



COUNCIL MINUTES

May 22, 2023 at 6:30 PM

Council Chambers

Mayor: Jody Carney **Administrator:** Haley Lupton
Police Chief: Dale McKee **Director of Finance:** Renee' Sonnett
Director of Law: Paul-Michael La Fayette
Council Members: President J. Sintz, M. Terry, J. Eudaily, K. Ferguson, F. Reed, J. Rucker

Call to Order:

Mayor Carney called the meeting to order at 6:30pm, followed by the Pledge of Allegiance.

Present: J. Carney, J. Sintz, M. Terry, J. Eudaily, K. Ferguson, F. Reed, and J. Rucker.

Absent: None.

Approvals:

Agenda: Council Meeting – May 22, 2023

Mayor Carney, hearing no objections from Council, approved the May 22, 2023 agenda.

Minutes: Council Meeting – May 8, 2023

Mr. Terry motioned to approve the May 8, 2023 minutes, seconded by Ms. Ferguson. Five yeas and one abstention from Mr. Sintz.

Proclamation: Craig Devine

Mayor Carney and Councilwoman Ferguson presented the proclamation to Mr. Devine's family thanking him and his family for his service and dedication to the Village of Plain City, its residents, and athletes. Mr. Devine's family thanked the Mayor, Council, and those in attendance for their support and encouragement over the years.

Appeal: Council Review of APL-23-1: Appeal of the Design Review Board Decision for COA-23-7 (COA-23-3) for 101 S Chillicothe Street, Plain City, Ohio

Mr. Sintz motioned to enter private deliberations for APL-23-1, seconded by Mr. Terry. Five yeas and one abstention from Mr. Eudaily. Private deliberations entered at 6:38pm.

Private deliberations exited at 6:52pm.

Mr. La Fayette, Director of Law, explained the procedure for appeal APL-23-1. He stated that tonight would not be a de novo public hearing and that Council's review of the appeal will be based on an oral argument from the appellant and appellee, which will be heard tonight, and the record of proceedings. No new evidence could be presented and no witnesses are able to be called. As such, the appellant and appellee are those who are able to address Council during the appeal review. Additionally, Council will make a decision on the appeal at this meeting and the overall proceedings would be conducted in a quasi-judicial manner, which is consistent with the Ohio Revised Code and Ohio case law for administrative appeals. This procedure includes the ability for Council to conduct private deliberations while making the final decision in the public forum. Mr. La Fayette excused himself, stating that he had to leave early for a personal matter, and stated that Ms. Ashley Hetzel would remain on his behalf and conduct the appeal proceedings.

Ms. Stephanie Syfert, the appellant, introduced herself and presented her case, stating that she believes that the Design Review Board violated several rules and regulations in the Village of Plain City Codified Ordinances and abused their discretion by approving the Certificate of Appropriateness application COA-23-3 (COA-23-7) to paint the exterior brick and replace the windows and doors with "roll-up" style doors on the building at 101 S Chillicothe Street, Plain City, Ohio.

Ms. Syfert stated that the first section of the code that was violated is section 1327.08(b) in that painting the exterior of the building does change and alter the historic character of the building. Since the bricks have never been painted, doing so now would change the distinctive characteristics of the structure. Ms. Syfert stated that the code dictates that the distinctive characteristics should be preserved and that the bricks should be visible in its natural, original state. She quoted Design Review Board members Ms. Iman and Mr. Price from the record of proceedings during their review in that they acknowledged the unique characteristics of the building. She said that Mr. Price acknowledged that this particular section of the code would be violated if the application is approved but still voted to approve it.

Ms. Syfert stated that the second section of the code that was violated is section 1327.08(c) in that the "roll-up" style doors to be installed are not historical and do not reflect the structure's original use or time period in which it was constructed. She stated that these types of doors are a "modern fad and not reflective of the historical nature". Additionally, as Ms. Syfert interprets the code, adding "roll-up" style doors are conjecturally-based features and therefore violates code section 1327.08(c). She noted that the applicant desires to install these features not in respect to the historical nature, but rather to preserve a unified brand identity.

