

**Village of Mariemont
Regular Council Meeting
January 27, 2020**

Mayor Brown called the meeting to order with the Pledge of Allegiance at 7:00 PM. Present were Mr. Bartlett, Dr. Lewis and Ms. Palazzolo.

Dr. Lewis moved, seconded by Mr. Bartlett to excuse the absences of Mrs. Graves and Mrs. Rankin. On roll call; three ayes, no nays.

Mayor Brown asked for a moment of silence in memory of Carl Sturtz. He was 91 years old and had been a resident of the Village for 60 years. He actually met Mr. Sturtz in the 1960's who was active in the church. We have lost many legacy residents recently.

Mr. Joe Stoner, 6924 Miami Bluff, President of Mariemont Preservation Foundation made a brief presentation to Council. MPF is a 40-year old volunteer organization which, as its names suggests, is primarily concerned with preserving our unique and beautiful heritage. It is not unusual for villages, towns, and cities to have hometown pride and consider their communities special, but Mariemont is certifiably special. How many other American communities were founded not for purposes of commerce or convenience but for philanthropic reasons and were then designed by America's leading town planner of the day? Over 100 years ago, Mary Emery began pouring her money into Mariemont to fulfill her dream of providing a community where working people of moderate means could live in a beautiful healthy setting. This dream, was given form by John Nolen who, with many acclaimed designs around the country, considered Mariemont his crowning achievement. His plan: "Mariemont a New Town" was subtitled "An Interpretation of Modern City Planning Principles applied to a Small Community to produce Happiness. A National Exemplar". How many communities were explicitly designed to produce happiness? In recognition of this specialness, the National Park Service granted Mariemont National Historic Register status in 1979 and the even more exclusive National Historic Landmark status in 2007. However, these designations do not protect properties from demolition or inappropriate alterations by private actions. Mariemont's Historic District is protected by local ordinances, but the rest of Mariemont is unprotected. For these reasons, and to present future problems, the MPF created a Task Force, Co-Chaired by Bob Van Stone and Aileen Beatty, with the mission to "protect the unprotected". Recognizing the need for professional preservation expertise, the Task Force hired Sullebarger Associates, Historic Preservation Consultants, which have a lot of experience in this area. After many meetings and long debate, the Task Force released the attached proposals which were subsequently approved by the whole MPF. These proposed zoning updates mainly address demolition. In the future, we will make more proposals focusing on new construction and alterations. The MPF realizes that change is inevitable, and we don't want fossilization. Nor do we feel that the entire Village should be held to strict preservation guidelines of the Historic District. We are, however, asking the Village Council to upgrade the zoning code as proposed to maintain the character of our Village and uphold our property values. This will preserve for future generations what was left to us.

Mr. Stoner passed out the proposals to members of Council. Mayor Brown referred the matter to the Planning Zoning & Economic Development for further review and study. It was agreed by Council to delete the matter of Demolition Delay Ordinance as it will be reviewed under the MPF proposal.

Dr. Lewis said it is in Village Code that MPF is asked to provide education to Council and ARB members. MPF has not done as good a job in the past and the plan is to step it up. She has talked with Mr. Greiwe several times and he has noted that when doing several of his condo developments he could have built whatever he wanted based on our code. We were fortunate that he built buildings that were characteristic of the Village. This is an important issue and she looks forward to working on it. She thanked MPF as she knows it was a time involved task.

Mr. Bartlett asked to have the minutes amended to read "assess" instead of "access". Mr. Bartlett moved, seconded by Dr. Lewis to accept the minutes as amended for the Council Meeting January 13, 2020. On roll call; three ayes, no nays.

Mayor Brown read the following communications:

From Assistant Fiscal Officer Wendler: December 2019 Monthly Report

From Fiscal Officer Borgerding: Annual Fiscal Officer's Report: For Years Ended December 2019 and 2018. He said the 2019 numbers were not as quite as prosperous as we hoped back when we did the budget July 2018. Revenues were short of what was expected (approximately \$70,000-\$80,000). He is more concerned with the expenses that are growing faster than what he believes it should be growing or he expected. Salaries we knew were going up and made a conscientious effort to pay Police and Fire more money and went out and passed a levy. It is the "other" operating type of expenses that have increased more than expected. We still have a million dollars in the bank. There are some things we can do to increase revenue and decrease expenses so no need to hit the panic button yet.

