

Minutes of February 1, 2024 Council

Meeting of the Clayton, Ohio City Council
Clayton Government Center
February 1, 2024

CALL TO ORDER

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

SPECIAL PRESENTATION

Mayor Stevens gave the annual Mayoral State of the City presentation.

CLERK'S REPORT

Clerk Seim presented the minutes of the January 18, 2024 Council Work Session. Motion by Gorman, second by Farmer to approve the Work Session minutes as presented. All yeas, motion carried. Seim then presented the minutes of the January 18, 2024 Council meeting. Motion by Gorman, second by Henning to approve the minutes as presented. All yeas, motion carried.

OLD BUSINESS

This Ordinance was Tabled at the January 18, 2024 Council meeting. Motion by Bachman to un-Table this Ordinance tonight, motion was second by Kelly. All yeas, motion carried.

Ordinance No. O – 12 – 23 – 28 An Ordinance Authorizing the City Manager to Sell a 3.7884 Acre Parcel of Property Located at the Corner of National Road and Proaction Drive and Bearing Parcel I.D. No. M60 03102 0112 to Bella Sorella Pizza Company, LLC for a Price of Two Hundred Thousand Dollars (\$200,000.00) and Subject to the Provisions Concerning Forgiveness of the Loan for the Purchase Price in Return for Maintaining an Agreed Level of Employment and Other Conditions as Contained within a Certain Purchase and Sale Agreement with the Purchaser and Declaring an Emergency. Motion by Stevens to Table this Ordinance indefinitely, no second was heard. Stevens then made a motion to remove his motion to Table indefinitely. Motion by Gorman to remove this Ordinance from the Agenda, motion was seconded by Merkle. All yeas, motion carried.

NEW BUSINESS

Ordinance No. O – 02 – 24 – 01 An Ordinance Authorizing the City Manager to Enter Into a Purchase Agreement with Kate's Pizza Place, LLC and Further Authorizing Transfer at Closing for the Purchase Price of \$50,000.00 Plus Closing Costs and Broker Fee of the Public Property Bearing Parcel ID Number M60 03102 0112 Located at the Corner of National Road and Proaction Drive within the City of Clayton, Ohio and Containing 3.7884 Acres. Motion by Henning to approve the Ordinance, second by Farmer. All yeas, motion carried.

Ordinance No. O – 02 – 24 – 02 An Ordinance to Repeal Current Clayton Codified Ordinance Chapter 1519 ("Fireworks") and Replace with Updated Version of Clayton Codified Ordinance Chapter 1519 ("Fireworks") Appended Hereto as Exhibit A. Motion by Henning to approve the Ordinance. This Ordinance did not receive a second to the motion made by Councilman Henning to approve and therefore no vote was taken on this Ordinance.

Ordinance No. O – 02 – 24 – 03 An Ordinance Repealing Ordinance No. 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 Stevens to Table the Ordinance, second by Kelly. Voting: Farmer-no, Henning-no, Gorman-no, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 4-3.

Resolution No. R – 02 – 24 – 13 A Resolution Authorizing the City Manager to Accept Bid and Award Contract for Residential Solid Waste Collection to Rumpke of Ohio, Inc. for a Three-Year Period Commencing July 1, 2024 with an Option of Two Additional Years in One-Year Increments. Elaine Wittman, Assistant to the City Manager, advised our current refuse/recycle contract with Republic Services is set to expire July 1, 2024. After soliciting bids for the residential refuse/recycle curbside collection and disposal contract, two vendors Republic Services and Rumpke of Ohio, Inc. submitted bids. It was found that Rumpke was the lowest and best bid over the three-year term agreement with an option of two additional years in one-year increments. Motion by Gorman to approve the Resolution, second by Kelly. All yeas, motion carried.

Resolution No. R – 02 – 24 – 14 A Resolution Appointing Mayor William D. Duncan to the Montgomery County 9-1-1- Program Review Committee Pursuant to Ohio Revised Code Section 128.06(A)(5). Motion by Gorman to approve the Resolution, second by Merkle. All yeas, motion carried.

