



**City of Powell, Ohio**  
City Council

**MEETING MINUTES**  
**JUNE 16, 2015**

**CALL TO ORDER/ROLL CALL**

A regular meeting of the Powell City Council was called to order by Mayor Jim Hrivnak on Tuesday, June 16, 2015 at 7:30 p.m. City Council members present included Jon Bennehoof, Frank Bertone, Richard Cline, Tom Counts, and Mike Crites. Brian Lorenz was absent. Also present were Steve Lutz, City Manager; David Betz, Development Director; Megan Canavan, Communications Director; Gene Hollins, Law Director; Susie Ross, City Clerk; and interested parties.

**PLEDGE OF ALLEGIANCE**

**CITIZEN PARTICIPATION**

Mayor Hrivnak opened the citizen participation session for items not on the agenda.

Shelia Hiddleson, Health Commissioner, Delaware General Health District, was present to provide an update to City Council. She said they are getting started with mosquito trapping and have one here on City property; so far none of the tests have yielded positive mosquitos for West Nile Virus. They do spraying in defense to disease only as it is the least effective treatment. They work with local government and will inspect public bodies of water and larvaecide them to get rid of mosquitos. The fog is only good if the mosquitos are flying around at the time they fog. Ms. Hiddleson said it is also peak tick season. There are a lot of different types and they carry several diseases. They have new flyers available for the public.

Ms. Hiddleson said when she was here a few months ago she talked about the Community Health Improvement Plan. Within the five initiatives in that plan they have over 26 activities and are happy to report all of them but one are in progress within the five year plan. The United Way used the CHIP initiatives related to food insecurity to drive some of their grants for 2015 and they collectively gave over \$300k to help with that initiative in Delaware County. Ms. Hiddleson said the City's Board of Health Member, Jill Love, has served as their appointee for the last several years. She is relocating out of state in the fall so they are working to find a replacement. Ms. Hiddleson said her plan is to have applicants to Council no later than the end of July so they can appoint someone at the September Council meeting. That will allow this Board member to attend the October Board meeting. This Board Member is City Council's appointee to choose.

Hearing no further public comments, Mayor Hrivnak closed the citizen participation session.

**CONSENT AGENDA**

Item

Action Requested

- *Resolution 2015-07:*

*Approval*

A RESOLUTION TO ESTABLISH THE ESTIMATED REVENUES FOR THE CITY OF POWELL FOR THE FISCAL YEAR ENDING DECEMBER 31, 2016.

- *Departmental Reports – May 2015*

*Receipt of Electronic Report*

MOTION: Councilman Cline moved to adopt the Consent Agenda. Councilman Crites seconded the motion. By unanimous consent, the Consent Agenda was adopted.

**APPROVAL OF MINUTES**

MOTION: Councilman Cline moved to amend the minutes of June 2, 2015. Councilman Counts seconded the motion. By unanimous consent, the minutes were amended.

**FIRST READING: ORDINANCE 2015-25: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2015.**

Debra Miller, Finance Director, said this ordinance appropriates \$4,500.00 from the City Council Contingency Fund to the Development Department. They have had a large number of projects this year and between the number and the size of the projects, they have exhausted the budget for their Architectural Advisor.

Councilman Cline asked if this amount will carry them through the rest of the year. Ms. Miller said it is an estimate and should be sufficient unless something enormous comes along. Councilman Bennehoof asked if this amount is similar to prior years. Ms. Miller said the budget was raised this year from \$7,500 to \$9,000 because of the number of projects. In 2014 they had to come to City Council for additional appropriation.

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

MOTION: Councilman Cline moved to suspend the rules in regard to Ordinance 2015-25. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2015-25. Councilman Cline seconded the motion.

VOTE: Y 6 N 0

**FIRST READING: ORDINANCE 2015-26: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2015.**

Ms. Miller said they are again having a record year in the Parks & Recreation Department. When they budget for the program, they budget on a level that has been pretty standard, at approximately \$140k for programs. Registrations are on target to be in the \$160k to \$170k range so this ordinance appropriates another \$20k.

