



City of Powell, Ohio
City Council

MEETING MINUTES
APRIL 2, 2013

A regular meeting of the Powell City Council was called to order by Mayor Cline on Tuesday, April 2, 2013 at 7:30 p.m. City Council members present included Jon Bennehoof, Sara Marie Brenner, Tom Counts, Mike Crites, Jim Hrivnak and Brian Lorenz. Also present were Steve Lutz, City Manager; David Betz, Development Director; Gene Hollins, Law Director; Susie Ross, City Clerk, interested parties and member of the Press.

PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

Mayor Cline opened the meeting to Citizen Participation for items not on the agenda. Hearing none, he closed the Citizen Participation session.

APPROVAL OF MINUTES

Councilman Bennehoof identified an error on page two of the minutes.

MOTION: Councilman Counts moved to adopt the minutes of March 19, 2013 as corrected. Councilman Hrivnak seconded the motion.

VOTE: Y 4 N 0 (Abstain: Brenner, Crites, Lorenz)

PROCLAMATION

May 2013 - Motorcycle Awareness Month

Mayor Cline read the proclamation and presented it to Harlan Stock, Deputy Director, Delaware County Coordinator of ABATE of Ohio, Inc. He said he has ridden motorcycles for many years and he wholeheartedly endorses the concept of motorcycle safety and encouraged everyone to pay particular attention now that the weather is better. Mr. Stock said ABATE (American Bikers Aimed Toward Education) is a non-profit organization dedicated to preserving the rights, improving the image and promoting safe practices of Ohio motorcyclists. He thanked the members of City Council and Ms. Ross for their assistance with this proclamation and invited the public to come to the Ohio State House on May 4th to witness the Governor's reading of the state proclamation. He invited anyone who rides motorcycles to join them at A. D. Farrows at 11:30 a.m. to ride with their organization in a fully escorted motorcade to the State Capital for the reading of the proclamation.

Mr. Lutz said Liberty Township Fire Chief Tim Jensen is present to give City Council a brief update about the Fire Department and their activities. Chief Jensen said he will wait until the end of the meeting.

FIRST READING: ORDINANCE 2013-14: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 43.88-ACRE TRACT, MORE OR LESS, TO THE CITY OF POWELL.

Steve Lutz, City Manager, said one of the goals of the City Council is to expand the tax base for the City of Powell. He said this 48-acre site is located at the southeast corner of Seldom Seen and Sawmill Parkway and it is currently undeveloped and undergoing review by the Planning & Zoning Commission. He said what Council will discuss this evening and at the second reading has nothing to do with zoning. Mr. Lutz said this ordinance only has to do with annexing the property which is surrounded on three sides by the City of Powell.

Mr. Lutz said annexations typically come forward with a Planning & Zoning Commission recommendation regarding zoning. He said the zoning process is taking longer than the annexation process which is dictated by State law so the ordinance includes a section that states if the zoning is not acceptable to the applicant and the landowner, they can choose to detach this property in the future.

Gene Hollins, Law Director, said pursuant to the Pre-Annexation Agreement, the concept was to bring the annexation and the zoning through contemporaneously, therefore they have two options: He said because they are taking their time with the zoning and the applicant is also taking their time to provide studies to the Commission, they do not want to rush the zoning through. He said one option is to simply withdraw this annexation and start the whole process over so the two can come together at the same time. Mr. Hollins said

the other alternative is what they are proposing this evening: the application has been through the annexation process and approved by the County, so the City can accept it, and commit that if it does not all come together the landowner may detach and it would all be taken back to a blank slate. Mr. Hollins said this is the preferred way to comply with the pre-annexation agreement.

Councilman Hrivnak asked if the detachment is without prejudice. Mr. Hollins said it will take everything back to square one and the property will go back into Liberty Township and anyone can restart the process or develop as detached. He said it is the alternative to forcing a second annexation process and all of the waiting periods required. Councilwoman Brenner asked if the City will owe anything financially to the property owner if they choose to detach later on. Mr. Hollins said he will have to look specifically at the agreement with regard to that. He said when the agreement was negotiated and brought before City Council this was contemplated but they did not address it because they thought they would have sufficient time to get through the zoning process.

Councilwoman Brenner asked if they separate later, would the City have to pay a financial penalty. Mr. Hollins said he is not aware of a penalty but he cannot give a firm answer without reviewing the agreement. Councilman Crites said that can be determined before they come back for the second reading. Councilwoman Brenner said she is concerned whether they have any kind of financial ramification down the road. She said there would not be anything functioning on the property so there would not be any income tax collected to be reimbursed. Mr. Hollins said it would still be a vacant parcel.

