

**Dawn Blobaum (on "Proposed Beaty Street RFP" Update):** So, last Wednesday evening we had 141 attendees at the Roundtable meeting, and there were very lively discussions at each table. I want to thank all the citizens who came out for that. We really appreciate your participation. There were four topics that were discussed about the proposed plan: residential, commercial, the park, and transportation, or mobility. So, you've received all of the comments from that Roundtable discussion. You've also received hundreds and hundreds of emails about the project over the past five months. You've listened to citizens in a lot of public comment sessions. You've even received an Excel sheet that has all of the Facebook comments and social media comments about the project, I'm sure you've also had a lot of individual meetings and phone calls with citizens about it; so, what we would like to talk with you about tonight is realizing that the proposed plan is a concept; and, it is not a final design, the final design would be completed, if we go forward, into a Master Plan. The developer is willing to work with the Town on changes, perhaps changes that's you heard from the last meeting. So, what I would like to know is what things would you like us to take to the developer to ask for changes in the proposed plan?

**John Woods:** Alright, Jamie, did you wanna introduce, um, the discussion regarding... with Rick Kline?

**Jamie Justice:** Oh, yes, yes. Yeah so one of the questions that came up was in terms of kind of the interest from the sellers at the time for some of the property; and so, we had asked Cindy Reid, our Town Attorney, to contact Rick Kline, who was the Town attorney at the time, to actually come and share what his recollections were because we just wanted to clarify kind of what the status is; so, Rick, if you wouldn't mind coming in **(Ralph Clontz III rises in the back row to identify himself but is ignored as Board welcomes Rick Kline)** reporting on, for the group.

**Beth Cashion:** Who was the mayor and the council in 1984? Who was the mayor and the council in 1984?

**Commissioner:** 84?

**Commissioner:** 85?

**Unknown Citizen (off camera):** There is a gentleman in the back that wants to be acknowledged...

**Rick Kline:** Good evening, all. This is—interesting...

**John Woods:** Welcome back.

**Rick Kline:** Thank you, it's good to be back.

**Jamie Justice:** Yeah, so the, I guess question in regards to the seller's at the time's wishes, particularly in regards to the park, and kind of how those negotiations went, what that looked like and what was kind of the outcome.

**Rick Kline:** Yeah. In anticipation of being asking to talk to y'all tonight I went to my file on the Clontz property and read through it. Um. And that also refreshed recollection. Um, but the file itself was, was, was clear and also confirmed my recollection, which is that the Clontz Family had no strings attached at all to that property, either legally or not legally.

**Ralph Clontz III** (rises in back of room): I just want to let you know that I'm here. I'm Ralph Clontz. I was there. I *am* the Clontz family.

**Rick Kline:** The combination of correspondence, mostly with Ralph's father, but some with Ralph himself when we got closer to closing, there's *no* correspondence, there's nothing in any of the correspondence, that had anything to do with the use of the property.

Granted, there are—there are three references that I can find in my file about the property possibly being used as a park. All three of those references came from me. I was the author of all three—two letters and a contract that, that referenced the park.

**Citizens:** \*Crowd murmuring\*

**John Woods:** Quiet please.

**Unknown:** OK?

**Unknown:** Quiet, please!

**Rodney Graham:** Hey, can you all be polite? I mean, come on, seriously...

**Citizen:** You wanna talk about being polite?

**Mayor Woods:** We'll clear the room.

**Rodney Graham:** Yeah, we do, thank you.

**Rick Kline:** As proud as I am of my forty years of being the town attorney, I've never been accused of having the authority to bind the town with respect to any particular use.

There's no communication from the board. I had some communication with the file from Russell (Knox), the mayor at the time. That communication made no reference to the use of the property. Um... I had, I think... a total of four letters from Ralph Clontz, Jr., which is this Ralph's father, all of which talked in terms of the survey, the acreage of the property, and the purchase price of the property, and the—the terms. None of, none of the correspondence, and none in my personal recollection, said anything about its use.

Uh, and the references that I made to “park” property were because certainly, the town envisioned a possibility that that property would be used as a park. But it, to my recollection, and to my knowledge, and certainly nothing in the file, reflects the fact that the town said, “Yes, it *will* be used as a park.” It was merely one of the options that would have been available to the town assuming it acquired the property, which of course it did.

The, and, as you all know, the deed itself says nothing, there's no restrictions in the deed with respect to its use. And, uh, but more importantly, there's no communication in the file or to my recollection, in which the town pledged that it would use the property as a park.

