

## **Minutes of January 16, 2025 Council**

Meeting of the Clayton, Ohio City Council  
Clayton Government Center  
January 16, 2025

### **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.

### **PUBLIC HEARINGS**

Mayor Stevens announced we have two Public Hearings this evening. He then read the rules for public hearings and administered the Oath for those planning on speaking on either case.

Our first Public Hearing is for Adult Use Cannabis, revisions to Clayton Planning and Zoning Code.

Ellen Snyder, Zoning and GIS Manager, advised in 2016 the Ohio General Assembly approved legislation which legalized marijuana for medical purposes. Ohio's Medical Marijuana law became effective September 8, 2016. Clayton did not opt to prohibit or limit the number of cultivators, processors or retail dispensaries licensed, and medical marijuana is currently permitted in certain zoning districts. Medical Marijuana cultivation, processing, and dispensaries are permitted uses in CMX, Commercial Mixed-Use, and CMI, Commerce-Manufacturing and Industry, zoning districts. Medical Marijuana processing and dispensaries are permitted uses in MSD, Main Street 48 District, zoning district. Medical Marijuana is defined as a facility that has been issued a certificate of operation by the Ohio Department of Commerce to grow, harvest, package, and transport medical marijuana as permitted under Chapter 3796 of the Ohio Revised Code. Medical Marijuana Dispensary is a building or structure licensed by the State Board of Pharmacy as a medical marijuana retail dispensary. Medical Marijuana Processing is a facility that has been issued a certificate of operation by the Ohio Department of Commerce to manufacture medical marijuana products. Clayton currently does not have any cultivators or dispensaries, and the only processor is Main Street Health, LLC. On July 5, 2024, Main Street Health, LLC was awarded a provisional dual use license by the Ohio Division of Cannabis Control, but they have not yet been awarded a Certificate of Operation for dual use which would permit MSH to begin processing adult use cannabis in addition to the medical cannabis it currently processes. Adult Use Cannabis for Recreational Use was Issue 2 on the November 7, 2023 ballot legalizing adult use cannabis in Ohio and was approved by 57% of the voters. In Clayton, 3,177 votes were cast in favor of legalizing adult use cannabis and 2,313 votes were cast against. Adult Use Cannabis has been codified at ORC Chapter 3780. Similar to the medical marijuana statute, the adult use cannabis statute contains a provision which permits political subdivisions to restrict or prohibit adult use cannabis within its jurisdictional limits. Ohio imposes a special 10% tax on the sale of adult use cannabis plus the fixed state sales tax of 5.75% and local variable sales tax percentages. The adult use cannabis statute is silent with respect to the allocation of revenue from the 5.75% tax and the local sales tax, but the statute provides that all funds collected from the special 10% tax will be deposited into the Adult Use Tax Fund. Monies will be distributed from that Fund on a quarterly basis. A 10% Special Tax Allocation is broken down as: 36% to the Cannabis Social Equity and Jobs

Fund; 36% to the Host Community Fund to be used for the benefit of municipal corporations and townships for any approved purpose. Distributions from this fund shall be based on the percentage of adult use tax which is attributable to each municipal corporation/township; 25% to the Substance Abuse and Addiction Fund to help alleviate substance abuse, and 3% to the Division of Cannabis Control and Tax Commissioner Fund to support the operation of the DCC and to defray costs of the Department of Taxation related to administration of the adult use cannabis tax. Ohio Adult use cannabis sales began in Ohio on August 6, 2024. As of September 21, 2024, adult use cannabis sales exceeded \$76 million. As of September 30, 2024, there are 124 dual use dispensaries in Ohio, that can sell medical and adult use cannabis, Currently Columbus has 13, Cincinnati has 10, Dayton has 6, and Cleveland has 5. As of September 30, 2024, there are over 100 local cities/townships with moratoriums to prohibit adult use cannabis. Clayton City Council adopted Resolution No. R-12-23-72 on December 18, 2023 and Resolution No. R-05-24-31 on May 16, 2024 enacting a moratorium on Adult Use Cannabis so that further research and analysis could occur. On September 5, 2024, City Council adopted Resolution No. R-09-24-48 extending the moratorium until September 5, 2025 such that the issue of Adult Use Cannabis in Clayton could be submitted to the Clayton Planning Commission for recommendation to Council. On September 24, 2024, the City of Englewood passed an Ordinance limiting the number of adult use cannabis operators within its jurisdictional limits to no more than one. Clayton's Planning Commission recommended allowing adult use cannabis in the same zoning districts as medical marijuana but limit the number permitted to no more than six Adult Use Cannabis Operators. Of the six permitted Adult Use Cannabis Operators, two Operators may be Adult Use Cannabis Dispensaries which are permitted only in the CMX, CMI, and MSD Districts, and four Operators may be Adult Use Cannabis Cultivators permitted only in the CMX and CMI Districts or Adult Use Cannabis Processors permitted only in the CMX, CMI, and MSD Districts.

