



City of Powell, Ohio
City Council

MEETING MINUTES
MAY 19, 2015

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

MOTION: Councilman Crites moved at 7:00 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G) (1), Personnel Matters (Board & Commission Interviews). Councilman Lorenz seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Counts moved at 7:30 p.m. to adjourn from Executive Session. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

OPEN SESSION
CALL TO ORDER/ROLL CALL

A regular meeting of the Powell City Council was called to order by Mayor Jim Hrivnak on Tuesday, May 19, 2015 at 7:35 p.m. City Council members present included Jon Bennehoof, Frank Bertone, Tom Counts, Mike Crites and Brian Lorenz. Richard Cline arrived at 7:55 p.m. Also present were Steve Lutz, City Manager; David Betz, Development Director; Chris Huber, City Engineer; 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.

Bob Dotson, 519 Commons Drive, said he is a resident of Powell and a charter member of the Olentangy Noon Lions Club. He provided handouts to the Council. This club was chartered in June 2013 and is slowly becoming known in this area. They have members from local businesses and schools but they have no members from Local government or the Police Department. They have been active in Powell events and the Council for Older Adults. He asked them to consider joining the newest service club in the area which meets on the first Tuesday of the month at noon at the Powell United Methodist Church.

Frances Sony, 173 Wagon Trail South, said she is here to speak of an ongoing problem with recycling bins. The bins do not have lids and the contents end up blowing all over the street. She suggested that in their contract with Rumpke, Council request recycle bins that come with lids. She said she learned that residents can rent a larger rolling bin with a lid. Ms. Sony urged them to work with Rumpke to either have bins with lids or be required to use the larger recycle bins that have lids. She provided a sample of a bin with a lid that would be helpful to keep the trash enclosed so it will not blow around the neighborhood.

Steve Lutz, City Manager said they went out to bid last fall and in the contract specs and one of the items was to have recycling bins with lids. Rumpke was the only hauler that submitted a bid and they did not offer recycle bins with lids. He suggested that the City's Communications Director inform the public about the problem and ask that they place heavy items on the top to prevent the items from blowing away.

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

APPROVAL OF MINUTES

Two corrections to the minutes were noted.

MOTION: Councilman Counts moved to approve the minutes of May 5, 2015 as corrected. Councilman Crites seconded the motion. Councilman Bennehoof abstained from the vote. By unanimous consent of the remaining members, the minutes were approved.

CONSENT AGENDA

Item

Departmental Reports – March 2015

Action Requested

Receipt of Electronic Report

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

RESOLUTION 2015-08: A RESOLUTION SPECIFYING THE MUNICIPAL SERVICES TO BE FURNISHED TO 43.8+/- ACRES, MORE OR LESS, WHICH IS PENDING ANNEXATION TO THE CITY OF POWELL.

Mr. Lutz said this is for the proposed Powell Grand development is currently before the Planning & Zoning Commission for review. The City entered in to a pre-annexation agreement for this property on April 19th. By State law the City must adopt a Resolution of Services and forward it on to the County Commissioners, indicating that the City will provide typical municipal services if the property is annexed into the City.

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

MOTION: Councilman Crites moved to adopt Resolution 2015-08. Councilman Bertone seconded the motion. By unanimous consent, Resolution 2015-08 was adopted.

SECOND READING: ORDINANCE 2015-18: AN ORDINANCE APPROVING A ZONING MAP AMENDMENT AND FINAL DEVELOPMENT PLAN FOR THE DEVELOPMENT OF 47 SINGLE FAMILY CONDOMINIUM HOMES ON 8.75 ACRES OFF OF BEECH RIDGE DRIVE AND TO CHANGE THE ZONING MAP FROM PC, PLANNED COMMERCIAL DISTRICT AND R, RESIDENCE DISTRICT TO REFLECT THIS PROPERTY TO BE PR, PLANNED RESIDENCE DISTRICT.

Mr. Lutz said this matter was discussed and reviewed at the last Council meeting. A brief review will be given by Mr. Betz this evening, there will be more information about the public road discussion at Development Committee and representatives of the developer are here to address comments.

David Betz, Development Director, indicated the location of this property off of Beech Ridge Drive and the surrounding uses and zoning classifications. The southern part of the property is zoned Planned Commercial and the northern part is zoned Residence District. The proposal for this site is for 47 single family homes set up in a Condominium Association. The association will maintain the private streets and grounds. Mr. Betz indicated the entry off of Beech Ridge Drive. There is a gated entrance and a connector road that will go west to provide access to Grace Drive. Mr. Betz provided renderings (Exhibit A) of the site plan, lot layouts, entry, architectural drawings and paver driveways. A color rendering of the streetscape of the proposed homes in relation to a streetscape of the adjacent homes in Olentangy Ridge was also provided. He described the materials and landscaping on the site. The drawings included several different types of building elevations. He said the site plan shows 18 single family condos backing up to 17 single family home sites. Councilman Cline arrived at 7:54 p.m.

Mr. Betz said P & Z has had several meetings throughout the development process for this site. They took into account traffic studies, traffic concerns, and construction of the road to allow access between Beech Ridge and Grace Drive. They looked at the 11 issues the code says they must consider as a part of the review and the Commission had a 6-0 vote in approval of this development plan.

Mr. Lutz said the Finance Committee was asked to look at the connector road that goes between Beech Ridge Drive and Grace Drive. They met with representatives of the church and they are willing to donate their portion of the land to the City to build the connector road. The Finance Committee looked at ways to fund the construction and if this development is approved it will generate \$2.6 million to the TIF. The Finance Committee recommended they construct this road with a portion of those TIF funds. The construction would cost approximately \$500k. They suggested they also use TIF funds to pay for a traffic signal at Grace Drive and Powell Road to facilitate turning movements.

Councilman Counts clarified that it is the increased value of the structures that are being built that will be used to generate the tax dollars that will pay for the construction of the road and the traffic signal. Mr.

Lutz said that is correct and at this time this property does not generate any money. The City's Finance Analyst put together an analysis of just this development and the tax dollars with will generate.

