



City of Powell, Ohio
City Council

MEETING MINUTES
MAY 7, 2013

A regular meeting of the Powell City Council was called to order by Mayor Cline on Tuesday, May 7, 2013 at 7:30 p.m. City Council members present included Sara Marie Brenner, Tom Counts, Mike Crites, Jim Hrivnak and Brian Lorenz. Jon Bennehoof was absent. Also present were Steve Lutz, City Manager; David Betz, Development Director; Rob Rice, City Engineer; Chris Huber, Assistant Engineer; Mason Janczak, Staff Engineer; Megan Canavan, Public Information Office; 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.

Steve Lutz, City Manager, said that anyone present for the Sidewalk Program should address Council at this time. He said at the next Council meeting they will discuss the Resolution of Necessity for the sidewalk repairs. He said the document before Council tonight identifies the locations and deficiencies identified within the program. He said any issues brought forward tonight can be looked into before the next Council meeting.

Paul Stolly, 442 Sunridge Drive, said he was surprised when he received the notice. He said he has 6-8 sidewalk blocks in front of his residence and three need replaced. He said whoever is in charge of the program must be aware that the sidewalks are popping up because of where the trees were planted. He said he has two trees in front of his property and the three blocks needing replacement are pushed up by the roots of one of the trees and his concern is that two years from now he will be replacing those blocks and in another five years replacing the first blocks again. Mr. Stolly said he was the second house built in Lakes of Powell and he did not choose the trees that were planted. He said he had M/I Homes come back and pull construction debris out of that area and add soil so they could grow grass. He said there was very little dirt and mostly rock from the sidewalk to the curb. He said the trees that were planted are very root bound and most of the deficient sidewalks are caused by the roots of the trees planted in the neighborhood. Mayor Cline asked Mr. Rice how the City deals with the tree root problem.

Rob Rice, City Engineer, said within the City-run program they will do a root trimming and then replace the slab at the proper grade; that seems to last for a while. He said in certain instances they will remove a tree if they determine that it will be unstable if they trim the roots. Mr. Rice said if the resident "opts out" of the City program they can use other methods of repair including leveling.

Mr. Stolly asked if anyone has looked into the type of trees planted in their subdivision. He said it was not his decision to plant these types of trees. Mayor Cline said that was not the City's decision but was the decision of the builder as a part of their development plan. Mr. Stolly asked who makes sure the builder puts in the correct trees and sufficient soil in the sidewalk to curb area. He said he did his part by having the builder remove the debris and add dirt in the root area. He asked how they determine which neighborhood is chosen for the program because he knows of older neighborhoods with more problems. Mayor Cline said that is done on a rotating basis and they will get to those areas; the City looks at every neighborhood but cannot do all of the work at once because of the cost. Mr. Stolly said the residents are the ones paying for it. Mayor Cline said that is correct but they are not paying for all of the Staff work that goes into the program in advance. He said they all pay for that collectively through their taxes. He said they have looked at the root problem and have changed their ordinance to prevent that issue in the future.

Mr. Stolly asked who allowed the developers to put in these types of trees in the first place. Mayor Cline said he does not know what the ordinance called for at that time but that was ten years ago and they cannot go back and un-plant those trees. Mr. Stolly said he will continue to face this problem and be billed for replacing sidewalks into the future. Mayor Cline said he understands and City Council has tried to address that problem.

He said when the City does the work they do cut the roots and that has proven to be effective in preventing occurrence of this problem. He said sometimes the roots will grow back and if the tree is problematic, the resident can remove it. Mr. Rice said the City works with an arborist and they exercise as much caution as possible. He said the trimming does not work 100% of the time but he cannot recall a time when a tree died after the trimming.

Mr. Lutz said if it is an ash tree its life is very limited. Mr. Stolly asked who will be responsible if the tree dies within six months of root trimming. Mayor Cline said that is the homeowner responsibility because the tree is on their land but if the City does something that causes the tree to die they would be willing to entertain that question. Mr. Stolly said he suspects that the City documents this type of work. Mr. Rice said because this is an ash tree, they may remove the tree unless the resident wants it to stay. Mr. Stolly said ash trees were used throughout this section of the neighborhood; a lot of them are struggling but his are doing well. He said it is a pretty good sized tree and it will cost more for him to replace the tree than the blocks of sidewalk. He said this causes him many concerns. Mayor Cline suggested that he contact City Staff so they can put him in touch with the arborist and he can get advice to see if it makes sense to take preemptive action on the tree and if there is a way to trim its roots. Mr. Stolly asked about replacement versus leveling and the difference in color of the blocks. Mayor Cline said if the block is marked for replacement then replacement is the best option and those blocks would be new concrete.

