



COUNCIL WORK SESSION/SPECIAL MEETING MINUTES
June 1, 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:

Mr. Sintz 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 Work Session – June 1, 2023

Ms. Ferguson motioned to approve the June 1, 2023 agenda, seconded by Mr. Reed. All in favor.

Minutes: Council Meeting – May 22, 2023

Ms. Ferguson motioned to approve the May 22, 2023 minutes, seconded by Mr. Eudaily. All in favor.

Old Business:

2nd Reading Ordinance 07-2023: Accepting the Real Estate Transfer of Property Near OH-161 From M/I Homes of Central Ohio, LLC

Ms. Ferguson motioned to approve Ordinance 07-2023, seconded by Mr. Terry. All in favor.

New Business: None.

Discussion Items:

Village Administrator Evaluation Process Overview

Mr. Sintz stated that the Village Administrator evaluation would take place in June each year. The Personnel & Finance Committee created and approved the evaluation document that will be used. Mr. Sintz also explained the overall evaluation process and approximate timeline, noting that it will take a few weeks from start to finish.

Solicitor Permit Application and Guidelines Review

Chief McKee explained the current procedure for solicitor permit applications. As the ordinance is currently written, the Plain City Police Department reviews permit applicants to determine if there are any outstanding warrants. However, other municipalities require a BCI background check and several municipalities will automatically deny applicants based on predetermined criminal histories. Chief McKee would like to amend the current ordinance to require background checks for solicitor permit applicants and implement a policy to guide his officers and staff in the event that an applicant has a criminal history. He noted that the Police Department is committed to maintaining the safety and welfare of Plain City residents and believes amending this ordinance is the best way to do so. Chief McKee is in favor of raising the permit fee from the current \$50 and evaluating the length of time the permit is active. Currently, an approved permit is valid for one year.

Ms. Ferguson said that she trusts Chief McKee's recommendation and Council agreed. Chief McKee thanked Council and stated that if a background check requirement is implemented, the timeline for review and approval of a permit would increase. Currently the timeline for approval is approximately one week but may extend to thirty days in light of a BCI background check. The permit applicant would be required to pay for the background check.

Mr. Rucker agrees with the proposed changes and is also in favor of enacting a policy that would automatically deny applicants based on certain criminal histories, such as violent crimes, property crimes, or sexual offenses.

Chief McKee thanked Council for their input and stated that he will coordinate with the Village Law Director, Mr. La Fayette, to determine next steps in regards to the ordinance amendment and incorporate Council's ideas.

Council 2023 – 2024 Goals and Objectives Review

Mr. Terry stated that, given how comprehensive the current Council goal list is, and with how many projects are ongoing, that it may be wise for Council to not add more goals and objectives until the current goals are completed. He would like Council to evaluate the current situation that is preventing some of these goals from being completed and enable Council and staff to have the appropriate resources to accomplish everything. He noted that it is difficult to maintain progress when so many "ad hoc" issues arise that must be addressed. Mr. Terry would also like Council to consider assessing potential staff shortages and fixing those as needed. This concept equally applies to non-personnel issues. Overall, Mr. Terry stated that

his primary goals would be an assessment of the organizational structure, complete the listed goals and objectives, and then work on policies and procedures to guide future projects.

Mayor Carney said that, as it relates to the zoning code update, the Planning & Zoning Commission felt that there were several shortcomings in the proposed code that needed addressed and felt it would be prudent to take the extra time to ensure the code is updated correctly and appropriately. Mr. Terry agreed.

Mr. Reed acknowledged Mr. Terry's concerns and noted that it would take time to fix these issues. He also believes that Council can be more involved in ensuring appropriate progress and productivity, especially as it relates to the zoning code update. Mayor Carney reminded Council and Mr. Reed that there have been several staff changes during the zoning code update and that the code draft should be before Council for their initial review in the next several months. Mr. Reed stated that ultimately the responsibility for the zoning code update lies with Council and encouraged Council to complete some self-evaluation to determine how they should formulate project deadline dates and enforce those with the various boards and commissions.

At Council's request, Ms. Lupton provided her thoughts on the current discussion. She appreciates Council's desire to empower and enable staff and legal counsel to make decisions and complete projects and goals. She noted that, in the past year, as additional staff have been hired, an increase in project completion and productivity has been evident. Ms. Lupton said that most of the listed Council goals and objectives are ongoing with significant progress.