There was a reference in a comment that I saw to the fact that Mr. Clontz, Jr. said, I am paraphrasing, he's withholding the temptation to reserve hunting and fishing rights on the property. But, by the way, I couldn't have had a better relationship with either of the Clontzs. In fact, when you read the correspondence it's, Jim will attest to this, it's old-school lawyering, I mean, it's just like they're so polite, there's just so much politeness and respect reflected by those letters that maybe we don't see as much of today as we would like to.

**Jim Fuller:** Sadly.

**Rick Kline:** Yeah, sadly. For sure. So, I mean, that's my history. That's what I've – uh that's my recollection. And my file confirms that. There's nothing in the file that reflects any commitment, in any fashion, to the use of the property, for any particular purpose. Keeping in mind that I didn't have a lot of, I didn't have communication before the fact which Russell did with, I think, Ralph Jr. and with Mrs. Clontz. And what that communication may have been, I have no idea. But nothing was ever communicated with me, with respect to its, any use of that property, for any specific purpose.

**Jim Fuller:** Here's my question. There are a couple parts. I mean certainly the deed did not include a restriction so there is no, and I'm echoing Cindy here, who is our lawyer, not I...but there is no binding legal document that says it has to be a park.

But, it strikes me as at least as *intriguing* that “park” was mentioned either three or four times. There are a hundred uses of that land and the other uses weren't mentioned over again. So, it makes me at least inquire as to whether “use as a park” was something that was being discussed, and to the exclusion

of those other hundred reasons, found their way into the correspondence and therefore may imply an interest even though it's not concrete.

**Rick Kline:** There's no question in mind that there was an interest in the town for that property as a park. I mean, that's, that's very clear.

But just as the town owned property on Depot Street that was a jail, and the town owned, before the merger of the school systems, the town owned properties that were used for schools, that are no longer being used for schools, no longer being used for jails, no longer being used for a library. That was one of an assortment of uses it could have been used... It may well have been the primary use. It may have been, "Yeah, that's what we think the highest and best use of this property is once we acquire it."

But to my knowledge and now, Mr. Clontz, if it's okay with Ralph, I'll refer to him as "Ralph" and his father as "Mr. Clontz"—I feel more comfortable doing it that way—Mr. Clontz, in one of his letters, I think, overly modestly said that he was not a real estate lawyer, in fact swore he would never show up at the register deed's office, I don't blame him from that... however, he did reference the fact that he spoke to other attorneys that do real estate work. This was in connection with how we were going to determine the size of the property. As you may know from looking at the contract, we were paying a price per acre and so we had to determine exactly what's the acreage that we would apply that price to and there was some give & take on that and we finally resolved that issue. Uh, but in the context of that, Mr. Clontz said, "I'm not a real estate lawyer" and he did say that Ralph (motioning to Ralph III in the back of the room) would be doing some of the work when we got closer to closing... But he said he did make—he did talk to other real estate lawyers and based upon that had an opinion as to how we ought to determine the size of the property for the purpose of determining the purchase price—and then we followed through on that. So— it... I think it's — it seemed to me, that if he were interested in making sure it was used for a particular purpose and he was talking with real estate attorneys that he probably would have said, "Oh, and by the way, we want to make sure this is a park. How do we do that?" But, I'm guessing. I mean I don't know what he said, I don't know what the conversation was... Ralph probably knows better than I do.

**Jim Fuller:** Let me ask a follow up, because I really do see the difference between the way you deal in a small town. I mean, strangely enough, as a lawyer, I don't make many contracts, and I give you my word, I hope you'll count on it, and vice versa.

Do you have any sense, any feeling, from the totality of what you experienced, whether there was a stated or implied agreement of any kind that the land would be used as a park?

**Rick Kline:** I don't. I don't. That's not to say that there wasn't a communication that I wasn't aware of—there was a lot of communications that as the attorney I am not aware of. So, there may have been those, I'm not saying there weren't. But, it wouldn't make sense to me that in the...in the... in the several communications with Mr. Clontz, and I think maybe once with Ralph, that that would have been at least mentioned if not in, in passing, in some other fashion. And it was not.

**Brian Jenest:** Never mentioned?

**Rick Kline:** No. Never mentioned. I—I referred to, in the contract, as I said I want to make sure that there's no restriction to prohibit this from being used as a park. Much different from saying we will use it as a park.