Councilman Counts asked what the zoning of this parcel will be if it is annexed until rezoning occurs. Mr. Hollins said the City has, of record, a "zoning upon annexation" ordinance that does not place a property automatically into any specific zoning district. He said this property would be annexed with the existing Liberty Township zoning but he is not sure there is the availability to develop under that as the prior zoning application has expired. Mayor Cline asked the applicant if he would like to speak.

Mr. David Fisher, attorney for Lifestyle Communities, thanked City Council for their consideration of this annexation. He said the descriptions given by Mr. Lutz and Mr. Hollins are correct; they have been working very hard with the Planning & Zoning Commission, the school district and resident groups to satisfy their concerns and address issues. He said they understand this is a very large tract to be annexed and a very large project to be considered. Mr. Fisher asked that as this goes through the process, the City Council focus on facts, not rumors and speculation. He said there is a certain concern from the public that the facts from the traffic survey cannot be accurate but they have hired experts and the County Engineer has experts who say the facts are accurate as facts of engineering. He said traffic engineers build projects based on sound engineering principals. Mr. Fisher said they have had an ongoing debate about the number of school-age children who will be brought into the school district. He said they have hired consultants and the City has hired consultants and they have provided reams of empirical data to support that this project will not bring additional students of any magnitude. Mr. Fisher said the project will be a net gain to the school district in terms of tax revenues due to the lack of children the school district will need to educate. He said all of those discussions are ongoing and they ask City Council to help them maintain the status quo during this process by proceeding with the annexation. He said they do have two choices and it seems rather silly to start over again because they will have lots of time spent waiting out the periods required by State law. Mr. Fisher said they have a lot of work to do and he understands that Council will have some difficult deliberations as has the Planning & Zoning Commission.

Mr. Fisher said Lifestyle Communities feels they have an exciting product and development that is a good fit for the City of Powell and will help add to the housing stock and the community. He said when Council sees the studies they will see that this type of development is part of a housing continuum and the sooner they bring the type of people who they want as long-term residents of the City, the better chance they have of getting them here and retaining them as they moving through the continuum. Mr. Fisher said they start off in an apartment, move into a home, and eventually get to the age where they want to live in an empty-nester product or living environment. He said a healthy environment has all of those components. Mr. Fisher asked that City Council stick with them and consider this and allow the annexation to go through, realizing there is still a lot of work to do on the zoning. Mr. Fisher introduced Mike DeAscentis, owner of Lifestyles Communities.

Councilman Lorenz asked if there is a third option to sit on this annexation for a while. Mr. Hollins said once this is approved by the County Commissioners they must wait 60 days to lay it before Council and then Council must act on the annexation within 120 days. He said the next Council meeting on April 16 is the last possible meeting date before the expiration.

Councilman Bennehoof said he would like to understand, by the next reading, if there are financial encumbrances on the City. He said he is sure there probably are for the developer. He said he understands from Mr. Hollins that this is a legal detachment clause within the ordinance but he is uncomfortable that they are bringing forward an annexation that was going to be contingent upon zoning, they don't have the zoning clarified, and they don't know the final project. Councilman Bennehoof said he has attended most of the Planning & Zoning meetings and he is still concerned about the density. He said he would have those questions regardless of the timeline. He said he is not comfortable moving forward on this. He said he realizes this is a first reading and he wants to hear more about the financial issues and the projection for getting the zoning clarified. Councilman Bennehoof said if the proposal has no variances at all required, he would lay down and let it go, He said the proposal does have variances and there is a whole population that is not happy about the density and it would be remiss for City Council to rush the annexation without the final product identified. Mr. Lutz said the zoning may come before Council for a first reading as early as the June 4th meeting, with the second reading at the June 18th meeting.

Councilman Lorenz asked when this proposal will go back to Planning & Zoning Commission. David Betz, Development Director, said it will return on April 24th. Councilman Crites had no comments. Councilwoman Brenner said if this were any other project she would probably not have a problem with it but she has a problem with this because she is quite confident, from the phone calls and contacts received, that if they do approve this it will eventually go to the vote through referendum. She said she has a problem going ahead tonight and accepting the annexation without having the other half in place. Councilwoman Brenner said she understands the applicant's thought process and she appreciates that very much. She said she also has a responsibility to consider the phone calls and emails she has received, telling her that if this is approved they will put forward a referendum. Councilwoman Brenner said this is not just the people in close vicinity to this project; they are people who do not want a three-story building or apartments in Powell. She said she has to vote "no" for that reason alone. She said if it was a different project she could probably vote for the annexation.