Councilman Bennehoof asked is the church is donating the land for the road because the road will provide some value to the shopping plaza they own. Mr. Lutz said there were two reasons: the church is a part of the community and they understand that this would be a part of a solution to help with traffic and as owners, this road would help their property increase in value. Councilman Bennehoof said currently there is a "path" that is in good repair but it is not a completed road. He confirmed that all of the connector road would be completed in Phase 1 and paid for by the TIF.

Councilman Lorenz said by taking action on this plan they are creating a commercial island between the new road and Powell Road. He asked if they considered a couple of retail buildings on that land as a part of their financial analysis. Mr. Lutz said because of their conservative nature, the City did not include the development of those sites as a part of the financial analysis.

Todd Faris, Faris Landscape and Design, asked to point out the positives of this development:

- Decreased traffic situation from the current approved use
- A stable transition from single family to commercial
- Significant tax base to TIF District
- Alternative housing type for the Downtown area
- Extension/connector to Grace Drive
- Empty nesters expected in these homes so there will be a surplus to the Schools
- Condo development with private streets that will not be maintained or serviced by the City

Len Pivar, Arlington Homes, said they are proposing a custom home community of single family detached homes with a very high design standard. The price is projected to start in the low \$400k and go well into the \$500k's. The house design and lot sizes are aimed for empty nesters. The price point will enhance the value of neighboring homes. The comments he has heard about density are misleading to those who have not seen all of the information; it is clear when looking at the rendering shown that the proposed homes are very similar in density to the existing homes adjacent to them. Mr. Pivar said they started this project two years ago and it has evolved through Planning & Zoning input and resident comments. He understands a new Comprehensive Plan is being developed and some would like to bump this project out six months until it is completed. He started this project far before that update started and this plan is in line with their concept. This is a financially challenging site due to its shape, the demolition of multiple structures and moving a large lake. Their biggest challenge is that the site is heavily contaminated with hazardous lead dust. This is a hazardous condition where rain carries the dust horizontally and vertically. At this time the dust is not in the water table or on the adjoining properties and if it was he would not purchase this site. Mr. Pivar said the exact amount of contaminated soil to be removed is an educated guess and that presents a significant financial risk on their part. He cannot delay this project for six months or more until the Comprehensive Plan is finished. They feel that by any logical or objective standard this development is the right thing for the City of Powell.

Councilman Lorenz said he always tries to compare developments in process to current developments. He said "The Moors" off of Muirfield Drive seems to be similar to this proposal. He said it sounds like the owners of these homes will be responsible for all within the pad and the association will only plow the road and mow the grass. Mr. Pivar said the Condo Association will maintain the exteriors of the buildings, the roadway and the landscaping/grounds. They have designed the exteriors of the homes so the maintenance will be very low. Councilman Lorenz asked if they will plow the residential driveways. Mr. Pivar said that is to be determined. Councilman Lorenz said they have discussed setbacks and they seem to be fairly standard at 10'.

Mr. Faris said the rear yard setbacks to the east are 30', to the north 40', and by the commercial it is 25'. There is significant separation between the units. Councilman Lorenz asked if they are deed restricting these homes to a certain age. Mr. Pivar said they are not; there is nothing to draw people with children. In this price point there are plenty of homes around Powell that would make more sense to buy if one has children. Mayor Hrivnak asked for square footage numbers. Mr. Pivar said they will range from 2,400 sq. ft. to 3,000+ sq. ft. They will put in basements. The majority will have first floor master bedrooms. Mr. Pivar said he has built for many times and very few have been high-end ranches due to the expense. Most people

want to live on the first floor and accommodate guests on the second full or half floor.

Councilman Bennehoof asked if this is going to be done in two phases. Mr. Pivar said the drawing shows three phases with the first phase as the main road and watershed; they may do one or two other phases depending on how quickly they move. Councilman Bennehoof said he was very concerned about the pond but has since learned that it was built as just a cistern and this plan will provide quality and detention. He said he assumes they have all of the appropriate permits. Mr. Pivar said they do. Councilman Bennehoof asked if there is any liability on the former tenant with respect to the lead dust. Mr. Pivar said that is between the current landowner and the Powder Room. Councilman Bennehoof said he likes and approves of the fact that the density is on the low end of what is allowed. Mr. Betz said the adjacent lots are a density of about 3 du/acre; as one goes further it is about 2.5 du/acre. Councilman Bennehoof said that is a good transition between residential and commercial.

Councilman Crites confirmed that the 18 properties immediately contiguous to this property have a density of 3.56 du/acre. Mr. Betz agreed. Mayor Hrivnak said he noted that conditions 4 & 6 on the ordinance have been struck. Gene Hollins, Law Director, said they left the conditions in but struck them because they have been fulfilled to satisfaction. They were included because that is how they received the recommendation from Planning & Zoning.

Mayor Hrivnak opened this item to public comment.

Greg Russell, 4127 Seldom Seen Road, said he lived at his home for about 65 years and he has seen a lot of changes. There are a lot of condo developments of different types on his road and Epcon is now building single units. He said this development has less density than anything on Seldom Seen Road and is a fine looking project. He sees it as a tax base for the Olentangy Schools. In the past 18 years his property taxes have doubled due to school taxes and if the developer can sell these at this price point he should go for it. A lot was said at the last meeting about a referendum that was passed and it was his understanding that the change was banning high density housing in the Downtown Business District. Mr. Russell said he has a different outlook: that was passed mainly because someone was trying to build a three-story apartment building next to the railroad tracks and if that developer had tried to build condos there would not have been a referendum. The referendum was for the Business District and this is outside of that district so it does not apply anyway. Mr. Russell said people are concerned about displacing the deer but in his many years in this area no one cared about the deer when their developments were going in. To turn down this development because of the deer would be ridiculous. Mr. Russell said this is a fine development and he sees no reason to turn it down. People tried to prevent a big box store from going in on Sawmill Parkway and they ended up in a law suit. They lost a lot of Township money and they still ended up with a big box store that is a Target instead of a WalMart.

