

Circleville Committee of Whole convened in City Hall Council Chambers 127 South Court St. Circleville, Ohio on Tuesday, February 1, 2022, at 6:00 pm. The following members were present: Barry Keller, Council President; Michelle Blanton, At Large; Katie Logan Hedges, At Large; Tom Duvall, At Large; Jeff Hallinin, First Ward; Cary Koch- Esterline, Second Ward; Todd Brady, Third Ward; Sheri Theis, Fourth Ward and Linda Chancey, Clerk. Guests included Mayor Don McIlroy and Service Director Jim Stanley.

Roll call

Hedges motioned to approve the November 16, 2021, Council meeting; Blanton seconded. approved and filed as recorded.

Keller stated the purpose of the Committee of Whole meeting is to discuss and review the third draft of the proposed city Zoning Codes. He then introduced Holly Mattei, AICP of Crossroads Community Planning who had prepared the third draft of the Zoning Code revisions. The next Cmte Of Whole Mtg is Tuesday, February 15<sup>th</sup> at 6:00 pm to entertain questions from the public.

### **Holly Mattei – PowerPoint Presentation and Executive Summary sheets were available**

Holly Mattei explained several revisions from the last Committee Of Whole Mtg November 16, 2021. Some of the revisions were minor and some revisions just needed more clarification with definitions. The revisions with definitions were made in Titles I, III, and V. Other revisions were in signage restrictions, code enforcement, temporary structure, and food trucks. Mattei explained the sign graphics structure is to show what is allowable.

Other revisions included Other Districts -Planned Mixed Use District added language to allow the P&Z Commission to waive the 20-acre minimum that will allow for infill development essential to the long-term success, Floodplain Overlay District and Historic Overlay District. New Zoning Classifications maps were drafted for the 2022 revised zoning codes.

Timeline Tentatively July 5, 2022, adoption date.

### **Council Questions And Answers Session**

- Blanton asked Mattie if different districts names could be spelled out on the maps? Mattei stated she could do that. Blanton asked about the manufacturing district on Island Road, Mattei is working with the Service Director on that.
- Hallinin asked about food tents and increasing the number of times they could have food tents. Some organizations have them once a month. Mattie stated in the old codes it was not allowed, but we can change the codes to reflect the changes up to twelve times a year.
- The Mayor asked can we include size limits on the tents because the city does not want massive tents in the city. Theis asked does that include winter months. Hallinin stated its all year long. But does that include Pumpkin Show too? Mattie explained if they are going to do that, they would have to get a permit during Pumpkin Show that would be one of their twelve times a year. Keller noted on private property they still must apply for a permit, Mattei stated that that is correct.
- Theis asked about signs with profanity on residential property. Mattie noted thru sign codes I cannot regulate sign content and I cannot regulate speech.
- Duvall asked about food trucks “shall obtain a license.” How much is the license for? Mattei stated that is a “separate ordinance for Council, we have not decided that yet.”
- Esterline stated, I want to make sure political signs are not regulated. Mattei explained again “I don’t differentiate political signs or any other signs that would be considered temporary signs.” There are regulations for small and large temporary signs. Esterline asked is that based on political on the First Amendment? Mattei stated, “No, it applies to all signs based on a certain size that are temporary in nature.”

- Blanton asked to describe Downtown District, Historic District Overlay and National Register Of Historical for properties. All three districts are different but those three should be defined more clearly. Mattei stated you want a list; we could do that.
- Blanton asked Mattei if she could reference Council to City Council for consistence with the names like the districts? Mattei stated “Yes, I can do that.”
- Tom Spring, 335 Meadow Lane read summary note that the revised codes needed to be changed or amended. This is a list of those notes per Tom Spring
  1. **TYPO?** Slide 14 — What is the difference between Downtown Business (first bullet point, first hyphen, and "NB" in "NB, DB, IE, and CS"?  
 "Practical Difficulty" ~ suggest changing the word "if in each instance to "whether."  
 "Unnecessary Hardship" - suggest changing the word "if to "whether." "A standard utilized to determine whether a use variance should be granted. The standard is used to determine whether strict enforcement of this Ordinance would deprive an owner of the right to the beneficial use of property but does not necessarily mean the highest and best use of property."

**2. Chapter 1111.01 Planning and Zoning Commission**

c. Duties and Responsibilities

Q. 1. Where is the duty that the Planning Commission should engage in planning, at least periodic reviews of the comprehensive plan and/or portions thereof, and recommend updates as appropriate?

Rationale: This provision in the existing code came from the Law Director, Gary Kenworthy. I support it. Former Service Director, Terry Frazier, told me he believed that a Planning Commission should be engaged in planning. Ryan Scribner, the city and county's Economic Development Director, said to the Charter Commission in December 2021 that, "Economic Development should be informed by and directed by planning."

Q. 2. Shouldn't there be language consistent with the Board of Zoning Appeals in Section 1 1 11.03 b. 8 to take training in their responsibilities of office?