**Rodney Graham:** Do you have any recollection, like what was the underlying zoning at that time? This goes way back...

**Rick Kline:** I...presume it was a R-something, like 15 maybe, it was probably R15

**Rodney Graham:** Probably residential?

**Rick Kline:** That's a 15,000 square foot minimum lot size. I--I don't know that, but I suspect that's what it was.

**Jim Fuller:** Hmmm, I see Mr. Clontz standing up as if to speak and when Rick is through, I would like to encourage us to suspend the rules for tonight and allow him to...say something. I don't want to interrupt you.

**(Citizens Clap)**

**John Woods:** Before we do that, Rick, could I ask you to fast forward from 1984 to 1996. You're still the town lawyer. None of us are here.... It's the year before I go on the town board, so I was not involved in this.

The Town board did an RFP or an RF something or other, request for proposal on that site, and looked at several different development plans for that site which I assume also, but I don't know, included a park, or part of the property for a park. But I really don't know that. And then, the history is, that the Town board took no action upon any of those plans. Could you--could you recount that?

**Rick Kline:** Yeah, um... I haven't gone through any of the files with respect to the mid-nineties RFPs, but I am aware that there were several proposals made to the Town at the time. And given the nature of the property to the topography as well as the fact that the Watershed Ordinance was in effect at the time, pretty sure (looking to **Dawn Blobaum**)? The Watershed would have required a large portion of it to be

pervious so in all likelihood, all of the plans that were proposed would have included a lot of open space which would have been parkland, active or passive. But there was certainly a lot of development on that property, as well.

And, I don't recall this kind of discussion at that time 20 years ago. It could have happened. I just don't recall.

**Jamie Justice:** All right.

**John Woods:** Okay.

**John Woods:** All right, Mr. Clontz, we are gonna waive the rules here and welcome you to Davidson—or *back* to Davidson (**citizen's clap and Ralph makes his way to the front of the room**) Would you like to come up front for everybody to hear you on the microphone?

**Ralph Clontz:** Sure.

**Ralph Clontz:** Hello. **(to all)**

**John Woods:** Welcome back to Davidson.

**Ralph Clontz:** Thank you. it's good to be here. I'm Ralph Clontz...the III. And, I completely agree with what Rick said about our relationship, his relationship with my dad. Very cordial. Known him a long time.

My recollection, though, is a little different. I know, that my grandmother, it was important to her, she *believed* that this was going to be used for a park.

And he's right, I was only involved on the periphery. I got a couple of copies of letters, I think maybe I did a little closing because I think the town signed a deed of trust. So, I may have got the deed signed and wrapped that up. But I didn't do any of the—Rick prepared the deed, Rick prepared-- did the title of examination.

And neither of us are real estate attorneys, but I *know* that everybody was talking about a park. And I can tell you a couple things I pulled from my files—just the same thing and I didn't even find all my files. And this is bits and pieces.

But one thing in the offer to purchase contract between my grandmother, 'Mimi', and The Town of Davidson, it says —excuse me, Davidson's special, but she was more special —so, it says, "There must be no restrictions, easement, zoning or other governmental regulations that would prevent the reasonable

use of the real property for park, playground or other public recreational purposes.” Now why would that be in the offer to purchase and contract if that weren’t what everybody was contemplating?

The other thing, is there’s a letter from Rick to Bill Branden at Town Hall. And it’s an innocuous letter, it’s just sending along the deed, after the closing. And it says, “Dear Bill, enclosed is the deed from Venie Clontz to the Town of Davidson for the “Park Property.”

So, why, *why*?

So, so listen, I don’t live in the Town of Davidson, and I want nothing more than what’s best for the Town of Davidson. I don’t even know the specifics of what’s being proposed. But I just wanted to make sure that everyone was aware that this is why my grandmother sold this property. Had she not, my sister and I would own it *today*.

And she--I recall it being sold at somewhat of a discount. There was some negotiation as anybody would do. But as I recall, the negotiation had a deduction for Beaty Street being double the size it is. That never happened. There were some other things that went back and forth. But--but, she never really, as I recall, now, Rick you may recall it differently —but I don’t recall it being a “hard” bargain. She was trying to do something very wonderful for The Town of Davidson, and that being a park. That’s what we thought was gonna happen.

So, I don’t, I don’t mean to step in and kick up a hornet’s nest or anything, and cause the Town of Davidson to suffer. My sister and I still own another just-shy-of 20 acres on Beaty Street that we’d someday like to develop and I’d maybe even like to retire here one day if I ever *do*...

But, I just felt it’s important to know, does everybody know this was what was going on?...