Heather Smith, 541 Salisbury Drive, said her concern is about the sidewalks as well. She said the notice identified several options: participate in the City program and choose to pay the cost within 30 days of the public hearings instead of having the costs assessed to their property, or "opt out" of the program. She asked when the residents will know the total amount to pay. Ms. Smith said the drainage runs under the block to be replaced and she wants to make sure the program will cover any damage to the drainage. She said the dirt is very shallow in that area. Mayor Cline said in general, if the City creates damage, they are responsible for it. He said in this circumstance, he would have to know the facts. He said once the work is completed the residents will know the exact cost and they will be given the opportunity to pay the lump sum or choose to have the costs assessed. Ms. Smith said she does not want to pay for it ahead of time until she knows when the work will be done.

Burak Ergezen, 468 Sunridge Drive, said he has two blocks listed with vertical separation of ½" on one side and less than 1" on the other side. He said the cause is the ash tree roots. He said the separation is really not visible when one walks by and he wonders if it is necessary to spend that much money to fix that small separation. He said he has five ash trees and this one is about to die and they are the actual problem to be addressed before they spend City resources. Mayor Cline repeated the response given to Mr. Stolly about how the City deals with tree roots. He said the amount of separation is based on safety factors. Mayor Cline said it sounds like one tree is currently involved but the others may cause issues in the future so the property owner is free to do that and he may want to do it now rather than wait until the roots impact the sidewalk. Mr. Ergezen asked about the City's removal and replacement of ash trees. David Betz, Development Director said they have not had funding in the budget for several years for the "Share the Cost" Tree Program. He said it was a good option to assist residents who need to replace trees. Mayor Cline said under that program the resident and the City each paid 50% of the cost of replacement of street trees but due to economic concerns they have not been able to fund that program for the last 4-5 years; there is currently no funding for the program. Mr. Ergezen said he has contacted a couple of contractors in terms of pricing of replacement versus leveling and this block is perfectly square and could be leveled out. He asked if the Engineers looked at that option to cut costs. Mr. Rice said if the work is part of the City-run program and a tree root is involved, the City trims the tree root and replaces the sidewalk. He said they do not do leveling when a tree root impacts a sidewalk. He said the property owner may determine they want to "opt out" in such a situation so they may proceed with leveling. Mr. Rice said that is an option but the sidewalk will still have to meet the City's grade alignment standards which are ADA requirements. He said they trim the roots within several inches of the sidewalk, remove the slab, and remove the tree roots under the slab; if the roots are left under the slab they will eventually decay and the slab will move. He said the slab requires a proper base. Councilman Hrivnak said the slab will not likely lay down flat until the roots under it are removed. Mayor Cline said the City looks for the least expensive action that will adequately address the problem and the Staff recommendation to replace the slab tells him that an attempt to level would not be successful or would only be successful short-term and the problem would recur before the useful life of the sidewalk expired.

Hearing no further comments, Mayor Cline closed the Citizen Participation session.

APPROVAL OF MINUTES

Mayor Cline said the City Clerk has requested that Council defer approval of the minutes of April 16, 2013. He said the last meeting was long and she would like an opportunity to do some more proofreading. There was no objection and the approval of the minutes was deferred to May 21, 2013.

CONSENT AGENDA

<u>Item</u>	<u>Action Requested</u>
• Request for TREX Liquor Permit (D1, D2, D3) Yabos Powell LLC dba Yabos Tacos, 4046 W. Powell Rd.	<i>Waive Request for Hearing</i>
• Monthly Building Report (March)	<i>Receipt of Electronic Report</i>
• Monthly Development Report (March)	<i>Receipt of Electronic Report</i>
• Monthly Financial Report (March)	<i>Receipt of Electronic Report</i>
• Monthly HDPI Report (March)	<i>Receipt of Electronic Report</i>
• Monthly Police Report (March)	<i>Receipt of Electronic Report</i>

MOTION: Councilman Counts moved to approve the Consent Agenda as published. Councilman Hrivnak seconded the motion.

VOTE: Y 6 N 0

SECOND READING: ORDINANCE 2013-15: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 67.49-ACRE TRACT, MORE OR LESS, TO THE CITY OF POWELL.

