



City of Powell, Ohio
City Council

MEETING MINUTES
FEBRUARY 3, 2015

EXECUTIVE SESSION: EXECUTIVE SESSION IN ACCORDANCE WITH O.R.C. SECTION 121.22 (G) (1), PERSONNEL (BOARD & COMMISSION INTERVIEWS).

ROLL CALL: Bennehoof, Bertone, Cline, Counts, Crites, Hrivnak, Lutz

MOTION: Councilman Counts moved at 7:04 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G) (1), Personnel (Board & Commission Interviews). Councilman Bennehoof seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Crites moved at 7:27 p.m. to adjourn from Executive Session. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

OPEN SESSION

CALL TO ORDER/ROLL CALL

A regular meeting of the Powell City Council was called to order by Mayor Jim Hrivnak on Tuesday, February 4, 2015 at 7:30 p.m. City Council members present included Jon Bennehoof, Frank Bertone, Richard Cline, Tom Counts, and Mike Crites. Brian Lorenz arrived at 7:55 p.m. Also present were Steve Lutz, City Manager; Megan Canavan, Communications Director; Silas Bowers, Asst. Director of Parks, Rec and Public Service; David Betz, Development Director; Gene Hollins, Law Director; Susie Ross, City Clerk; and interested parties.

PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

Mayor Hrivnak opened the meeting to Citizen Participation for items not on the agenda.

Brian Ebersole, 215 Squires Court, said last week the Court issued a couple of orders in the case for the Charter Amendment. It is refreshing to see that the Court sees eye-to eye with them and agrees that the City is not defending the Charter Amendment. It is also disheartening that the City refuses to represent the people as they go forward in this case. He said there is also a standstill order, which refers to no building in the Downtown Business District as the Charter Amendment says. Mr. Ebersole said it further says they are maintaining the status quo which means the Charter Amendment is law and they need to follow the law. Part of the Charter Amendment is to form a Comprehensive Plan Committee as it is defined and that still has not been done even through there was a February 1st due date. He would like to hear when that is going to get done; he does not see it on the agenda today. He asked that Council address that.

Hearing no further comment, Mayor Hrivnak closed the Citizen Participation session.

Gene Hollins, Law Director, said Mr. Ebersole stated the Charter Amendment is the law and if it is the law why has the Comprehensive Plan Committee not been formed yet. The answer is that a standstill agreement prohibits the City from doing anything in furtherance of the Charter Amendment. The standstill is to maintain the status quo immediately prior to the passage of the Charter Amendment. Mr. Hollins said that is exactly the clarification they sought from the Court as to whether the standstill order was intended by the Court to apply that part of the Charter Amendment as well and the Court said "yes."

Mr. Ebersole interrupted the discussion from the audience.

Councilman Cline asked for further clarification. He said if a standstill order stops everything. It stops the developer from moving forward with the development, it stops the City from approving any actions on the part of the developer to move forward, and it stops the Charter Amendment Comprehensive Plan concept. He

asked if he is correct that everything is put on hold until the Court has an opportunity to rule. Mr. Hollins said that is correct. Councilman Cline said Mr. Ebersole characterized the Court's order as saying that the City has refused to defend the Charter Amendment and he read that order and did not see that language. He asked if he missed it. Mr. Hollins said he does not begrudge Mr. Ebersole his interpretation but the order speaks for itself and he does not think that is what it said.

PROCLAMATION - Heart Disease Awareness Day

Mayor Hrivnak read a proclamation in honor of February 6, 2015 as Heart Disease Awareness Day in the City of Powell. It was presented to Bethany Cady and Meghan Mace, members of Olentangy Liberty DECA. They thanked City Council for their support. They stated that they began the "Liberty Has Heart" campaign in August to fight heart disease in the community. So far they have raised over \$5k to give to the American Heart Association. They had a "red out" event at a football game last fall and participated in "Hoops for Hearts" at Wyandot Run Elementary. Heart Disease Awareness Week ends this Friday which is now Heart Disease Awareness Day; they will have another "red out" at the boys' varsity basketball game that evening.

APPROVAL OF MINUTES

MOTION: Councilman Cline moved to adopt the minutes on January 20, 2015. Councilman Counts seconded the motion. Councilman Bennehoof abstained from the vote. By unanimous consent, the minutes were approved.

