

Minutes of March 6, 2025 Council

Meeting of the Clayton, Ohio City Council
Clayton Government Center
March 6, 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.

CLERK'S REPORT

Clerk Seim presented the minutes of the February 20, 2025 Council meeting. Motion by Gorman, second by Kelly to approve the minutes as presented. All yeas, motion carried.

VISITOR'S COMMENTS

Sam Cox shared his concerns with school class size and the use of a TIF on this development.

Mark Schnicke, Developer, stated they followed Clayton's zoning requirements and believes this is a smart development.

Earl Harlamert, Parks Commission, thanked everyone who came out for Meadowbrook's Line Dance Party, we had over 80 people. We will hold another line dancing party in the fall. Reminder, the Parks Commission will host a park clean up day Saturday, March 15th from 10-12.

Derek Muncy shared the approximate dollar amount this development could bring to the city once built out, and that the schools have had declining student numbers. He also shared that this parcel has been earmarked for this type of development for years.

Patrick Ernst shared that if this Ordinance is passed, they have a four member petitioners committee and they will file a referendum to have it reversed.

Anna Ernst shared what she believes makes Clayton unique, and the need to protect and preserve agricultural land.

Doug Bias shared information on TIF's and how in his research they are designated for blighted areas which he does not consider this area.

Gloria Von Fahenstock asked for clarification on TIFs. Amanda Zimmerlin, City Manager, advised a TIF is not automatic, it must go through the legislative process. Mark Schnicke, Developer, stated from a developer's perspective it helps drive down the housing prices. If they were to ask for TIF on this project, it would for ten years at 75%.

Jo Seiter shared her concern with this development's density, and history she has had with rentals in her neighborhood and the concern with this development having 100 rental units.

Kris Roll shared when she and her husband retired and they chose to purchase property in Clayton because it is safe, didn't want to live in a plat, has a great school system and is a great community.

OLD BUSINESS

Motion by Gorman to un-table Ordinance O-01-25-02 from our last meeting, motion was seconded by Bachman. Voting: Farmer-yes, Henning-no, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 6-1.

Ordinance No. O-01-25-02 An Ordinance Adopting 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.

Henning stated I would like to be recognized. Tonight marks another time we've met regarding this vote and yet the overwhelming sentiment from residents has remained the same, they do not want this development. So many did not show up tonight because they're exhausted, they speak to Council and Council should listen. Time and time again our community has voiced concerns but it seems the residents' voices might not be heard. The added traffic congestion will be horrible, our roads are already limited and adding hundreds of new homes will only make that worse. Just last night I received a call from a longtime resident who has never spoken out against this development before. I haven't talked to him about this previously, I actually didn't even have his number. He told me he feels the city is losing its charm and that the sense of community that made Clayton special is slipping away. He was heartbroken and ultimately he said he plans to leave. We are losing another good resident to probably Miami County or another surrounding County. This isn't just about houses; it's about preserving what makes Clayton home and special. Our residents have spoken, our job is to listen, and yet if this development moves forward it sends a clear message that residents don't really matter. We've had a few, we've had four residents speak in favor of the development and dozens and dozens speak against the development. Residents deserve honest, transparent and accountable leadership. Council rejected this in front of a packed house in January without putting it on an agenda or publicly posting it, it was passed by reconsideration. I still believe that integrity for local government is respecting the wishes of residents. I wish the referendum committee much success in getting the signatures they need to put this on the November ballot so the residents can vote.

Farmer stated I just want to add I think this is THE vote. There's been some talk about, well, you can always vote against it later... well, later will be when the landowner has PDD zoning and I think at that point the stakes are higher. I think that puts the city at more risk to vote no at that point, that's my opinion. I'm afraid we'll get to that point and you'll want to vote no... and then we'll get feedback we really can't at this point, so to me tonight is the vote.

Motion by Merkle to approve Ordinance O-01-25-02, motion was seconded by Kelly. Voting: Farmer-no, Henning-no, Gorman-no, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 4-3.