Mr. Lutz said this is an annexation ordinance for the southwest corner of Home Road and Steitz Road. He said this development is proposed for single family homes but they do not have a Zoning plan at this time because there were some sewer issues being worked on by the developer. He said those issues have been resolved and the zoning will go before Planning & Zoning in the near future. Mr. Lutz said there was a question about including this land in the LCIFA at this time and this ordinance does not include that wording. He said the current property owner does not want the developed land to be included within the authority because they will flip the land to a builder who will develop the land. He said the builder approves of putting within the zoning ordinance a condition that they join the LCIFA.

Councilwoman Brenner asked what they will do in the future to make sure the zoning lines up when these ordinances come through. Mr. Lutz said this annexation and the last annexation are the only two he can remember in his 15 years at the City. He said it is typically not a problem and the last development was so large that it created a lot of meetings with the Planning & Zoning Commission. He said this development had a delay due to a sewer issue that has now been resolved. Councilwoman Brenner said assuming it has been resolved, where are they in the time frame of having the annexation done. Mr. Lutz said Council is at the time limit established by the State of Ohio. Mr. Betz said this will go through P & Z in June. Councilman Lorenz said he is the individual who has been pressing for this to be added to the LCIFA. He said he will be looking for that as a condition of zoning and whatever development is contiguous to the area will impact the LCIFA and they should be contributing to it. He said the LCIFA board concurs with that.

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

MOTION: Councilman Counts moved to adopt Ordinance 2013-15.

Councilwoman Brenner asked if this is for single family homes. Mr. Lutz said this is for annexation of property for a development of single family homes.

Councilman Hrivnak seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2013-20: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2013.

Mr. Lutz said they are closing out a grant received from the Ohio Department of Natural Resources and they did not have the money budgeted in 2013. He said it expired in 2012 so they are requesting the \$115 to close out the grant.

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

MOTION: Councilman Counts moved to suspend the rules in regard to Ordinance 2013-20. Councilman Lorenz seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2013-20. Councilman Crites seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2013-21: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 2.75-ACRE TRACT, MORE OR LESS, TO THE CITY OF POWELL.

Mr. Lutz said this is the first reading and Staff is asking that they table the second reading of this ordinance to June 18th when the zoning component of this annexation will appear before Council. He said this property is off of Sawmill Road and is part of the proposed Epcon condo development.

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

MOTION: Councilman Counts moved to table Ordinance 2013-21 to have its second reading at the Tuesday, June 18, 2013 Council meeting. Councilman Hrivnak seconded the motion.

VOTE: Y 6 N 0

PRESENTATION: 2013 STREET MAINTENANCE AND REPAIR PROGRAM

Mr. Lutz said this will not be lengthy presentation unless City Council requests so. He said they have all been through the program in the past and this is the yearly report from the Engineering Department that evaluates the conditions of each of the streets, rates them and identifies streets for repairs. He said this year they have \$525k budgeted for the program. Mr. Lutz said in the basic contract the Engineers have estimated it will cost about \$485k and they will bid three alternates. He said the proposed street program includes some mill and overlay of streets, crack sealing to extend street life, slurry seal and as they mill and overlay they are required to redo curb ramps. Councilman Counts said his biggest concern is whether they are winning or losing the battle. He said the Summary of Street Ratings shows that "excellent" has gone down a little and the "poor/very poor" has gone up a bit. Mr. Rice said they are losing the battle. He said they do projections each year and the graph shows the changes and the amount of funding they plan for this program over the next ten years. Mr. Rice said they continue to fall behind and they are doing a considerable amount of maintenance to extend street life: full depth cut-out patches, slurry seal and crack seal. He said they are reinstituting slurry seal because it extends the life of the streets. He said residents don't tend to like it because it is rather rough but it eventually settles down and smooths out. Mr. Rice said there are streets in need of attention that can only get mill and overlay.