Rationale: All entities involved in administering or applying the Zoning Code ought to be trained. The new code reflects that for the Board of Zoning Appeals. However, there ought to be provisions for the other entities — Planning and Zoning Commission, Historic Preservation Commission (or whatever name it acquires), and Zoning Inspector. (City Council ought to schedule training, too.)

**3. Chapter 111.02 Zoning Inspector**

b) Duties and Responsibilities

C. Review all applications for Zoning Amendments, Variances, Conditional Uses, and Certificates of Appropriateness, and provide a staff report and recommendation to the Planning and Zoning Commission, the Board of Zoning Appeals, or the Historic Preservation Commission, as applicable.

(Recommend broadening the duty to review applications for all certificates, at least until such time as a planner or Historic Preservation Officer may be hired or contracted to perform such services.)

**4. Chapter 1111.04 Zoning Inspector Historical Review Board zoning**

Sheri Theis has language for this section that was drafted by Tom Spring, with assistance from Frank Quinn of Heritage Ohio and Nathan Bevil of the Ohio Historic Preservation Office.

In the proposed new Zoning Code shared with Council, I like the provision for the removal of members and the grounds for the same.

Council needs to appoint this board or the new entity to be created as part of becoming a Certified Local Government.

5. **Certified Local Government.** The Mayor's complete failure to diligently appoint people properly and to support them in their positions does not warrant setting up this entity for continued failure.  
**Resignations.** In 2019, six of the seven board members resigned or refused to accept reappointment stating the Mayor wouldn't support them or enforce their decisions.  
**Appointments.** After letting the positions sit vacant for two years, the Mayor made seven illegal appointments, resulting in their invalidation by the Law Director and the re-scheduling of four hearings that had been set for August 2021. Then the Mayor illegally appointed an alternate without authority to do so in the zoning code. He appointed a member with conflicts of interest in two of the four pending cases despite calling it a temporary appointment.
6. **Training and Interference.** The Mayor told the new members at the rescheduled meeting that they were only serving temporarily until Council could adopt a new Zoning Code to replace them. The existing code says the board has 90 days to make a decision, but instead of scheduling the four hearings to a date after the planner could be present to train the new group, the Mayor decided to conduct his own training which consisted of the Mayor reading the code verbatim out of the book. That is sad and ironic because the Mayor refused for years to get any training for himself on how to properly administer zoning or to provide training for the other members of the Planning and Zoning Commission, the latter fact validated by 16-year-member Al Sedlak.
7. **Terms of Office** — Terms of the new board should be staggered. Until the new body is formed, the terms of the Mayor's so-called "temporary" appointments should date back to the unexpired three-year terms ending on March 30 of various years of the vacancies that were filled, not some arbitrary new date in August or September 2021. (For example, the term of the lone holdover, Michael Combs, expires March 30, 2022.) If the current membership is going to be grandfathered into the new board until such time as their terms expire, then Council should have full ability to appoint the seven new members, even though it would temporarily result in a board larger than seven members. Further, the Service Director should not serve on the new board. Council removed the City Service Director and ODNR Urban Forester from the Tree Commission to avoid the appearance of conflicts of interest, so that they could serve as resources to the board instead and assist with policy implementation and grants.
8. **Membership** — Much like the Tree Commission, consideration should be given to allowing a minority of members to reside outside the city, to help attract qualified people to meet the requirements for a Certified Local Government and to elevate the quality of decisions in the expanded roles of a CLG body. This provision enabled Council to appoint a majority of its members who are either certified arborists or master gardeners.
9. **Chapter 1115 Fees and Violations**
  - a. 1115.01 VIOLATIONS
  - b. "a) Failure to Obtain a Zoning Permit or Certificate of Zoning Compliance.
  - c. Failure to obtain a Zoning Permit or Certificate of Zoning Compliance shall be a violation of this Zoning Code and punishable under Section XXX of this Ordinance."

Perhaps the above should be modified for clarity, along the lines of something like the following:

"Failure to obtain a Zoning Permit, Certificate of Zoning Compliance, or a Certificate of Appropriateness" prior to commencement of the construction, alteration, or use for which the permit or certificate is required shall be a violation of this Zoning Code and punishable under Section XXX of this Ordinance." (or alternative language, per Jeff Carithers' letter).

**10. OTHER OBSERVATIONS**

Insulation. To the degree possible, the zoning inspector needs to be insulated from the Mayor and any other public official seeking to advance his or her agenda by exerting improper pressure or diverting the work of the Zoning Inspector. Perhaps that could be done by some type of statement that no public official shall attempt to improperly influence or deter the Zoning Inspector from the performance of his or her duties, and or supplemented with a code of conduct.

Jeff Carithers, Ridge Drive asked about food trucks in the proposed in the zoning codes. The inspector could issue permits that are good for 21 days in the Downtown Historical District and only nine days more requiring a hearing in front of the BZA, but the food trucks have a track record, but is that a use good of BZA times?

Blanton motioned for adjournment at 6:50 pm. Hallinin seconded. Motion carried.

Respectfully submitted by

Linda Chancey, Clerk