


Transparency, Accountability and the Attack on the CBCA Thoughts on the inequitable application of increasing city fees

Hello City Council members and fellow residents,

I hope everyone is well. First and foremost, I wish to state that this is my individual opinion, I'm not representing any other group or person. I write as a concerned citizen that feels compelled to speak-up when I witness wrongdoing by our elected leaders.

I'm writing this letter today, so it is documented for history. I imagine it is difficult for residents who are not knee-deep in city politics to make sense of a conflict that is circulating in our community. On Friday, May 19, 2023, the CBCA announced the cancellation of the BBQ & Brew festival, citing "uncertainty in [city] fees" as one of several factors. I posted about this on Nextdoor, and many of Mayor Jeff Wan's supporters immediately claimed I was spreading misinformation. The post on that thread got heated, and Mayor Wan chimed in and also directly claimed the CBCA, a charitable organization was lying because "uncertainty in fees" can not be a real reason for the cancellation of the event.

Mayor Wan writes, "This has been construed to mean that the cancellation is a result of the City is re-examining its fee structure. While it is true that the City is in process of updating its master fee schedule, **uncertainty of fees cannot be the reason for the cancellation**" (emphasis added, May 19, 2023 Nextdoor and Facebook).



Jeff Wan
Marsh Creek Rd • 5 days ago • 📍

Thoughts on BBQ and Brews Cancellation

Recently the CBCA announced that they have cancelled their BBQ and Brews Festival for 2023. They stated in their announcement:

"The driving factor behind the cancellation is the uncertainty of potential city fee increases, in conjunction with higher overall costs and expenses.

The CBCA has put Clayton on the map in the BBQ world and we have decided to focus our efforts and resources on 2024 to make more educated decisions regarding the venue and possible changes necessary to ensure a successful event."

This has been construed to mean that the cancellation is a result of the City is re-examining its fee structure. While it is true that the City is in process of updating its master fee schedule, uncertainty of fees cannot be the reason for the cancellation. Once the event is booked, the fees for permits, closing streets, using parks, and using city services are locked in and currently that would utilize the existing fee schedule. The current master fee schedule is on the front page of the City's website - there is zero uncertainty regarding what those fees are. There may be several reasons why the CBCA decided to cancel their event, but citing the uncertainty of fees is unfounded.

In addition, Mayor Wan directly addressed me, writing, “. Typically I don't see it as productive to engage with you, **however when you attack our City staff unjustly, I feel it is important to set the record straight.** It should be clear to anyone reading that your claims thus far are not accurate. **Here is information from our Community Development** (emphasis added, May 19, 2023, Nextdoor and Facebook)



Jeff Wan Author · Marsh Creek Rd



Typically I don't see it as productive to engage with you, however when you attack our City staff unjustly, I feel it is important to set the record straight. It should be clear to anyone reading that your claims thus far are not accurate. Here is information from our Community Development

Director:

"The fees that are charged to a permit applicant are those fees in effect at the time that the person submits the application. So for example, if someone submitted an application on May 30 for an event that is scheduled for August 30, and the fees for that permit increase from \$100 to \$125 on July 1, the person would pay \$100 because that was the fee in effect on May 30 when they applied. We would not go back to charge them the \$25 increase after July 1.

Similarly, if fee amounts were subject to an agreement, we would charge the fee amounts in effect under whatever agreement was valid at the time of application submittal. For the CBCA, their 2008 agreement with the City terminates on July 1, so an application submitted up until June 30 would be subject to the fees and waivers allowed under that 2008 agreement. If no agreement was in place at the time of application submittal, then fees would default to whatever fee schedule was in effect at the time of application submittal."

For context, the amount that was invoiced in 2022 was \$6,676 which covered primarily direct labor, and some misc use of supplies.

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My responses to Mayor Wan:

Jeff Wan Sorry, but this does not reflect what happened.

1. An application was submitted to use Endeavor Hall for 8 meetings beginning in JANUARY of 2023 and the last one in December of 2023. The city staff would only allow the CBCA to pay for the meetings up to July 1 because the fee schedule would probably change then and the CBCA would have to pay the new fee. As a result, the CBCA paid for the Hall up to the end of June 2023. This is a fact and it occurred. It is also before you unilaterally pushed to terminate the MUA with the CBCA.

2. The CBCA then submitted an application a few weeks later to rent Endeavor Hall for the CBCA BBQ Judging class on APRIL 8, 2023. City staff would not process the application and said the City Council was considering a change in fees to go into effect immediately. This means a 300 percent increase in fees from \$400 to \$1600. This is why the CBCA lost their judging class because they could not get an answer from the City on what they were going to be charged. This is clearly "uncertainty in fees"!