CITY MANAGER’S REPORT

Amanda Zimmerlin, City Manager, advised Mr. Gorman had requested that Auditor Karl Keith come to a Council meeting for a Work Session to discuss property valuations in Clayton. His schedule aligned with our February 15th meeting so he will be here on Thursday, February 15th at 7 p.m. The Laura’s Loft buildings are demolished, so we now have nice open ground on that corner. We have again been awarded the Government Finance Officers Association of the United States and Canada (GFOA) Certificate of Achievement for Excellence in Financial Reporting. Member Kelly requested that GFOA present the award to Mr. Schweitzer in person. I contacted GFOA and they no longer do in person presentations, however, they did state that they would provide a video presentation. When that is received, I will bring it to the City Council. Unfortunately, at Meadowbrook we had a piece that covers the overhang by the stairs outside the Pro Shop fall off exposing the steel beams. It was caused by the gutters being blocked. The gutters have been cleaned out, and we are receiving quotes on the repair work. CCA will be providing taxpayer assistance at the City offices, assistance is by appointment only, and you can schedule an appointment by calling (216) 857-3174. This information is also available on the City’s website. Appointments will be Friday, March 1st, Wednesday, March 13th, Monday, March 25th and Wednesday, April 10th from 9:00 am to 3:00 pm. Residents can also go to other municipalities that utilize CCA.

VISITOR’S COMMENTS

Dennis Lieberman, 7475 Kimmel Road, stated I want to address only one issue this evening, and that is the Ordinance which was just tabled so this might now be moot, but it may not be. That’s why I want to address it still. That’s Ordinance number O-02-24-03 which would repeal

Ordinance number O-05-23-08 relating to the Salem Springs development. There are two issues I want to address as it relates to this Ordinance. The first is whether it is a good idea to take away from the people of Clayton the right to vote on this Ordinance. The second will be whether Mr. Farmer, Councilmember Farmer, should vote or participate or either informally or formally because of a conflict of interest. First, I want to address the issue of whether the people of Clayton should vote. So, there was a referendum that was spread throughout the City of Clayton, almost I don't know, 900 and some people eventually had valid signatures on that referendum. The referendum was to give them a right to vote on the Ordinance that we had passed. They either say yeah, we like that Ordinance, or no we don't. While that referendum was being circulated by an issue-oriented group called Keep It Rural, they achieved all of those signatures and were promising people that they're going to get to vote if we have the referendum that is passed, if you get enough signatures on the petition. That's why now I'm appalled at the fact that the very people who passed that petition now want to take the vote away from the people of Clayton who have a right to make this determination because of the referendum. I don't understand it, it just makes no sense to me unless there's a machiavellian thing going on here that I don't understand where you get the people, promise them they get to vote on a referendum, then when you get the person on Council that you want, you think that you can then get rid of it behind closed doors without transparency by Council. So, that bothers me, bothers me a lot as a citizen of Clayton that you're trying to take my vote away. Because I should have a right to vote on that also. What bothers me even more is the second issue of a conflict of interest. I can honestly tell you that in my belief, in my research and I spent a lot of time researching this because I didn't want to say something that is not accurate. I mean this in all due respect to Councilman Farmer this is not bitter, he kicked my butt in the election, so you know there's no question about that. There is a question about what ethics you can do when you sit on this Council, because this conflict of interest isn't just yours, this conflict of interest is the City of Claytons. They have a right to protect the potential conflict of interests, or even an appearance of impropriety, whenever it appears. Martina is the Law Director for the City who we go to for advice. I don't know whether she has advised you that you have a conflict or not, whatever she has advised you, you should follow because if you don't you are subjecting both the City of Clayton and yourself to penalties. Now why do I believe that you should, you have a conflict of interest, let me run through the facts, okay. Number one, that last spring before this Council, under oath at this very podium, you said that you had a property which would be directly impacted because of Pig Eye Creek, which runs next to where this development was supposed to be, and the flooding that you already get from Irongate, you showed us, passed around to all of us a video of the water coming up under your bridge and about how worried you were, it's going to take away this bridge. It impacted me as a Councilmember at the time because I wanted to make sure that that didn't happen. You called me and in that telephone call, which you said you recorded it, we talked about that again, and about the impact it could have on your property. That is a direct conflict. You don't have to be within the notice provisions of a piece of property in order to have a conflict of interest. If something is going to actually impact your property that is a conflict. A third thing, other than the telephone call, is that you served on the petition committee for Keep It Rural, which is designed to as I mentioned earlier to get the referendum on the ballot. If anybody's interested, I have a copy of the petition if you need to see it, as well as the other people who were on that petition. What bothers me even more is not just that you were on that petition, not just that you were a circular later, and you and your Wife together circulated approximately 12, I think, difference part petitions, and you signed a petition that doesn't bother me as much as the fact that of the \$4,000 that you raised for your campaign, approximately \$1,700 of it came from people that live on Haber or Phillipsburg Union Road, which are directly impacted by this development. Sir, if I took money from the development as a

Councilmember I think everybody would be raising cane that I have a conflict and I shouldn't vote, the same is true of you. You took this money, I have your financial report right here \$1,747. \$1,770 of it was from Doug Bias, who has also served with you on the petition committee. Finally, your Attorney who you claim to have asked whether you have a conflict is a Treasurer of your campaign committee. Sir, I don't know how you can say you don't have a conflict. The person who defines that conflict sits right over there, it's Martina. She's the one that defines it for the City. Whatever she tells you, you should do. I had to do it when I was a Councilmember at least six or seven times. You need to do that because, I will tell you this if you don't there is an Ohio Ethics Commission which will review it. Thank you Mr. Mayor and members of Council.