Councilman Hrivnak asked at what point they will know if the landowner is happy with the zoning; could they wait a year to make the decision to detach. He asked what constitutes agreement about the zoning. Mr. Hollins said he will consult with the landowner to firm up that language. He said there is a seller and a buyer and they may also want to clarify who has the right to detach. Mayor Cline asked if in the same Section, third line down, where it says "acceptable to the landowner or is referred" do they mean "referrended." Mr. Hollins said they are the same thing. Mayor Cline thanked the applicants for their work with the Planning & Zoning Commission. He said he knows it is an arduous process and they may never get there but the City and the Applicants and the Residents are making the effort and he appreciates that very much. He said Councilman Bennehoof made a comment about "rushing" into annexation and he does not think that scheduling the decision on the last possible date within the statutory requirements constitutes rushing into an annexation. He said before the second reading they will know answers to their questions about financial ramifications, who decides if they are satisfied and by when the decision has to be made, and what will be the default decision if they fail to act between whenever Planning & Zoning acts and the deadline occurs. Mayor Cline said a suggestion that this is a "rush" into annexation is not accurate.

Councilman Bennehoof said his comment was taken out of context. He said his comment was that originally, at the pre-annexation discussions, they talked about the annexation and the zoning being coincident. He said that is why annexing prior to knowing what the product looks like is what he calls "rushing" to annexation. Councilman Bennehoof said he understands the annexation is a good thing for the City but if they annex, that does not pre-suppose any ruling one way or another by Planning & Zoning. He said it was supposed to be coincident and he understands that the applicant has a difficult task in answering everyone's questions. He said one of the other things he said at the pre-annexation discussion was that he wanted to understand clearly what the value proposition is of any project that comes before City Council and he would like all stakeholders, County Commissioner, Police Chief and Fire Chief to speak to the value proposition of the proposal so everyone is aware where the stakeholders stand. Councilman Bennehoof said they can all have their day, along with the developer, so City Council can make a considered decision whether this is the right thing for the City and for the people they represent. He said in the final analysis that is who they answer to. Councilman Bennehoof said they are supposed to have an open mind and be representative to the people that are calling Council or City Staff about this project. He said they are rushing if they are not adhering to the original discussion that this would be coincident.

Councilman Counts said they need to be really clear about what is going on and they are getting the cart before the horse. He said this is not about zoning tonight and they all seem to want to talk about zoning. He said this is about annexation and until the property is rezoned it goes into the zoning category that was likely the old Township zoning. Councilman Counts said doing this at the same time was for the benefit of the

landowner and it has nothing to do with the City. He said the City has the right to hear the rezoning request and can deny it and generally when a zoning is denied for a property already in the City, the property stays zoned as it is. Councilman Counts said if the landowners choose not to detach, the property is in the City and that is a good thing. He said the rezoning is a completely separate issue and they should not cloud whether they annex this property and go through with the rezoning. Councilman Counts said there is a provision in the ordinance that allows the landowner to get out of the annexation and that goes to the heart of the pre-annexation agreement.

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

Ordinance 2013-14 was taken to a second reading.

RESOLUTION 2013-02: A RESOLUTION TO ADOPT THE CITY OF POWELL ASSET MANAGEMENT POLICY.

Debra Miller, Finance Director, said the policies before Council tonight encompass a variety of the GFOA's best practices. She said the majority of these policies document the City's existing practices but there are a few new practices added as well.

Ms. Miller said the Asset Management Policy documents the City's definition of Capital Assets, the dollar threshold and anticipated life span of these assets. She said the policy adds a definite time frame within which the City should do a periodic inventory and it adds that the City should consider environmental practices when working its capital improvement plan. Ms. Miller said the policy adds a category, Controlled Capital Type Assets, for assets that are not Capital Assets but require special attention. She said examples of this type of asset are items like sound equipment or police weapons; these are items that have a special need or public need to be protected. Ms. Miller said this policy includes a report called "Report on Capital Facilities." She said she, Jeff Snyder and Chief Vest are currently working on this report because they work on facilities management for the City Manager. She said this report will describe the condition of the buildings to help the City with their capital improvement plans.