SECOND READING: ORDINANCE 2015-02: AN ORDINANCE IMPOSING ASSESSMENTS ON PROPERTIES FOR SIDEWALK REPAIR AND REPLACEMENT AND CERTIFYING THE ASSESSMENTS TO THE DELAWARE COUNTY AUDITOR FOR COLLECTION.

Mr. Lutz said this is the last step in the 2014 Sidewalk Repair and Replacement program. Residents within the program may pay their bill or have it assessed over a five year period by the Delaware County Auditor. This piece of legislation identifies the properties where the assessment could take place.

Mayor Hrivnak asked if the exhibit is the latest information and if there was a deadline for payment. Mr. Lutz said it is; the residents were made aware of the deadline and the City does not file this with the Auditor right away, allowing extra time to receive payments.

Councilman Bennehoof asked how this program compared to those in the past. Mr. Lutz said this year's program was based on the area in the Street Repair Program and was smaller than a typical year. Councilman Bennehoof asked if they budget for the variation in engineering costs from year to year. Mr. Lutz said they do and so far they have not had to come back for an additional appropriation.

Mayor Hrivnak opened this item to public comment.

Leif Carlson, 178 Beech Ridge Drive, President of the Olentangy Ridge Civic Association, said he contacted the City in regard to some of the sidewalks and ramps that were installed in the Street Program. The red handicapped ramps and sidewalks installed by the City have deteriorated more quickly than the existing concrete around them. They did receive feedback from City Staff and they came out and inspected the work; Staff felt the deterioration was not as much as the residents did. Mr. Carlson asked if there is an appeals process for this issue. He is not sure if any of their members were a part of the program this year but it is coming; there are members of the Council that have problems on their property.

Mr. Lutz said he will follow up on this and report back to Mr. Carlson and Council.

Hearing no further comment, Mayor Hrivnak closed the public comment session.

MOTION: Councilman Cline moved to adopt Ordinance 2015-02. Councilman Bennehoof seconded the motion.

VOTE: Y 6 N 0

SECOND READING: ORDINANCE 2015-04: AN ORDINANCE APPROVING A ZONING MAP AMENDMENT FOR 5.37 ACRES AT 185 N. LIBERTY STREET FROM CITY OF POWELL R, RESIDENCE DISTRICT TO CITY OF POWELL DR, DOWNTOWN RESIDENCE DISTRICT.

Mayor Hrivnak said the applicant has requested that this ordinance be tabled indefinitely but they will have discussion on the matter.

Bob Hallapy, Developer, said he is proposing this development and it is very dear to his heart. He has built a lot of custom homes in Powell and lived here for ten years before moving to Dublin. He has done a lot of due diligence with this project and has had 4-5 preliminary meetings with Mr. Betz and Mr. Kambo. He also met with some of the business owners in Powell. He wants to make sure this project is right for Powell and they concluded that the 55 and older folks that want to downsize need a product like this so they can stay into Powell. Mr. Hallapy said they acquired the land, met with Development Staff and asked what the homes should look like. They listened to their feedback as well as that from the leaders in the community in regard to what they would like to see in a development. City Staff suggested that they run a road in the middle of the project called the Depot Street Extension to help divert traffic off of Powell Road. He spoke with his engineers and decided to put in this road at great expense because it will benefit the City in the long run. Mr. Hallapy said they identified their audience, looked at price point, looked for land and chose this property because of its proximity to railroad tracks. The railroad is part of the charm of Powell and he is not afraid it will deter sales at all.

Mr. Hallapy said these are condos but he sees them as custom homes on a site that is not planned in a cookie cutter methodology. Buyers will be able to choose custom cabinetry and flooring in an upscale home in the \$300k to \$350k price range. The homes have a throw-back feel to them because the elevations and overall concept needs to fit with the existing homes nearby. Mr. Hallapy said there is a need for this project. They will not be rentals and they have studies that show they will not add to the traffic or school system. If a couple divorced and wanted to keep their kids in the schools they could live here and not add any children to the system but that is a long shot because they are focused on the 55 and older demographic. Mr. Hallapy said the tax dollars of the citizens will not pay anything for this project. The roads are private and an association will take over once the homes are completed. He does not feel this is high density. He is surprised and shocked that anyone would be against this project because there is a need for it; he would understand opposition if these were rentals.

Councilman Lorenz arrived at 7:55 p.m.