Ms. Ferguson stated that she would like to have a plan in place to accomplish the various goals and projects. Mr. Terry advised that Council and staff address one goal at a time and prioritize each goal accordingly. He acknowledged that there is only so much time in a month for Council to meet and deliberate the numerous ongoing projects and issues. Mr. Eudaily advocated for placing several goals on each Council work session agenda to ensure regular status updates and progress monitoring. All Council members agreed that the goal for both Council and staff is to be proactive and not reactive in addressing projects and goals.

Mr. Reed stated that he believes hiring a project manager would be beneficial and imperative to properly monitoring progress and ensuring completion in a timely manner. He envisions that position being accountable directly to Council and would be able to hold others accountable for a potential lack of productivity.

Mr. Terry, and Council, stated that it would be a wise choice to end work sessions by formulating an actionable item that can have a status update at the next Council work session. The Mayor advocated for also adding Council's goals to the board and commission agendas to improve communication and enable those entities to understand what Council desires from them. Mr. Terry agreed and reiterated his desire to fix any underlying issues and formulate policies and procedures to address said issues.

Mr. Reed inquired what the two actionable items would be for the next agenda. Ms. Ferguson said that the water and sewer district and zoning code update are actionable items. Council agreed that those are high priority items. Mr. Terry said that his suggestion would be to add

policy and procedure formulation, the zoning code update, and the Design Review Board code update.

Mr. Reed stated that he would like Council to consider formulating a Council-only committee that would act as a focus group to enable more productivity. He said that this entity would be able to meet more frequently and accomplish more than Council is currently able to. Mr. Terry said that he is not opposed to the idea but would like more research to be completed first. He compared it to the Charter Review Commission and noted that they were able to achieve significant results in a short amount of time. Mr. Reed agreed and stated that he would like to have that conversation with Council and staff soon. Mr. Sintz made note of his request.

Noise Ordinance Update

Chief McKee provided a brief summary on the noise ordinance issue and explained why this topic has been placed on tonight's agenda. He noted that it has been his general opinion, even when the current ordinance was passed several years ago, that it is too subjective. Chief McKee introduced Mr. Nicholas Adkins, the Madison County Prosecutor, to Council.

Mr. Adkins thanked Council for their time and stated that he did recently decline a case regarding the noise ordinance. He noted that his office has a contract with the Village of Plain City to enforce misdemeanor violations on behalf of the Village. Mr. La Fayette stated that, when the current ordinance was passed in 2017, Council had decided to pursue a reasonable standard instead of a decibel level standard. The primary difference between the two is that a reasonable standard provides greater discretion to the enforcing authority.

Mr. Adkins provided clarification on the two recent noise ordinance cases that have come to his office. The first case was dismissed since the complaint referred to an instance that occurred before the timeframe detailed in the ordinance. More specifically, the perceived violation occurred outside of the enforceable hours listed in the noise ordinance code. The second complaint was declined, not dismissed, due to the lack of cohesion and agreement between the reporting officer's narrative and the complainant's narrative. As part of their normal procedure, prosecutors will review and analyze those narratives against each other and the code.

Mr. Adkins noted that, generally, the Plain City Police Departments prefers to not have to make such discretionary decisions when the code is ambiguous. Mr. Adkins described the difference in tactics and goals between a defense attorney and prosecutor, adding that the burden of proof rests with the prosecutor and state.

Mr. Adkins stated that all of these cases are prosecuted criminally and enacting a decibel level standard would most likely lead to an increase in the number of issued citations since the officer's discretion has been removed. He added that the current noise ordinance is enforceable and that his office would prosecute cases in accordance with how it is written today.

Chief McKee and Mr. Adkins understand the frustration from residents and the desire to amend the code. Mr. Adkins advised that Council consider implementing a permit process for

higher-than-normal sound events. Mr. Adkins reminded Council that the Madison County court did uphold the legality of the current noise ordinance.

Mr. Adkins, at Council's request, explained the process in which noise ordinance citations are received and prosecuted by his office. Mr. Reed would like clearer language to be implemented in the code, such as a 50 feet boundary in which any audible noise past that boundary would be considered excessive and therefore a violation. Mr. Terry and Mr. Rucker said that type of requirement would be hard to enforce since everyday tasks such as mowing the grass would become a noise ordinance violation. Mr. Adkins noted that the Village of West Jefferson does not have a noise ordinance and London delineates it by different types of sound.