I think an investigation is in order! Can you request the City Manager to investigate this? I'd like to see all parties involved questioned to clear this up for the public. The experience cited in item one was shared at the council meeting... so it is documented.

Lastly, I'm not attacking City Staff... I'm criticizing your leadership and motive for attacking a charitable organization in our community.

(edited)

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P.S. Mayor Jeff Wan, where was your righteous anger when SaveClayton () attacked the previous city manager and other city employees, especially the maintenance workers in their Weed Be Gone flyer? I think we would have LOVED to see you speak up on their behalf and defend them. Maybe the difference between now and the many other times is that you are the target of the criticism.

See the screenshot... it is from the Weeds Gone Wild flyer authored by your supporters E and F.

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The questions we should all ask and demand answers to are:

1. What did Council member Kim Trupiano write to Director of Community Dana Ayers on May 19, 2023? If Trupiano's email generically asked for the policies and procedures that govern permits, bookings, fees, and rental rates of the halls in our city, the reply from Director Ayers will also be generic. I wrote to Director Ayers on this matter and got a completely different response supporting the facts I documented in my response to Mayor Wan.

My email to Director Ayers (Friday, May 19, 2023)

Hello Director Ayers,

I hope you are well. I'm writing to get some clarification on the recent disagreements on permits and fees. I read what you wrote to Councilmember Trupiano as your email was shared on social media by Mayor Wan. What you write seems standard and logical, but that is not the experience of the person who attempted to book Endeavor Hall for the CBCA for the entire year of 2023 in January of this year. The person who worked with them cited fee increases as the reason why they could only book until June 30th. Shortly after that, in April, they attempted to book Endeavor Hall again as part of the BBQ but was not able to, again, because of changing fees.

Why did this happen? I was talking with some folks and one of them suggested that maybe it was confusion that resulted from some staff members having to do double duty during the early part of this year due to vacancies. Is it possible that someone handled the booking incorrectly because it is not the normal person who handles reservations of Endeavor Hall? I really want to understand why the CBCA received conflicting instructions/information earlier this year.

I look forward to hearing from you.

Thank you for your time,

Director Ayers provided a very detailed response, and these quotes reveal the origins and source of confusion:

“At a public hearing that occurred on March 21, 2023, and **following direction by the Council**

on February 21, 2023, the City Council amended the fee schedule to create two tiers for Clayton-based NPOs only, who wanted to rent Endeavor Hall (emphasis added). ... By statute, changes to fees are effective 30 days after their adoption, so the fees that were adopted on March 21, 2023 became effective on April 20, 2023.

Previously, staff did not accept reservations for any City facility beyond the current fiscal year, which ends on June 30 (emphasis added). I, along with my Assistant Planner, who covered the vacancies of the Office Assistant and Assistant to the City Manager (the latter of which is still vacant) did advise potential renters of this practice for part of the three months between January and March that we managed facilities rentals along with our other assigned tasks. Around late February, the Interim City Manager directed that we could accept rentals up to 12 months in advance of the rental date, and that we would honor the rate in effect at the time the reservation and payment were made. This is consistent with the current rental policies for City facilities, and staff has since then complied with that direction of the Interim City Manager. The current City Manager also concurs with this direction.

I acknowledge that renters of Endeavor Hall were told prior to March that we would not accept rentals of the Hall beyond the current fiscal year. We have pivoted away from that since that time. I recognize that this caused confusion, and I apologize for that” (emphasis added, email communication, May 23, 2023).

2. What’s going on with Mayor Jeff Wan and why was he not totally upfront and honest about this with the public? Mayor Wan is the reason why fees were changed at the beginning of the year. Besides prematurely terminating the master agreement between the City and CBCA, he looked for other ways to punitively hurt a charitable organization by pushing the passage of an unfair fee structure for non-profits, one that he knew would hurt the CBCA. The original proposal would have the CBCA paying 1000s of dollars more in fees for the rental of the halls in our city because they had a larger cash reserve. **The point is, Mayor Wan had direct knowledge of the staff vacancies, of staff doing double duty, and of changing rental fees and procedures for bookings because it was directed by the City Council that he represents. For him to claim, based on Director Ayers’ email to Council member Trupiano, that “uncertainty of fees cannot be the reason for the cancellation” is flat-out dishonest (Jeff Wan, Nextdoor post, May 19, 2023).** He said so, knowing full well that the claim is not accurate or true.