Henning asked if Englewood agreed to one dispensary, how did we figure six were good for Clayton. Zimmerlin advised the Planning Commission did not recommend six dispensaries, they recommended two, so it was a total of six operations combined cultivators, processors and dispensaries, with no more than two being dispensaries.

Henning stated I find it interesting that both Troy and Kettering recently allowed for home growth and use but banned recreational dispensaries within the city.

Merkle stated I have a question on the locations, potentially where they can be put in place. While the medical marijuana operations can be listed in three different operational areas, I think with people looking at where those locations are I don't think they exactly would want to have this in their backyard. Essentially off Haber Road, along Wenger Road, along Route 49, along Hoke Road, and near Hoke and Wenger. I don't think that's ideal locations for our community and sets a bad setup in terms of how we're trying to plan community growth if we're going to have something here it should be restricted to areas where we already have an operation, essentially on Main Street. The other two designation areas should be removed from consideration, CMI and CMX, and it should only be on Main Street.

Bachman stated we do have one processor currently in the city of Clayton and they don't even have a sign out. There are processors, cultivators, and dispensaries that have heavy security regulations placed upon them. Processors and cultivators are not public facilities, just

dispensaries are. I don't see any benefit limiting those. We said four or six of those, I doubt they would even fill up here.

Gorman stated, I don't see why we wouldn't have dispensaries because if anyone wants it Englewood is just next door, Harrison Township is next door to us, and I believe Trotwood has them too.

Farmer asked, I noticed that that Planning Commission recommended permitted use versus conditional use. If we wanted to go with conditional use, what additional work do we need to do. Zimmerlin stated to make it a conditional use that would require anyone who would want to apply to do sales, cultivation or processing to go through the BZA.

Mayor Stevens after hearing no further questions from Council, asked for a motion to open the floor for public comments. Motion by Henning to open the floor for public comments, motion as second by Merkle. All yeas, motion carried.

Mayor Stevens asked if anyone wished to speak on this case tonight.

Linda Blum representing the Northmont School District submitted a Proclamation stating their opposition to marijuana and further stated the effects of marijuana on adolescence.

Deb Pulos spoke in opposition to marijuana dispensaries, and stated she does not want this for the city of Clayton.

Chris Pulos questioned the tax dollar revenues and how they were calculated. Law Director Dillon advised I couldn't figure out how the State calculated their number in our example, so I called the Ohio Department of Cannabis and spoke to their attorney and that is the example they provided so those numbers relate to nothing, they just show how that tax is calculated.

Stevens asked if there were any further questions. Hearing none, Stevens asked for a motion to close the floor for public comments. Motion by Gorman to close the floor for public comments, motion was second by Henning All yeas, motion carried.

Hearing no further comments, Mayor Stevens asked for a motion to close this public hearing. Motion by Henning to close this public hearing, motion was second by Farmer. All yeas, motion carried.

Mayor Stevens announced that we also are holding a Public Hearing this evening for PC24-04 a request for a Zoning District Change and Preliminary Subdivision Plan – Sweet Potato Ridge Road (Warner Village) – SDG Warner Village LLC

Ms. Snyder advised this two-part application was received on November 6, 2024 that proposed a zoning district change from RSD to PDD and a Proposed Preliminary Development Plan for a Residential Subdivision. The applicant is Mark Schnicke, on behalf of SDG Warner Village LLC. The property owner is SDG Warner Village LLC. The property contains 183.1044 acres, and there are no structures present. A public notice was mailed to property owners within 300 feet of the subject property on November 22, 2024 and December 23, 2024. A public notice was printed in the Eaton Register Herald on December 4, 2024 and December 4, 2024. The location of subject property is near the intersection of Sweet Potato Ridge Road and North Main Street. Ms. Snyder share images of the general location, the surrounding zoning, and the preliminary development plan overviews. The current zoning of the subject property is RSD, Residential