Farmer stated these Resolutions are personnel matters and I'm wondering if we should go into Executive Session to discuss. Stevens stated we will move these Resolutions to the end of the meeting after an Executive Session.

Motion by Merkle to un-table this Resolution from our last meeting, motion was seconded by Farmer. All yeas, motion carried.

Resolution No. R – 02 – 25 – 20 A Resolution Amending Council Rule IV (7) Pertaining to Motions to Reconsider. After a lengthy discussion, Gorman made a motion to reject this Resolution, motion was seconded by Bachman. Voting: Farmer-no, Henning-abstain, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 5-1 with one abstention.

NEW BUSINESS

Resolution No. R – 03 – 25 – 22 A Resolution Authorizing the City Manager to Accept the Bid of and Enter into an Agreement with J&M Services of Miami Valley, LLC for Specified 2025 Concrete Curb, Gutter, Catch Basin, and Related Work in an Amount Not to Exceed \$260,000.00. Randy Sanders, Public Service Director, advised after advertising and receiving four bids, J&M Services of Miami Valley LLC was selected for our 2025 concrete work. Letters to residents will be mailed next week with the estimated cost to each property owner. If a property owner wishes to hire their own certified contractor, they have that opportunity, or they can let the city perform the work. Motion by Gorman to approve the Resolution, motion was seconded by Henning. All yeas, motion carried.

Mayor Stevens asked Mr. Harvey to come up and speak, explain why you're here tonight. Mr. Harvey stated the Boy Scouts you see sitting in the audience are from Troop 325 and as part of their Citizenship badge, they are required to attend a local Council meeting. The intent is to see how local government is supposed to work.

CITY MANAGER'S REPORT

Amanda Zimmerlin, City Manager, advised just a reminder that the Easter Egg Hunt is Saturday April 12th, it starts promptly at 9:30 am at Meadowbrook at Clayton. We're happy that's back for this year. The Easter Bunny will be there and it will be a good time. I hope everyone can show up. In your packets you have the draft Active Transportation Plan. In late 2023 Clayton was awarded a grant for an Active Transportation Plan through the Ohio Department of Transportation. TOOLE Design worked with the community and with a committee made up of some council members and residents. We finally have that draft plan so I am requesting a brief work session on March 20th at 7 pm to go over the Active Transportation Plan. The Montgomery County Solid Waste Management District, if you remember a couple of months ago, I had put in their executive report and they were having a public comment period through January 21st, that public comment period has closed and they are asking that cities ratify the plan. Mr. Minear, who is the Director, has requested to do a brief presentation at the April 3rd City Council meeting, not a work session, just a special presentation at the beginning of the meeting to explain to Council what the new plan is and then to ask for the ratification. Hoke Road widening Right of Way acquisition, that's coming down the pike, that number is quite large. Randy (Sanders) was able to apply for additional funding and we were granted. I'm sorry this is for the Westbrook Roundabout, additional funding for construction engineering at \$179,000 from ODOT so they're going to fund that additionally so the construction cost that were going to split between the City of Clayton and the City of Trotwood is less now. Then for the Hoke Road widening, Mr. Sanders did apply for additional funding for that project as well. We haven't heard back yet on whether or not we'll be getting that funding. Just a reminder that there is tax

help available, the first one was held today in these Chambers. The taxpayer assistance schedule has been finalized, the dates are Tuesday, March 25th from 9:00 am to 3:00 pm, Thursday, April 10th from 9:00 am to 3:00 pm and they are held here in person in Council Chambers. You do need an appointment, for those you can get that by calling Eric Hine at 216-857-3174 or Michelle Jordan at 216-857-7382 and if you can't remember those numbers, you can always call the city building and we can get you in contact with them.

