

**Hiram Village**  
**Special Council Meeting**  
11617 Garfield Road, Hiram, Ohio 44234

June 29, 2021

The following Members of Council were present: Mr. Greenwood, Mr. Smith, Mr. Spencer and Mr. Szell. The following were also present: Mayor Lou Bertrand, Solicitor Tom Reitz, Fiscal Officer Susan Skrovan, Police Chief Brian Gregory, Fire Chief Bill Byers, Assistant Fire Chief Jason Groselle, Village Administrator James McGee, Assistant VA Steven Schuller and Police Officer Devin Brown.

Others present: Mr. & Mrs. Dan Burdecki, Ed Frato-Sweeney, Chris McCreight, Mr. & Mrs. Huston Bowers and Ann Patella.

The Mayor called the special meeting to order at 6:00 pm. The Mayor asked that all cell phones be silenced. The purpose of this Special Council meeting is to review and discuss the variance application from Hiram College for an exterior wall sign/mural on Colton Science building.

Mayor Bertrand opened the discussion by saying the Village received an opinion from our legal counsel.

Solicitor Tom Reitz went onto explain section 1103.02 of our zoning code; the wall sign/mural does not fit the definition of a "sign" in our definitions. Solicitor Reitz read the sign definition, "Sign: any device designed or designated to inform or attract the attention of persons not on the premises on which the sign is located". This raised the issue about the location of this sign, was it placed in a position where it is designed to attract the attention of people off the premises. It was represented in the application that the sign itself is some 175' from the road. It was also very clear from the map provided with the application that the buildings on each side of the Colton Turner from the road, are much closer to the street than Colton Turner itself. The applicant presented that driving down the road you cannot see the sign due to the buildings adjacent and because of the mature trees. This is probably the issue that is to be decided by your Village Council tonight. But, if you determine that this sign is located so that it is not designated to inform or attract the attention of persons not on the premises on which the sign is located, then it does not meet the definition of a sign as is set forth in the Hiram Village Code. If that is the finding, then the Code does not apply to the sign and assuming that the sign otherwise complies with the building code and other construction requirements, it can be built. If Council finds that facts do not make it clear that this sign is designed to only attract people on the property, then the Village Zoning Code does apply and the decision of the Village Planning Commission should stand. When Tom wrote his opinion, it was clear to him that it did not meet the definition of a sign.

Solicitor Reitz had one other procedural matter to discuss. A few meetings ago, there was legislation that received a 3-2 vote and did not pass; that was correct! Ohio Revised Code section 731.17 says for legislation to pass, it must be approved by a majority of the members of Council, which is six in a Village. A majority is four positive votes. For this evening and for a motion to pass, it is the majority of those "in attendance". That is the distinction.

**Public:**

Isabel Kopp noted that from the pedestrian area; she cannot see the fountain from the road. You really cannot see it from State Route 700. She does not see a conflict to endorse it.

Dan Burdecki, a member of the Planning & Zoning Board, felt there is a conflict of interest! There are a number of people associated with the college! He voted nay on the Planning & Zoning board and will not be intimidated or threatened to change his vote! He voted nay and it stands! This meeting is supposed to be for Finance & Safety. He found out after the fact that this meeting was being conducted. Michael Greenwood asked Dan if he would be so kind as to explain why he voted nay. Dan said it is his opinion and opinions vary. Dan asked the Mayor to please read the definition of a sign.

Huston Bowers said after seeing the mural and speaking with Hiram College President Haney who told him the students were the ones that worked on putting up this mural. That influenced him; he and his wife supports it.

Mayor Bertrand said he had received a number of letters.

Paul Spencer said the Colton building is completely visible from the roadway and the sidewalks! The college is allowed a 50 square foot sign. Paul felt because it intends to educate; it is a sign! They could re-apply for their permit under the 50 square foot limit and get the permit; they would not need a variance. We need some middle ground. He does not believe having this shotgun meeting to counteract our codified ordinances is the right way to handle this. We need to see what legislation needs to be changed; have three readings and change it properly. This is political; it has some political overtones. We need to go about this the right way. Paul explained how the vote went in the P&Z meeting. There needed to be four votes per ORC; we did not have that so it failed. Paul also felt it does not appear to be a "hardship" for the college to exceed the size limit of 50 square feet. More discussion about what legislation we will need to prepare and what procedures will need to be followed. Solicitor Tom Reitz explained proper procedures to change the zoning code regulations. Chris Szell asked what the original size was for the mural. Paul said the original proposal size was 40' x 20'; the whole side of the building. Paul said if we do not like the law, we can change the law. More discussion followed on the ruling from the P&Z meeting. Chris Szell felt our zoning code ordinance does not clarify whether it is a sign. Chris wished our ordinance would clarify a sign and a mural. If we do not have a definition, we refer to Webster's dictionary. Webster's dictionary defines a mural as not a sign hence it should not be covered by our Planning & Zoning. Dave Smith read from the draft of the Planning & Zoning meeting minutes regarding the decision of the board members.