Councilman Bennehoof asked if this is the new normal. Ms. Miller said it has been for the last year or two. She can see that it could drop due to the age of the children in the community or some other factor. Mayor Hrivnak said it is important to note that this appropriation moves money over that will be collected later this year.

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

MOTION: Councilman Cline moved to suspend the rules in regard to Ordinance 2015-26. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2015-26. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

**FIRST READING: ORDINANCE 2015-27: AN ORDINANCE TO AMEND SECTION 1 OF ORDINANCE 2013-13 SETTING FORTH CERTAIN REQUIREMENTS FOR THE DESIGN OF THE MURPHY PARKWAY EXTENSION SOUTH PROJECT.**

Mr. Lutz said two weeks ago the Development Committee met and held a public hearing about the Murphy Parkway Extension project. At that meeting they reviewed the 90% completion plans which will be going out to bid in July or August. The primary concern they heard from residents was regarding landscaping on the plan. An arborist was responsible for putting together the plan but it is difficult to say that the exact number and placement of trees is correct until the roadway is built and functioning. Mr. Lutz said in order to address the concerns they heard from the citizens, Staff recommends they amend the Murphy Parkway Ordinance 2013-13, Section 1, by adding a sixth condition which states that within 180 days of the opening of the Murphy Parkway to the south, City Council will review the landscaping that has been installed and determine if the additional landscaping is necessary. Mr. Lutz said that will allow them to take a look at it in a real life situation and address any shortcomings that may be out there. Item 6 was the only item that was amended.

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

Mayor Hrivnak said this was quite a concern at the meeting and this amendment is a good outcome. The Development Committee felt this should be added to the ordinance.

MOTION: Councilman Cline moved to suspend the rules in regard to Ordinance 2015-27. Councilman Bennehoof seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Crites moved to adopt Ordinance 2015-27. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

**FIRST READING: ORDINANCE 2015-28: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2015.**

Ms. Miller said earlier this year Council was asked for an increase for the Veteran's Memorial Brick Fund because they normally have 1-2 bricks ordered per year and they had 17 bricks come through. Since that time they are now up to 51 bricks and that includes someone who purchased a brick for each Civil War Veteran who was buried in the Powell Cemetery. Ms. Miller said she is requesting an additional \$1,000 to be appropriated and the funds have already been received.

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

Councilman Crites said ten years ago this memorial was the vision of a handful of people in the City and with the assistance and cooperation of the City and City Council, it has grown into something very special.

MOTION: Councilman Cline moved to suspend the rules in regard to Ordinance 2015-28. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Crites moved to adopt Ordinance 2015-28. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

**SECOND READING: ORDINANCE 2015-24: AN ORDINANCE APPROVING A ZONING MAP AMENDMENT FOR 7.226+/- ACRES AT LOTS 5124 & 5125 AT LIBERTY CROSSING FROM LIBERTY TOWNSHIP PC, PLANNED COMMERCIAL DISTRICT TO CITY OF POWELL PC, PLANNED COMMERCIAL DISTRICT.**

*(Public Hearing – Tabled from June 2<sup>nd</sup>)*

Mr. Lutz said this ordinance and the next annexation ordinance relate to the Spectrum II assisted living facility. A representative from Spectrum is present this evening.

David Betz, Development Director, indicated the location of the proposed development and surrounding uses. The property is in Liberty Township, zoned Planned Commercial and was to be developed for commercial purposes or offices. The applicant who is also building senior independent living apartments to the south on Sawmill Parkway has selected this property for the development of a two story, 86 unit assisted living and memory care facility. The plan has been through Planning & Zoning Commission with a Preliminary Development Plan and Zoning Map Amendment. Mr. Betz said the Commission unanimously recommended to City Council the approval of the Zoning Map Amendment. The building faces the pond and the back faces the back of the adjacent commercial properties. It includes amenities such as a scenic seating area by the pond, memory garden, patio area, walking paths around the building itself and continuation of the bike path routing around the building. Mr. Betz said they will be providing more extensive landscaping because part of the purchase agreement is to purchase the pond area as well. The building is similar to the Spectrum I building except this is two stories. They have worked diligently with the City's Architectural Advisor to make some changes to the building that are appropriate for the Powell area. Mr. Betz said this will go through a Final Development Plan Review by Planning & Zoning Commission and will then come back to City Council in the future for final approval.