COUNCIL MEMBER COMMENTS

Kelly stated I first wish to pass on my condolences to Malcolm Treon's family. In the first meeting when everyone expressed their opinion on the development, I listened and when it came time to vote I still had questions about an emergency access road. I wanted to propose an amendment to the motion but it was my understanding it was not allowed, so I voted no. Before the next meeting, Council received an email from the developer asking for reconsideration and if any of us had any questions. I was contacted by the developer who I spoke with asking about the emergency access road, which was my major concern, knowing this is a preliminary plan. I am aware of all the testing and studies that have to be done for the development in that location. If the resulting date of the pending studies do not support the development, then I will do what is in the city's best interest and vote no on the final plan. Let me close by saying, I did not have any backdoor deals or accept any monetary value. I have the entire City of Clayton's future in mind. Merkle stated last week Mr. Gorman and I attended the First Suburb Consortium meeting that was held in Moraine. The Consortium consists of surrounding communities around the City of Dayton, there are 12 different communities that are part of this group that get together once a month and talk about common issues and situations in their communities. At this meeting it was announced that the United NATO meeting will be in Dayton on May 21st to the 26th. Essentially if you're going to be planning to go through Dayton on any one of those five days good luck, because basically downtown Dayton is going to be in lockdown. They are looking at having approximately 1,300 dignitaries from Europe in the area, as well as their families and also foreign news correspondents. Now what brought this into Dayton was Congressman Turner's office, essentially bringing Dayton into the focus of the world again as this is the 30th anniversary of the Peace Accord that was done back to in the Bosnian War 30 years ago. This might also bring in the current Secretary of State, Bill Clinton, and there's a remote chance that the President of the United States might come. The second item today through the Municipal League was asking for people to give testimony in opposition to Senate Bill 104 and House Bill 109. While these numbers really don't mean anything unless you know what they pertain to, they pertain to limiting this community's rights in terms of limiting short-term rentals in the communities, and Senate Bill 104 reintroduces legislation that seeks prohibitions on local regulations on short-term rentals such as Airbnb's and vrbos. The house bill does comparable things. This legislation prohibits local governments from prohibiting short-term rentals by creating a lottery system to determine eligibility to operate a short-term rental using zoning laws to prohibit short term rentals, restricting the number of tenants in an individual to operate and requires the owner of a property to occupy short-term rentals. The problem with this is it basically takes home rule rights away from communities, to make decisions as far as how our communities grow. When we're talking about development this is what the state does to cities in terms of trying to implement and exercise Statewide control over cities so this is one battle we as a Council probably need to be on top of in order to fight to ensure that that we have a hand in this so we can ensure that the communities are built the way we want them to and with that I'm going

to end. Gorman wished everybody a Happy St. Patrick's day next week and spring is around the corner. Henning stated I do believe we spring forward this Saturday night. I also wanted to say we were praying for the Treon family, I never served with Councilmember Treon but my limited interactions I had with him he was always very nice and so was his wife when I would see them at Community functions. Just for the record, I appreciate Ms. Kelly's statements tonight as to her saying she spoke with the developer, but I still would say in the minutes that we approved earlier tonight Mr. Schnicke stated he never spoke with any councilmember so I don't know who you spoke with. Martina said that nothing was ever discussed in regards to an emergency access road so you were the only individual that knew of this and I wish you would have shared it with the rest of council. In regards to getting the email from the developer Martina also stated it was City staff who received the email Council never received the email in regards to reconsideration until we received a private attorney client privilege email from Martina that I can't discuss because Martina stopped me before so that's what I wanted to say in regards to that. I hope you all join us at the Northmont Education Foundation auction tomorrow night at Meadowbrook. It is a great night as tens of thousands of dollars are raised for scholarships for Northmont graduating seniors. Farmer welcomed everybody and thank you and welcome Boy Scout Troop 325. That was an old stomping ground for me and my son David, a lot of good times. High adventure cycling trip from here all the way up to the Indiana Dunes, that's what got me hooked on cycling. I do want to encourage all of you to come out March 15th and help your neighbors pick up sticks in the Parks, get to know your neighbors, and have some fun. It's not all work, it's not always bad. The last thing I would like to say is Malcolm Treon was my neighbor on Putnam Road. I knew him for many years, he's a good friend so I'd like to eulogize him just a little if I may. I'll try not to be long. When Paulette and I moved we moved back here from an Air Force assignment in Virginia in late 1998. Our next door neighbor was the realtor selling the house we purchased on Putnam Road, Malcolm Treon. We found out later he took a reduction in his commission to get us in that house. We had not even met him yet, all he knew was we were a young family and that I was in the Air Force. Malcolm was a great neighbor and friend, when in our backyards he always greeted me with a high Colonel and always anywhere else he'd see us he'd say hi neighbor. I remember talking with him before his first run for Clayton Council and how he planned to knock on every door in Ward 1. I don't know if he achieved that but he knocked on enough doors to barely defeat his opponent and become a member of this Council. I looked back and took some inspiration on that, but at the time sitting here in this seat was nowhere close to being on my radar around 2010. Malcolm offered to sell me his 1991 Volvo sedan so I bought it. Ever since that time, to Paulette chagrin, I've had a Volvo in my garage and or driveway. I have Malcolm to blame or thank for owning not just a Volvo but several at one point or another. All three of our kids ended up being in accidents and they're all driving Volvos and as you know they're well known for their safety. You never know how one decision can affect the future. We were sad to leave such great neighbors when we moved to Old Mill Road. Paulette and I always remember Malcolm as someone who helped us join this great Community, live next door to us as a great neighbor, and served as a great councilmember representing Ward 1 particularly those in North Clayton, you will be missed. Stevens stated I just wanted to say regarding our vote tonight on the development, anyone who's followed this Council I think I've been consistent on my ideas on development. Personally, I'm happy with this decision as the Mayor, I'm happy with this decision but I don't want to discount the folks that came to speak against it. I think we pride ourselves on at least letting people speak here and I do appreciate the people that voted or that spoke in favor of it, and I also appreciate the people that spoke against