Alisha York, 10635 Haber Road, I just want to address the one thing about the whole, we went out telling everybody that they wanted to vote, that was words we said, but initially it was, it shouldn't have never gotten to this point. I said since it has gotten to that point now we have to fight it that way. Nobody wants to go out and vote it they should have, they all agreed that it shouldn't have ever got this far, so that kind of offended me in a way. I get what you're saying, but when I went door to door, because I was the one that did it, most people thought it was ridiculous that we had to go to the point to take it to a vote. They didn't say, oh yay, now I get to vote for it. It's like you should have never had to go that far. So, to me that's frustrating because you're using that against me because we did it, because we had to, though everybody had agreed we should have never had to do that. I'm pretty sure the developer and I could be wrong, I'll go back because I haven't watched the videos like you have, obviously. I thought they said that the Pig Eye Creek would not be affected, so that being said he, Mr. Farmer, I don't know, maybe he's done his own research too, technically its not at all directly affected because supposedly it doesn't affect him now, right. We thought it did, but the developer said it wouldn't. So technically it doesn't affect him anymore. He's not against the land that's being used, or being built on, like us across the street. I'm also offended that you're using his financials for the whole campaign against him because obviously we're going to support him. He's on our side in the sense that he doesn't think it should be built there too regardless if affects him or not. He doesn't think it should be built there. So, who cares who supports him and gives him his money. It's the right of us as citizens to put our money towards what we believe in, and we believe in not doing the development over there. So, in my, I'm trying to keep it together because I was kind of offended about the way you attacked him and in general the whole thing, there's more to the picture than that. It should have never gotten to the point where we have to take it to the ballot, and I personally I think it kind of makes the City look bad that they had so many people fighting, and so many people on the Keep it Rural, that now the City is so against everybody in the City that we have to take it to ballot. I was hoping it got repealed so that you guys didn't look bad, and had to bring this huge thing in. It's probably going to be on the news and now everybody's going to see, oh they didn't turn it down now citizens have to fight for the right. So, in my sense the repeal would have been good for the City, just to be like okay, I get it, the citizens don't want it, we probably should listen to them. So, in my point of view that's how I thought of it. That's all I got. Thank you.

Paulette Farmer, 11735 Old Mill Road, one thing I would like to clarify is I'm not sure many people understand that we actually have an Arbor Homes across the street from us, it's just one field over and it's in Union. The property that Union owns actually butts up to Old Mill Road. So, as a high likelihood we'll have Arbor Homes right across the street from us. This isn't about trying to keep a development away from our property. So, you know that we chose to live there, we knew that was the case when we moved in, it is what it is. The other thing I would like to address is the phone call my Husband recorded, I asked him to record that. After my daughter

died I didn't, I had a lot of trouble remembering what people said and I didn't hear things correctly. I asked for that, and I wasn't present at the phone call, so I asked for the recording. This wasn't him recording behind his back, and he let him know and he said do you mind if I record you, my Wife would like to have. So, I would like to put that issue to rest and I really would prefer not to hear that anymore. Thank you.

Tonya Hanson stated I'm with Republic Service. I just wanted to thank you for the last 20 years of partnership. We've appreciated your business and hopefully we'll be back again in the future. Thank you.

COUNCIL MEMBER COMMENTS

Kelly stated the only thing I have to say is, thank God we still have freedom of speech, and I appreciate everyone's concerns.