Millie Dozier, 4421 Seldom Seen Road, said she has lived in her home for almost 69 years. When she and her husband first came here Seldom Seen was a dirt and gravel road, there were a lot of corn fields and very few houses. It is now a paved road with beautiful homes in place of the corn fields. This development would be a place that Powell could be proud of. Ms. Dozier said she thinks that the people who would buy these homes would pay City taxes and that would benefit Powell as well.

Robin Menker, 1215 Wallean Drive, Westerville, said she is here to represent the empty nesters that everyone is talking about. She said she came to support this project because she and her husband are planning their retirement and are looking for just this type of development. They want somewhere that they will not be so dependent on their cars to visit restaurants or coffee shops and something that is fairly new and low maintenance. Ms. Menker said when she heard about this project she had to come and put her support behind it.

John Dozier, 4385 Seldom Seen Road, said he has lived at his home for 62-63 years. This is a good project because any time they can add any type of road in the downtown, it will help. He spent a lot of time at the gun shop when it was there and many people complained about the noise, lead and other things. This allows a chance to clean it up and they should do that.

Jane Hart, Worthington, said this is a great project and the City should be willing to accept it. She rents at the moment and she is looking for something like this in this area that is something she can afford.

Edwin Grabisna, 278 Glen Village Court, said he has no doubt this developer wants to create a first class project but he is not in favor of it. His home is within five houses from this site. He is concerned about the water issue when they move a very large pond; they are making a two-acre pond into a one-acre pond. There was confusion at a prior meeting about whether the current pond is spring fed and that has not yet been resolved. Mr. Grabisna said there is a lot of lead in that area and they will have to move a lot of dirt and that may affect the runoff. He asked if there are any plans to test the run off. In theory they are not supposed to make the water worse but they have to do testing before and after to make sure that what they do in theory actually happens. Mr. Grabisna said he is also concerned with the density. In one of the zoning meetings they said this would be the highest density of a lot of the other condo developments in the area. This is over 5 du/acre and most of the others are around 4 du/acre. Olentangy Ridge is about 2.5 units per acre so this is about double the density. Mr. Grabisna said his last concern is that initially they talked about getting \$200 per sq. ft. for the homes. He did some research on the Delaware County Auditor website and the sales numbers from January 1, 2014 to present show the highest price per sq. ft. was in only two subdivisions at \$160 per sq. ft. There were three other developments in the \$140's and the others were lower. With the due diligence the City has done, they must be assuming this development will have the highest cost per sq. ft. of any other development in Powell. Mr. Grabisna said he is a little skeptical about that. He asked what will happen if they do not get that price. The nightmare scenario is that the project starts, they find out that they can sell the units around the pond but not those near the parking lot or those that are on an area that was once a pond. They could end up with a development that is just a parking lot when they look out of their back yards. Mr. Grabisna asked the Law Director if someone on City Council lives fairly close to the development, within 5-6 houses, should that person recuse himself due to a conflict of interest. Mayor Hrivnak said several questions have been asked and they will respond to all of them at the end of the comment period.

Leif Carlson, 178 Beech Ridge Drive, said he is also the current President of the Olentangy Ridge Civic Association. He said he attended all of the zoning meetings but missed the first reading of this ordinance. He has met in private meetings with the builders and it was interesting that they has so much more resident attendance at the zoning meetings. Changing from single residential and business with this plan was a compromise where they are giving up some things and gaining others. Mr. Carlson said many of the residents asked pointed questions and seemed to be satisfied with the answers they received. The neighborhood is probably 50-50 on this proposal. Mr. Carlson said the zoning change is probably a "win" but they have to determine in this development is the right one for their development and Powell. The concerns they have always had are whether moving the pond will affect their neighborhood and they have seen the plans. The 10-15 residents that live along the lake on Glen Village Court just want to make sure the drainage will be correct after the development is built. This development will affect their lives and they want to be protected if the development does not pan out. He asked what will happen if the lead clean up does not go as well as they think it will.

Mr. Carlson said he does not believe Council will approve a high density project like this because Staff said this is the highest density Powell would ever approve. The residents want to make sure there is a bond so the clean-up is completed and they don't want to go through months of construction for a development that goes under. Mr. Carlson said he cannot sum up all of the opinions of their residents but he wanted to give Council the general idea. They are concerned about the pond, bonding if the development fails so they do not look at abandoned property, and the connector road. The road will spur development out front but he wonders if the bank approves of the Church donating the property. The Church wants to donate the property because they want to sell the outlots. Mr. Carlson said the whole project affects the Beech Ridge Drive entrance. This development will spur further development and the outlots will develop quickly. That is something their residents will also have to look at.

Brian Ebersole, 215 Squires Court, said at the first reading no one on Council was prepared to comment on this issue so he is back to hear their response. He proposes that out of respect for the process and the citizens of Powell that want to comment on what Council has to say, this should go to a third reading to give people that opportunity. He is prepared to go on the defensive to say he is against these condos. The Charter Amendment stops high density housing in the Downtown Business District but the issue was not just about one apartment complex; it was about all condos, apartments and high density housing in the Downtown area. Mr. Ebersole said Liberty Green condos were affected by the passage of the Charter Amendment and it was passed because there is a major traffic problem in the downtown area. Putting

47 condo units on top of each other on a 8.5-acre site will just add to that problem. It is not fair to compare what could be there on commercial land to this project; there is nothing on the site now so adding these condos will add to the traffic problem. They are doing traffic studies to try to stop this type of thing.