it. That is the hard part about being in positions where you get two opposing viewpoints, many facts, many not facts, many opinions. Everyone in this room wants something different and so we can't make everyone happy and if we could it would really be sweet, it would really be easy, but we just can't do that and this is a no-brainer. If we do nothing, if we don't grow, Clayton dies. We cannot remain stagnant, so if not here then where. These folks that came in here, this developer put out a lot of money, bought the land, followed the plan I just don't know how I can vote against that. I don't live next to it so it's not building right next to me, I already live in a plat. I watched my plat being built when I was a kid and I'm sure people were mad about that. If we don't grow then we can't sustain as a city. We would probably be okay for another five years then we'd be coming back to the taxpayers again saying that we need more money, we just cannot stay stagnant. I think it was mentioned that the school has shrunk and it's one of those things if we don't water that plant too, they're going to continue to be in trouble also and coming back for a levy after levy. It's just very expensive, nothing's getting cheaper we all know that. I don't want to berate this anymore than I already have. I do appreciate everybody's voice and we'll pay close attention going forward and make sure that we do the very best we can on this. Other than that, I just want to say like I say every week, I want to thank the council, thank our staff and thank all of our residents for making this a great place. I appreciate everyone coming.

EXECUTIVE SESSION

Law Director Dillon advised that an Executive Session is needed this evening to consider the appointment of public officials pursuant to Ohio Revised Code 121.22(G)(1). Motion by Gorman to go into Executive Session, motion was seconded by Henning. Voting: Farmer-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 7-0. Council broke at 8:59 PM. Council returned at 9:11 PM and Henning moved to go back into regular session, motion was seconded by Farmer. All yeas, motion carried.

Resolution No. R – 02 – 25 – 17 A Resolution Appointing ___ as a Member of the Local Board of Tax Review. Motion by Bachman to un-table this Resolution from our last meeting, motion was seconded by Farmer. All yeas, motion carried. Motion by Henning to appoint Mark Garlikov as a member of the Local Board of Tax Review, the motion was seconded by Merkle. Voting: Farmer-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 7-0.

Resolution No. R – 03 – 25 – 21 A Resolution Appointing ___ to the Clayton Board of Zoning Appeals. Motion by Merkle to appoint Mike Greer to the Board of Zoning Appeals. Motion was seconded by Gorman. Voting: Farmer-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 7-0.

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

Meeting adjourned at 9:13 PM.