3. Mayor Wan had the nerve to publicly say I am “attacking city staff” when I pointed out mistakes were made by the city with respect to the CBCA, when he deployed, without Director Ayers’ knowledge, her email to justify his claim that the CBCA did not get conflicting information regarding fees, permits, and rentals is outrageous. We all know now, that the only persons abusing city employees are Mayor Wan and Council member Trupiano who worked together to orchestrate a generic response about policies and procedures. We must note that the reason why there was confusion by city employees on policies and procedures for rental rates, fees, and permits, is that Mayor Wan wanted to hurt the CBCA with higher fees, thereby, he pushed and got the vote of his majority that includes Trupiano and Diaz, to pass a new fee increase that would go into effect immediately. **When there is major confusion, such as the one we see here, the leader should accept responsibility and blame. Director Ayers humbly apologized for the confusion and mishandling in her email to me, but it is not her who should be apologizing and held**

accountable. It is Mayor Wan (and Trupiano for that matter) but we will never get Mayor Wan to admit fault or take responsibility because he does not know how to.

Relatedly, it is beyond disingenuous for Mayor Wan to accuse anyone else of attacking city staff, when he is clearly abusing them. I remind everyone that a competent and capable city manager, Reina Schwartz resigned in less than three full years because she encountered misogyny by some male city council members, and maybe even homophobia. It is not a secret that a lot of city employees leave our city, not only because of the lower pay, but because of the abuse from some members of the city council who directly order city employees to complete tasks when that communication between the council and city staff must go through the city manager. For the two years and six months that City Manager Schwartz worked at our city, she was constantly attacked by some members of the council and their supporters, either publicly during public comments or through anonymous letters and flyers. Sometimes, they were brave enough to sign them, one was signed by former mayor [redacted] and resident [redacted] in the infamous Weeds Gone Wild flyer. As I write this memo, Clayton is covered in weeds! Council member Trupiano, you ran on the issues of out-of-control weeds. What have you done about this “major” issue?

Weeds Gone Wild!
It is Time for a Change

- Over the past year and a half, our City Manager, Reina Schwartz, along with the support of council members Peter Cloven, Holly Tillman, and C.W. Wolfe have wasted over \$15,000 on several consultants for their goal-setting sessions. This is a waste of taxpayer money, especially when there is a projected budget deficit. The city has not even addressed or accomplished the goals that were set in the prior two years.

Paid for by E [redacted] former Clayton Mayor, Councilmember, Planning Commissioner, and resident of Clayton for over 35 years.
Paid for by [redacted], Business Consultant, Entrepreneur, Volunteer, and resident of Clayton for over 40 years.

Mayor Wan, why did you remain silent when City Manager Schwartz was unfairly attacked by your supporters? They attacked her for doing what the council voted to do and you remained silent and smirked. The pinnacle of your hypocrisy is in the hiring of “contractors” (you call them “vendors” now) that you criticized and then allowed your supporters to use to attack City Manager Schwartz for as “wasteful spending” but yet, you and they, remain silent on your hiring of a vendor to do a master fee study, which you are doing punitively because you wish to hurt a charitable organization in our city. I also want to point out that the City’s Book of Fees Schedules that you voted to pay for looks exactly like the one for Walnut Creek. So, the City is paying \$35,000 to \$65,000 for a report that was nearly a carbon copy of a neighboring city? If ever there was a waste of taxpayer money, this is it!

4. As the representative leader of Clayton, the buck stops with Mayor Wan. The chaos we are witnessing resulted from Mayor Wan’s unilateral decision to target the CBCA. We already see the unfair application of the “pay your fair share” policy concerning the CBCA and Jim Diaz’s classic car show. We also witnessed a broken campaign promise to identify costs and eliminate wasteful spending to prevent a new tax increase, because fellow residents, that does not apply to Council

member Diaz's classic car show. Fees can be waived for Diaz. Staff can work on Diaz's car show. Invoices can be paid by the city for this car show because it is "sponsored" by the city since 2015. The city can be put at risk for liability when insurance is not purchased. Why? Is it because Council member Diaz votes with Mayor Wan one hundred percent of the time? Mayor Wan cited the appearance of a *quid pro quo* between the streamlining of city fees and the CBCA as the reason to terminate the master agreement, all in the name of ending special treatment, but yet, on May 23, 2023 Mayor Wan took to social media and his blog to defend and justify the continued use of taxpayer money on a classic car show that contributes to the city's budget shortfall.

I have records for the Classic Car Show that reveals the following:

From 2012 to 2014, permits were paid for by Skepollini's Pizza.

From 2015 to 2017, the City handled the event, and employee Janet Brown used work hours to work on the show. Permit applications were submitted by Ms. Brown and all permit fees were waived.