Single Unit District. RSD zoning district outright permits eleven certain uses, and RSD zoning district also conditionally permits fourteen other certain uses. Proposed zoning of the subject property is PDD, Planned Development District. PDD zoning district developments are subject to Planning Commission and City Council approval of a Preliminary and Final Development Plan. The proposed subdivision is within the Clayton Improvement District Number 1 Overlay, CID-1. CID Number 1-O standards require the zoning to be changed to PDD. 1111.22.C.1.i states that any development of land, or assemblage of land, with an area of five acres or more, or where more than five lots will be created, shall be developed as part of a planned development under this zoning code. This proposed subdivision is not within the Special Area 1 Overlay. The Warner Village Subdivision proposes construction of 529 Homes, on approximately 68 acres, of which forty-seven percent will be open space or park. They are proposing three access points from Sweet Potato Ridge Road. They also propose water and sewer service from the city of Union, and staff has received Union's letter of confirmation from Schnicke. New infrastructure includes streets, sidewalks, and a multi-use path along Sweet Potato Ridge Road. Neighborhood amenities include open space, centrally located neighborhood parks, and eight retention ponds that have passive open space around them. The Future Land Use Plan indicates the intent of this area to be "Warner Village" with single-family attached, single-family homes, parks, and flex-use. Planning Commission passed a motion to make a recommendation to City Council that the request be approved with certain conditions. If motioned and approved by City Council, the applicant will then be able to submit Final Development Plans. Each Final Development Plan requires public hearings with both Planning Commission and City Council. Final Development Plan and Plat submission requires certain additional information not included with the Preliminary Plan. A completed traffic study, which will consider the impact of the proposed development on area roads and will make recommendations on road improvements to address such impacts. A development plan set, which will include details on utilities, grading, stormwater and drainage, building architecture and landscaping. After evaluating the applicant's request, and holding a Public Hearing, Planning Commission passed a motion to recommend that City Council approve of the zoning district change from RSD to PDD and Preliminary Development Plan with the following conditions to be met with any proposed Final Development Plan, adopt recommendations by staff, proposed "Willow Circle" is re-named, applicant submits copies of correspondence of the submission of the preliminary plan to all applicable utilities and other governing agencies with their comments, all comments from the City Planner, City Engineer, and City Staff to be adequately addressed and complied with, all proposed lots shall have a minimum lot width of sixty feet, and the adjustment of preliminary plans to include 529 homes.

Clete Benken, Land Planner and Landscape Architect with KZF Design, stated we are the land planner working on behalf of Schnicke Development. He shared the need for housing, especially different types of housing, with the build up at Wright Patterson AFB and development around the airport, has outstripped the available supply in this area. He then shared the variety of homes that would be in the development, one being a move-down model for people wanting to get out of a larger home or for single people, there would also be rental options, in addition to traditional homes for families.

Matthew Gaston stated he is with Schnicke Development Group. He addressed the question of the need for housing, stating there has been over 2,000 new manufacturing jobs around the

airport and Wright Patterson has grown over 1,000 new jobs each year and housing has not kept up. We would not have purchased the land if we weren't confident in this location.

Gorman questioned, with the quantity of homes that may be built, and the amount of traffic, if a traffic light is warranted at Sweet Potato and Main Street, who would be responsible for that. Gaston stated that if the traffic study indicated a traffic light was warranted, they would be responsible for the installation.

Farmer asked about the retention ponds, there is a sheet of bedrock under there, how deep are you going to go with those ponds, and if you hit bedrock how are you going to get the water out of there. Gaston advised along the front is where it is the deepest, the soil average is about ten feet and we expect to stay above the bedrock with our ponds, we don't expect to go deeper than that. Some other areas might be dry detention basins. We will try to place the ponds in the deepest areas away from bedrock.

Farmer stated this property has been sitting empty for quite a while and there has been attempts to develop it in the past, why do you think you will be successful when they weren't. Gaston prior to 2019 most homes had basements, builders are trying to hit a lower price point and to do that they are building more slab homes.

Farmer stated I know some Councilmembers have expressed concerns about some plats that are incomplete and what kind of assurances can you give us that you will complete this, that there will not be what we've seen in some other neighborhoods. Gaston stated what gives us confidence is partnering with builders that have the resources and the capacity to see a project through and don't walk away even when things slow down.

Farmer asked how will the infrastructure be put onto the property as you go forward and the building develops. Gaston stated we are going to work from the north to the south. Farmer then asked is that something that you then absorb and recoup in the sale of the property. Zimmerlin stated it can be done that way or a developer can also request TIFFs for public infrastructure.

Farmer stated I know we have several TIFFs in our City and I guess my concern is if we have to bond ourselves with for a lack of a better term, what kind of risk does that run for the City in terms of if we have a business that comes in and its very desirable to have it in our City, are we going to be over bonded to where we couldn't support that if we wanted to. Zimmerlin advised if this Council were to grant a TIFF for this site it would not, if there were a business that were to come into this City odds are we would not be TIFing that property it would probably be other economic incentives through grants, through the county, or possibly we have an income tax kind of sharing agreement that we could also employ.