Mr. Ebersole said this land is right next to the Downtown Business District and is currently zoned to not allow high density housing. Part of it is zoned for residential; if it was meant to be a residential type of area it would not require rezoning. This brings a lot of people in a small area where there is a traffic problem. It is also clearly rezoning land as a legislative issue and a vote for this ordinance is saying they personally want these condos here. Mr. Ebersole said the people want Council to represent the City of Powell, the voters of Powell, who said on November 4th they do not want high density housing in the Downtown area. That includes this area that is not even zoned for high density housing at election time. The TIF district has been mentioned and only a small amount of school money will go to the schools; all of the tax from the land improvement is not going to the schools because it is going straight to the City. Mr. Ebersole said that is how a TIF works. It is naïve to believe that 3k sq. ft. homes will sell for \$300k to empty nesters who want to downsize because that is the average size of homes in Powell. People will just find a way to get into Powell and add kids to the school system and there is nothing to stop that. Mr. Ebersole said their team of petitioners are really good at the process now with the petitions, getting an issue on the ballot and they have the opportunity for referendum petitions if this were to pass. He said he wants them to consider that three of the Council members are up for re-election in November and in voting for this they must consider the fact that this issue can be right next to their name. As they go through their campaign how they vote on this can be scrutinized.

Pat Kijewski, 9030 Francine Lane, said her mother is Gertrude Trowbridge and her family has lived in Powell for 35-40 years. It has been clearly stated that the referendum was for high density. If they look at the map and the close up renderings of this development, the homes are really close to one-to-one with the existing homes except on the curves. She is 68 and if she was going to buy one of these houses she would not be out on the roads during the peak hours to drive children to school. She does not go out during those hours in her current neighborhood. Ms. Kijewski said it does not make sense to say empty nesters will create more traffic problems when they don't have any need to be out on the roads during peak hours. This is currently empty land and Mr. Pivar did not pull any punches in talking about the lead issues. One gentleman was concerned about how they will know what they will get; lead is underneath the ground and it is not in the water table or surrounding properties yet. Ms. Kijewski said the developers have loved and taken care of her mother for 2.5 years of this political crap that goes on in this city and she is not talking about City Council. If the developer walks away from this the lead will be remediated only if they make her family responsible and they will end up homeless because they do not have the money. She said they can guess where the lead will go. The developers are willing to take on the problem and fix it and engineers and EPA people will be there to make sure the land will be free and clear and the problem will be gone.

Ms. Kijewski said they have lost two renters in the house and lost the Powder Room because they know this development was pending. Two years later they are sitting here with an empty property that costs \$400 every time it needs to be mowed, more than the widow's pension her mother receives. Ms. Kijewski said her family has few choices. If the developers cannot get this through for the betterment of Powell and they walk away from the table, they do not know who will approach them to buy the land now that they know there is a lead problem. They have had another gun store approach them, 24-hour storage units with automatic gates and bright lights have approached them, and they have been called about a wine license so someone can start another restaurant. That would cause traffic in and out that is way more than that from empty nesters. Ms. Kijewski said personally she is offended that someone from Powell would threaten the members of Council with election votes. She said she and her family members and friends vote and it is insulting to treat City Council in that way.

Lois Dozier, 4385 Seldom Seen Road, said she resents the fact that three of the Council members were threatened by this person. She does not appreciate that and it was a low blow. Ms. Dozier said she is 71 years old and she no longer enjoys driving or going into traffic and it will be the same if they have seniors living in this development. If something else is built on this property they will have much more traffic. She also believes that the connector road will save someone's life because of the hazard when one tries to get out onto Powell Road.

Tom Happensack, 127 Kelly's Court, said it is not about us versus them. It is about what the Powell voters voted in the fall and they are here to give them a voice. It is obvious that people showed up to support the current land owner and one of them is from Worthington and he is not sure how many of the houses on Seldom Seen are in Powell and vote here. He appreciates that they are here to support her and that she wants to sell her land but her land does not trump the voters. He is sorry that they are looked at as being anti-development because they are not. Mr. Happensack said they ran a campaign to stop high density housing in Downtown Powell and the intent was traffic. This is 47 units and the apartment complex was 64 units. Liberty Green was 30 units and the proposed development by the Powell Pool is 40 unit. They are talking about all of these infills that are going to be high density if they do not stand up. Mr. Happensack said that is what the vote was about. They are taking residential property and making it planned residential so they can put in high density and that was not the intent of the vote. This is outside of the property covered by the Charter Amendment so they can vote to change the zoning but that must be done in a legislative act. Mr. Happensack said he believes that legislative act, the 56% of the people that voted, regardless of how they feel about this particular complex, will be hard for City Council to defend. They were involved in the discussions and they know the intent; they can get legalistic and tactical and go around "back-dooring" things all day long and he cannot stop them. He said when they fix the Downtown traffic they can talk about putting in all of this high density housing but it is ridiculous to say they cannot fix it so they should just keep jamming stuff on top. A "yes" vote tonight is that what they are doing. They don't even have a plan to solve it but they will go ahead and build.

Mr. Happensack said this is a high density development that jams a lot of houses on a very little property and that is the definition of high density. It has been said that empty nesters will live here and they will be retirees that will generate very little City income tax because they are living off of retirement income. He came from a district that had a lot of senior residents and he is not against that. That district had trouble passing school levies because the older people did not want to pay the property taxes. Mr. Happensack said he is generalizing but there is history to show this happens and he does not blame them. This community has grown to the number 5 community in the Midwest because it is a family, residential area with great schools and great parks. Families will decrease over time because the older generation will be the bigger part of the population but there will still be families who are looking for these things. Mr. Happensack said they can get scared and try to create a senior retirement community by putting in condos that they theorize are only for empty nesters but they aren't willing to guarantee that. His final message to Council is that 56% of the people sent an intent message about traffic and the school systems and yes, this is outside of the area affected by the Charter Amendment. They did not want to paralyze an entire city. A vote is a vote and it has not been turned over; even if it is turned over on a technicality, the voters voted on the intent of it, not the technicality.

Patricia Young, 4663 Houston Pond, said she and her husband are planning retirement and looking at this community as a luxury, low maintenance home that is within walking distance of restaurants and shopping. It is a safe gated community for empty nesters.

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

Mayor Hrivnak asked that the developer and representatives answer some of the questions from the public.