Mayor Brown said the Village is undertaking a number of things in the works presently and several things in the works for the future. Included in those are the Swim Pool Task force, garbage fees, Tax Office etc. Also, there will be a much tighter scrutiny over where the departments are within their budget. We do not want to wait until the end of the year to see that we have gone over budget. We want to catch this as we go along.

Mr. Bartlett said one thing he would love to move off of is the million dollar cash balance. In 2015 the Village had 2 million now we have 1.5 million dollars with \$650,000 in debts. It is not dire but we really need to start getting more proactive. It has been interesting to him while talking with local municipalities he asked how many covered months they had cash on hand (if an emergency happened): Fairfax 16 months, Terrace Park 10 months, Columbia Township 12 months with Mariemont with less than 3 months. He believes we need to reach out to the community and ask for ideas/suggestions on what the Village can do. We should also share with them what steps the Village has taken. It is not dire, but there is a trend in place.

Joan and Jim Donnelly, 3713 Homewood Road, were granted permission to address Council. They said the storm drainage work that was completed in 2019 on Homewood Road which rerouted storm water and the pipe in the easement along their driveway is no longer part of the storm drain system for the street. They would like to ask the village to update public records for their property to indicate that the easement no longer applies. They have talked with Building Administrator Keyes in 2017 before the storm water work was done. Solicitor McTigue said he talked with Superintendent Scherpenberg who indicated that he does not think the Village needs the easement. He was going to talk with Mr. Keyes for confirmation. We may need a title exam just to make sure that no one else has access. We can prepare the paperwork to abandon the easement. He will talk with Mr. Keyes and Superintendent Scherpenberg this week. Mrs. Van Pelt said she will forward the information to the Solicitor.

Ms. Palazzolo read the following from resident Cortney Scheeser, 6950 Nolen Circle, Mariemont Council 2010-2013. "I'm writing to encourage you to adopt changes to the Planning Commission and Architectural Review Boards; specifically lowering the barrier for Council to override their recommendations to a simple majority, in line with State of Ohio standards. Our Village has a one-in-a-generation opportunity to dilute the concentration of authority built up over the last 20 years. Decision making authority built up over the last 20 years. Decision making authority among fewer and fewer (often un-elected) people is simply un-Democratic, and we ought to right this. I witnessed first-hand many shortsighted decisions by appointed board during my time on Council. Some include: 1. Refusing JEDZ income from Columbia Township <http://scheezer.blogspot.com/search?q=jedz> 2. Removal of sidewalks from East Street <http://scheeser.blogspot.com/2012/08/718-planning-commission.html> 3. Refusing grant money to improve the Murray 6 Way Intersection via a roundabout <http://scheeser.blogspot.com/search?q=roundabout>. These decisions, whether right or wrong, aren't the point. Rather, it's that the (elected) council's hands were tied – review and oversight was simply not possible. The super majority hurdle essentially ignored Council's own knowledge and judgement and experience. While not part of this action, I would strongly suggest another change: prohibiting the Mayor or Council from sitting on the ARB. Welcoming more people into the process of governing and spreading authority across a larger group of our community members engages our talented residents and leads to better outcomes. Please consider approving this first step.

Mayor Brown referred the matter of the Mayor and Council representative not sitting on the ARB. He said ARB is a seven member board and does have fairly good representation. He would like to have the consultant who worked with MPF come and give a tutorial to the ARB members to emphasize and stress the importance of historical preservation. Ms. Palazzolo suggested having a member of MPF on the board.