Farmer also asked, I understand you were talking with the Northmont schools, could you elaborate on that. Gaston advised I was just making sure they have the capacity for new students in their existing facilities. The feedback we've received is that they have had a declining student body for a number of years and they have capacity for students.

Henning asked of the 529 homes in this plan how many are rentals. Gaston replied in this plan 100 are rentals.

Bachman asked if you could go over the ownership and management of the rentals. Aaron Horn stated he is with D.R. Horton and is part of the land acquisition team here in the Dayton area.

We offer the same floor plans, the same homes that we would on a for sale product as we do on the rental side. What we do in terms of ownership management, we build these out and then lease them and package them together and work with institutional partners that own tens of thousands of units across the country to manage and operate them. Within the deeds of the property we actually require that that owner hold that package of homes and they are not able to parcel and sell them out, so there won't be disparaged ownership amongst the package of rental units. They are going to be three and four bedroom homes north of \$2,200, \$2,300 a month in terms of rent. We are using the build to own component as a way to give people in the community a sense of a single family lifestyle, who may not have the means or qualifications to actually purchase a home. From a management standpoint we're going to be behind the construction, we use local vendors to build the homes but we work with larger partners that we have specific requirements for that they actually hold the property for a period of time. We have professional management companies that operate our HOAs that mow the grass and do the day-to-day management of the property.

Merkle asked do you have an estimated time from start to finish. Gaston stated we plan worst case scenario 10 years, but I can see it happening in six or seven.

Bachman asked City Manager Zimmerlin if we have been in contact with Northmont schools as far as with the potential increase of enrollment. Zimmerlin replied yes, about six months ago we had a meeting with the Superintendent and the Business Director about this project. Bachman then asked about Police and Fire, what has been discussed with them as far as this project. Zimmerlin stated both have reviewed and signed off on the preliminary plan.

Mayor Stevens after hearing no further questions from Council, asked for a motion to open the floor for public comments. Motion by Gorman to open the floor for public comments, motion as second by Merkle. All yeas, motion carried.

Mayor Stevens asked if anyone wished to speak on this case tonight.

David Sims shared his concerns with water issues.

Jacqueline Carrier shared some history of the 183 acres and why it has not been developed, specifically what is under the land and the karst issues, the shallow limestone issues and water runoff issues.

Courtney Hart shared her concerns with an additional 200 plus kids going to Northmont schools, traffic issues, and police response times.

Patrick Ernst shared his concern with the comprehensive plan where it identifies reduced sprawl and improves quality of life, and how this development plan reduces urban sprawl.

Bruce Routson shared his concern with the current traffic on Sweet Potato and how this development would further impact traffic.

Lauren Kincer shared her concerns with sprawl and the number of homes, rentals, and the number of kids in Northmont schools.

Gary Terborg shared his concern with the retention ponds going down ten feet as he does not believe they can go down ten feet due to the limestone bluff.

Mark McConnell stated he is not against this proposed development, he knew this day would come. His concern is the access to this development only being off Sweet Potato with police and fire response times, their only access is from the one road.

Doug Bias stated the developer stated earlier that the demand in this area is greater than the supply, so I would ask that you take that into consideration when you're considering TIFFs. Also, these recent housing developments are beginning to show what a mess it is have three separate and distinct cities, each with their own priorities and policies so closely intertwined.

Tammy Blevins shared her concern with Union Elementary being at capacity and where will wildlife go.

Randy Schultz shared that there is a house on his street that is not selling and a few more coming up and I would dispute that there is a demand for housing. I also have a concern with fire and police response, you can't keep building north of 40 without building a new firehouse up there, and lastly his concerns with water and flooding issues in his neighborhood.

Teicher Tanner listed a number of developments within Clayton that have not fully developed, and asked how can we be sure that a development with over 500 units be fully developed.

Anna Ernst shared she is also concerned with the incomplete developments within Clayton and the fact that Clayton's population has remained unchanged for 25 years.

Miles Mayer stated he is not in support of this project, he works at Wright Patt and moved to this area because it is not Huber Heights or Fairborn and does not want to see the overdevelopment.

Marinda Neff stated she does not believe the areas medium income can support the rents being proposed in this development, she also shared Goggle searches on DR Horton lawsuits.

Katie Howard shared her concerns with Sweet Potato Road, is it going to be widen and who will be responsible for that as half of the road belongs to Union, and possible issues with easements with the roads construction. They moved here for the rural aspects and don't want this development.

