



**City of Powell, Ohio**  
City Council

**MEETING MINUTES**  
**FEBRUARY 18, 2014**

A regular meeting of the Powell City Council was called to order by Mayor Jim Hrivnak on Tuesday, February 18, 2014 at 7:30 p.m. City Council members present included Jon Bennehoof, Frank Bertone, Richard Cline, Tom Counts, Mike Crites, and Brian Lorenz. Also present were Steve Lutz, City Manager; David Betz, Development Director; Debra Miller, Finance Director; Jessica Rosengarten, Assistant Finance 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. Hearing none, he closed the Citizen Participation session.

**APPROVAL OF MINUTES**

MOTION: Councilman Cline moved to approve the minutes of January 21, 2014. Councilman Crites seconded the motion. By unanimous consent, the minutes were approved.

**CONSENT AGENDA**

<u>Item</u>	<u>Action Requested</u>
<ul style="list-style-type: none"> <li>• <i>Liquor Permit Request</i> <i>Tanuki Japanese Inc. dba</i> <i>Tanuki Japanese Steak House, 3954 Powell Road</i></li> <li>• <i>Liquor Permit Request</i> <i>Setgo LLC dba</i> <i>Buckeye Smoothie Café, 10259 Sawmill Parkway</i></li> </ul>	<p><i>Waive request for hearing</i></p> <p><i>Waive request for hearing</i></p>

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

**PRESENTATION – Update on Health District Activities**

Shelia Hiddleson, Delaware General Health District Health Commissioner, was present to provide an update to City Council. She provided information on the completion of their Community Health Assessment; they have identified five priorities and are in the process of determining their strategic visions before they set goals. Ms. Hiddleson said there is information on the web site which may be of value to Council. She said they are pleased that Powell is working with them on the Safe Routes to School initiative. She informed Council that the District will have a renewal of a .7 mill, ten-year levy on the May ballot which equals \$19.20 per year per \$100k of property value. She said they have been at the same millage since 1984 and this generates about \$3.5 million which is about 60% of their budget. Ms. Hiddleson invited Mayor Hrivnak to attend the District Advisory Council meeting on March 18<sup>th</sup> at 6:15 p.m. Mayor Hrivnak thanked Ms. Hiddleson for their partnership with the City.

**PRESENTATION – Presentation of Auditor of State Award with Distinction**

Dave Yost, State Auditor, said he is privileged to honor the City of Powell with the Auditor of State's Award with Distinction. He said this is given to those entities that have a clean audit report and also have not had any issues with their internal controls, no material weaknesses or significant deficiencies. Mr. Yost said "with distinction" means they have also produced the highest quality financial report (CAFR). He said the award recognizes that the City of Powell is performing in the top 5% of all governments in Ohio and that is a real achievement for the Finance Director, City Staff, City Manager and the members of Council. Mr. Yost said without the commitment of the City Manager and City Council to provide adequate resources and to insist that the internal controls are observed this does not happen. Mr. Yost presented the award to Debra Miller, Finance Director and Jessica Rosengarten, Assistant Finance Director. Ms. Miller thanked City Council for

allowing her and the City Manager to put the rules in place that Staff follows which makes her job so much easier. She recognized Ms. Rosengarten as she has been an integral part of creating the CAFR Report.

**FIRST READING: ORDINANCE 2014-06: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2014.**

Steve Lutz, City Manager, said they are requesting an appropriation of \$2,500.00 out of the contingency fund that they will be reimbursed at a later date. He said City property is tax exempt but when new construction occurs the improvement appears on the tax bills and they must file paperwork to have it removed. Mr. Lutz said the amount requested allows Staff to pay the tax bill.

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 2014-06. Councilman Bennehoof seconded the motion.

VOTE:            Y   7              N   0  

MOTION: Councilman Cline moved to adopt Ordinance 2014-06. Councilman Crites seconded the motion.

VOTE:            Y   7              N   0  

**FIRST READING: ORDINANCE 2014-07: AN ORDINANCE APPROVING THE PLAT FOR MORGAN PLACE SUBDIVISION, A SUBDIVISION OF SIX SINGLE FAMILY LOTS UTILIZING TWO COMMON ACCESS DRIVEWAYS, LOCATED ON 4.621 ACRES AT 8610 LIBERTY ROAD.**

David Betz, Development Director, said Council recently approved the development plan for this property and tonight the plat is before them. He said the plat is the last step in the development plan process as it is the document that is recorded that establishes the lots and easements for utilities. He said Staff has reviewed this and continues to work with the applicant on specific wording. Mr. Betz said the ordinance gives Staff the authority to review that wording if something comes up after the ordinance is adopted. He said they are still working on the deed restrictions and covenants within their homeowner association to make sure all of the open space and common access drives will work. Mr. Betz said there are two private, common access driveways for this development.