Councilwoman Brenner said they have always called capital improvement projects things like roads and in Section E of the policy they are talking about capital improvement projects as any kind of asset owned by the City. Ms. Miller said a capital improvement is supposed to be more encompassing so it includes everything like street lights and solar panels.

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

Councilman Counts said the Finance Committee thoroughly reviewed this policy and unanimously recommends this for approval by Council.

MOTION: Councilman Counts moved to adopt Resolution 2013-02. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

RESOLUTION 2013-03: A RESOLUTION TO ADOPT THE CITY OF POWELL BUDGETARY POLICY.

Ms. Miller said the Budgetary Policy documents the City's budget process, including a definition of "balanced budget," the various items that should be included with a budget, and it discusses the forecasting, the inflationary indexes and the personnel budgeting approaches the City will use. She said this policy emphasizes the need for a capital improvement project budget to be included with an operational budget and emphasizes public participation.

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

Councilman Counts said the Finance Committee thoroughly reviewed this policy and unanimously recommends this for approval by Council.

MOTION: Councilman Counts moved to adopt Resolution 2013-03. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

RESOLUTION 2013-05: A RESOLUTION TO ADOPT THE CITY OF POWELL LONG-TERM FINANCIAL PLANNING POLICY.

Ms. Miller said the Long-Term Financial Planning Policy talks about the things that are essential to the future financial health of the City. She said it identifies the need for a multi-year capital plan to assist with prioritizing expected needs, strategic planning to assist the City in effectiveness, and succession management of key

leadership positions. Ms. Miller said all of these are things the City Council has discussed. She said she would not call this a current practice nor would she call it new; this is more of a philosophy she's heard from Council.

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

Councilman Counts said the Finance Committee thoroughly reviewed this policy and unanimously recommends this for approval by Council.

MOTION: Councilman Counts moved to adopt Resolution 2013-05. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

RESOLUTION 2013-06: A RESOLUTION TO ADOPT AN AMENDED CITY OF POWELL INVESTMENT POLICY.

Ms. Miller said while they have reviewed many of these best practices, a few items that came up were appropriate to be added into the City's Investment Policy. She said they added Section 8, which follows the Ohio Revised Code for collateralization. She said most people have FDIC insurance on their financial accounts but the City has additional insurance (collateralization) that is done through the State. Ms. Miller said they also clarified that there is more than one StarOhio product in which they can invest and they added the ability for the City to invest in other subdivisions of the State such as municipalities or school districts that have AA or higher rating.

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

Councilman Counts said the Finance Committee thoroughly reviewed this policy and unanimously recommends this for approval by Council. He said it is an existing policy that was modified.

MOTION: Councilman Counts moved to adopt Resolution 2013-06. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

RESOLUTION 2013-07: A RESOLUTION TO ESTABLISH THE POLICE CANINE SUPPORT FUND.

Mr. Lutz said this is an item that has been discussed in the Finance Committee for the past year. He said the City is fortunate to have a Powell Citizen Police Academy and they have had several sessions and graduates. He said the Academy Alumni wanted to raise the funds necessary to purchase a canine, to equip the City facilities with the items necessary and maintain the support of the canine. Mr. Lutz said a couple of the graduates of the Citizen Police Academy are present to inform the City Council about their fundraising efforts so the City of Powell can have a canine program.

Ann Wiseman, President of the Powell Citizen Police Academy Alumni Association, said they have been working on raising the funds for the dog and have received a lot of support from the community. She said they have had quite a few people donating to this cause and everyone seems to be pretty excited about it.

Jeff Heyer-Jones, President of the Alumni Association Canine Committee, said he is pleased to report they have up to \$19,456.36 collected up to date and that does not include the checks received this evening. Mr. Lutz said those funds exceed the goal that was necessary to fund a canine unit. Mr. Heyer-Jones said their initial goal was \$15k and they made the commitment they would not collect from anyone that pledged until they reached 75% of that amount. He said they still have about \$1,300 in outstanding pledges; residents and business owners have given over and above their original pledge amounts. Mayor Cline said they reported to Finance Committee that the cost to buy the dog and train the dog and handler was under \$13k. Mr. Heyer-Jones said that is correct. Mayor Cline said the other money is for the additional expenses.

Councilman Bennehoof said he is in favor of the canine but he wonders if there is research from other local police departments about how much the care and feeding of the dog costs after the initial investment. Ms. Wiseman said some of that has to do with the officer because it is his decision. She said until they have the dog and the handler trains with it they will not know about additional expenses such as special food or a bulletproof vest. Councilwoman Brenner asked how soon they will have the canine unit in place.