Mr. Hallapy said these homes are similar to surrounding subdivisions in price point. They will allow the use of reverse mortgages where homeowners must be 62 years old to qualify. That helps make him feel more comfortable that this will be a 55 and older community. The last thing he wants to do is to add to the traffic as it is a big concern. This Planning & Zoning Commission approved this unanimously and that was a positive outcome. Mr. Hallapy said he hired one of the best land planners in the business and Mr. Faris has done many projects in Powell. He is the right planner for this project because he is looking at what benefits the community. A lot of money has been invested into this and he hopes someday it will be developed. He made a conscious decision to table this so they have time to complete the update of the Comprehensive Plan.

Councilman Bennehoof said he was not here for the first reading so he has a few questions. He confirmed that Mr. Hallapy owns the land. Mr. Hallapy said he will acquire it soon. Councilman Bennehoof asked if he is tabling this indefinitely and plans to return after the Comprehensive Plan is completed. Mr. Hallapy said that is correct; they think it is the right decision to wait until the Comprehensive Plan is done and then come back to Council. Councilman Bennehoof asked if the streets are private with the exception of Depot Street. Mr. Hallapy said that is correct. Councilman Bennehoof asked if there is any commitment to complete Depot Street beyond their borders. It looks like there is a 30' setback along the railroad tracks and he guesses it is about 50' from his property line to the tracks. Mr. Hallapy said that is correct and he does not feel that is too close. Councilman Bennehoof said they may be able to move the detention pond closer to the tracks and homes further away if the pond location is not dictated by geography.

Councilman Bennehoof said density numbers count and he would like to know if this is the density he has to have for this development. Mr. Hallapy said initially they proposed 40 units and Planning & Zoning asked that they reduce it to 39 so that is where they are. His portion of the extension is very expensive but they are willing to build it; it was double what he anticipated. Mr. Betz said they could add one or two more units due to the public improvements. He does not feel this is high density and 39 units is the number he would like to have. He is working diligently right now to see if he can extend the road all the way through and he is comfortable that he may be able to do that. If that occurs he will have to change the site plan.

Councilman Lorenz said Mr. Hallapy mentioned offering reverse mortgages that would automatically drive residents to a certain age point. He asked if he is facilitating those loans. Mr. Hallapy said a reverse mortgage is a very popular option he will offer to buyers and Epcon Communities uses it as well. The applicants have to qualify for that program. There are no deed restrictions based on age. Councilman Lorenz asked about the size of the units. Mr. Hallapy said they will range from 2,000 to 2,500 sq. ft. and there will be options such as bonus rooms or finished porches. Those areas are counted as living space. The average will probably be 2,400

sq. ft. in size. Councilman Lorenz asked if he has held any dialogue with residents or resident groups. Mr. Hallapy said he has not but it is a great idea because he would like to put them at ease. This is very unique to Powell and they have considered this type of development in other communities. People will be able to walk or ride their bike to the downtown in the good weather and that will help traffic.

Mayor Hrivnak opened this item to public comment.

Tom Happensack, 127 Kelley's Court, thanked the applicant for tabling this proposal. It is the appropriate thing to do and no one else up here (Council) would have done that for them. Councilman Lorenz clarified that Council does not have the ability to table this; it is up to the developer to make that request. Mr. Happensack said they do have other actions they can do. He would like to see the City take action to not move ahead with these things while this Charter Amendment is in the balance. 56% of the voters said to stop high density housing. It is not about all of that other stuff such as the Comprehensive Plan; that was the way it had to be put together to stop it for the future and stop it in the current things that had been passed. The people understood what they voted for. Mr. Happensack said it is not about 40 units on this property but about a count that is totaling 170-ish in developments that have been approved or are going to be in front of Council with this development and the next one coming down the pike. This is not about one development of forty, it is about 160 or 170 or the next 40 that come in that want to buy the next piece of land. Mr. Happensack asked when they should stop. He said he has not seen the City decide when they are maxed out; they just want them to come in. That is what the voters voted against.