Glen Dugger, Attorney, Smith & Hale, 37 W. Broad Street, said on the agenda Council is considering the zoning map amendment first and then the annexation and from a legal standpoint he would rather they accept the annexation first and then consider the zoning map amendment.

Gene Hollins, Law Director, said that was an inadvertent error on the agenda. They can discuss both ordinances and then vote on the annexation first.

MOTION: Councilman Bennehoof moved to table Ordinance 2015-24 to later in the meeting. Councilman Cline seconded the motion.

VOTE: Y 6 N 0

**SECOND READING: ORDINANCE 2015-14: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 7.226 ACRE TRACT, MORE OR LESS, TO THE CITY OF POWELL. *(Tabled from June 2<sup>nd</sup>)***

Mr. Lutz said Spectrum requested annexation of this property so they can develop their assisted living/memory care facility within the City boundaries. City Council approved a resolution of services stating that if this property is to be annexed into Powell, the City will provide the municipal services to it.

Mr. Betz said the contiguity is at the centerline of Sawmill Road and they will be annexing the rest of the road in front of the property as well as the property itself.

Mike Longfellow, Spectrum Retirement Communities, said he has no comments on the annexation of this property; he will speak at the reading of the Zoning Map Amendment ordinance.

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

MOTION: Councilman Cline moved to adopt Ordinance 2015-14. Councilman Crites seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to remove Ordinance 2015-24 from the table. Councilman Crites seconded the motion.

VOTE: Y 6 N 0

**SECOND READING: ORDINANCE 2015-24: AN ORDINANCE APPROVING A ZONING MAP AMENDMENT FOR 7.226+/- ACRES AT LOTS 5124 & 5125 AT LIBERTY CROSSING FROM LIBERTY TOWNSHIP PC, PLANNED COMMERCIAL DISTRICT TO CITY OF POWELL PC, PLANNED COMMERCIAL DISTRICT.**

Mike Longfellow, Spectrum Retirement Communities, said they are excited about this development and are excited to get to this vote after working on it for several months. Several questions were asked at the First Reading and he is prepared to respond. One was in regard to the number of full time employees (FTE) their development will employ and that number is approximately 60. The annual payroll will be in the neighborhood of \$2.2 million - \$2.3 million dollars. Mr. Longfellow said the cost of the development will be approximately \$15 million with a construction time of approximately 14 months. They want to obtain building permits and proceed with construction as soon as possible, which they estimate will take around three to four months.

Mr. Longfellow said of all of the other places he works with across the country, working with Powell's City Staff, Planning & Zoning Commission and City Council is very atypical. This has been much better as a better, smoother and more supportive process than he usually experiences. He appreciates working with the Mr. Meyers as well on an architectural basis. Powell has a very good team and process in place; working through a problem the magnitude of the lack of sewer would not have been as palatable or efficient in many of the other jurisdictions he works with as it has been in the City of Powell.

Councilman Bennehoof asked about the number of FTE at the Spectrum Retirement Independent Living Apartment development on Sawmill Parkway. Mr. Longfellow said it is approximately 50 FTE because it is a different living situation. The onsite sewer work is proceeding and they will be ready to move on the offsite sewer extension when it is lined up. Councilman Bennehoof said this development is also dependent on the sewer extension.

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

MOTION: Councilman Bennehoof moved to adopt Ordinance 2015-24. Councilman Cline seconded the motion.

VOTE: Y 6 N 0

**SECOND READING: ORDINANCE 2015-22: AN ORDINANCE ADOPTING THE UPDATED PERSONNEL MANUAL FOR EMPLOYEES OF THE CITY OF POWELL.**

*(Tabled from June 2<sup>nd</sup>)*

Mr. Lutz said this ordinance was discussed in detail at a couple of meetings. At the last meeting Councilman Cline had some specific questions and those were reviewed with Ben Albrecht, the City's Labor Counsel to make sure there were not some unintended consequences based on the language or inconsistencies. As a result of that meeting they all felt confident that they will not have those issues with the language in the Personnel Manual as it is written. Councilman Cline thanked Mr. Lutz for setting up the meeting; it put to rest the questions he had with the wording. He does not recommend any amendments.