Ryan Gaslin and Nathan Pratt, applicants, were present. Mr. Gaslin requested that City Council waive the second reading of this ordinance. He said the City will sign the engineering plans soon and they plan to start construction the beginning of March, weather permitting. Councilman Bennehoof asked if they are ahead of schedule with their project plan. Mr. Pratt said they do not have a formal project plan but planned that when they received plat approval they would move forward with construction.

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 2014-07. Councilman Lorenz seconded the motion.

VOTE:            Y   7              N   0  

MOTION: Councilman Cline moved to adopt Ordinance 2014-07. Councilman Bennehoof seconded the motion.

VOTE:            Y   7              N   0  

**FIRST READING: ORDINANCE 2014-08: AN ORDINANCE APPROVING THE SUBDIVISION PLAT FOR WEDGEWOOD LIMITED PARTNERSHIP I, BY WEDGEWOOD INC. FOR THE PROPERTY AT THE SOUTHWEST CORNER OF SAWMILL PARKWAY AND NORTH HAMPTON DRIVE.**

Mr. Lutz said this is a plat for the Shoppes at Wedgewood where Target is being built. He said it went through the County, Liberty Township and Regional Planning Commission for approval and was recorded. He said when Target purchased the property from Wedgewood Limited Partnership there were about a half dozen errors identified on the original plan. Mr. Lutz said this ordinance approves a re-platting of the property.

Mr. Betz said this exact plat with a different cover page was recorded with the County Recorder and afterwards some errors and omissions were found. He said they have been corrected and since this property has annexed into the City, it can now be fixed and will be re-recorded; the old plat will go away and this takes its place. Mr. Betz said this will make the administrative changes that could have been done by an affidavit of amendment however Target is requiring that the plat be re-recorded. He said Staff has reviewed the entire plat and everything is the same as the old plat other than the cover page. He said it now has the

errors and omissions corrected and will have signature lines reflecting approval by the City of Powell. Mr. Betz said Staff recommends approval.

Councilman Cline asked if he could summarize the errors and omissions. Mr. Betz said there was an easement dimension that was incorrect, some blanks not filled in, two curve data points missing and things of that nature. Councilman Cline asked if he is saying those are all scriber errors/administerial changes that do not change the substance of the plan. Mr. Betz said that is correct; the big substance of lot sizes or anything else was not changed. Councilman Crites clarified that this could have been amended by an affidavit of amendment but it was Target that requested the re-platting. Councilman Bennehoof asked if Staff reviewed the plat and the errors and omissions. Mr. Betz said they did and they also found another error to be corrected. He said they have a note on Section 1 of the ordinance that gives Staff the authority to make other changes.

Councilman Lorenz said in his retail experience working with other big box clients it is not out of the ordinary for them to request a re-plat. He said it could have been just a simple amendment but the applicant is following his client's process. Councilman Bennehoof asked if in the future he would like to know the number of errors or omissions but not necessarily what they are. He said it would provide some kind of a gauge. Mr. Betz said there were about six.

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

MOTION: Councilman Lorenz moved to suspend the rules in regard to Ordinance 2014-08. Councilman Crites seconded the motion.

VOTE:            Y   7              N   0  

MOTION: Councilman Lorenz moved to adopt Ordinance 2014-08. Councilman Crites seconded the motion.

VOTE:            Y   7              N   0  

**FIRST READING: ORDINANCE 2014-09: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 5.072 ACRE TRACT, MORE OR LESS, TO THE CITY OF POWELL.**

Mr. Lutz said this ordinance is on the agenda this evening because of State statutes that require that an annexation ordinance be considered in a certain time frame. He said Staff recommends that Council table this ordinance to the April 1, 2014 Council meeting. Mr. Lutz said this annexation is for property on the east side of Sawmill Parkway and the Planning & Zoning Commission has approved a Preliminary Development Plan for this proposed development; it will go through the Final Development Plan review at their first meeting in March. He said with annexations like this Staff likes to bring the annexation and development in concurrently so if there is heartburn about the proposed development they can choose whether or not to annex.

Gene Hollins, Law Director, said they can table the ordinance as suggested. He said it was a little premature to have this on the agenda but State law requires it be laid before Council at the first regular meeting after the expiration of the 60-day holding period. He said there is no prohibition on tabling it. He said the end date for the annexation is 180 days after the transcript was delivered and they will be well within that period.