Mr. Happensack said a year ago they sat here and talked about this and they were marginalized as just a few people. Now they over 50% of the voters at 2,000 people so they are not small. He is glad the developer postponed this. Regardless of what happens to the amendment and what the Court case says, the people do not want this. This is the first time he has seen the defendant argue a point for the plaintiffs in order to get the entire amendment standstill-ordered. The original standstill order did not stop the whole thing, it only "stood still" the things pertaining to the Center at Powell Crossing. The Court actually changed its mind and from his reading of the order it was at the request of the City, those who should be defending the amendment. That was a nice little twist to defending the people when they are actually working against the people. They can see through that. In the brief the Court agreed with the plaintiffs on the constitutionality and that is not defending, it is supporting. That is what he means when he says he does not see that support from up here (Council). Mr. Happensack said the majority of people who voted yes in the face of being told by the opposition and some of Council that it was a) unconstitutional and b) that they would be sued. They rose above those threats and voted for it. He thinks that actually says a lot about the voter and what they understood because it would have been very easy to vote "no." Generally if people have a doubt they will vote "no" to something. Council has to understand and think about that; this property is not inside the amendment however they know the intent of the people. To now come in and start changing and re-zoning so people can build high density is just a slap in the face. Mr. Happensack said they did not say "not here" so Council will change it and make it so they can do that. The only difference is they can't put a commercial building on it. Council knows that is not what they were discussing; they did not go after the residential areas because they were so small it didn't matter. They thought they wouldn't be changed and used against them. They did not want to handcuff the city entirely for all development. Apparently they should have.

Brian Ebersole, 215 Squires Court, said this will be tabled but it makes sense to get comments and feelings about this issue out now when they have the opportunity. To clarify some of Mr. Happensack's comments, the Charter Amendment clearly talks about the Downtown Business District and this new proposed community wants to be re-zoned as Downtown Residential District. This is clearly outside of the Charter Amendment as far as their ability to do that kind of thing. That being said, it is literally 500' to 1000' from the Downtown Business District, right in the area where the intent of the people is to not build high density housing. It is not like it is somewhere off of Home Road and they are trying to stop a condo going in somewhere else in Powell. They are still focused on the Downtown Business District. While it is not lined out there it is the intent of the vote and the Charter Amendment. To go forward and rezone the property, as they have approved Powell Crossing and Santer Communities, they have heard that they have no choice and it is an administrative decision, even though they have not seen financing. Aside of that they are now looking at a legislative decision to rezone the property. Council has the clear choice to say "no" and say that they understand what the voters said, can go along with them and they have that choice. They no longer have the administrative issue to hide behind. He wants to make it very clear that they are holding Council accountable to stick up for them, the intent of the vote and what they are trying to do.

Hearing no further comment Mayor Hrivnak closed the public comment session.

Councilman Counts asked about the procedure for tabling this matter indefinitely. He asked if some point in the future Council can bring it back from the table onto the agenda and have a vote. Mr. Hollins said the three motions are to 1) table it, which puts it on the next agenda; 2) table it to a date certain; or 3) to postpone it indefinitely which requires someone on Council to make a motion to remove it from the table and place it back on the agenda. The written request in this case indicates they want time for the Comprehensive Plan update process to play out; at that time they can make a request that Council consider taking a vote to remove from the table.

Councilman Cline asked if it is fair to say that at any point between now and some date in the future, the applicant has the right to govern his application accordingly, resume and reapply if he thinks there is an updated Comprehensive Plan in place and resolution to the litigation. Mr. Hollins said that is correct and tabling it indefinitely would not preclude any further application. Councilman Cline said as a practical matter the City charges fees that are connected to this process and under the course of action he just described, the applicant would have to incur the fees a second time. Mr. Hollins said he would because it would start a whole new application and restart the process.

Councilman Cline thanked the applicant for determining that there is some uncertainty. People of good will can disagree as to what is right for the City of Powell. The applicant passionately reviewed why he believes this project as proposed is right for the City of Powell and they also heard from two residents who have an opposing view. He thanked Mr. Hallapy for taking the time to let the Court process work its way through, to allow the Comprehensive Plan process to work its way through and his willingness to meet with Mr. Happensack and Mr. Ebersole and others who are committed and interested in the future of Powell so they can hear their feedback and understand their concerns. It may be that after those discussions take place the applicant can come up with a proposal that he feels is right and the residents feel they can support. Councilman Cline said it may not turn out to be the case but the fact that they are willing to have those discussions is always a good thing. Mr. Happensack and Mr. Ebersole are correct when they say that this vote is very different from votes they have had in the past and for which he personally has been criticized. Those votes were administrative votes and this is a legislative vote. He views his role quite differently in those two settings. Councilman Cline said he is happy to support the request to table this and thinks it is the right thing to do. He hopes those conversations do occur and the differing interests can find common ground.