Tom Warner, Advanced Civil Design, Civil Engineer, said they have researched the stormwater and the moving of the pond. There are very minor wetlands so they do not have to be relocated. They have received a US Army Corp nationwide permit. There is a small amount of stream (26') that is allowed to be filled. The pond that currently resides on the land is not a retention basin; it is a big cistern that collects water. When it rains the water just bleeds right off of the pond. The pond they will be installing is a capturing pond that will provide water detention and water quality that removes suspended solids from the water that will be directed off of the property. Mr. Warner said all water that enters the property will go through the stormwater system and directed off of the site. They will continue to have water going into the Glen Village pond but it will be in a more controlled manner so it is released over time. It may flow into the stormwater pipes over a longer period of time so there is no flooding downstream. Right now all of the water from the existing pond is directed to the existing outlet. Councilman Lorenz asked if they will put an orifice on it that controls the flow of the water and that filters the stormwater so the solids drop down so it is purified before it is eventually released. Mr. Warner said the current pond is not a jurisdictional

water so the 871 sq. ft. of wetland on the entire property has been permitted to be removed. The pond is also not a jurisdictional water. There is currently no water quality and the new pond will provide that and runoff volume control.

Councilman Cline asked about a concern he heard about the volume of the water. It sounds like they are concerned that if it is dry the pond on Glen Village will be deprived of water or in a particularly wet time it could be in jeopardy of flooding. Mr. Warner said that will not be the condition because the stormwater will be more controlled over a longer period of time so there is not a rush of water to that pond. Part of the requirements for the EPA certificate is to determine the water control at a certain rate over 24 hours and the quality of that water. Councilman Cline said this sounds like a 24-hour control rather than a 1-hour storm control. Mr. Warner agreed.

Mayor Hrivnak said there was a question about lead testing before and after removal. Mr. Pivar said they will have an engineer who will test on site. Sampling will be done and the contaminated dirt will be stabilized and hauled off site. They will go through the EPA to receive a "No Further Action" letter saying that the site is clean. This type of approval makes the banks more comfortable loaning the funds. There is about \$80k in additional engineering costs to obtain that letter and it is the final say.

Councilman Bennehoof asked if the contamination field has been identified. Mr. Pivar said it has through core samples. The drilled wells throughout the property have been identified and capped off. They have done core samples all the way around the property to determine the extent of the contamination and determine if it was possible to remediate the problem. As they clean the area they will continue to do core samplings and test to make sure they have clear margins. Councilman Bennehoof said it sounds like it is just around the building. Mr. Pivar said there is lead behind the building in a 100' range and some is around the side of the building. Councilman Bennehoof said it sounds like it has been specifically identified, the area has been identified, and now they know what they have to do. Mr. Pivar said if they look at the report, there was as much as 70k parts per million on the surface and they are allowed 800 commercially and 400 for residential. As they went deeper it was less and less but it is starting to saturate the ground. Councilman Bennehoof asked if he knows how much lead there is in a normal environment. Mr. Pivar said there is always some lead in the soil but not in this concentration. Mr. Warner said it is usually around 70 per unit.

Councilman Bertone said a resident was concerned about post construction testing to monitor levels. As the soil is remediated, the residents are concerned if there will be any further contamination or testing to make sure it is not leeching out. Mr. Pivar said as it is removed the testing will continue. They will make sure it is absolutely clean. They will have erosion protection in place to make sure that while they are cleaning it does not go beyond the property. They will look for and continue until they get clean margins. This will be the first thing they must do before any other development on the site.

Mr. Pivar said taking the square footage of a 30-year old subdivision home cannot be compared to a new home. The higher priced condos are in the \$200/sq. ft. range. There is less square footage in a condo and they want to cater to their new homebuyers. They plan on building expensive kitchens and multiple bathrooms with all of the bells and whistles. When they put that in a smaller package the square foot price goes up. A four bathroom, 4k sq. ft. house with equal appointments to a 3k sq. ft. house with the same number of bathrooms and the per sq. ft. price goes down. They lose the efficiency. The homes they build today start around 4k sq. ft. and these will be custom condos that will start at 2,400 sq. ft. Mr. Pivar said they will build a model and offer different home designs and control where they go so there is not repetition. Councilman Bennehoof asked if they have other developments like this in the Central Ohio Area. Mr. Pivar said he developed apartments many years ago but they were on the southwest side of the city. 30+ years ago he partnered with Ryan Homes in Pittsburgh PA.

Mayor Hrivnak asked for clarification from staff about the density. Mr. Betz said this is a density of 5.37 du/acre. Mayor Hrivnak said someone commented that this will be the highest density in Powell. Mr. Betz said they have several other condo communities of equal or higher density such as Murphy Park Condos, and Epcon in Golf Village which are around 5 du/acre. The Traditions of Powell Condos are up to 7 du/acre. This is not the densest. Mayor Hrivnak asked to see a map of the Downtown District. Mr. Betz indicated the different areas and districts. The site of the development under consideration was identified.

Councilman Lorenz said there was a question about construction bonds and bonding of projects and what happens if a project fails. Mr. Betz said the sanitary improvements, stormwater, and streets will be bonded. Councilman Lorenz said if this starts and does not finish it sounds like the residents are concerned that someone else could come in and change the plan. Mr. Betz said if that happens they would have to come back to the Planning & Zoning Commission for review or back to Council for approval for major modification. Mr. Pivar said the public improvements will be bonded. Any development or business always has an element of risk involved and this property is a huge risk they are willing to take.

Councilman Counts said a question was directed toward him regarding a possible conflict of interest. He asked Mr. Hollins to address that question.

Mr. Hollins said the members of Council have in the past asked him to determine any ethical issues or conflicts of interest issues in a case where a potential development decision may have an impact on the member's property value. In this case, the only Council member, Mr. Counts, anywhere near this project is a quarter mile away and it is very unlikely there would be any impact on his property. Ethical opinions have typically addressed property owners who are immediately adjacent to the development and they would lose the possibility that the development could have a negative impact on their property values which may lead them to vote "no." He will look into any individual circumstances and gather any necessary facts if he is requested to do so by members of Council.

Mayor Hrivnak opened the floor to Council comment.