From 2018 to 2022, Council member Jim Diaz submitted the application, but as a private citizen, but, paid no fees!

There are some troubling observations that can be concluded from these records: when the City took over, the application was signed by the City Clerk--at the time it was Ms. Janet Brown. When the city applied, they did not need to get approval from the Chief of Police, Maintenance Manager, Community Development Director or City Manager, yet, when private citizen Diaz applied, he needed signatures from the Chief of Police, Maintenance Manager, Community Development Director and City Manager, which does not reflect the process and procedures of a "city-sponsored" event. As such, I submit, the 2018 to 2022 classic car show can not be considered a city-sponsored event. This is most likely the result of Mr. Jim Diaz using his influence as a former mayor or current sitting council member to leverage waived fees to purposefully not "pay his fair share."

With respect to fees, applicant Jim Diaz did not pay any fees from 2018 to 2022, when it was not officially a city-sponsored event, and no one at City Hall knows why.

Related to fees, the noise permit fee is \$216. Diaz received eight years of waived fees. This total is \$1728 or \$5,184 - \$8640 (\$216/per day x 3 to 5 days x 8 years). This is on taxpayers!

In addition, we need to account for other fees and insurance, as well as the cost of the D.J. which is \$1000 to \$1200. Who paid for this? Taxpayers?

This needs to end. We need transparency and accountability. We need stronger record-keeping so there is no confusion on whether an event is city-sponsored or not. We need to define, clearly, what city-sponsorship entails. **If fiscal responsibility is the motive for attacking a charitable organization, then, it is pretty clear that we need to end all wasteful spending**—actual and "employment related costs borne by the City such as health benefits, PERS, worker's comp and other required insurance, indirect maintenance and upkeep, etc." (Jeff Wan, Facebook, March 7, 2023 Council meeting summary).

If we can't afford fee reductions to the CBCA that streamlined staff time and resources, saving the city money, and need to increase fees, then we can't afford to continue to leave

the city's checkbook open to Jim Diaz's classic car show. The City also can't afford to continue to sponsor Concerts in the Grove or the July 4th Parade! City staff are over worked and directing them to work on non-essential non-critical assignments is not a good use of their time or taxpayer money.

In Sum: Mayor Wan, with the support of Council members Trupiano and Diaz, pushed increasing fees for event permits, rentals of city halls and parks, and so on, as "fiscal responsibility" and people and groups "paying their fair share." This is hypocrisy! Mayor Wan is supposedly worried about the cost of events, or groups avoiding paying for permits, yet, at the same time, helps his allies avoid those same permits. The City's Book of Fees Schedules report says, "The estimate revenue from the adoption of these fees will increase the General Fund Budget by approximately **\$36,000**"

(<https://claytonca.gov/fc/agendas/council/2023/06062023web.pdf> cited June 5, 2023, emphasis added). The budget shortfall the city is facing is in the millions. How is \$36,000 dollars more from fees going to offset this? The best and quickest way to offset this \$36,000 is to not-sponsor Jim Diaz's Classic Car Show, July 4th Parade, and Concerts in the Grove, therefore collecting the fees from these events! Spread the budget burden out evenly among all people and groups in our community. By not city-sponsoring these three events, we are also saving staff a lot of time and allowing them to focus on critical work that keeps our city functioning.

Mayor Wan has caused great harm to our community. His unilateral pre-mature decision to attack a charitable organization has caused division in the community and confusion at City Hall. **Under Mayor Wan's leadership, the city is spending \$35,000 to \$65,000 for a City's Book of Fees Schedules report, to get back \$36,000 in increased fees. I am not a CPA but this does not add up to be a win for the City.** If the increased fees are overwhelmingly prohibited, no person or group will plan any events in our city, and the projected revenue from increasing fees will be ZERO. The impact on local businesses and Clayton's identity will be determinantal.

I urge the City Council to motion to officially cancel the city-sponsorship of the Classic Car Show. Not doing so confirms special concessions for the voting bloc majority of Mayor Wan, Vice Mayor Diaz and Council member Trupiano. It is unfair to others who organize events and charitable organizations being asked to "pay their fair share."

If Mayor Wan, Vice Mayor Diaz and Council member Trupiano are serious about increasing fees to get \$36,000 more in revenue, they need to not sponsor any events as that will increase revenue because private citizens and groups can organize them and pay their fair share of fees. This would lower the rate of increase, spending the burden on all entities wishing to organize events using City resources and facilities. If they do not do this, clearly, increasing fees is just a scapegoat excuse. The revenue raised will not resolve the City's multi-million dollar budget problem, and a tax increase is imminent, but only after civil society in Clayton suffers great harm.

Respectfully submitted,