Mike Stollings stated they keep saying they have a plan, it's going to be great for open space, I don't see how putting a development on farmland helps open space views for anyone, he also stressed his concerns about the congestion of traffic on Sweet Potato Ridge Road.

Hearing no further comments, Stevens asked for a motion to close the floor for public comments. Motion by Gorman to close the floor for public comments, motion was second by Kelly. All yeas, motion carried.

Stevens asked Council if they had any further questions.

Merkle stated there were comments made about water runoff whether it be the houses along Ranken or Beechgrove, that's one of the things you have to address in terms of any water that comes upon your property has to be controlled, or any water running from your property to an adjoining properties has to be controlled. The water or those woodland areas potentially in the back corner of that say are not being addressed mean one way or another, if its standing water and a potential public health issue it's one of those areas that you would have to take into consideration as part of your site plan, correct. Gaston stated, we can't disturb the wetlands, those are protected. Merkle stated, so it's recognized as being an approved wetland area. Gaston replied, yes, well portions of it, but I mean there's things you can do for mosquito mitigation.

Merkle stated there's other areas that are set up as woodland areas that once they put them under control as far as mitigating the situation they can be handled, it doesn't mean you have to drain it it's just not siting at a back corner that's untouched, that there are thing that you can work with the Department of Natural Resources to essentially address and take care of. Gaston replied yes specifically with our storm water and making sure things actually drain instead of standing.

Mr. Farmer asked, we talked about density, we've talked about volume and I just want to put on the record that you're locked in at 529 units, you just cannot come off that number. Mr. Gaston replied, yes.

Mayor Stevens asked for a motion to close this public hearing. Motion by Gorman to close this public hearing, motion was second by Farmer. All yeas, motion carried.

#### **CLERK'S REPORT**

Clerk Seim presented the minutes of the December 5, 2024 Council meeting. Motion by Gorman, second by Henning to approve the minutes as presented. All yeas, motion carried.

#### **OLD BUSINESS**

None

#### **NEW BUSINESS**

Law Director Dillon advised we need to amend our agenda tonight to add Resolution No. R – 01 – 25 – 12, a Resolution approving Amendments to Clayton Charter Sections 4.031, Procedure for Passage of Ordinances, 4.032 Procedure for Passage of Resolutions, 4.04 Codification of Ordinances, and 8.02 Contracting Powers and Procedures. Motion by Merkle to add Resolution R-01-25-12, motion was second by Bachman. All yeas, motion carried.

Ordinance No. O – 01 – 25 – 01 An Ordinance *Adopting, Rejecting or Modifying* the Recommendation of the Planning Commission to Amend the Clayton Planning and Zoning Code in Order to Permit Adult Use Cannabis Operators with Specified Limitations Within the City of Clayton, Ohio. Motion by Henning to reject the recommendation of the Planning Commission, motion was second by Farmer. Voting: Farmer-yes, Henning-yes, Gorman-no, Merkle-yes, Kelly-yes, Bachman-no, and Stevens-no. This Ordinance received an insufficient number of votes to reject or approve.

Ordinance No. O – 01 – 25 – 02 An Ordinance *Adopting, Rejecting or Modifying* the Planning Commission's Recommendation to Approve, with Specified Conditions, the Application of SDG Warner Village LLC for a Change in Zoning from Residential Single Unit District (RSD) to Planned Development District (PDD) and to Further Approve the Preliminary Development Plan for 183.1044 Acres of Property Located near the Intersection of Sweet Potato Ridge Road and Main Street Bearing Parcel I.D. No. M60 03010 0001 Within the City of Clayton, Ohio. Motion by Bachman to Adopt as written. Gorman stated Ms. Zimmerlin I have a question, you said earlier that this will be presented to us at least one more time, at least one more time at which time we could change our mind, didn't you say there'd be a final recommendation that we could turn down if we so approved. Ms. Zimmerlin, absolutely, so if Council vote on this this evening it will come back the next Council meeting. After that if it passes the developer will then present a final development plan which will come before Council again. Ms. Kelly asked, but can we modify it after if we adopt it, can we go back to modify it. Ms. Dillon stated no because the

motion and second was to adopt it as is. Motion by Bachman to Adopt as written, motion was second by Merkle. Voting: Farmer-no, Henning-no, Gorman-no, Merkle-yes, Kelly-no, Bachman-yes, and Stevens-yes. This Ordinance received an insufficient number of votes to reject or approve.