Councilman Bertone said the developers are proposing a creative solution and have been working with residents. He encouraged them to keep the folks engaged. He personally sees this project as a catalyst to change this entire area. There are outparcels that can be developed and that sounds exciting and they are working on traffic solutions. He has his concerns but he looks at this as a somewhat unique use and not as units that are stacked on top of one other. They are offering individual ownership for those who are seeking to downsize and stay in the City. Councilman Bertone said overall this is a very positive effort for this community. They discussed traffic and density and their community is struggling with growth and traffic solutions. The opportunity before them creates some solutions to some of that traffic.

Councilman Crites said he appreciates the process they follow in the City of Powell. They have terrific citizens who serve on the Planning & Zoning Commission and they are dedicated to make decisions that are in the best interest of the community. They are aware of the initiative that was passed in November, as are the members of City Council. They took that into consideration and still came forward with what they think is in the best interest of the City and that is what drives the decisions of the Commission and the Council. Councilman Crites said he appreciates that the HOA president was there to discuss the positives and negatives as viewed by the adjacent community. That is very important and at the last meeting he asked about the questions raised by those residents and whether they were addressed to their satisfaction. He said it appears they were addressed successfully and he also applauds that process. Councilman Crites said in his experience there has been no one on Council that sets out intentionally to defy the will of the public; they have an opportunity with each of these proposals to review them individually, balance them against the referendum and balance them against what is best for this community. He said as they have gone through the process he is satisfied.

Councilman Crites asked if there is just one variance in this proposal. Mr. Betz said there is one variance in regard to the setback to the commercial area. This allows a smaller setback in that area so a larger setback can be placed behind the other homes. Councilman Crites said there has been no huge request for variances and the developer could have asked for a density as high as 9 du/gross acre. He appreciates that Staff provided statistics so he had a chance to balance the density of this project against some of the others in the community. He provided a list of the density for other condo projects throughout the community and this is on the lower end of many of those; they could have request a great deal more. Councilman Crites said they have gone above and beyond with respect to open space. This project is a good one for the City of Powell and they have to always balance any project against the traffic. He has lived here since the 1980's and at that time there was a stop sign at the Four Corners. Even then the people were complaining about the traffic and now it is substantially worse. They take the situation very seriously but traffic has been a problem as long as he has been here because this area is so desirable with a terrific school system. Contrary to what they have heard tonight, the City is continuing to

look at different ways to address the traffic situation. He chairs the Comprehensive Plan Review Committee and that has been a big topic of discussion and they can expect to see some recommendations from the Committee regarding traffic but they will be long term solutions. Councilman Crites said the intent and focus of this Council is addressing those issues. They have talked about empty nesters and there are a lot of people his age and older who have lived here many years, paid taxes, supported the schools and have been the economic dynamo that has made the school system what it is. If they decide they want to retire in Powell they should have availability of housing for them. This is special housing that is in a nicely done project that will benefit a segment of the community whose concerns should be addressed. Councilman Crites said this project does that in a very nice way and has been very well done. He appreciates those on both sides of the issue because it helps them come up with a product that will help them become a better community.

Councilman Lorenz said he also appreciates those who come forward to speak about these types of projects. Through those comments they build consensus, flush out details and end up with a solid plan. He has received comments from people in Olentangy Ridge who are in support of this development because they see it as an opportunity for someone to re-invest in the community and redevelop a use that is no longer applicable for that part of the City. Councilman Lorenz also thanked the Planning & Zoning Commission on the job they have done on this development. He knows that is a difficult job and Council has the easy job of taking their recommendations. His only comment on the development is that they have to take the projects on a case-by-case basis. He sees this as an opportunity for providing positive outcomes for the community. Councilman Lorenz said this is a great re-development opportunity and someone is willing to put dollars forth to mitigate a potentially hazardous situation. This provides a good transition and allows another opportunity for aging in place which is important to the community. Councilman Lorenz said he looks at this as a single family cluster development with a common area maintenance approach and does not see it as a condominium project. Only the maintenance of grounds, roads and building exteriors as within the covenant are similar to condos.

Councilman Counts said he has lived here 20 years and has served on various Boards, Committees and Council for 19 of those years. He speaks for everyone on Council when he says they do this because they love the community and not because they get remuneration or because it is an easy job. They want to do the right thing for the community. Every vote they take has that in mind. Councilman Counts said he has always been a firm believer that the community should be someplace where they can be born, live in and die in. He wants that for his 85 year old mother who has no place to go from her single family ranch home and it is what he wants to be able to live in Powell when his house is no longer needed for him. Someone asked if this is the right development for this parcel. It could be park land where it could be purchased by the City and turned into a park but a park is not needed in this quadrant. They have a park on Seldom Seen that is desperately needed and desperately needs funding so this site will not be developed as a park. This could be developed as commercial but it has been commercial and they know what that is like if it is fully developed in that way. It would develop traffic in a way that is more than they have seen in the past.

Councilman Counts said this has been described as high density but that has not been defined. In this situation the density is higher than the density of Olentangy Ridge but in this particular case just because it is higher density it does not mean it creates the school and traffic problems suggested tonight. In Olentangy Ridge, according to 2012 school district records, there are about 1.58 students/unit. In most single family dwellings, especially the new ones, it is 1.0 students/unit. If they developed this at the same density as Olentangy Ridge they could expect at least 1.58 student per unit. In the average condo they have .43 students/unit. Councilman Counts said Brookehill Village has 0 students, Condos at Stonebridge has .12, Village at Kinsale has 1.16, Village at Woodcutter has .13. These are higher density but they do not have the impact on the schools that the lower density of single family detached dwellings would have. He suggested that in this particular case high density does not have the same impact. He said he has two children in the schools right now and the taxes from his house do not pay for their education. He is the one who should be moving out because he is the one who is creating the impact on the schools. Councilman Counts said they can expect that the homeowners in this development as proposed will have one or two cars. As an owner of a house in Olentangy Ridge, with two teenage daughters, he had four cars. He is the person who is creating the traffic problems in Powell, among other people. Just because this has a higher density than the homes adjacent, that does not mean it will have the impact they have suggested. Councilman Counts said it is important to point out that the Schools will lose no

dollars as a result of the TIF; they are made whole for this. At one of the Planning & Zoning meetings someone was asked by a member of the Commission where the empty nesters should go. This person said they should go "somewhere else" to avoid the density issue. Councilman Counts said for many years they have welcomed new residents into the City and the City has matured; now they have residents who have lived here a long time and want to continue to do so. This coming weekend his neighbor who has lived in his house 25 years is moving out of the community because he cannot find anything here in which to live. Councilman Counts said it is time they start welcoming the existing residents to continue to live here in Powell, like they have welcomed new residents to Powell for the last 20 years.