Gary Vest, Powell Police Chief, said they have been looking at a couple of different organizations who can prepare and train the dog. He said they will be training along with other departments at the same time and he anticipates the dog will be working in the community in September or October. He said if they start moving forward from the homework side he anticipates the dog will be here working in September or October. Chief Vest said the dog and officer will train on site for about six weeks so they will have to work around staffing. Councilwoman Brenner asked if the lucky officer/owner has been chosen. Chief Vest said they have an officer

who has worked very hard on this project and they will offer the opportunity to all of the officers but it will ultimately be his decision. He said the dog will stay at the trainer's home so part of the support costs will be to purchase some sort of small kennel for the dog. Chief Vest said he is confident that the amount of money raised will take them forward for the next couple of years. He said they will have the support of the Academy Alumni Association as well as seizure money received. He said the hard work of the Alumni Association indicates the amount of community interest, with over 300 signatures on their petition. Chief Vest said a canine for the Powell community will be trained to be passive so it is a dog that children can pet and a dog that will sit down rather than scratch if it detects drugs. He said these types of dogs can even search by sight and determine if grass has been pushed over. He said the sooner they can get a dog on the scene of a missing child, the more likely they will recover the child safely. Chief Vest said this will eliminate any wait they would have in getting a dog from another entity and it will be a valuable asset to the community. He said the dogs typically work from 8 p.m. until 4 a.m. and can be used for business checks as well. He said it was very important to have the support of the citizens and the Citizen Police Academy Alumni.

Councilman Bennehoof asked if there are investments to the cruisers necessary. Chief Vest said they will increase the fleet by not trading in one car and eventually they will equip a new car as the canine vehicle. He said they will not ask for additional funds in that area because it will be a replacement vehicle that was already scheduled. He said there would only be one driver for that car, the canine officer, so the car would not be used for anything else. He said the officer will use the vehicle to transport the dog to and from the facility.

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

MOTION: Councilman Counts moved to adopt Resolution 2013-07. Councilman Hrivnak seconded the motion.
VOTE: Y 7 N 0

UPDATE FROM LIBERTY TOWNSHIP FIRE DEPARTMENT

Chief Tim Jensen presented a written report (Exhibit 2) to update the City Council on the restructure plan that was submitted to the Liberty Township Board of Trustees and the Fire Board. He said another presentation will be forthcoming. Highlights of the report include:

- Working within parameters of the funding within the levy
- Loan secured with Delaware County Bank to operate in 2013
- Levy passed in February, providing funding for 2014
- Laid off 20% of the full-time staff
- Three vehicles will be in service all of the time instead of four
- Data will be analyzed to determine changes to quality of care
- One fire truck will respond to residential fire alarms instead of two
- Two fire trucks will respond to business fire alarms instead of three
- Special projects will be revisited as they don't have staff to manage at this time
- One fire prevention officer will continue to work with the City of Powell Building Department

Chief Jensen said they have a lot of work ahead of them; he looks forward to this challenge and the opportunity to build toward the future. He said they appreciate the opportunity to have input regarding future developments. He said he met with Mr. Betz and the developers early on for the initial look at the apartment project. He said it certainly is not something they have not dealt with before. Chief Jensen said three stories is not an issue and they have houses that are a lot larger in square footage than some of the structures within this project. He said the long term impact to funding is the largest impact; the TIF value of the property is the long-term impact to the fire services. Chief Jensen said they would like to continue to work with City Staff, developers and the City Council in the future.

Councilwoman Brenner thanked Chief Jensen for all he has done in the past tumultuous months. She said she heard that the Liberty Road Station may be closed now that there is an overpass over the railroad at Home Road. Chief Jensen said he has heard similar comments and that is not true. He said the overpass alleviates some of the response time but that station was central at the time it was constructed and it is still a valid station location. He said perhaps down the road as the community continues to grow and if they have exhausted all avenues of funding they can move that station rather than build a new one.