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

MOTION: Councilman Crites moved to adopt Ordinance 2015-22. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

**COMMITTEE REPORTS**

**Development Committee:** No Report. *Next Meeting: July 7<sup>th</sup>, 6:30 p.m.*

**Finance Committee:** No report. *Next Meeting: Tuesday, July 14<sup>th</sup>, 7:00 p.m.*

**Operations Committee:** Councilman Counts said they met earlier this evening and looked at the issue of Pond Maintenance/Aeration. At the pond at Ashmoore they had one incident where a resident died when he went onto the pond to rescue a pet and another incident where a pet fell through and was rescued. The pond appeared to be iced over. Councilman Counts said they were asked to look at what kind of options they might have to deal with that situation in the winter when they have aeration pumps operating. Over a period of months they looked at various options and what other nearby cities have done and asked Staff to provide further information. Tonight they gathered all of that information and have recommended that Staff maintain the aeration of the ponds in the winter because of best practices. They also want to provide safety stations around the ponds so Staff will look into how many are needed and implement that practice. Councilman Counts said they also heard from Staff that the Honey Locust trees on City property have a disease that will be treated. *Next Meeting: Tuesday, July 21<sup>st</sup>, 7:00 p.m.*

**ONE Community:** Councilman Bennehoof said they did not have a quorum so they cancelled the June meeting. *Next Meeting: Monday, July 13<sup>th</sup>, 7:00 p.m.*

**Planning & Zoning Commission:** Mr. Betz said they will meet again next Wednesday and will continue the Preliminary Development Plan review for Powell Grand. The Development Committee will review the recommendations regarding the Sign Code and make a recommendation to City Council. *Next Meeting: Wednesday, June 24<sup>th</sup>, 7:00 p.m.*

**Comprehensive Plan Steering Committee:** Councilman Crites said the third Public Open House will be held on Wednesday, June 17<sup>th</sup> from 7 – 9 p.m. *Next Meeting: Tuesday, July 28<sup>th</sup>, 7:00 p.m.*

**Powell Community Improvement Corporation:** *Next Meeting: TBA*

**CITY MANAGER'S REPORT**

Mr. Lutz said last November CSX was going to repair the rail crossing on Olentangy Street because of its deterioration. The City was going to pay \$28k to pay for a rubber crossing rather than a timber crossing. CSX cancelled the project because they did not have the rubber mats in stock and stated they would make the repairs in the spring of 2015. The City has now been informed that the amount of material needed for this crossing would increase the City's cost to \$39k instead of \$28k. Mr. Lutz said Staff recommended to the Finance Committee that because of the cost increase, it would be fine to go with the standard timber crossing so CSX will incur the full cost for repairs. There was consensus in the Finance Committee to just have CSX repair the crossing with timbers. The Committee also recommended that the repairs be made this summer instead of waiting until the fall. Staff will have a conference call with CSX tomorrow regarding the timing for the repair and will provide updates to City Council.

Councilman Cline said the Finance Committee and Staff was under the impression that the rubber surface had a longer useful life and it turns out that no one can find scientific data to prove that. Mr. Lutz said he was able to locate data that said that based on the number of trains and traffic going over the track, the use of timber would be recommended. Councilman Bennehoof asked if there are any rubberized crossings in the City. Mr. Lutz said they do not. Mayor Hrivnak said he found it interesting that if the City chose to do the rubber crossing it would become the liability of the City if it needed repair in the future.

**OTHER COUNCIL MATTERS**

Mayor Hrivnak said they received information in packets about the SR 315/SR 750 intersection. Councilman Bennehoof said there is also a closure on Home Road.

**EXECUTIVE SESSION: EXECUTIVE SESSION IN ACCORDANCE WITH O.R.C. SECTION 121.22 (G) (3), PENDING OR THREATENED LITIGATION.**

MOTION: Councilman Cline moved at 8:20 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G) (3), Pending or Threatened Litigation. Councilman Counts seconded the motion.