Councilman Cline thanked the residents who spoke on both sides of this proposal. He really cares about what they have to say and although he may not agree with one side or the other it is important to hear what they say. He made a quick checklist of the things that this project brings for the community:

- There is a lead abatement problem that will get worse if left unattended.
- This is an improvement in the quality and quantity control of the water that will flow from this site.
- There will be an increased tax base that will support and maintain the schools.
- The road to be developed will improve the traffic situation in the City.

Councilman Cline said he weighed these things against the negatives from those who oppose this in good faith. When he did that he came to the conclusion that this is a good project for this area and for this community. Traditionally a development that borders between single family homes and commercial has a slightly higher density and transition feel. This is a "win-win" for the community and he intends to vote for it.

Councilman Bennehoof said he came here hell-bent to table this. He loves the project and has reviewed it closely. He sent his concerns by email to Council at the first reading since he could not attend the meeting. His concerns have been mitigated. He drove through the property so he could have a better understanding and he saw the area at the back of the Powder Room and he saw the dysfunctional cistern that is not a functioning water retention pond. Councilman Bennehoof said he is no longer in favor of tabling this ordinance. The merits of this project include the mitigation of the environmental hazard, the water quality and management, and the transition between the commercial property and adjacent neighborhood will create a terrific buffer. The road improvement and the addition of a signal are nothing but a plus. Councilman Bennehoof said the City is working on other traffic mitigation strategies and they are very close to finding a couple of different opportunities that might make a difference by improving the situation. They have other areas that will have traffic corridors established within them. Murphy Parkway is moving forward and it should be constructed before this property is developed. Councilman Bennehoof said this development will not add to the traffic problem and the connector road will serve both the adjacent subdivision and this development. He has no further concerns about this development.

Mayor Hrivnak said twelve people came forward to speak this evening and it is a pleasure to hear from the community. Often they deliberate in a room of empty chairs and it is hard to get a feel for what the community wants. He appreciates that Mr. Carlson brought forward the concerns for his neighborhood. Mayor Hrivnak said this property has several environmental issues that were discussed at great length this evening: the water and the lead abatement. There was an underground rifle range on the site and there is lead around the building that will be taken care of. This project allows mitigation of both of those concerns. This is an opportunity to rezone property to a more conservative type of zoning, taking property that could be developed in a commercial manner. They heard from the property owner about types of uses that have come forward with interest. Mayor Hrivnak said this area is transitional in nature and in his term on Council he has learned a lot from Staff about how communities are planned with transitional areas between residential and commercial properties. One of the best things for that transition is single family condominiums, especially those of this quality. This development allows community improvements through a connector that will allow nearby residents, the condo residents and shoppers at the center to navigate from one area to another without entering the main roadway. Mayor Hrivnak personally thanked the Planning & Zoning Commission for their work in vetting this development so well. They did a lot to take this project from where it started to where it ended as a much better development.

MOTION: Councilman Counts moved to adopt Ordinance 2015-18. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2015-21: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2015.

Mr. Lutz said the City has a compensated absence fund which holds funds to be used throughout the year if and when an employee retires and they have accrued, unused leave. With Ms. Ross's pending retirement they will transfer some of that money into the Clerk's account to pay her for her accrued, unused vacation.

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

Councilman Cline said this ordinance proves the value of the Compensated Absence Fund that the Finance Department suggested they initiate. It is operating exactly as they intended. The City has lots of dedicated employees who stay here and work when they have every right to take vacation time and Ms. Ross is one of them. This fund is designed to prepare the City for the responsibility of the buy-out of those unused hours.

MOTION: Councilman Cline moved to suspend the rules in regard to Ordinance 2015-21. Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2015-21. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

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

Mr. Lutz said this item was reviewed by the Operations Committee and Legal Counsel. They did a comprehensive review of the manual they have had in place for the past 15 years. They identified areas that were redundant, removed sections that were no longer applicable by law, and added sections that were required law. No new policies were added. He reviewed the highlights:

- Expanded the definition of temporary employee
- Redefined seasonal employee
- Added intermittent/casual employee
- Added the Auditor of State Fraud Reporting System instead of having a separate memo
- Expanded descriptions for business reimbursement expenses
- Expanded to include the responsibilities of record retention on cell phone, emails and texts
- Added lactation breaks as required by Federal Law
- Added the ability to offer waiver payment systems for health and dental insurance
- Updated the discipline language
- Added substance abuse testing
- Added a summary of the public records policy instead of recopying it
- Added items required in the acknowledgements

Councilman Bertone noted a correction on page 31, Item 2. Councilman Cline said he briefly reviewed the document and has several questions about grammar and other items. Mr. Lutz asked that any corrections or questions be forwarded to him and the document will be revised. They can take it to a second reading.

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

Ordinance 2015-22 was taken to a second reading.

FIRST READING: ORDINANCE 2015-23: AN ORDINANCE AUTHORIZING AMENDMENT TO THE FEE SCHEDULE OF THE CITY OF POWELL AND DECLARING AN EMERGENCY.

Mr. Lutz said they are recommending one amendment to the Fee Schedule. Staff recommends that the City not charge for any copies of public records which cost \$1.00 or less. They found that it costs more money to administer those payments than what they receive.

Mayor Hrivnak opened this item to public comment.

