

Minutes of September 7, 2023 Council

Regular Meeting of the Clayton, Ohio City Council
Clayton Government Center
September 7, 2023

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.

CLERK'S REPORT

Clerk Seim presented the minutes of the August 17, 2023 Council meeting. Motion by Gorman, second by Henning to approve the minutes as presented. All yeas, motion carried.

OLD BUSINESS

None

NEW BUSINESS

Ordinance No. O – 09 – 23 – 20 An Ordinance Repealing Ordinance O-05-23-08 Which Adopted the Planning Commission's Recommendation to Approve, with Specified Conditions, the Application of Clayton Properties Group, Inc dba Arbor Homes, for a Change in Zoning from Rural Conservation District-2 (RCD-2) to Planned Development District (PDD) and to Further Approve the Preliminary Development Plan for 42.99 Acres of Property Located along Phillipsburg-Union Road and Haber Road and Bearing Parcel I.D. No. M60 03006 0009 (to be called "Salem Springs") Within the City of Clayton, Ohio. Motion by Gorman to approve the Ordinance to repeal Ordinance O-05-23-08, motion was second by Henning. Voting: Bachman-no, Henning-yes, Gorman-yes, Merkle-no, Kelly-yes, Lieberman-no, and Stevens-no. Motion failed 3-4.

Ordinance No. O – 09 – 23 – 21 An Ordinance Affirming Ordinance O-05-23-08 and Further Authorizing and Directing the Montgomery County, Ohio Board of Elections to Conduct an Election of the Electors of the City of Clayton, Ohio at the Primary Election to be held on March 19, 2024 on the question: Shall Ordinance O-05-23-08 Which Adopted the Planning Commission's Recommendation to Approve, with Specified Conditions, the Application of Clayton Properties Group, Inc. dba Arbor Homes, for a Change in Zoning from Rural Conservation District-2 (RCD-2) to Planned Development District (PDD) and to Further Approve the Preliminary Development Plan for 42.99 Acres of Property Located along Phillipsburg-Union Road and Harbor Road and Bearing Parcel I.D. No. M60 03006 0009 (to be called "Salem Springs") Within the City of Clayton, Ohio be Approved? Martina Dillon, Law Director, advised a typing correction is needed in paragraph 4 of the Ordinance referring to the election in May. Therefore, we need to amend the legislation, it should read at the Primary Election, it currently reads General Election. Motion by Henning to amend the Ordinance to read Primary Election, motion was second by Gorman. All yeas, motion carried. Motion by Merkle to approve the Ordinance as amended, motion was second by Lieberman. Voting: Bachman-yes, Henning-no, Gorman-no, Merkle-yes, Kelly-no, Lieberman-yes, and Stevens-yes. Motion passed 4-3.

Resolution No. R – 09 – 23 – 52 A Resolution Authorizing the City Manager to Accept the Bid of and Enter Into a Contract with Restored 14 Roofing & Siding, LLC for the Flat Roof, Siding, & Skylight Replacement at Meadowbrook at Clayton at a Cost of \$195,550.00. Elaine Wittman, Assistant to the City Manager, advised in April 2023, we solicited bids for the replacement of Meadowbrook at Clayton’s flat roof, siding, and skylights. The bids were over budget, the budget was based on 2021 estimates received for the project. In August 2023, to save costs, the bid packet was amended. The three skylights would be replaced by a roof and lighting. After advisement, three bids were received. The lowest bid was found non-responsive because the lighting specifications were not included in the bid. Therefore, it is recommended that City Council accept the next lowest bid of \$195,550 for this project. The funding will be split between the American Rescue Plan funds and Meadowbrook’s 2024 Capital Improvement Project. Motion by Gorman to approve the Resolution, second by Kelly. Voting: Bachman-yes, Henning-no, Gorman-yes, Merkle-yes, Kelly-yes, Lieberman-yes, and Stevens-yes. Motion passed 6-1.

Resolution No. R – 09 – 23 – 53 A Resolution Approving a Phase I Project Management and Financing Agreement with the Montgomery County Transportation Improvement District for the State Route 49 Project at a Cost Not to Exceed \$35,000.00. Amanda Zimmerlin, City Manager, advised at the August 17th Council meeting staff discussed an opportunity for development in the JEDD. A developer requested that a water line be extended along State Route 49. The Montgomery County Transportation Improvement District has entered into an agreement with Clay Township to act as project manager for the phase 1 study of the project. The TID reached out to Clayton offering the same services. Staff believes that the extension of the waterline would provide economic benefits to businesses in the JEDD on State Route 49 as well as Pleasant Plain. Motion by Henning to approve the Resolution, second by Gorman. Voting: Bachman-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Lieberman-recused, and Stevens-yes. Motion passed 6-0 with one recusal.