Ms. Syfert stated that the next section of the code that was violated is section 1327.08(e) and 1327.08(f), noting that the two sections of code were deliberated by the Design Review Board in conjunction and that she would present it in the same manner. She stated that the building has rare and unique butter joint brick mortar styles. Painting the exterior brick would visibly cover this unique characteristic and irreparably change it. She quoted the minutes from the Design Review Board meeting in which members acknowledged that painting the building constitutes a change. She believes that this acknowledgement validates her appeal.

Ms. Syfert stated that, although the Board did not erroneously vote as it pertains to section 1327.08(g), by allowing the building to be painted, any means of future gentle restorative treatments would be impossible.

As it pertains to section 1327.08(j) of the code, Ms. Syfert stated that this section was violated in that painting the exterior qualifies as a new addition which could not be removed in the future without significantly damaging the brick. Painting the exterior constitutes a permanent alteration to the structure. Additionally, Ms. Syfert quoted Ms. Iman from the Board's minutes in that the "roll-up" doors would qualify as a new construction addition and permanent alteration which would alter the building. Ms. Syfert quoted Mr. Eudaily from the same minutes in that he acknowledged installing the doors would alter the building but would do so to enhance the aesthetics of the structure.

Ms. Syfert stated that section 1327.09(a) of the code has been violated in that painting the exterior prevents current conformation to the distinguishing and original exterior qualities and doing so would also prevent any future conformation since it would set it apart from the nearby buildings. The butter joint brick style should be celebrated and cleaned, not permanently covered. Additionally, Ms. Syfert noted that, between the April 13, 2023 and April 26, 2023 Design Review Board meetings, Mr. Cron, a member of the Board, approached her with his opinions on the application. She believes that he acted in an unprofessional manner and should not have been speaking about the application outside of the public meeting space. Ms. Syfert said that she is disappointed that the Chair of the Design Review Board, Mr. Todd Boyer, was present at the April 13 meeting but absent at the April 26 meeting, and noted that he was outspoken at the first meeting in that the building should not be painted. She believes that it was an oversight from the Board to conduct the meeting without the Chair being present.

In summary, Ms. Syfert said that she counts four specific instances in which the Design Review Board, according to the record of proceedings, violated the evaluative criteria in the code and therefore Council should grant the appeal based on the incorrect evaluation and abuse of discretion performed by the Design Review Board. She thanked Council for their time.

Ms. Hetzel directed the appellee, Mr. Rayce Robinson, that only one person could speak on his behalf. Specifically, either Mr. Robinson, or his legal counsel, Ms. Alicia Zambelli, could present the appellee's presentation. Ms. Zambelli stated that she would speak on behalf of Mr. Robinson.

Ms. Alicia Zambelli, legal counsel on behalf of Mr. Rayce Robinson, reminded Council that tonight's review is not a de novo review and that the Design Review Board has the authority,

from the Codified Ordinances, to exercise their discretion in reviewing and approving or denying applications. She stated that Council is reviewing the appeal to determine if the Board acted in an arbitrary or capricious manner. Furthermore, Ms. Zambelli believes that the Board did not act in either manner and approved the application justifiably and according to their reasonable discretion. She noted that, in her research, the code does not prevent painting brick exteriors and that the proposed paint color is an approved color on the Sherwin-Williams Historic color palette. She stated that other buildings in the Uptown Historic District have been painted, notably one of Mr. Medici's buildings and Mr. Dawson's buildings, which allows additional buildings to be painted. Ms. Zambelli said that Mr. Robinson and his business partners have built a comprehensive application with permissible updates to the structure. She noted that the building at 101 S Chillicothe Street is not on the National Register of Historic Places but is in the Uptown Historic District, a locally designated area. She believes that the proposed updates are within reason and that it will lead to the betterment of the building and overall Uptown area. Ms. Zambelli believes that the Board's decision was correct to approve the Certificate of Appropriateness application and not arbitrary or capricious and as such, Council should not grant the appeal. She thanked Council for their time.