Councilman Bennehoof asked if one of the Council members present tonight must be the one to move to put this back on the table if the applicant requests that in the future. Mr. Hollins said it can be any one of the seven members of Council. Councilman Bennehoof encouraged Mr. Hallapy, Mr. Happensack and Mr. Ebersole to engage in a vigorous conversation.

MOTION: Councilman Bennehoof moved to table Ordinance 2015-04 indefinitely. Councilman Cline seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2015-05: AN ORDINANCE ADOPTING THE MASTER PLAN FOR THE PARK SITE AT SELDOM SEEN ROAD.

Mr. Lutz said last summer and fall the City undertook a public process to develop a plan at a park site just west of the railroad tracks on Seldom Seen Road. Staff is requesting that Council formally adopt the master plan so the process of generating construction cost estimates and proposed phasing plans may begin. There is most likely very limited funding for the development of this park so once they have a master plan and cost estimates they can look at the ways this could be financed.

Silas Bowers, Assistant Director of Parks, Recreation and Public Service, said there have been few changes to the master plan since it was last discussed. The bulk of the property is to be used for multi-use athletic fields, some wetland mitigation and existing retention basin. The plan also outlines a potential public service facility for their fleet of vehicles and equipment and a new salt shed to increase the City's salt storage capabilities. There is an abundance of parking, several playgrounds and a possible future endeavor that may include an indoor athletic facility.

Councilman Bennehoof thanked Mr. Bowers for his consulting work on this project as well as that with the One Community group in respect to the themed playground aimed for this park. He said whenever they relocate a sq. ft. of wetland they have to increase it to 1.5 sq. ft. but he would like to know if it has to be on this property. Mr. Bowers said it does not but they do not have the ability to do that in this case. Councilman Bennehoof said if they cannot relocate it to another property this plan is the best solution.

Mayor Hrivnak opened this item to public comment. Hearing none he closed the public comment session.

Councilman Cline said the City Manager was very frank when he described the funding challenges related to the construction of the park as shown here. The indoor sports facility building shown is the farthest away from having secured funding and residents need to understand that just because it is a part of this plan that does not mean there is a commitment that it will ever be built, that it will be built at the same time the rest of the park is built, or that there may not be a public/private partnership that builds it. The most problematic part of this master plan is finding the funding for that building. Councilman Cline said he wants the record to be clear that it looks great on the drawing but it may never exist.

Mayor Hrivnak said it is important to have an all-encompassing master plan for the entire property and as the ordinance states the plan allows them to do the construction estimates. With the plan in place, if the funding does not reach the entire project they can do parts of it with the full plans in view. It is more than likely that the indoor athletic facility will be the last piece of this plan.

MOTION: Councilman Cline moved to suspend the rules in regard to Ordinance 2015-05. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2015-05. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2015-06: AN ORDINANCE AUTHORIZING THE FINANCE DIRECTOR TO MAKE PAYMENT ON AN INVOICE FROM COCHRAN ELECTRIC FOR CONTRACTED ELECTRICAL SERVICES, AND DECLARING AN EMERGENCY.

Mr. Lutz said this is referred to as a "then and now" ordinance and they are doing this so the proper steps are taken and identified on the audit. A traffic accident struck a street light and the City's contractor, Cochran Electric, repaired the damage. In this case the repair was ordered before they had the paperwork settled so to keep this consistent with City practices, Staff goes to Council to authorize the payment. In situations like this where there is an accident that damages City infrastructure they are able to go back through insurance carriers to reimburse the expenses.

Councilman Bennehoof asked if this was a public safety issue that needed to be addressed. Mr. Lutz said it was but Staff has to go through a process beforehand. Councilman Cline said the purpose of a "then and now" certificate is for the governing body to certify that they had the funds to pay the bill when the debt was incurred and they have the funds now, and that they have the authorization to spend those funds. There were no funds authorized at the time of the expenditure so that is the reason they go through this exercise. Mr. Lutz said when things like this occur, Ms. Miller makes sure the City takes the proper actions so they receive a clean audit.

Mayor Hrivnak opened this item to public comment. Hearing none he closed the public comment session.