Resolution No. R – 01 – 25 – 01 A Resolution to Appoint Clayton Representatives to the First Suburbs Consortium for the Year 2025. Motion by Gorman to appoint Gorman and Henning as our representatives and Merkle as our Alternate, motion was second by Merkle. All yeas, motion carried.

Resolution No. R – 01 – 25 – 02 A Resolution Appointing Clayton Representatives to the Volunteer Fire Fighters' Dependents Fund Board for the Year 2025. Motion by Stevens to appoint Farmer and Kelly as our representatives, motion was second by Gorman. All yeas, motion carried.

Resolution No. R – 01 – 25 – 03 A Resolution to Appoint a Clayton Representative and an Alternate to the Miami Valley Regional Planning Commission and Transportation Committee for the Year 2025. Motion by Henning to appoint Gorman as our representative and Stevens as our alternate, motion was second by Farmer. All yeas, motion carried.

Resolution No. R – 01 – 25 – 04 A Resolution Appointing Member to the Cost Recovery / Impact Fee Appeals Board. Motion by Stevens to appoint Henning as our representative, motion was second by Farmer. All yeas, motion carried.

Resolution No. R – 01 – 25 – 05 A Resolution Appointing Kim Williams to the Planning Commission. Motion by Bachman to approve the Resolution, second by Kelly. Voting: Farmer-no, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 6-1.

Councilman Henning made a motion to table four Resolutions going to the Board of Elections, because when we put them on the State Legislation approved a bond issue to go on the May ballot. Previously they would have paid for that election. In this case they will only pay for their portion of the election administration so if we were to put something on we would have chargebacks, and I would anticipate the chargebacks being \$10,000 to \$15,000 for these measures. Since they are not imperative to City operations, I would just move that we table them until a later time when we can put them on and not have such a high chargeback. Ms. Dillon stated I would ask Mr. Henning, you referenced four, actually we added one so there is a total of five so if you want to amend your motion. Mr. Henning amended his motion to table five Resolutions. Ms. Dillon read the Resolution numbers into the record, Resolutions R-01-25-06, R-01-25-07, R-01-25-08, R-01-25-09, R-01-25-12. Motion was second by Kelly. All yeas, motion carried.

Resolution No. R – 01 – 25 – 06 A Resolution Approving an Amendment to Clayton Charter Section 3.04 (Mayor and Vice-Mayor). This Resolution was Tabled.

Resolution No. R – 01 – 25 – 07 A Resolution Approving an Amendment to Clayton Charter Sections 5.02 (City Manager Qualifications) and 11.03 (Personnel Practices Manual). This Resolution was Tabled.

Resolution No. R – 01 – 25 – 08 A Resolution Approving an Amendment to Clayton Charter Section 3.08 (Salaries of Elected Officials). This Resolution was Tabled.

Resolution No. R – 01 – 25 – 09 A Resolution Approving Amendments to Clayton Charter Sections 3.03 (Wards and Boundaries) and 9.01 (Nominations and Elections). This Resolution was Tabled.

Resolution No. R – 01 – 25 – 10 A Resolution Authorizing all Actions Necessary to Affect a Governmental Natural Gas Aggregation Program with Opt-Out Provisions Pursuant to Section 4929.26 of the Ohio Revised Code, Directing the Montgomery County Board of Elections to Submit a Ballot Question to the Electors. City Manager Zimmerlin recommended that we table this Resolution as well this evening as we would have a chargeback from the Board of Elections. Motion by Merkle to table this Resolution, motion was second by Kelly. All yeas, motion carried.

Resolution No. R – 01 – 25 – 11 A Resolution of the City of Clayton, Ohio Supporting the Ohio Municipal League’s Challenge of AT&T’s Tariff Application at the Public Utilities Commission of Ohio. Motion by Gorman to approve the Resolution, second by Kelly. All yeas, motion carried.

Resolution No. R – 01 – 25 – 12 A Resolution Approving Amendments to Clayton Charter Sections 4.031 (Procedure for Passage of Ordinances), 4.032 (Procedure for Passage of Resolutions), 4.04 (Codification of Ordinances), and 8.02 (Contracting Powers and Procedures). This Resolution was Tabled.