VOTE:            Y   6              N   0  

MOTION: Councilman Bennehoof moved at 8:30 p.m. to adjourn from Executive Session. Councilman Cline seconded the motion.

VOTE:            Y   6              N   0



MOTION: Councilman Bennehoof moved at 8:30 p.m. to reconvene in Regular Open Session. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

Councilman Bennehoof said he would like to bring to the attention of Council that he has second hand evidence that the petitioners are strong-arming the public and providing misinformation. He has heard that from a couple of different sources and he suggested that the City provide correct information through public sources. Councilman Bertone said he also has had a person contact him from the Lakes of Powell to report similar things as those voiced by Councilman Bennehoof. Mayor Hrivnak said he has had it reported to him that young people who may not be of voting age have been passing the petitions. He asked for clarification from the Law Director.

Mr. Hollins said at the end of the day, whoever circulates the petition must sign an affidavit saying they were a circulator. They are required to have the ordinance and full exhibits with the petition to provide to those who are asked to sign the petition. The best way to fight misinformation is to present the correct information.

Councilman Cline said the City may not use City funds to advocate for how citizens may vote. They may use City funds to provide accurate information to educate the residents if it is informational rather than an attempt at persuasion. He said a circulator must meet certain qualifications and one is that they must be an elector (registered voter) so they may not be 15, 16, 17 years old. Councilman Crites said there has been litigation about professional circulators and he agrees that a circulator must be an elector. Mayor Hrivnak said if a resident wants to voice a complaint, they should be sent to the Delaware County Board of Elections. Mr. Hollins said that is correct; there is a complaint procedure at that level.

Councilman Bennehoof said they need to have a program on social media to help educate the public about the facts of the development. There was a full page advertisement from the developer and a letter to the editor from the daughter of the property owner in the local newspaper; they were accurate and could be a good resource. Councilman Cline said the article was amazingly non-partisan from a partisan party and it appeared to say they should not believe all they hear and should find out the facts. If the petitioners are presenting false information, City Council has a responsibility to provide factual information through social media or other resources. Councilman Counts said the time to do the educational effort is after the signatures have been certified. Mr. Lutz said the referendum must be filed by the end of the day on Thursday. Mr. Hollins said once they have been delivered to the City, the petitions will go to the Board of Elections so they can verify signatures. That will give Council an opportunity to make comments.

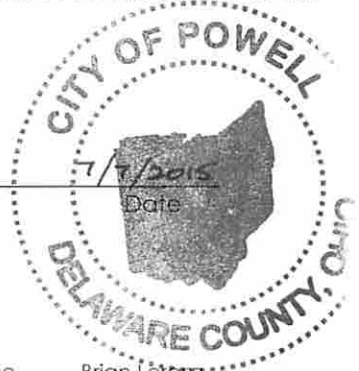
Councilman Cline said any ambiguity in their Charter has been answered and they are doing an administrative role to either certify it to the ballot or repeal the ordinance. Councilman Bennehoof asked what the process would be if they chose to repeal the ordinance. Mr. Hollins said they could repeal it and re-enact it in two parts with the zoning and the development plan on separate ordinances. They would want to check with the developer before doing that. Councilman Cline said if the referendum petitions are returned on time and have the sufficient signatures it would go to the November ballot; they should start providing factual information if it is found to be sufficient to go to the ballot. He does not want to see them in the same situation they were last time where they had very little time to mount an educational campaign. Ms. Canavan is already observing social media and she will have the opportunity to fact check claims that are being presented. If they are inaccurate the City should respond with the correction on that same media resource. Councilman Bennehoof said he has heard they are redacting comments from those sites. Councilman Cline suggested they go through the exercise and see if that occurs.

MOTION: Mayor Hrivnak moved at 8:48 p.m. to adjourn the meeting. Councilman Cline seconded the motion. By unanimous consent the motion was approved.

**MINUTES APPROVED: July 7, 2015**

 7-7-15  
Jim Hrivnak Date  
Mayor

  
Sue D. Ross  
City Clerk



- City Council**
- Jim Hrivnak, Mayor
- Jon Bennehoof      Frank Bertone      Tom Counts      Mike Crites      Richard Cline      Brian Lotertz