Councilwoman Brenner said she has also heard that there are runs to the Columbus Zoo where the Township does not receive compensation. Chief Jensen said the nature of the zoo property is that they do not pay property taxes. He said the water park does pay property tax so they contribute to the fire fund and to the schools. He said it has been said that if they do not take calls to the zoo that will free up money in the budget. Chief Jensen said they have a relationship with Delaware County that goes back to 1972 when the 0.5% sales

tax was put into place to establish the EMS system at that time. He said Liberty Township had been providing an ambulance/EMS service since the 1950's so they agreed to come on board. Chief Jensen said ever since that time they have received reimbursement from Delaware County each time there is any call to the zoo. He said the funding will never pay for the total cost of the services, even if they billed them for it. Chief Jensen said no one in Delaware County bills the zoo for EMS services. He said they do not pick and choose who they service within their boundaries. He said if they look cumulatively at the amount of property in Liberty Township and the City that is government and school related, the zoo is actually third in financial value in properties that do not contribute to the property tax. Chief Jensen said they worked out an in-kind relationship with the zoo where they allow the fire department to train for free at the water park and the zoo. He said that allows them to go into a controlled environment, build sets and simulate water rescues. Chief Jensen said they have almost 400 bodies of water within the community and this provides the department a great value from this training. Chief Jensen said he hopes this clarifies that they do receive reimbursements for the EMS runs to the zoo as well as in-kind opportunities.

COMMITTEE REPORTS

Development Committee: Councilman Hrivnak said the Committee met earlier tonight and discussed a stop sign request on Wildflower Drive. He said several citizens were present and the real issue is speeding vehicles on the street. He said Chief Vest was present and provided input to the Committee and the citizens will work with the Chief for increased enforcement in the area. *Next Meeting:* April 2nd, 6:30 p.m.

Marion Kruse, 8362 Wildflower Drive, said she does want to support her neighbors that were here to say that vehicles need to slow down but she disagrees with them about speed bumps. She said they put them in her last neighborhood and it made it a contest for drivers to see how fast they could go over them. Ms. Kruse said they are a maintenance nightmare and research shows they put a lot of wear and tear on cars. She said they are also a snow plow disaster. Ms. Kruse said while she wants to support her neighbors, she really likes the idea of better enforcement of the speed limit and giving out a few tickets some mornings so people are more aware of what is going on. She thanked Council for the opportunity to speak.

Finance Committee: No report. *Next Meeting:* April 23rd, 7:00 p.m.

Operations Committee: No report. *Next Meeting:* April 16th, 7:00 p.m.

Planning & Zoning Commission: No report. *Next Meeting:* April 24th, 7:00 p.m.

Powell CIC: No report. *Next Meeting:* April 8th, 6:00 p.m.

2012/2013 CITY COUNCIL INITIATIVE UPDATES

There were none.

CITY MANAGER'S REPORT

Mr. Lutz said he was notified that the State Financial Disclosure statement deadline has been moved back to May 15th and this year they can file them online.

OTHER COUNCIL MATTERS

There were none.

EXECUTIVE SESSION

MOTION: Councilman Counts moved at 8:50 p.m. to adjourn to Executive Session in accordance with ORC Section 121.22(G)(3), to discuss Pending Litigation. Councilman Lorenz seconded the motion.

Councilwoman Brenner asked if there is actually a threat of pending litigation that exists. Mr. Hollins said this is related to the CEDA potential litigation. He said they have had substantive threat. Councilwoman Brenner said that was 4-5 years ago and she is not aware of anything recent. Mr. Hollins said everyone has agreed to a standstill type of approach since that time. Councilwoman Brenner asked if that means there is no threat. Councilman Lorenz noted they have a motion and a second. Mr. Hollins said they have that type of agreement because two parties have made threats of litigation toward each other and rather than jump immediately to litigation they enter into these types of agreement as dispute resolution. He said it does not mean there is not a threat. Councilwoman Brenner asked when the last actual threat was made because as long as she has been on Council she cannot recall that they have been informed of an actual threat. She said she has to assume it was prior to that. Councilman Brenner asked if they had a threat just recently that might tie into this. Mayor Cline said they did not but there has been threatened litigation and that is stated within the motion. He called for a vote on the motion.

VOTE: Y 6 N 1 (N – Brenner)

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

VOTE: Y 7 N 0

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

VOTE: Y 7 N 0

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

VOTE: Y 7 N 0

DATE MINUTES APPROVED: April 16, 2013

Richard A Cline 4/23/13
Richard Cline Date
Mayor

Sue D. Ross 4/29/2013
Sue D. Ross Date
City Clerk



City Council

Jon Bennehoot

Sara Marie Brenner

Richard Cline, Mayor
Tom Counts

Mike Crites

Jim Hrivnak

Brian Lorenz