Resolution No. R – 09 – 23 – 54 A Resolution Authorizing the City Manager to Accept the Proposal of and Enter Into an Agreement with John R. Jurgensen Company for the Montgomery County Line Road Paving Project at a Total Project Cost of \$63,548.10. Randy Sanders, Public Service Director, advised John R. Jurgensen was selected after two paving contractors were contacted for the re-paving of several bad areas of County Line Road east of Diamond Mill Road. The work will include milling and repaving approximately 1,500 feet of bad spots. Motion by Gorman to approve the Resolution, second by Kelly. All yeas, motion carried.

Resolution No. R – 09 – 23 – 55 A Resolution Authorizing a Five-Year Lease of Three (3) Heavy Duty Trucks for use by the Street Department from Enterprise Fleet Management, Inc. at a Total Cost of \$502,000.00. Sanders advised for the budget year 2024, the service department wishes to replace 3 of the older pieces of equipment in the fleet through Enterprise. The new 5500 series trucks will replace the 2002 Mechanic Service Truck, the 2007 Sign Crane Truck and the 2016 1-Ton Dump Truck used in plowing our cul-de-sac roads. These trucks will then be on a 60-month lease and will be on a regular replacement cycle after the lease has expired. Motion by Gorman to approve the Resolution, second by Merkle. All yeas, motion carried.

Resolution No. R – 09 – 23 – 56 A Resolution to Authorize and Approve a Contract with American Rock Salt Co., LLC for the Purchase of Salt for Snow and Ice Control for 2023-2024 at a Cost of \$91.12 per ton. Sanders advised in the 2024 budget year, the service department

wishes to participate in two salt contracts for the security of the material, (ODOT Contract) and a secondary emergency need contract (SWAP4G). This will assist the department when trying to guess the severity of the winter. The SWAP4G contract does not have a minimum amount needed to purchase but is at a higher rate than ODOT. The service department will order from the cheapest contract and only use the SWAP4G contract if a heavier winter takes place. Motion by Gorman to approve the Resolution, second by Henning. All yeas, motion carried.

CITY MANAGER'S REPORT

Amanda Zimmerlin, City Manager, stated just a reminder that we have a few work sessions scheduled. We have the Meadowbrook update on October 19th at 6:30 pm; we will then discuss the Charter Commission recommendations on Thursday, November 2nd at 6:30 pm; and then an economic development update on Thursday, November 16th at 6:30 pm. We have our Open House for Public Service, Fire and Police on Tuesday, October 3rd from 4:30-7:00 pm, that's free for the community. Our annual Fall Sweep Clayton Clean will be held Saturday, October 21st, just a reminder the bins do fill up quickly. We have our Costumes and Carvings on Sunday October 29th from 2-4 pm at Meadowbrook at Clayton. Council did receive a list of developments within the city and was provided updates. The first swearing in ceremony for new Fire Collaborative employees will be Wednesday, September 13th at 7:00 pm at Meadowbrook. Last September we discussed reducing speeds on several city roads, specifically Westbrook, Haber, National, Garber and Main. Staff was directed to take the necessary steps to have a speed study conducted. Choice One did complete that work and I suggest after the holidays to hold a work session to discuss those recommendations in depth and the next steps that we would need to take. A reminder the Northview playground area is closed, they are removing the old playground equipment and installing the new all-inclusive playground equipment next week. Also, the Westbrook Park ADA compliant restrooms should be open sometime next week as well.

VISITOR'S COMMENTS

Doug Bias thanked the city for the video that the city posted on social media on August 29th of the Muhlenkamp's, part of the monthly highlight of why Clayton is so great. Mr. Muhlenkamp stated one of the reasons they decided to move back here was Clayton still had that rural feel, that is a big selling point for this area.

Ryan Farmer thanked Council for putting our community through this ordeal, a few months ago I didn't know how I was going to meet my neighbors, this has been a great opportunity to connect with neighbors. With this going to the ballot, Council carries a risk as being seen as insensitive and not listening to the voters. If you've had good reasons for why you voted you haven't communicated that well. As voters we expect Council to be able to communicate those complex issues to us to a point where we can say, I understand, I don't agree, but I can live with that and we did not get that with this Ordinance. We're looking forward to the challenge in March.