MOTION: Councilman Bennehoof moved to suspend the rules in regard to Ordinance 2015-06. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Lorenz moved to adopt Ordinance 2015-06. Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

COMMITTEE REPORTS

Development Committee: Councilman Lorenz said they will meet next week and discuss and reset the project list. Mr. Lutz said the engineers will be here to discuss the Murphy Park Extension and that information was included in packets. He invited all members to attend. *Next Meeting: Tuesday, February 10th, 6:30 p.m.*

Finance Committee: Councilman Cline said at the last meeting they discussed a variety of issues including new policies and revisions to old policies. They will eventually make their way to Council. *Next Meeting: Tuesday, March 10th, 7:00 p.m.*

Operations Committee: No report. *Next Meeting: Tuesday, March 17th, 6:30 p.m.*

ONE Community: Councilman Bennehoof said they have had a winter hiatus. During that time they received a commitment from Dom Tiberi to have the Maria's Message Campaign participate with Sertoma's "Night at the Races." Any money raised will be used to fund texting and driving simulators for the Police and Fire Departments. They may be able to get Urban Meyer to attend. *Next Meeting: Monday, February 9th, 7:00 p.m.*

Planning & Zoning Commission: *Next Meeting: Wednesday, February 11th, 7:00 p.m.*

Comprehensive Plan Steering Committee: Councilman Crites said they met with the consultants on January 26 and prepared for the first public Open House this week. All of the members of Council are invited. They want to make sure they maximize their efforts to get the word out to get as many people here as possible. He asked Ms. Canavan for an update.

Megan Canavan, Communications Director, said they did a lot though online communications. They used the e-newsletter to send out an invitation last week and have had 36 people rsvp online. They had it on the new MindMixer site as well. They have access to a business database so the information was sent to almost 400 email addresses. The HOA presidents received the information as well. Ms. Canavan said the Kinsale County Club sent the information to their membership base. The information was featured in the City's quarterly newsletter and the Olentangy This Week ran an article on it. She has tracked the reach and as of today they have 400 registered participants on the MindMixer site.

Councilman Crites said the consultants will take the lead and make a presentation about what a Comprehensive Plan is and why it is important. They have begun the interviews of stakeholders and they will solicit input from the community. They plan to break up into tables to have an opportunity to focus on issues that are of concern to the community. This is their first open house and they are very excited about this great first step. They intend to have at least three more of these meetings. Councilman Crites said this has to be the community's plan and they want to solicit as much input from the public as they can. He asked that the members of Council spread the word because they need the input and insight. Councilman Bennehoof said all of the Comprehensive Plan Meetings are public meetings and regrettably they are not widely attended so far; a lot of people are concerned about this issue but they are only concerned so far. Councilman Lorenz suggested that they have the online comments and suggestions available at the meeting. Councilman Crites said that is part of the consultant's presentation. *Open House – Thursday, February 5th, 7:00 to 9:00 p.m.*

Denise Wible, 226 Beech Trail Court, said there are many people who are interested but may not be able to attend. She suggested they video the entire presentation and put it on the website or Facebook page. Ms. Canavan said they can put the consultant's presentations online and that may be preferred over a video of the whole meeting.

Powell Community Improvement Corporation: *Next Meeting: TBA*

Councilman Bennehoof asked how long Howard Hanna has been in the building at The 44. Mayor Hrivnak said they have been in the building a little over a year. They inhabit all of the building with the exception of the HDPI offices. The building has been converted, at least temporarily, from an incubator to more of a commercial rental property. The arrangements with HDPI and with Howard Hanna have changed. HDPI is not managing the incubator but they are serving as the City's representative there. Howard Hanna has options on some land they are working to get but until that time they felt it was prudent to keep them in that building. Councilman Bennehoof asked if they feel they are missing other opportunities for the incubator. Mayor Hrivnak said the Development Department has not approached the PCI with any other opportunities. They will remain cognizant of that. In the past those who are interested in the incubator have been sent there by the Development Department.

CITY MANAGER'S REPORT

Mr. Lutz said on February 17th at 6:30 they will hold a Council Committee of the Whole meeting for the sole purpose of discussing the Four Corners. Traffic Engineer Doyle Clear will be attending and they can have a robust discussion. Mr. Clear has done quite a bit of traffic work in the City and for the Comprehensive Plan and will be prepared to discuss many topics with Council.

Mr. Lutz provided a salt update. He said they appreciate the residents' patience as they battle the winter snow and ice season this year. Powell, along with several hundred other communities went out to bid for salt over the summer and Staff was not able to purchase the amount of salt they wanted. They have been limiting their salt use so they can get through the winter. They are not treating the roads as they have in past years and they look forward to getting salt and back to their typical level of service next year.