Mr. Reed asked, since there is no language in the code that specifically prevents "roll-up" doors, if those types of doors should be prevented. Ms. Zambelli stated that since there is no specific code section that speaks to that point, the discretion remains with the Design Review Board and relies on their professional experience and expertise to make that decision. The Board exists for that reason and Ms. Zambelli trusts their discretion.

Mr. Sintz motioned to enter private deliberations for APL-23-1, seconded by Ms. Ferguson. Five yeas and one abstention from Mr. Eudaily. Private deliberations entered at 7:18pm.

Private deliberations exited at 7:46pm.

Mr. Reed motioned to grant appeal APL-23-1, seconded by Ms. Ferguson. Two yeas and three nays from Mr. Sintz, Mr. Terry, and Mr. Rucker and one abstention from Mr. Eudaily. Motion fails.

Visitors:

Mr. Barry Thomas introduced himself and stated that recently several visitors approached him and said that they were very impressed with the high quality of Pastime Park and that they had not seen an area so nice. Mr. Thomas wanted to extend his gratefulness to the Plain City Public Works Department and Parks and Recreation Department for their hard work to keep the Village clean and landscaped.

Ms. Patty Flowers introduced herself and stated that she is disappointed in Council's decision to not grant the appeal. She believes that Council's decision invalidates the code and that the Design Review Board members are not doing their job correctly. She emphasized that the Board members need trained and instructed in order to prevent decisions such as this from occurring. Ms. Flowers believes that the reason that the Design Review Board was formed was to protect the Uptown area and does not see that happening currently. She encouraged Council to adhere to the Codified Ordinances and to work to protect the Uptown Historic Area,

not let it negatively change. She said that she is disappointed that future generations will not be able to see the original, unpainted brick exterior of the Clock Tower and believes Council is hurting not only the Clock Tower building, but the overall historic nature of Plain City. Additionally, she stated that Council's decisions are leading Plain City to become more unsafe and compared the Uptown area to the recent crimes that have occurred in the Short North area in Columbus, Ohio. She noted that her late husband built the Bicentennial Park in 1976 and never asked for the Village's help or funding only because he loved the Village enough to do it alone. But she believes that type of mindset and attitude is eroding due to Council's erroneous decisions. She wants Council to stand up for what is right and to make the right decisions in the future. She thanked Council for their time.

Ms. Ina Medici introduced herself and stated that she is disappointed in Council's decision to not grant the appeal. She believes that the record of proceedings clearly show that the evaluative criteria were violated and that the building should not be allowed to be painted. She stated that The Grainery structure should not have been painted and therefore should not be used as precedent. Mr. Rucker noted that that comment was made by a member of the Design Review Board during a past meeting. Ms. Medici stated that the economic benefit of the potential tenant should not have any bearing on a Design Review Board or Council decision, and that it is futile to continue with the existing Design Review Board if that is the present mindset. She encouraged Council to change the guidelines within the code if they do not like the current version, otherwise the guidelines need to be followed. She thanked Council for their time.

Mr. Eric Medici introduced himself and presented a document to Council that outlined his interpretation of the Secretary of Interior's Standards for Treatment of Historic Properties. He stated that he is disappointed in Council's decision to not grant the appeal and believes that he should have been given an opportunity to speak before Council given his knowledge and expertise on the subject matter. He stated that he is the most qualified person to comment on the butter joint brick and the Secretary of Interior's Standards & Guidelines. Mr. Medici stated that the Standards & Guidelines explicitly state that original brick should not be painted and believes that this Certificate of Appropriateness application should not have reached this point but rather that the Village Planning and Zoning Department should reject the application due to its propositions. He encouraged the Mayor and Council to remove the members of the Design Review Board for not performing their duties and responsibilities. Mr. Medici believes that Council has placed an inappropriate priority of working with developers to make their projects succeed rather than protecting the historic nature of Uptown.

Mr. Tyler Lane introduced himself and thanked Council for their time. He said that the Village of Plain City is growing and that change is inevitable. He believes that the Uptown area is thriving and that the current buildings in the Uptown area are attracting business and visitors. He is concerned, though, that the Village will grow too large and encouraged Council to prevent the Village from surpassing a 10,000-person population in an effort to prevent larger, "big-box" stores from entering Plain City. He encouraged Council to ensure that future developments are done correctly and embrace the change. He does not believe that painting the Clock Tower constitutes a negative change to the Village and Uptown area.