#### **CITY MANAGER’S REPORT**

Amanda Zimmerlin, City Manager, advised city offices are closed Monday, January 20<sup>th</sup> in observance of Martin Luther King Jr. Day. We received notice from Montgomery County Solid Waste Management District that there is a public hearing on January 21<sup>st</sup> concerning their new plan, there is a nominal increase they are proposing in their tipping fees. Montgomery County Commissioners held a public hearing for the Soil and Water Hoke Road project, it was voted unanimously to approve the project. They hope to get the project out to bid soon and work to commence this winter if the ground isn’t too frozen, or this spring the latest. We do have a couple of city of Clayton Community Events to talk about. Sweep Clayton Clean we have those scheduled for Saturday May 17<sup>th</sup> from 8 am until noon at 200 Woolery Lane and then again on October 18<sup>th</sup> from 8 am until noon at the same location. We are also bringing back the Shredding Event on Saturday, July 19<sup>th</sup> from 9 am until 11 am here at this building. We do have our Patrol Officer wage reopener fact finding set for January 22<sup>nd</sup>. We are working on the web site update, the city has been made aware of a new federal law under Title 2 of the Americans with Disabilities Act to ensure the accessibility of web content and mobile applications for people with disabilities. The city was made aware that there are 29 parcels in the Old Village that abut Clay Township that were still paying property taxes to Clay Township for fire protection. Staff has worked with the county and Board of Elections to remedy this. Documentation was sent to the BOE on January 3<sup>rd</sup> showing that the 29 parcels were legally part of the City of Clayton with the merger voted in 1996, asking that this be fixed administratively by the BOE and there would be no need for legal action. Governor DeWine signed legislation that would allow law enforcement agencies in Ohio to charge records requestors for processing video that is public record. The Records Commission met this afternoon and voted in favor of

that, and that will come before you in April, when it becomes law. There is an open position on the Board of Zoning Appeals, staff has advertised the position through mid-February. The first snow and ice event this year in January cost the city \$59,572. That is broken down to salt was \$25,500, brine was \$1,105.20, equipment was another \$20,000 and then cost for employees was around \$12,000. And, then the event we had just the other day on the 10<sup>th</sup> the total cost was \$43,871. We do have an open position on the JEDD Board, or actually two to be reappointed. Mayor Stevens term has expired and he can be reappointed, Mr. Schweitzer was our other representative he is termed, you can only serve two terms on the board. In the thought of continuing to have a staff member on there I volunteered to serve in Mr. Schweitzer's place, he will still attend the meetings as he has that wealth of knowledge but he cannot be the representative of the board. I will have legislation for you at the next meeting for those appointments. Lastly, we have the summer schedule coming up. We propose holding the first meeting in June on the 5<sup>th</sup>, off on June 19<sup>th</sup> which is the Juneteenth holiday, and off on July 3<sup>rd</sup> and August 7<sup>th</sup>. Motion by Henning to approve the summer schedule that can be amended, if necessary, second by Kelly. Voting, all yeas, motion carried. The last thing I have for you is the Taste of Northmont is back at Meadowbrook at Clayton, it is the Taste of Northmont and Business Expo, it will be held February 13<sup>th</sup>. When I have more information from the Chamber, I will pass that along.

Law Director Dillon advised the City has received a liquor license application for Sips Bar and Grill LLP, 6556 Union Road. I have provided Council information with respect to that. Council has the ability if it wishes to request a hearing for that application and the City Manager is recommending that. Council can take a voice vote to request a hearing on that particular application. Motion by Merkle to request a hearing on this application, motion was second by Farmer. Voting: Farmer-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 7-0.

#### **VISITOR'S COMMENTS**

Matthew Gaston stated I'm a property owner in Clayton and would like to understand the reasoning for the rejection, there was no discussion on modifications or anything. We followed the Land Use Plan, we followed the zoning code and Overlay District. There was no discussion or justification for the rejection.

Alan Schaeffer stated I am with the law firm Pickler, Schaeffer and Ebeling. Let me go to you Tim (Gorman) I believe you asked the City Attorney whether or not if you would act on this preliminary at the final, do you get a second bite at the apple at the final, I believe that was your question. The City Attorney's answer was no. Law Director Dillon stated I don't believe that was what he was asking. Mr. Schaeffer said the reason he asked the question was if you approve a preliminary tonight does he get another bite at the apple at the final, if that's not what he said then let's get a clarification because that's what I heard. Ms. Dillon stated, that's not what I heard. I understood the question was something different, I understood the question was if it was rejected could they vote on it again tonight, that is what I understood. Mr. Schaeffer stated he asked the question before they voted. Ms. Zimmerlin stated, I'm sorry, Mr. Gorman directed his question to me, he directed the question to me. He asked if they voted tonight if they would vote on it again and I told him yes that they would that if they were to vote on it tonight they would vote on it again at the next meeting and at the next meeting that it were to pass it would then come back before Council again for a final, and then Barb corrected me and said it goes to