Councilman Lorenz asked if once Council approves a plat and the streets go in, does it go through a complete inspection by the Engineers and once it passes final inspection it is on the City's dime. Mr. Rice said when they construct the street it is thoroughly inspected to ensure it is meeting the required standards. He said sub-standard work must be removed and redone. He said when the work is satisfactory they bring the conditional acceptance of public improvements to Council for approval. Mr. Rice said that conditional acceptance begins a clock ticking on the maintenance period of a minimum of two years. He said if the punch-out is done within that period and it is satisfactory, the City can take final acceptance of the roadways. He said if it takes them longer the City can extend the period. Mr. Rice said all of the streets within the Street Program have been accepted. He said the newest streets in the program are within Golf Village and they are planned for continual maintenance. Mayor Cline asked how long they should expect a new road to last. Mr. Rice said a new local residential street lasts 15-20 years before needing mill and overlay but it is necessary to have continual preventative maintenance along the way.

Councilman Hrivnak thanked the Engineering Staff for developing the Street Program; he said they perform the work in-house and they do a fine job each year.

COMMITTEE REPORTS

Development Committee: Councilman Hrivnak said they met this evening and discussed bikepaths and connectivity as part of the capital improvement projects. He said they continue to work with the people on Wildflower Drive; what started off as a stop sign request has become a traffic calming issue. He said they are on Step 3 of the City policy and need to get agreement from the neighborhood residents that this calming is what they want. *Next Meeting:* May 7th, 6:30 p.m.

Finance Committee: Councilman Counts said they met two weeks ago and heard a presentation on potential bonding of the recently approved capital improvement projects. He said the recommendation was that they consider two separate issues because there is no way they can put all of this money out in one issue. He said the key is to develop a timeline and program for the improvements they consider as going forward. He said they can then figure out how the issues lay out. He said their next meeting will be a combined meeting between Development and Finance Committees where they will look at Staff's proposal for how they get the improvements started and fund them in a logical and prudent way. *Next Meeting:* May 14th, 7:00 p.m.

Operations Committee: Councilman Lorenz said at the last meeting they had several items on the agenda but only talked about and received more information from Ms. Sirivolu about a dog park. He said they talked about possible locations, costs, separating large from small dogs, and viability. He said it is on the radar and they will continue to look forward to master planning for Seldom Seen Park. He said it may not be the place to put it but it is something to consider when planning. He said they will meet with residents about it later in the year. He said at the next meeting they will discuss a possible Community Garden but it is too late to plan for this year. *Next Meeting:* May 21st, 6:30 p.m.

Planning & Zoning Commission: Mr. Betz said after several years of lower development they are now swamped. He said they have two meetings this month and on tomorrow's agenda there is a sketch plan for single family condos on the Powder Room property, redevelopment of the Auto Assets/Germain Body Shop property, two new buildings in Wolf Commerce Park and the plat for Golf Village, Section 7, final section, where they discussed a temporary pathway. *Next Meeting:* May 8th, 7:00 p.m.

Powell CIC: Councilman Hrivnak said they are currently working on one incentive agreement for an engineering firm considering a move into the City. He said the Incubator will soon be filled up; a real estate broker will move in there during their start up. *Next Meeting:* May 28th

2012/2013 CITY COUNCIL INITIATIVE UPDATES

There were none.

CITY MANAGER'S REPORT

There was none.

OTHER COUNCIL MATTERS

Councilwoman Brenner provided an update on the polls which showed all of the Charter Amendments passing except Issue #3 regarding Executive Session.

MOTION: Councilman Counts moved at 8:25 p.m. to adjourn to Executive Session in accordance with ORC Section 121.22(G)(3), to discuss Pending Litigation. Councilman Hrivnak seconded the motion.

VOTE: Y 6 N 0

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

VOTE: Y 6 N 0

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

VOTE: Y 6 N 0

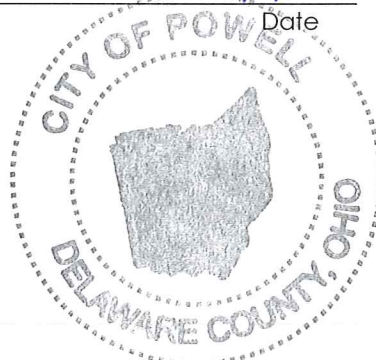
MOTION: Councilman Hrivnak moved to adjourn from Regular Open Session at 9:45 p.m. Councilman Lorenz seconded the motion.

VOTE: Y 6 N 0

MINUTES APPROVED: May 21, 2013

Richard Cline 6/3/13
Richard Cline
Mayor Date

Sue D. Ross 6/4/2013
Sue D. Ross
City Clerk Date



City Council

Richard Cline, Mayor

Jon Bennehoof

Sara Marie Brenner

Tom Counts

Mike Crites

Jim Hrivnak

Brian Lorenz