Mr. Rayce Robinson introduced himself and thanked Council for their proclamation to Craig Devine. He publicly apologized to Mr. Denton Kitts, Village of Plain City Parks and Recreation

Assistant, for his verbal outburst last week. Mr. Robinson stated that he let his emotions get the best of him when he shouldn't have let that occur. Mr. Robinson thanked Council for their decision to not grant the appeal and believes that it will lead to a better building and overall Uptown area. He is not ashamed of the work that Council has done, and continues to do, and believes that all the work being done in the Uptown area, by the Village and private property owners, has been successful thus far and he looks forward to continued success in the future. He understands that there is significant work being done in regards to the current projects and thanked everyone for their hard work and support. He believes that the current projects occurring in the Uptown area are embracing and preserving the history of Plain City. He noted that, as a born and raised Plain City resident, he is committed to helping Plain City continue to grow.

Ms. Haley Robinson introduced herself and stated that her grandfather was the late Mr. Jack Foust and she quoted a story he used to often tell her. Mr. Foust would say that on Saturday mornings, he and his family would drive early to Uptown in order to get a parking spot since it would often be so busy that spots would be unavailable by mid-morning. She noted that that level of activity has been uncommon in the Uptown area over the past several decades but that, with the current projects, she believes that level of activity and number of visitors will occur again. Ms. Robinson believes that her grandfather would embrace the changes occurring in the Uptown area and looks forward to the future.

Reports:

- Mayor: Mayor Carney stated that, as an elected official and resident, she continually balances the different perspectives and emphasized the importance of maintaining a unified community. Recently, Mayor Carney participated in an economic development strategy kick-off meeting and stated that productive discussion took place. The pancake breakfast event at Pastime Park occurred recently and was well attended. She also attended a recent tour of the Darby Township cemetery that presented by the Plain City Historical Society and noted that the tour was informative and educational. The Brick House Blue ribbon cutting was last week and Mayor Carney thanked the property owner for their hard work in making the building look excellent. Last week also marked the ribbon cutting for the new Richwood Coffee within the Richwood Bank. This past Saturday morning was Coffee with Council and Friends as well as the rededication of the memorial garden at the Plain City Library. After the rededication event, the Mayor presented a proclamation honoring the veterans of the Vietnam War to the Daughter's of the American Revolution. She also thanked Mr. Sintz for his work to make the new podcast series become a reality and connect the community with Village staff and elected officials. Mayor Carney stated that this weekend is the opening of the Plain City Aquatic Center as well as the Memorial Day parade. Chief McKee provided several clarifying details on the Memorial Day parade route.
- Finance Director: Nothing to report.
- Police Chief: Chief McKee stated that it was nearly a year ago when the shooting on the east side of town took place. He noted that the shooter was recently sentenced to eighteen years in prison and thanked the prosecutor's office for their diligence and work to ensure justice. Chief McKee also thanked the multiplate law enforcement agencies who responded during the emergency.