Councilman Bennehoof asked if this is the three-story assisted living, nursing home apartment building. Mr. Lutz said they are talking about the same development. Councilman Bennehoof said he asked at one point how many units would be permitted if this were zoned for apartments and he has not received that answer. He said he sees this as not much more than apartments and they came back in and upped the number of units as well. Mr. Betz said they have not increased the number of units from their initial proposal. Councilman Bennehoof said at the first meeting before Council they said it would be in the 70's and at the second meeting their attorney gave them a different number. He asked for the number of units proposed and if it is still three stories high. Mr. Betz said it is three stories and he does not recall the number of units. Councilman Bennehoof asked if it far exceeds the 8/acre in the code and if it were an apartment development, how many units would be permitted on this space. Mr. Betz said the Planning & Zoning Commission is not considering this an apartment building but the number of units per acre for this space depends upon the plan; the maximum number could be up to 12/acre. He said that would be the maximum but the Commission does not feel this is a general apartment development because they see it as a lot more than that. Councilman Bennehoof asked about the zoning for this plot of land. Mr. Betz said it is Planned Commercial and there is flexibility in that classification. He said this is more of a commercial use rather than an apartment residential use. Councilman Bennehoof said that is subject to interpretation.

Mr. Betz said this ordinance will allow the property that is being considered for new development to be annexed into the City of Powell. Mr. Lutz said this is strictly the annexation ordinance and in the future the Final Development Plan will be brought forward. Mr. Betz said they had hoped to bring the two to Council concurrently. Councilman Hrivnak asked if the annexation is contingent on appropriate zoning. Mr. Lutz said that is why Staff is recommending that the ordinance be tabled so the development plan may come before Council at the same time. Councilman Bennehoof again asked for the number of units in the development. Mr. Betz asked if he could provide that information after the meeting.

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

MOTION: Councilman Cline moved to table Ordinance 2014-09 to the regularly scheduled Council meeting on April 1, 2014. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

**SECOND READING: ORDINANCE 2014-05: AN ORDINANCE AMENDING ORDINANCE 2010-59 TO ADD CERTAIN PARCELS OF REAL PROPERTY TO THE DECLARATION OF PUBLIC PURPOSE MADE IN THAT ORDINANCE, AND DECLARING AN EMERGENCY.**

Mr. Lutz said this ordinance implements a component of the pre-annexation agreement the City has with the Shoppes at Wedgewood and Mt. Carmel Health. He said they will be adding these properties to the City's Sawmill Commercial TIF and there were several legal questions brought up at the last meeting as well as recommended amendments to the ordinance.

Mr. Hollins said per Council's request, the list of parcel numbers has been updated as shown on page 2 of the exhibit. He said the map (page one) has been updated so the coloring is consistent; the land has been platted into lots and those lots were added onto the southernmost parcel. He said the original ordinance which they were amending with Ordinance 2010-51 has an exhibit "A" with two pages including a map and a page of parcel numbers. Mr. Hollins said they have updated the list of parcel numbers and the new parcels are indicated with an asterisk. He said Councilman Cline will assist in amending the date within Section 1 of the ordinance to make sure the dates on the exhibits match. He said the year needs to be amended to "2014" on the map as well.

Mr. Lutz said they identified at the last meeting that this will be a different TIF than their previous ones because they are adding a "make whole" provision for the Liberty Township Fire Department. He said that will be handled by legislative action in a separate agreement which will require approval from City Council and Liberty Township. Mr. Hollins said they researched that since the last meeting to see how they can accomplish that purpose and it is not necessarily something that they just put in the ordinance and direct the County Auditor to do. He said the County Auditor can distribute directly to the school district but the rest is distributed to the City and from the City's TIF fund they are allowed under law to compensate the Township pursuant to an agreement. He said he is working on a draft agreement and it will come before Council at a future meeting assuming they can negotiate an acceptable agreement.

Councilman Bennehoof asked if the Township has seen the draft agreement or collaborated on it. Mr. Hollins said it has not yet been completed. Councilman Bennehoof said he would like to have a separate discussion in a different forum about the effect of a TIF on the denominator of the tax equation. He said he understands the vehicle in principle but he thinks they need to understand how it impacts the taxpayer. Councilman Cline asked if he is concerned that adding these parcels of land will disadvantage certain taxpayers. Councilman Bennehoof said his concern is about the general population taxpayer because a TIF takes monies out of the general tax fund. Councilman Cline said it takes money out of some tax funds. Councilman Bennehoof said someone has to make up those differences and as they continue to increase the denominator they are going to affect the result and they need to discuss that as a group. Mr. Lutz said about 5-6 years ago they had a study before Council from the City of Dublin which provided a good analysis and it would be a good resource for Council. Councilman Bennehoof said the newer members of Council might benefit from reading that analysis. He applauded the efforts to make the Fire Department whole but there are still other impacts to consider.