Zoe Kopp-Webber provided her opinion about the students' freedom of expression! Paul said the problem is that our zoning code does not address murals; we need to update our code.

Michael Greenwood asked Ed Frato-Sweeney about the mural and whether the students' intention was to send a message to people not on the premises, or was this for the college community? Ed Frato-Sweeney was not at their meetings but does not feel it was their intention for people outside of the premises. Ed referenced the Solicitor's opinion to Council that this mural is not trying to influence outside constituents.

Solicitor Tom Reitz said his opinion is based on his conclusion that the sign isn't designed to be viewed by people off of the college's parcel of property. If Council believes his underlying factual basis is in error, Council is at liberty to say you are wrong. Council has the authority to make that decision. More discussion on the trees.

Dan Burdecki said the Planning & Zoning made their decision; the only reason for this meeting is to try and circumvent their decision! Chris Szell said there was no decision made.

Michael Greenwood would still like to know why Dan Burdecki voted nay. Dan said opinions vary! Michael felt it is important to air them and to consider them; what is his opinion? Chris Szell said the decision of the P&Z board should be made based on the Planning & Zoning code and not opinion. A decision was not arguably made.

Solicitor Tom Reitz said it was disapproved. When you do not get four positive votes, it was not approved.

Chris McCreight approved of Paul's recommendation to take this to Council and his idea to modify the process.

Chris Szell felt that since a mural is not defined in our code; he agrees we need to define it and update our code.

Paul Spencer felt we also need to change our procedures for an appeal.

Ed Frato-Sweeney commented that if he understands where this is going, Council will define a "mural" and then the College would be expected to apply to the same Planning & Zoning group that could not articulate why they voted no the last time! He does not think the College is going to apply to Planning & Zoning and get voted down again. That does not make much sense. Michael Greenwood said if it is defined as a mural, does that mean they do not have to? Ed said is that what this means? Paul said we have not come to that conclusion yet. Chris said that is possibly what that means, if Council defines a mural and they are proposing a mural within the confines of the definition of our zoning code, they would not have to come to the P&Z to ask for a variance. Solicitor Tom Reitz could not comment on this based on a code that has not been written yet.

Solicitor Tom Reitz said the hallmark of a good code is one that has enough clarity to it that an applicant can look at it and determine before they have drawn their first line, before they spent their first penny, whether their proposed project is going to comply. That is what Tom would strive to have in your code! You do not want gray areas.

Chris Szell asked if anyone remembers the Planning & Zoning turning down a variance in the last five years. Paul said we came real close with the signs. They let them go through because they were already up. The bottom line with the signs that went in on the college, we did not have a standing permit at the time, if they would have not approved them, they would have had to get a variance for each sign and it would have cost the college thousands of dollars to the college. They took into consideration the actions that occurred and the parties involved and they went ahead and made a motion to put that to rest. In all reality, that should not have gone through!

Ed Frato-Sweeney said since this is a public meeting; he wanted to clarify that it was a far more complicated situation than just the college deciding to put up signs. Paul stated the Village had a major part in this too! That is why this was corrected. Ed said it was not just the college saying they were going to put up a bunch of signs.

**A motion to accept the Village Solicitor's recommendation that this does not require a zoning approval was made by Dave Smith and seconded by Michael Greenwood.** The Mayor asked if there was any more discussion from the public before the vote. Paul Spencer said he would strongly hope that Council would not accept this tonight and go the proper route and change the codified ordinances. And, not do it because of the materials in hand and the message the mural is trying to convey. Paul does not believe it is about the message; it is about the logistics and the function of putting up murals. Take the content out of the equation.

The Mayor felt we should have the full Council before voting on this very important issue. Dave Smith did not know why all of Council was not present. The Mayor said Rob Dempsey had surgery and is recovering from surgery. Reminders were sent to all of Council. Michael Greenwood asked if this could be voted on at the July Council meeting. Dave said you have a motion and a second on the floor. Solicitor Tom Reitz said another party can move to table the motion, if that occurs, you would then vote to table the motion first and once tabled, it gets placed on the table for Council to remove at a later time.

**A motion to table the motion was made by Chris Szell and seconded by Paul Spencer. The result of the voice vote was passed 3-1 with a nay vote by Dave Smith.**

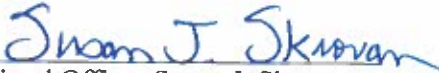
More discussion followed on a mural definition. Solicitor Tom Reitz reminded everyone that regulating the "content" of a sign or mural is nearly impossible to enforce! Paul asked Tom to look into presenting changes to the zoning code that a mural is a sign.

A motion to adjourn the special meeting was made by Mr. Szell and seconded by Mr. Greenwood. The result of the voice vote was 4-0 in favor. The meeting adjourned at 7:05 pm.

These minutes are pending approval by Council.

  
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Mayor Lou Bertrand

ATTEST:

  
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Fiscal Officer Susan J. Skrovan