Mr. Mike Lemon, 3958 Miami Road, was granted permission to grant permission to address Council. With the Rules & Law Committee reviewing Village ordinances pertaining to the Planning Commission as

they relate to the preservation and maintenance of this historic community. As Council deliberates on the Planning Commission, he asked that Council give due consideration to the following recommendations: 1. Planning Commissioners should be trained in Municipal Planning & Zoning Fundamentals to be appointed to the position as a commissioner, with a goal of certification as a planning commissioner and continuing education requirements. The Village should pay for any educational efforts with a goal of having a well-informed and knowledgeable commission. Too often members of the Commission have little or no background, experience or training in planning and zoning matters. On-the-job training was the only path provided. Our historic designation, especially with regard to planning, warrants and deserves professional educated, trained or certified members who understand the relationship of planning and zoning to the preservation, goals and initiatives of the community, to the Mariemont Code of Ordinances, and to the law. We need only to look at the recent costly and challenging issues associated with the building and zoning issues for a medical office and business located on the Square to see the need for commission members who know planning and zoning fundamentals and zoning law. We certainly do not need a recurrence of that experience. If there is a shortfall of talent or knowledge, the Ohio Revised Code even allows for public members of the Planning Commission to be non-residents provided they live in the county. 2. The need for five members of the Board of Appeals, in this case Village Council, to overturn a decision of the Planning Commission seems excessive and unfair. The Ohio Revised Code only requires two-thirds, not three-fourths, of the Board of Appeals to overturn a Planning Commission's decision. This very arduous task becomes almost impossible for an appellant where two of the five Planning Commission members are also on the Board of Appeals, which is Council. Even if the majority of Council disagrees with the Planning Commission, a super majority is required. If the Planning Commission is staffed with well-trained and experienced individuals, then there should be few appeals for technical or legal reasons. A vote of four members of Council should be plenty to overturn a decision, with Council having great confidence in the rulings of the commission. 3. As a member of the Planning Commission by law, the Mayor should be in an ex-officio capacity, a non-voting member. Being a full, voting member of the Planning Commission, the Mayor can often be a tie-breaking vote and be perceived as a biased member due to an agenda or other administrative responsibilities. The weight of the Planning Commissions' decisions should be unbiased and free of undue influence. He thanked Council for their consideration and wished them well in their deliberations.

Mr. Dennis Wolter, 3804 East Street, was granted permission to address Council. Something he thinks that would serve this governing body quite well is the Ohio Municipal League offers courses for newly elected Council members and it is a good overview on what goes on. It would serve the community well. Considering the educational level of the community he believes a lot of the training could be done in house. He can speak to some of the problems that occurred during his tenure on Council because of having a Mayor as a voting member of a commission. We were debating the parking along Murray Avenue. It was contentious. The Mayor had one plan and he wanted that plan in place. It was taken out of Council's hands and placed in another commission. At the meeting, Chairman Charlie Thomas asked why they were hearing it when Council had to vote on it anyway. It caused a lot of confusion and heartache for people who have put work into something and then just have it taken away. The only thing we were able to do was change the angle of the parking to preserve the green space. He not only believes the architectural ordinances are in bad shape but all of the ordinances are in bad shape. He has several times tried to use the ordinances to make sense of something to find a pathway to a resolution and often times he finds the legislation just ends or is missing something. We need a group of people who can take pieces of the ordinances and work with some of the lawyers who work in the community and Solicitor McTigue and clean it up. We are flying blind and at the last minute we have to make bad choices.

Solicitor McTigue said he did not believe we need to talk too much about the past but he will say that in the past he did not learn about a lot of things that were going on in the Village until after the fact. He gave Mr. Bartlett credit for keeping him up to speed so he can weigh in when necessary. He believes all the points we have heard this evening are well taken and we are taking steps to work on the Code of Ordinances and changes suggested.

Dr. Lewis said she does not to rehash the past but rather understand. As a new member of Council when someone says they want to change the law she wants to understand the rationale and the background of the situation to make an informed decision based on data and what really happened.

Mr. Bartlett said the Ohio Municipal League has a template of a basic code book. He asked Solicitor McTigue if he could track it down. He thought it would be a good starting place. It would be helpful to the Rules and Law Committee.

Mr. Lemon said on the Ohio State Auditor's website there are publications such as Village Officer's Handbook, which will outline much of what Village is looking for.