Tom Happensack, 127 Kelly's Court, said this concerns him. He has noted that often they are suspending the rules and passing legislation by emergency. He knows that is for things they do not think the people are interested in or because people are not present but the people really do not even know about these things. The policy of the City is to not publish legislation until after it is approved. Mr. Happensack said he can go out and get the agenda but he can't come prepared to talk about the items before Council. He does not have a problem with this one but he has seen three items tonight that Council has considered passing at the first reading. Mr. Happensack said there is a reason for two readings and he thinks that is so the first reading introduces it so people can be aware of it. He knows not a lot of people will make themselves aware but that doesn't mean they should not have the second reading. Mr. Happensack said he has never been involved in local government and although they are on opposite sides sometimes he feels he is adding input to the community. Tonight he did not agree with their vote on the condo ordinance but he is happy for the landowner; they won't be able to tell what happens with the community until it is built. Mr. Happensack asked that they take his comments into consideration. They elected the members of Council to represent them, but not to represent them blindly. Too many times the legislation is not an emergency and they suspend the rules. In his mind that always raises suspicion. There is nothing that cannot wait two weeks unless it is an emergency and some of the things are not emergencies.

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

Councilman Bennehoof said they do not take this lightly. They have had some fun with this because there has been no stronger opponent to the suspension of the rules than himself yet he has voted to do so sometimes. Approving the compensation is a matter of rote and they do not suspend the rules on matters that are not like that. He has voted against the suspension of rules many times and he is sometimes the lone wolf. Councilman Bennehoof said this Council takes these matters seriously.

Mr. Hollins said these are two separate and distinct things. Suspending the rules means they are suspending the rules requiring two readings. By Charter they have two separate readings of each ordinance unless that vote is taken to suspend the second reading. Even if the rules are suspended, unless it is written as an "emergency" there is still a 30 day period before the ordinance goes into effect. Mr. Hollins said there are ordinances that cannot be adopted at the first reading, including the annual budget, those which impose taxes or are in regard to some zoning matters. When they suspend the rules it takes a supermajority of the vote which is 5 out of 7, not just a simple majority. Mr. Hollins said emergency legislation goes into effect immediately unless Council determines a certain date that is less than 30 days. Appropriation ordinances and ordinances that defining an issue on the ballot do not need an emergency clause but are effective immediately. All others have a 30 day waiting period unless they have an emergency clause and that vote also takes a supermajority.

MOTION: Councilman Cline moved to suspend the rules in regard to Ordinance 2015-23. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

Councilman Bennehoof said he is voting to suspend the rules because this saves the City money and saves the taxpayer the cost of the public records.

MOTION: Councilman Lorenz moved to adopt Ordinance 2015-23. Councilman Cline seconded the motion.

VOTE: Y 7 N 0

COMMITTEE REPORTS

Development Committee: No report. *Next Meeting: Tuesday, June 2nd, 6:30 p.m.*

Finance Committee: No report. *Next Meeting: Tuesday, June 9th, 7:00 p.m.*

Operations Committee: No report. *Next Meeting: Tuesday, June 16th, 6:30 p.m.*

ONE Community: No report. *Next Meeting: Monday, June 8th, 7:00 p.m.*

Planning & Zoning Commission: Mr. Betz said the Commission will hold the public hearing on the sign code changes next week and a recommendation will be sent to Council soon. *Next Meeting: Wednesday, May 27th, 7:00 p.m.*

Comprehensive Plan Steering Committee: No report. *Next Meeting: Tuesday, May 26th, 6:30 p.m.*

Powell Community Improvement Corporation: Mayor Hrivnak said they met last week and he will have information soon on a pending agreement with a new business. *Next Meeting: TBA*

CITY MANAGER'S REPORT

Mr. Lutz reminded Council about the annual Memorial Day Parade at 10 a.m. on Monday. Council members, family and friends may meet near the Post Office on Grace Drive at 9:45 to ride in the parade.

OTHER COUNCIL MATTERS

Councilman Lorenz thanked Mr. Betz and Mr. Kambo for conducting the Kids Planning Session. Mr. Betz said they had 17 kids from all over the community, aged from 6 to 16. They were able to get feedback from them as well as from Liberty High School students.

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

MOTION: Councilman Cline moved at 10:15 p.m. adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G) (1), Personnel Matters (Board & Commission Appointments). Councilman Crites seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Cline moved at 11:10 p.m. adjourn from Executive Session. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bertone moved at 11:10 p.m. to reconvene in Regular Open Session. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Cline moved to re-appoint Don Emerick and Shawn Boysko to the Planning & Zoning Commission for a term ending 12/31/2018 and Ryan Temby to the Board of Zoning Appeal for a term ending 12/31/2018. Councilman Crites seconded the motion.

VOTE: Y 7 N 0

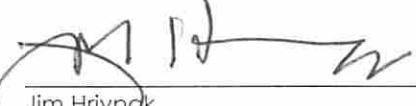
MOTION: Councilman Cline moved to appoint Diane Schelb to the Personnel Board of Review for a term ending 12/31/2016; Sandi Crnko to the Personnel Board of Review for a term ending 12/31/2017; Enas Yunis to the TIRC for a term ending 12/31/2016; and Bobby Srivastava to the Development Committee for a term ending 12/31/2016. Councilman Crites seconded the motion.

VOTE: Y 6 N 0 (Abstain – Bennehoof)

MOTION: Councilman Crites moved at 11:15 p.m. to adjourn from Regular Open Session. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

MINUTES APPROVED: June 2, 2015



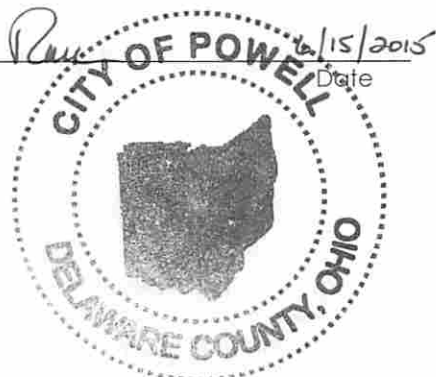
Jim Hrivnak
Mayor

Date



Sue D. Ross
City Clerk

Date



City Council

Jim Hrivnak, Mayor

Jon Bennehoof

Frank Bertone

Tom Counts

Mike Crites

Richard Cline

Brian Lorenz