for the OBC for the same time period was 4.6%. The City would retain Anthem as the health insurance carrier and the HSA would remain the same. Employees would see a reduction in their deductible from \$2,700 Single/\$5,400 Family to \$2,500 Single/ \$5,000 Family. I am recommending that we move forward with joining the OBC, and legislation will be on our November 19th meeting. We have been very fortunate in Clayton to have a professional, well trained Police Department. However, like most police departments, Clayton is facing a challenge in staffing and recruitment. Currently, Clayton PD is currently authorized to have 18 officers: 13 full time officers, 3 part time officers, 1 detective and 1 Chief. We have had issues with recruiting and retaining our part time officers. For reference, Clayton has had a part time hiring process each year for the past four years. These are the number of applicants each year: 2017: 10; 2018; first testing 6 applicants, second testing 3 applicants; 2019 2 applicants; 2020 1 applicant. In the last four years, we have lost 3 trained part time officers to full time opportunities in other municipalities. Each of these officers cost the City \$15,644 to test, train, uniform and equip. We have lost roughly \$46,932. We are proposing to convert two of our part time positions to full time positions. The increase in cost to the 2021 budget would be \$18,139.81 per officer. I have had discussions with finance, and we believe the budget will be able to absorb the additional cost. Moving the two positions to full time will stabilize scheduling and reduce turn over in the department. I am recommending that we move forward with this before the end of the year. Unfortunately, I am recommending that we cancel the Breakfast with Santa event at Meadowbrook. Staff is working to come up with plans to adapt our events to adhere to Corona Virus safety guidelines, and we are again looking to pull together a Santa Parade, much like our Bunny Parade in the spring.

VISITOR'S COMMENTS

None heard.

COUNCIL MEMBER COMMENTS

Merkle stated he is sick of Covid and politics and hope both are over soon. Remember to care for those family members who are at risk, think smart and be safe. The holiday seasons are coming up, hopefully next year will be better. Bachman stated in reviewing social media he saw where two staff members had lost family members, my condolences to them. I want to speak to the Northmont athletes involved with fall sports, especially the football team, they received a raw deal and it's unfortunate, but it doesn't take away from what they accomplished this year and everyone is really proud of them. Congratulations to Kenny and his wife Natalie on their new baby, Clayton. Let's hope the election gets counted right, and I wish to commend Montgomery County and the State on a great election. Henning thanked the Clayton residents who worked the polls this past election, Ohio is a leader in safe elections. I wish to thank staff who worked on our recent Sweep Clayton Clean and the Halloween event. Congratulations to Northmont Schools on your levy passing. Lastly, I asked everyone who can help to donate to FISH and other organizations who are adopting families in need this holiday season. Lieberman congratulated Kenny and his wife on their new baby. On the day of the election I had the ability to roam the various polling places, driving one the board members around doing inspections. I will say this was one of the smoothest elections I've seen in a while, I think a lot of that is due to early voting and mail in ballots. Election day itself was not as hectic as in the past, I hope that trend continues. I have great faith in what we do here in Ohio, it was done very well. I also wish to congratulate my wife on winning her election. Gorman congratulated Kenny and Natalie. Congratulations also to the Northmont Football team on an 8-0 season and thank you to Jack and staff on a great Halloween event. Kelly also congratulated Kenny and Natalie, and also to Debbie for another term as County Commissioner. Stevens congratulated Kenny and Natalie; your world has now changed. Northmont football received a raw deal with no fault of their own. Congratulations to Northmont schools and MVCTC on their levy renewals, and to Debbie Lieberman.

Councilman Merkle had to step away from the Zoom meeting to deal with a family matter at 8:38 p.m.

EXECUTIVE SESSION

Dillon advised an Executive Session is needed to discuss Economic Development pursuant to O.R.C. 121.22(G)(8) and additionally the disposition or sale of property which is O.R.C. 121.22(G)(2). Gorman made a motion to break for an Executive Session, second by Henning. Henning made a motion to excuse Merkle who had to step away from the meeting to deal with a family matter, second by Lieberman. Voting yea were Bachman, Henning, Gorman, Kelly, Lieberman, and Stevens. Council broke for Executive Session at 8:41 PM.

Councilman Merkle re-joined the Executive Session.

Council returned and Mayor Stevens re-opened the regular session at 9:10 PM.

Motion by Gorman, second by Merkle to adjourn. All yeas, motion carried.

Meeting adjourned at 9:11 PM.