Mayor Brown referred the review of MCO Code to the Rules and Law Committee.

Mr. Matt Ayer, 3908 Pocahontas Avenue, was granted permission to address Council. As a follow-up to Mr. Scheeser's letter and Mr. Lemon's thoughts he looked at the changes to the proposals in Section 37.01 of Planning Commission. In several places the math is wrong and the proposal is fixing the math. What is being proposed is to do what is consistent with what other statutory Villages do which is 4/6 of Council members to overturn a decision. He believes it is good government and he agrees with the number. Experience in Planning is preferred in the revision to the code. He likes the suggestion that members receive training and certification. He thanked Council for looking at the matter.

Mr. Wolter said it is hard to hear in the gallery. We have microphones and technology and suggested speakers be installed.

Mr. Bartlett moved, seconded by Ms. Palazzolo to approve the bills as approve by the Fiscal Officer, Mayor and the Chairman of the Finance Committee. On roll call; three ayes, no nays.

Miscellaneous:

Village Offices will be closed Monday February 17, 2020 in Observation of Presidents' Day

Outstanding Citizen Award Nominations are due to Mrs. Van Pelt by March 12, 2020.

Council Committee Assignments 2020

Resolutions:

"Resolution to Clarify Prior Resolutions No. R-17-15 and R-7-15 Relative to the Boundaries of the Community Reinvestment Area ("CRA") in the Village of Mariemont" had a third reading. Mr. Bartlett moved, seconded by Dr. Lewis to adopt the Resolution. On roll call; three ayes, no nays. Resolution No. R-2-20 was adopted.

"Resolution Authorizing the Naming of the Hiawatha/Rembold Median to the "Interurban Trolley Line Park" had a second reading.

"To Adopt Amended Article I, II, III and V Rules and Regulations for the Hamilton County Storm Water District" had a first reading.

"To Assemble a Swim Pool Task Force Charter to Help Increase Revenue and/or Decrease Expenses of the Mariemont Swimming Pool and To Declare Emergency" had a first reading. The legislation could not be passed as an emergency due to the number of Council members present. The Resolution will have the second and third readings at the next meeting. Solicitor McTigue said that work on the matter can go forward without delay while we wait to pass the legislation – it should not hold up the process of proceeding. Discussion ensued regarding the members who will encompass the Task Force Charter. It was agreed that the members would be: 1. Jordan Schad (Pool Manager) 2. Mandy Rohall (President Mariemont Preschool Parents Group) 3. Kim Cassidy 4. Terry Donovan 5. Lorne Hlad 6. Member from the Pool Commission 7. Talk with Gretchen Thomas for suggestions. Ms. Palazzolo said she would like to see the Task Force analyze such things as the budget, usage, marketing and media, development opportunities on-site etc. She is hoping that we will find a good combination of skill sets and the skill sets we are missing.

Ordinances:

"To Amend Certain Sections of Section 151 of the Zoning Code regarding Sign Regulations of the Mariemont Code of Ordinances" had a second reading. Mr. Bartlett said at the last meeting there was concern about the number. Ms. Palazzolo moved, seconded by Dr. Lewis to amend the language in Section 151.125

(6) to remove the last provision that says “Under no exceptions, though, shall more than four (4) temporary signs be placed on a given property”. On roll call; three ayes, no nays.

“To Amend Section 37.03 Parks Advisory Board of the Mariemont Code of Ordinances” had a second reading.

“Ordinance Amending Chapter 151.025 Powers and Duties of the Architectural Review Board” had a second reading. Mayor Brown said the main change is having the appeal process be 4/6 of the Council members and language regarding training for members of ARB. Mr. Stoner asked if there could be remuneration for ARB members. Mayor Brown said he would pay to have the consultant come talk with members.

“To Amend Section 54.11 Undedicated Streets; Improvements Forbidden of the Mariemont Code of Ordinances” had a second reading.

“To Amend Section 37.05 Swim Pool Commission of the Mariemont Code of Ordinances” had a second reading. Mr. Bartlett said this is to have consistency with the Parks Board, South 80 regarding minutes, meetings etc. and to provide clear expectations and responsibilities.