Mr. Reed reiterated his support of a 50 feet audible distance standard. Mr. Adkins and Mr. La Fayette noted that, in concept and principle, it is very similar to a decibel level standard. Mr. Reed disagreed and said that the two would be different. Mr. Reed said that if Council does not take action, the issue will persist since the noise ordinance is currently failing. Mr. Terry disagreed and said that the current noise ordinance is not failing and reminded Mr. Reed that Mr. Adkins has previously said it is legal and enforceable.

Mr. Terry said that, as he has walked around the Uptown area, he has noted a few instances in which he believed the noise level was unreasonable. He advocated that it is not the Village's right nor is it appropriate to unduly inhibit any business in the Village from operating. Mr. Reed asked Mr. Adkins if he could provide any suggestions for changes to the current ordinance. Mr. Adkins said that there are several possible changes but acknowledged that those may not be beneficial to Plain City. He believes that the Police Department has done an excellent job of taking the issue seriously.

Mr. Mike Syfert asked if he could address Council. Mr. Terry objected and Council agreed. Mr. Syfert said that he does not understand why he isn't allowed to speak. Mr. Sintz stated that, as previously said, Council work sessions do not have a visitor section but that the regular Council meetings do. Mr. Syfert and several residents in attendance expressed their disagreement and stated that they should be allowed to speak regardless. Mr. La Fayette said that Council specifically allots time during a regular Council meeting for public input but that time is not during this meeting. Mr. Eudaily added that it is due to the public input from residents that Council is discussing this topic and thanked those in attendance for their input during the visitor section at previous meetings. Several residents continued to express their disagreement. Mr. Terry stated that the rhetoric and comments that have been stated, out of turn, is unacceptable. He requested that Council move forward with their agenda topics and discussion. Council agreed.

Chief McKee reiterated that he believes the code is too subjective and should be amended. The Mayor said that it may be beneficial to look into delineating between different types of music such as amplified versus acoustic. Additionally, the Mayor is in favor of implementing a permitting process in which only so many permits are able to be allocated in a given year. She also acknowledged that this ordinance may be better placed within the zoning code. Mr. Adkins said that the evaluation of sufficient evidence occurs with every ordinance, whether it is in the zoning section or general offenses section.

Mr. Reed reminded Council that a 50 feet boundary would eliminate excessive noise from reaching residential areas, which is imperative to the wellbeing and health of residents. Chief McKee asked Mr. Reed if that would eliminate the Music in the Park event held in Pastime Park. Chief McKee added that the Village cannot violate its own ordinances. Mr. Reed said that exceptions would have to be written into the code to allow for certain events such as celebrations, music events, Village-sponsored events, etc.

Mr. Rucker said that he agrees with the Mayor's comments in that limiting artificial versus amplified noise may be the least problematic approach to the issue and could remove the subjectivity. The Mayor agreed and reminded everyone that a permitting process could also be implemented. Mr. Terry advocated for a decibel level standard and permitting certain levels depending on the day of the week. Mr. Rucker agreed and noted that it would have to be selective. Chief McKee reminded Council that, when reviewing potential solutions, it's important to remember that this ordinance would apply to the entire Village and not just one business or location in the Uptown area.

Council agreed that if a permitting process is implemented, steps need to be taken to ensure a fair and unbiased process is put in place. Chief McKee and Mr. Adkins said that if a decibel level standard is approved, all officers would need trained on how to use the equipment and the equipment would need recertified on a regular basis, similar to a speed radar or breathalyzer machine.

Mr. Sintz requested that any residents who would like to submit documents to Council, to do so via email and to send those emails to him. Council members and legal counsel would review all submitted documentation. Mr. Sintz reiterated that this topic will continue to be a high priority for Council and staff and next steps will be determined in the near future.

Executive Session: Pursuant to Ohio Revised Code Section 121.22(G)(8): To consider confidential information related to negotiations with other political subdivisions.

Mr. Rucker motioned to enter Executive Session at 8:12pm, seconded by Mr. Terry. All in favor.

Mr. Terry motioned to exit Executive Session at 8:48pm, seconded by Ms. Ferguson. All in favor.

Adjourn:

Mr. Rucker motioned to adjourn, seconded by Mr. Terry. Meeting adjourned at 8:48pm.