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

MOTION: Councilman Cline moved to amend Ordinance 2014-05, Section 1 to strike the phrase "September 19, 2013" and in its place insert the phrase "February 18, 2014"; on "Exhibit A revised" to strike the date "2013" and in its place insert the date "2014"; and on "Exhibit A page 2" to insert between "Ordinance 2010-59" and "Exhibit A, page 2" the phrase "as revised by Ordinance 2014-05". Councilman Crites seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2014-05. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

### COMMITTEE REPORTS

**Development Committee:** Councilman Lorenz said they met this evening and discussed a possible queue cutter or some sort of traffic calming in relationship with the railroad crossing. He said they asked Staff to give them a benefit analysis on the options that they may consider. He said they had residents and business owners present so it was good to get feedback. Councilman Lorenz said Chief Vest gave them documentation that about 300 drivers in a three month period were alerted because they stopped on the railroad tracks. He said this is a priority and they will work to resolve it in the next few months. Councilman Lorenz said they also discussed a traffic calming issue on Wildflower Drive and gave those parties some direction for action and will revisit it at the end of the month. *Next Meeting: Tuesday, March 4<sup>th</sup>, 6:00 p.m.*

**Finance Committee:** Councilman Cline said they met last week and discussed items from the Goal Setting Session. *Next Meeting: Tuesday, March 11<sup>th</sup>, 7:00 p.m.*

**Operations Committee:** No report. *Next Meeting: Tuesday, March 18<sup>th</sup>, 6:30 p.m.*

**ONE Community:** Councilman Bennehoof said they met last week and used Skype so he could participate with the group. He said the charter moved toward finalization but will need more discussion. He said they had a pretty active discussion about project priorities and input will be summarized by Ms. Canavan. He said there has been a suggestion put forward to the committee to work on endowments for bike paths and they will have that discussion in the future. Councilman Bennehoof said he proposed to the group a First Responder Recognition Event to be held annually. He said it could be a partnership with businesses and would focus on just that group to show the community's appreciation and they will discuss it further at the next meeting. *Next Meeting: Monday, March 10<sup>th</sup>, 7:00 p.m.*

**Planning & Zoning Commission:** Mr. Betz said at the last meeting the Commission approved the Final Development Plan for the Center at Powell Crossing development and it will be coming to Council next month for public hearing and decision. He said at the next meeting they will see a Final Development Plan for Trinity All Stars which is a cheerleading/gymnastics facility in Wolf Park Commerce Center. Councilman Bennehoof said he read the minutes from the P & Z meeting and he thought the Center at Powell Crossing was tabled. Mr. Betz said it was tabled from a previous meeting to the last meeting and the Commission voted unanimously to approve it. He said it has variances for a couple of setbacks. Councilman Bennehoof asked if it has variances for density. Mr. Betz said it does not because it is in the Downtown Business District. He described the improvements the developer will bring to the downtown. Councilman Bennehoof said it is his understanding that there are 64 apartments on 8 acres but some of that acreage is devoted to retail, which will decrement the 8 acres. *Next Meeting: Wednesday, February 26<sup>th</sup>, 7:00 p.m.*

### CITY MANAGER'S REPORT

Mr. Lutz publicly recognized the City's Public Service Department; they have had several rough months of weather and have done a tremendous job rationing salt while still making sure the streets are clear.

### OTHER COUNCIL MATTERS

There were none.

### EXECUTIVE SESSION:

MOTION: Councilman Cline moved at 8:30 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G) (1), Personnel (Board and Commission Appointments) and Section 121.22 (G) (3), Pending or Threatened Litigation. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Cline moved at 9:10 p.m. to adjourn from Executive Session. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bertone moved at 9:10 p.m. to reconvene in Regular Open Session. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved to appoint Board and Commission members to the terms listed as listed on the handout named "City Boards & Commissions, February 18, 2014" and to appoint Sarah Minto as

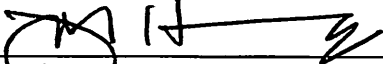
Citizen Representative to the Development Committee for a term ending 12/31/2015. Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

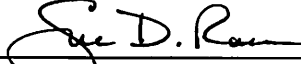
MOTION: Councilman Crites moved at 9:20 p.m. to adjourn from Regular Open Session. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

**MINUTES APPROVED: March 4, 2014**

  
\_\_\_\_\_  
Jim Hrivnak  
Mayor

3-18-14  
Date

  
\_\_\_\_\_  
Sue D. Ross  
City Clerk

3/18/2014  
Date



**City Council**

Jim Hrivnak, Mayor

Jon Bennehoof

Frank Bertone

Richard Cline

Tom Counts

Mike Crites

Brian Lorenz