- Village Administrator: Ms. Lupton introduced the newest staff members, Colin Powers Zoning Specialist, and Cameron Das Development Intern. This week is National Public Works week and Ms. Lupton thanked all the staff in the Public Works Department for their continual hard work in the Village. Ms. Lupton stated that the Wastewater Treatment Plant expansion project bid opening occurred last week but the received proposals were over 10% of the engineer's estimate. As such, the project will be required to go back out to bid in the near future.
- Council President: Mr. Sintz said that the recent Coffee with Council and Friends event was at the Police Department and was well attended. He encouraged residents to attend whenever possible. Next Council work session is June 1, 2023.
- Law Director: Nothing to report.
- Communications and Marketing Advisory Committee: Mr. Sintz presented new lapel pins reflective of the rebranding initiative and encouraged Village staff and elected officials to wear them when visiting other municipalities and attending events. The Committee met at the Plain City Library last week and saw the newly built "maker space".
- Board of Zoning Appeals: Nothing to report.
- Planning & Zoning Commission: Mayor Carney stated that the Commission reviewed a rezoning application for the proposed development, "The Spot", and passed a recommendation for approval. Additionally, the Commission discussed the conceptual Beachy Farms development. The developer was present at the meeting.
- Parks & Recreation Committee: Next meeting is June 13, 2023. Pastime Park will host the Bluegrass & BBQ event on June 4, 2023 and the Music in the Park event series on Sundays will begin soon. Additionally, Mr. Reed stated that the Parks and Recreation Committee and staff are diligently to prepare for the 4th of July events.
- Tree Commission: Ms. Lupton stated that the inaugural meeting was May 9, 2023 and the Commission took care of several housekeeping items. The ODNR forester was present at the meeting and provided details to the Commission on future potential topics to be discussed.
- Personnel & Finance/CIP Committee: Nothing to report.
- Fire Board: Next meeting is June 1, 2023.
- Design Review Board: Next meeting is May 31, 2023 with two applications to review. Mr. Eudaily thanked Council for their time in the appeal review process and knows that it can be a difficult process and thanked them for their time and diligence.
- Economic Development Committee: Next meeting is May 23, 2023 at 11:00am.

Public Hearing: None.

Motion: To Set the Public Hearing for the Rezoning of 0 Lafayette Plain City Road (Parcels #02-00357.003 and #02-00167.000)(PZ-23-1) from Darby Township Agricultural District ("A1") to Planned Residential Development District ("PRD") for June 26, 2023
 Mr. Rucker motioned to set the public hearing for the rezoning of 0 Lafayette Plain City Road (PZ-23-1) for June 26, 2023, seconded by Mr. Terry. All in favor.

Motion: To Set the Public Hearing for the Rezoning of 0 US-42 (Parcel #04-00777.000)(PZ-23-3) from Community Business District ("B2") to Planned Commercial District ("PCD") for June 26, 2023

Mr. Sintz motioned to set the public hearing for the rezoning of 0 US-42 (PZ-23-3) for June 26, 2023, seconded by Mr. Rucker. All in favor.

Motion: Appointing Jamie Davis to Serve as an Alternate on the Planning and Zoning Commission

Mr. Terry said that he would prefer to not have the same people serve on multiple boards or commission at the same time. He encouraged the Mayor, in the future, to remove those persons from the other board before serving on another. The Mayor stated that these appointments would be temporary and not permanent. Mr. Reed stated that he agrees with Mr. Terry and prefers to not have people serve on different boards simultaneously. Mr. Terry advocated for tabling these appointments until the June 1, 2023 work session to allow staff and the Mayor additional time to find alternates for the Planning and Zoning Commission that are not currently serving on another board. Council determined to table the motion to appoint alternates to serve on the Planning and Zoning Commission until the June 1, 2023 work session or to such a reasonable time that is adequate to find the appropriate appointees.

Motion: Appointing Trevor Tripp to Serve as an Alternate on the Planning and Zoning Commission

Old Business:

2nd Reading Resolution 17-2023: Adopting the Solid Waste Management Plan for the Allen-Champaign-Hardin-Madison-Shelby-Union Joint Solid Waste Management District
Mr. Terry motioned to approve Resolution 17-2023, seconded by Mr. Sintz. All in favor.

2nd Reading Resolution 18-2023: Establishing the Village of Plain City Tax Incentive Review Council
Mr. Sintz motioned to approve Resolution 18-2023, seconded by Mr. Eudaily. All in favor.

2nd Reading Resolution 19-2023: Establishing the Village of Plain City Community Reinvestment Area Housing Council and Appointing a Housing Officer
Mr. Terry motioned to approve Resolution 19-2023, seconded by Mr. Sintz. All in favor.

New Business:

1st Reading Ordinance 07-2023: Accepting the Real Estate Transfer of Property Near OH-161 From M/I Homes of Central Ohio, LLC

Discussion Items: None.

Adjourn:

Mr. Terry motioned to adjourn, seconded by Mr. Sintz. Meeting adjourned at 8:42pm.