Planning Commission first and then back to Council and I said she's correct. Mr. Schaeffer stated, so if it were approved tonight, then Mr. Gorman and this whole Council would have another bite at the apple. So for instance in this, rock issue okay, if the drainage issue comes back after they do their final studies on drainage and it's got to change that's going to change at the final plan and the preliminary is going to change in order to adopt, the if the traffic report comes back and says hey you need four outlets on Sweet Potato instead of three, but otherwise it works they're going to have to change to plan. If I heard it correctly before the vote was taken Tim asked if he got a second bite of the apple and the answer was no, the answer from you, Ms. Dillon was no. Ms. Dillon stated I don't believe that was the question and I don't believe that's what I said. Mr. Schaeffer stated, did you not say that. Ms. Dillon said no. Mr. Schaeffer said what did you say. Ms. Dillon stated, she just said he asked her the question and she answered it. Mr. Schaeffer stated, and you said you do not get another bite at the apple, you said you do not get another bite at the apple. This is a big issue. This Council really ought to revote on this issue if there is a problem because if Mr. Gorman is voting based upon the fact that he does not get another bite at the apple that is not correct, that's not correct. Ms. Zimmerlin stated I think where the confusion lies is if I'm remembering this very long meeting we just sat through the Council took a vote four to three to reject the Planning Commission's recommendation. Ms. Kelly asked if they were able to then modify it Ms. Dillon then said no because they had already voted. Mr. Schaeffer asked if the minutes are verbatim, Ms. Zimmerlin stated they meetings are recorded. Ms. Dillon stated I don't think what you're asking is correct because I think what you're saying is correct, I think Amanda just correctly indicated what happened. Mr. Schaeffer stated, Mr. Gorman's question came before the vote. Ms. Dillon replied, not to me, he asked her a question and she answered it. Mr. Schaeffer replied, so did you, you also said no. Ms. Dillon stated, I don't believe so.

#### **COUNCIL MEMBER COMMENTS**

Farmer stated welcome to 2025, it's been a long meeting. I do find myself reflecting on 2025 in my professional life, 25 years ago I'm working war games thinking about what the year 2025 is going to be like, and we had experts from around the Air Force DOD industry and they all told us about what they thought it was going to be like. Well guess what, most of those predictions happened by 2010. The real tick to some of these things is when you're thinking about the future, about what's next, it's not what's next, it's then what's after that. That's where the imagination can go wild and that was some of my concern tonight about second order effects from what we do as a city going forward, certainly can be addressed and probably will. I just want to wish all of you a happy Martin Luther King day next Monday, he was a very inspiring man. Henning stated I hope you all had a nice and healthy holiday season, and I hope everybody has a healthy 2025. I do want to thank Governor DeWine today for announcing that the flags will fly full staff on Monday for the inauguration and then back to half staff for the remaining days to honor President Carter. Gorman stated over the holidays I had the pleasure of talking with both of our past City Managers and they are both doing well and they both asked that I wish everybody here the best of 2025. Just this week I spoke with Mr. Rowlands, he has just moved to another city in California. They are temporarily living in another city, but their house is okay, it is not burned down, they have had no trouble at all. Bachman stated I hope everyone had a great holiday, and it's good to see that events are coming back onto the calendar. Tonight I voted the way that I always do, what I thought was best for the community, I listened to everything, looked at all the information given to me, and asked the questions that needed to be

asked. We'll see what comes of this in the future. I look forward if any future plans do come from anyone here. I do want to address one thing, and I should have addressed this up about a year and a half ago. There was no official anything from the city that there would be no development north of US40, that is officially by the city. Nothing was done, that was never done. There were political promises made three decades ago. We are not bound by that. Now I take into consideration the history and things around here but idea, this statement of broken promises is completely false. There is nothing, it was checked a few years ago, there was no legal promise of anything. That needed to be cleared up. I'm not the only one up here that feels that way, but someone finally needed to actually say something about it. Stevens stated I just want to thank everyone that came out tonight especially our neighbors from Englewood. Both of my votes got put down tonight. I strongly feel I voted the way I should have voted as the Mayor and as a resident. Everyone has different ideas for what we want for our cities. People coming from other cities tonight show that they care about what goes on in our communities and I think what Mr. Bias said, we're going to have division as long as we have these three cities and that's not something we're going to fix today. I hope someone fixes it someday and we can have a better growth plan for our communities. I'm personally very disappointed in the votes tonight again, I'm one vote of seven, I'm not the king of the world. We'll take this one step at a time. I want again thank everyone for their hard work and for coming out tonight.

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

Meeting adjourned at 10:44 PM.