“To Amend Section 151.024 of the Powers and Duties of the Planning Commission, of the Mariemont Code of Ordinances” had a second reading.

“To Amend Section 151.076 Park District of the Mariemont Code of Ordinances” had a first reading. Mr. Bartlett said it is to correct the inconsistency where one section say the Parks Board recommendations go to the Mayor and another section says the recommendations go to the Vice-Mayor. The change is to have the recommendations go to the Mayor.

“Ordinance Adopting New Mariemont Municipal Code” had a first reading.

Ms. Palazzolo with the upcoming Special Meeting of Council to vote on the Council member to fill Mr. Brown’s vacated seat the last two times we used this process used in filling the Council vacancy was as follows:

Whereas the Ohio Attorney General has determined that council is who decides what process is used to fill any vacancies and council would like to ensure consistency in this process going forward, this is to document the process to be used when filling vacancies on Mariemont’s council.

1. At the first council meeting when a council member has announced that he or she is resigning, a schedule will be created which includes the following:
 - a. When an announcement will be distributed throughout the Village about the pending vacancy and the process for applying for the open role. This should be as soon as possible to allow as many people to participate as possible. A variety of methods for communicating this should be used in order to reach as many residents as possible.
 - b. A deadline for when applications must be submitted to the Village Office. Ideally, this should occur 2 weeks after the announcements go out. Also, any data that is required on the application should be listed as well.
 - c. A date when council will meet to listen to each candidate as well as constituents, and decide who will fill the vacancy. This meeting must be within 30 days of the vacancy occurring on council.
2. Any groups may choose to meet and align their support behind any given candidate. That candidate will be considered alongside all of the other candidates who have submitted their names at large.
3. Once the applications have been submitted, each council member will make an effort to meet and vet each of the candidates to assist in the selection process.
4. Once all the applications have been submitted, the names shall be released to the public via normal council communications.
5. Because the process is led by council, the meeting will be conducted as a Special Meeting of Council.
6. A quorum is required in order to have the meeting. Per Ohio Revised Code, a quorum is defined as a majority of the active members of council. So if there are two vacancies, a quorum would be reached if three of the remaining four council members are in attendance.

7. The process at the Special Meeting of Council will be as follows:
 - a. Each candidate will be given an opportunity to speak. They will be limited to six minutes. The speeches will be given in alphabetical order.
 - b. Residents will be given an opportunity to endorse any of the candidates or to ask any question of the candidates. The discussion will be limited to the candidates only. Each resident can speak only once and is limited to three minutes.
 - c. Once all of the residents have been given a chance to speak, council will close ranks. This will be an opportunity for council to talk among themselves about the candidates before voting.
 - d. Once council has finished their deliberations, there will be an opportunity for each council member to nominate or second a candidate. Each council member can only nominate one person, and can only second one person.
 - e. If only 2 candidates are nominated, then council will be asked to vote for 1 of the 2 candidates.
 - f. If more than 2 candidates are nominated, the voting will be done one candidate at a time in the order that they were nominated and seconded.
 - g. The first candidate to achieve a majority vote of the council members present is appointed to the vacant position. If there is a tie (for example, if two vote in favor and two vote against a candidate), then per Ohio Revised Code, the Mayor gets to break the tie.
 - h. If council goes through all of the candidates nominated and seconded, and is not able to reach a majority vote on any of the candidates, then once 30 days have passed since the vacancy was created, per Ohio Revised Code the Mayor gets to decide who fills the vacancy, using the pool of people who submitted their names to fill the vacancy.
 - i. If nobody submits their name, then after 30 days have passed since the vacancy was created, the Mayor will fill the vacancy with a resident from the Village.

She proposed that we stay with the process due to precedent and that Council agreed on this process in the past but thought Council should review and agree again. After discussion, explanation and clarification it was agreed to change it to read "Each Council member can only nominate one person, or can only second one person".

The meeting adjourned at 8:21 p.m.

William A. Brown, Mayor

Anthony J. Borgerding, Fiscal Officer