Mr. Lutz said the Clerk placed information in packets to remind Council to file their financial disclosure statements by April 15th.

OTHER COUNCIL MATTERS

There were none.

EXECUTIVE SESSION: EXECUTIVE SESSION IN ACCORDANCE WITH O.R.C. SECTION 121.22 (G) (1), BOARD & COMMISSION APPOINTMENTS) and O.R.C. SECTION 121.22 (G) (3), PENDING OR THREATENED LITIGATION.

MOTION: Councilman Cline moved at 8:55 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (g) (1), Personnel (Board & Commission Appointments) and O.R.C. Section 121.22 (G) (3) Pending or Threatened Litigation. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

Mr. Ebersole asked to address Council regarding the standstill order. Mayor Hrivnak agreed. Mr. Ebersole said the definition of status quo means nothing changes and as Mr. Hollins said earlier, that takes place after the Charter Amendment was passed. The standstill order says they cannot build and the Charter Amendment says they are supposed to create a Comprehensive Plan Committee as defined in the Amendment. Status quo would mean that nothing has changed after they passed a law that told them they have a high density housing ban and they are supposed to form this committee. The only alternative to that would be that there is no housing ban, therefore they do not have to create the committee. To say there is a housing ban and they are not able to create this committee would not be the status quo.

Mr. Lutz suggested that Mr. Ebersole speak with his legal advisor and he should be able to explain this to him.

Mr. Ebersole said he has definitely talked to his legal counsel and team about this and they have the same interpretation he has voiced. When he makes comments out of turn it is because he comes up here and makes a point that he knows is correct and he has to listen to Council make counterpoints where they say what they feel or what they want to be true. He is giving them the legal definition of the fact in this case and what the Court has said.

Councilman Bennehoof said this is generally not a conversation but he would like to know if Mr. Ebersole is a lawyer. Mr. Ebersole said he is not but he has legal counsel. Councilman Bennehoof asked what he does for a living. Mr. Ebersole said he sells IBM software. Councilman Bennehoof said Mr. Ebersole's lawyer has an opinion that is in opposition to that of the City's Law Director.

Mr. Ebersole said in regard to Gene Hollins' definition, he also told them he was confused when the Court told the City to put the Charter Amendment on the ballot on November 4th as to whether that meant to put it on the ballot on November 4th. Comments like that just makes him question this. Councilman Bennehoof said that is a mischaracterization of what Mr. Hollins said. Mr. Ebersole disagreed. Councilman Bennehoof said Mr. Hollins actually asked the Court for clarification of a point. He said he is tired of the misrepresentation that goes on here and he thinks it is time they start speaking honestly in the social media and in this room and that they confront things appropriately. He asked Mr. Hollins if it is correct that he asked the Court for a clarification of a point, not that he was "confused." Mr. Hollins said the November 4th date was inconsistent with the timeline set out in the Ohio Constitution for the City to publish notice so he asked the Court if they wanted them to go forward with the November 4th date or would they like them to set a special election where they could comply with the notice provisions. The Court answered that for them.

Councilman Bennehoof apologized, but he believes that coming up and making misstatements and having them carried as truth in the public media, the social media or any media is not appropriate.

Mayor Hrivnak said Council understands Mr. Ebersole's position; the comment session is closed. Mr. Ebersole said they should at least clarify the meaning of "status quo" in their Executive Session. Councilman Lorenz said Mr. Ebersole can contact him offline if he wants to discuss this further. Council adjourned into Executive Session.

MOTION: Councilman Crites moved at 9:45 p.m. to adjourn from Executive Session. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

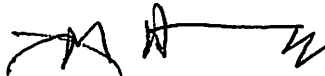
MOTION: Councilman Bertone moved at 9:45 p.m. to reconvene in Regular Open Session. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved at 9:45 p.m. to adjourn from Regular Open Session. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

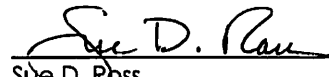
MINUTES APPROVED: February 17, 2015



Jim Hrivnak
Mayor

3-2-15

Date



Sue D. Ross
City Clerk

3-3-2015

Date



City Council

Jim Hrivnak, Mayor

Jon Bennehoof

Frank Bertone

Tom Counts

Mike Crites

Richard Cline

Brian Lorenz