Joshua Mihojevich questioned Council on the Englewood development going in and the owner of the land seeking legal ramifications for Clayton not allowing them to tie into Elru. Previously it was discussed putting a barrier there, where would that go. Zimmerlin stated as far as I know we haven't been served with any papers, and for the barrier we would need to talk with our Public Service Director. Law Director Dillon stated she would not give legal advice in an open

setting if we don't know what legal basis they're claiming, that they can force the city to do that when the city's streets are under the legal control of the city of Clayton.

Earl Harlamert thanked Council, Elaine (Wittman) and Jack (Kuntz) for the wonderful fireworks. All the food was great and all was eaten. The Councilmembers all worked, and we had a great evening.

COUNCIL MEMBER COMMENTS

Lieberman addressed Mr. Farmer's comments. To say that we haven't made an attempt to explain why we are voting that way for a particular reason is just not true. Mr. Farmer you and I had a telephone conversation, you recorded it, you know that we talked, you know that I explained as best I could my position. I sat on porch with other residents and talked, so it's not that I haven't tried to explain, the reality is you don't agree with me and that's okay. But, don't accuse me of not trying to communicate. We are, we are trying to communicate. The way the system is adopted when you have a referendum there are certain things we can't do as city council, we try to stay within the law, to do our best to do that. Individually, I'll talk to any of you anytime, I gave you my phone number. So, you might accuse me of a lot of things, but not that. Kelly stated, I agree with Dennis we have a heart in it and I feel that statement was not fair to the rest of our Council and residents because we do care and that is the reason we sit up here. The fireworks were amazing and thank you to staff and all the volunteers, Elaine and Jack you did a great job. Thank you to the soccer team, and to Kroger's and Meijers for their donations. Merkle stated we may disagree on the Ordinance that was passed earlier and where things go forward with this, but none of this was ever taken lightly. We never tried to brush it off as being unimportant, if it was unimportant this would have been discussed and voted on way earlier than what it was. While we may disagree as far as how we voted up here, and I may disagree with some of the positions that people have taken, I have no adverse opinions. After all is said and done, when the dust clears, we all still have to work together to make things work. No matter how we feel, we all have to work together. Gorman thanked the residents for coming out for the fireworks, as well as all the staff. I hate to be the bearer of bad news, the city of Clayton has lost another one of its top citizens, Clay Mathile. Clay was a great entrepreneur and was just a great guy. Henning stated I think this is an appropriate meeting to add a little prayer. "God, grant us the patience to work together. Bring us together as a family. Let us work together with understanding and compassion in our hearts." This has been a very divisive issue, but you have to be respectful of each other's opinions. We each voted the way we choose, now that the referendum is on the ballot the citizens can vote. I just ask that we continue to be respectful with each other because we are a body that works so well together. I also wanted to say we're praying for the Mathile family, Mr. Mathile did a lot for Northmont, Precious Blood Church, and the City of Clayton. Bachman advised I may only speak a few words, but I want to speak when it's meaningful. I do ask questions, maybe in one particular meeting I didn't; plenty of times I did. That was another false statement that was said about me. I looked at this development multiple times with multiple variations. I was not going to vote for it in its original form, that is why it was tabled two or three times to give the developer feedback. What they came up with in the final I thought was appropriate. I never had the opportunity to meet Mr. Mathile, however the company I work for goes to Aileron quite often for business trainings and meetings, he was an absolutely wonderful man. When you earn that type of money you have a lot of options of where you can go in the country and in the world. He decided to keep the Northmont area and Clayton his home. I think that's a testament to him and this community. We've had two events

since our last meeting, Movie in the Park and the Fireworks, thank you to the Parks Commission and staff, and everyone who participated in those events. Stevens thanked everyone who worked on the fireworks festival, it really is a team effort, it's our biggest and most popular event. It's a great location for the event and a great time of the year. Stevens asked Zimmerlin if we could have an update on the Village of North Clayton development at our next meeting. I want to comment on the speed study, this will be an interesting issue, because I noticed most recommendations are reductions with one retaining their speed. Lastly, we still have an opening on the Parks Advisory Commission.

Mayor Stevens advised an Executive Session is needed this evening. Law Director Martina Dillon stated the Executive Session is needed pursuant to ORC121.22(G)(1) for matters pertaining to employment of a public employee. Henning made a motion to break for an Executive Session, motion was second by Merkle. Voting: Bachman-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Lieberman-yes and Stevens-yes. Motion carried 7-0. Council broke for Executive Session at 8:27 PM.

Council returned and Mayor Stevens re-opened the meeting. Gorman made a motion to resume our regular session, motion was second by Merkle. Voting: Bachman-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Lieberman-yes and Stevens-yes. Motion carried 7-0. The regular session resumed at 8:31 PM.

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

Meeting adjourned at 8:32 PM.