Henning stated I have a list of things, and I do want to say a couple of things in regards to what Mr. Lieberman said first because it did sound as if this was a threat and this meeting would, the minutes would be reflective in an Ohio Ethics Commission hearing. So, as Mr. Lieberman knows individuals who donate to campaigns, political candidates obviously they donate to people who they're more in line with, whether it's Democrats giving to Democrats, Republicans giving to Republicans. In this instance it was citizens giving to an individual who was running for office. I find it hard to believe that you can say that someone's donations from a particular street are the reason why he voted the way he or she votes. It's no different that a political party candidate voting how their party wants them to vote. So, I just wanted to say that and Mr. Gorman has stated many times, and I agree with him, the development puts at risk the ability for the income tax levy to pass. We feel, a couple of us feel, that it will enable citizens to vote no and no on both issues four and five, and that's one of the reasons why I voted to just stop it now. The citizen Mr. York spoke at the last meeting asking for this, he stated that this was now money that would have to spend against Issue 4. That's citizens money they're having to now spend on something I don't believe in so that's obviously why I voted for that. In regards to the State of the City I wrote down the list of everything that you shared Mayor, and it was so much in 2023, there were obviously a couple of things that I forgot about, so great developments all throughout the year. Bella Sorella we're excited for you, this is something that we've been talking about forever. We've seen the reception at Old Scratch's new pizza place up in Troy and they've had a tremendous warm welcoming to that community and we know that you've talked and thought about going to Miami County so we're so glad that you stuck to your home here in Clayton. It means a lot to us in the Northmont Community as a whole. I'm sure we'll be very supportive of you. And, finally, Amanda I know we had discussed it before, but the Art Trail idea at the parks as the Mayor said about the mural during his State of the City, I think it's still something I'd like to see in the parks if we could somehow partner with the class to help students get out there, get active and put forth, like I know some communities have like a QR code that will pair with each art piece and it tells like about the student who created the piece, etc. I think it could be really like scavenger hunt, physical activity for kids to do all throughout our parks here in the City of Clayton and that's all I have tonight, thank you.

Farmer stated a couple of things, Councilmembers I hope you saw the email this week I sent you a graphic for what I propose for doing a value based sort of spending prioritization. Hopefully, it's not too abstract. I went through a couple of iterations trying to make it clear, maybe sometime in the next month or two we could do the first one, so be thinking about what the City values and capture it in maybe some short phrases or terms. I'll need a little bit of prep time for getting that together and I promise that I will not take a lot of your time. I think after three

workshops I'll be able to pull it all together, and you'll say aha I see what you're doing, but I just need some time with you to get some data collection. It will be a public kind of workshop. With regards to my ability to vote on the Ordinance obviously I want to address a few things on that. I was spearheading the referendum petitioners committee, I did resign from that before I took office so I wouldn't have that conflict of interest. I will tell you that I went door to door, I talked to those people and maybe one out of 15 or 20 said I'll sign it just to vote. The rest of the people are saying, I saw hundreds of people show up at Council and not get listened by, listened to by that Council. So I can't wait to, I will sign this so we can turn that vote around. So, it's not all about getting to vote, it's about people didn't want it, that's why they signed. Also, I'd like to say that this Ordinance is a referendum vote, it affects the entire City. If you want to tell me I can't vote on this then you might as well tell me not to vote on an income tax because I might be voting against that because I don't want to pay more money to the City. So, to me that's in that same category, I know I'm not a lawyer but I did stay in a Holiday Inn last night, I don't know. In terms of the water runoff I would say that's anecdotal, it's an observation as an analyst I would say give me the study that proves that. Frankly, the developer stood up here and I wish I had pulled out the quote he said that the runoff would be the same if not better. So, if it's going to be better how could I possibly have a conflict. So are you going to believe me or are you going to believe the developer. When I started to learn more and more about this, I also learned that we need a watershed study in this region. That one little 43 acre plot and how water falls on it, runs off, does it consider water coming from miles away from runoff because that's where the main anecdotal and talking to people when you follow the trail of water that's what's going on. Looking at that, do I have a conflict of interest or not I'll tell you REDACTED – ATTORNEY CLIENT PRIVILEGED INFORMATION. O.R.C. 149.43(A)(1)(v). Ms. Dillon stated that information is attorney/client privilege. Sorry, so I'll just say she has advised me and it's up to me on whether I follow it or not. But, if we don't vote on it as a council that's fine, I know there are a lot of people that are fired up and ready to go and you're going to see a firestorm leading up to March 19th and it's not going to look good for the City. You read about other cities that are here, that their Council responded to far lesser residents than what we had to come in and they've changed their mind about putting in developments or putting in whatever. But then there's Clayton and that can't make our City real appealing for someone looking around, oh I don't know if I want to live there because they don't listen to their residents, they pushed an Ordinance all the way to a referendum to where they had to vote on it. I looked at this as this was maybe an exit ramp as a Council, just let's get it off the table, move on as Mr. Henning mentioned. I do think that when people are coming out to vote no on this you're just going to go right to the income tax and vote no on that too. So, it could be double trouble. So, I've said my peace and I will leave it at that. Thank you.

Stevens stated I don't have anything else to say tonight, I appreciate everyone's level of decorum that we've had here tonight. Thanks to our staff, thanks for our Council, our dedication. Our engagement is there and we're trying to make the City of Clayton better, and thanks for all the good work that everyone does.

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

Meeting adjourned at 8:34 PM.