Because I know that when there was a series of charrettes (referring to charrettes for the eco-industrial plan by Town of Davidson) about our property some years ago... and it involved a lot of ideas, and there was a lot of talk and a lot of meetings. And in the course of that, basically what they wanted us to do is *donate* the property we had left. And in the rendering they did, I distinctly remember them going, “Clontz Park.” **(holding up his hands)**

So that makes me wonder, “Is that just something you can just walk away from and forget?”

Listen, I don’t know if it’s binding or not. I don’t know if--if this limitation is enough to create a problem. I’m not a real estate lawyer by any stretch of the imagination nor do I think that there’s no need for *some* development. I think the Town of Davidson probably needs tax revenue like everybody. I think it probably needs to provide infrastructure for growth. And I think that’s all important.

I just wonder, have they got other parks already? Are they easy to come by? Or should this be used in whole or in part for what it was originally intended for?

I just wonder if it couldn’t be incorporated at least in some *significant* way. It’s so close to town. I think it would be a wonderful thing.

*In fact*, this is just sort of coming to me as I go, but I remember part of that charrette process. I can’t remember who I did it with, but I walked the area where the pond is. It’s now been drained. Somebody told me they call it “Goat Pond.” We had goats but, I don’t remember calling it that. It’s that little pond off Beaty Street. So, I went with somebody to look at that and whoever I was talking to, made vague

references to yeah, maybe this can be like, an amphitheater, like a bowl, and maybe be some--a great place for people to meet, hear music, that sort of thing.

So, I know, that they were years later, still considering "park".

And I hear what Rick's saying--does that rise to the level of a meeting of the minds? I don't know.

All I see is this letter saying "park." And I *know* Mimi thought park. And I always had *heard* it was going to be a park. And we assumed it would be.

The reason there's no letters about it, I suppose, is that there were none sent to us mentioning it, and, and Mimi was trusting. I think that we had mutual trust and I just don't think it came up (gestures to **Rick Kline**)...

**Ralph Clontz:** We were talking about—

(Concurrently)

**Rick Kline:** It didn't. It really didn't.

**Ralph Clontz:** I mean, it did in this letter, and offer to purchase and contract—that's pretty important. But, I just think that the fact that there's nothing in the correspondence about it, is more a function of, that they were just talking about what they had to figure out.

So, do with that what you will. I have no dog in the, in the fight, I just--other than, you know—I just hate for my grandmother to be so generous and then... poof!

(citizens sigh/clap)

**Brian Jenest:** Every proposal we have entertained involves a park. There's no proposal that doesn't incorporate a park. Just so you're aware of that, there's a park in every project, every proposal.

**Ralph Clontz:** That's, that's good to know. My concern was, I just didn't know if the public-at-large knew that when it was *sold* it was to be a park. Cause that kind of thing can get lost over time.

So, when I got wind of this, I thought, well wait a minute now, hold on, let's make sure everybody knows the whole story before they decide. Because you know, you can decide to ignore the wishes of a little old lady who was very generous if you want to...but that's some *bad* karma (chuckles).

(citizens clap)



**John Woods** We want to thank you for being here tonight.

**Ralph Clontz:** And thank you for allowing me to. I appreciate it very much.

**John Woods:** Certainly. And I do want to reiterate that we do want a park at that property, fully, uh, virtually half of that property would be a park, should it be developed. And it does create some opportunities for the town, and for the greater community, so we thank you for that.

**Ralph Clontz:** And thank you... (he leaves the table and microphone)

**Rodney Graham to Rick Kline:** (appears to ask the following between two muffled phrases) So, if it was purchased for a park, do you have any understanding why it is *not* a park? Why it's not a public park for use of Davidson?

**Stacey Anderson:** Read the documents, it says there were no restrictions that *prevent...* (muffled)"

**Rick Kline:** Probably finance, you know; and, it is, is, also the fact that the character of Davidson changed from 1984 when it was closed until 1996, then to today...where it was kind of on the northern outskirts of the Town in 1984, the Town's kinda grown around it a little bit or at least grown up to it some; and, it's use as a park, or at least entirely or 100% as a park, may not have made sense any more. Just as the jail was no longer needed as a jail, the library not needed as a library, the school not used as a school. Things change. And, that would be my understanding. You all know from the time I was here working for you, I don't sit in the meetings you guys sit in, and I was not privy to a lot of those discussions. Clearly, clearly a park was a contemplated use, it may have been the first priority use at the time, likely was—I don't recall, now, I'm certainly not contradicting what Ralph just said and if his grandmother expected it to be used as a park, God bless her—and I'm not gonna say she didn't cause if he said she did then she probably did. I wasn't privy to any of those communications so I can't speak to them.