

MEETING MINUTES JUNE 4, 2013

A regular meeting of the Powell City Council was called to order by Mayor Richard Cline on Tuesday, June 4, 2013 at 7:30 p.m. City Council members present included Jon Bennehoof, Tom Counts, Mike Crites, Jim Hrivnak and Brian Lorenz. Sara Marie Brenner was absent. Also present were Steve Lutz, City Manager; David Betz, Development Director; Megan Canavan, Public Information Officer; Gene Hollins, Law Director; Susie Ross, City Clerk; and a member of the Press.

PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

Mayor Cline opened the meeting to Citizen Participation for items not on the agenda.

<u>Carol Smith, merchant and member of HDPI Promotion & Design Committees</u>, said she would like to speak about the parking situation; they need more parking especially in the center of town. She said there are several lots that are roped off and can be accessible for parking. Ms. Smith said she went to Local Roots tonight for dinner and could have parked at her store, Cute as a Button, but they decided to drive and then could not find a parking space. She said she wants Council to be aware that the downtown merchants are concerned about parking because they are limited on parking, even during daytime hours.

Mayor Cline said they have looked a lot at the parking question in the downtown area. He said they designated the municipal building lot as public parking, and have invited the public to park at this facility and walk to the downtown businesses. He said they also provided public parking at 44 N. Liberty. Councilman Counts asked if Ms. Smith's customers are aware of the public parking in these two areas. Ms. Smith said they come to the shop and say they do not visit because they cannot find parking, so she gives them information about the lots. Councilman Hrivnak said the City has distributed pamphlets about the parking areas and HDPI makes them available to the merchants. Ms. Smith asked about the parking at the Liberty Antique Mall on N. Liberty; are they able to relinquish it to the City or allow people to park there. Mayor Cline said that is private property and they could allow it but they have chosen not to and that is their right as property owners. Ms. Smith said Local Roots is always a problem but they continue to go there. Mayor Cline said City Council has worked on this issue and has worked with HDPI to help get the word out. He said it is not optimal because if the customers have made it to her shop for her to hand them the pamphlet, they have found a place to park somewhere. He said they are doing what they can in that regard. Ms. Smith said she appreciates those efforts.

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

APPROVAL OF MINUTES

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MOTION: Co	uncilm	nan C	ounts mov	ved :	to appro	ove the minutes of May 21, 2013 as submitted. Councilman Crites
seconded th	ne mot	ion.				
VOTE:	Υ	5	N	0	(Ab	ostain: Bennehoof)

RESOLUTION 2013-10: A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR PUBLIC SAFETY COMMUNICATIONS SERVICE.

Steve Lutz, City Manager, said the City has already entered into a similar resolution so this does not pose any major changes. He said as part of the police accreditation process, the City is required to have a resolution regarding their communications; this updates the resolution to reflect the updated consolidation of the 9-1-1 system. Mr. Lutz said the City is unique in that they do not have their own dispatch unit that operates 24/7. He said all of their police dispatching is handled in Delaware at the 9-1-1 department and City residents pay the same as every other resident in Delaware County through a surcharge on their taxes.

Councilman Counts asked about the length of the accreditation process and when it ends. Mr. Lutz said they go through accreditation renewals every three years and will have a site visit this November for renewal.

Councilman Bennehoof asked what happens if the residents do not call 9-1-1. Mr. Lutz said the Police Department has a non-emergency number that is answered Monday through Friday, 8 a.m. to 5 p.m.

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

MOTION: Councilman Counts moved to adopt Resolution 2013-10. Councilman Bennehoof seconded the motion.

VOTE: Y_6_ N 0

SECOND READING: ORDINANCE 2013-23: AN ORDINANCE APPROVING THE PLAT FOR THE GOLF VILLAGE, SECTION 7, PHASE D, PART 3.

Mr. Lutz said Mr. Betz will provide specifics regarding the questions raised at the first reading.

David Betz, Development Director, said this plat finishes off Section 7 of Golf Village in the extreme northern portion of the subdivision, located at Steitz Road and Home Road. He said this connects into Hickory Rock Drive. Mr. Betz said there was a typo on the front of the plat regarding the notes and the reserve and that has been corrected. He said a question came up about Reserve C and what happens in that area. Mr. Betz said at the time the Golf Village zoning occurred in Liberty Township, prior to annexing into the City of Powell, this reserve was set up to be dedicated to the property owner who was not part of the annexation and is still in Liberty Township. He said Reserve C will be dedicated to that person per the Memorandum of Understanding between that property owner and the developer. Mr. Betz said the Memorandum of Understanding shows how the property will be prepared for the ability for that property to be accessed off of Hickory Rock Drive via a driveway. He said landscaping and the sidewalk will be installed along Hickory Rock with a concrete apron installed to meet the gravel drive. Mr. Betz said when the City of Powell agreed to annex Golf Village, part of their agreement with the developer and the Township was to accept the zoning as it was brought in from Liberty Township. Mr. Betz said this is part of the zoning the City accepted as a part of that agreement.

Councilman Bennehoof said he does not have the benefit of the discussion at the first reading so he has several questions. He asked if the Dickey property is the subject property for the driveway access and sewer taps. He said he understands that is not a cost to the City but he wants to know if this property is inside or outside of the City. Mr. Betz said it was not annexed so it is not part of the City. He said it will not be in the City unless the current property owner signs a petition to annex and so far there is no intention expressed to annex into the City. Councilman Bennehoof said this could be a threat of being a shortcut for someone, across private party.

Councilman Lorenz said it just seems odd that they have this arrangement. He said there is a new property owner involved and he would like to know the history and why they are seeking this curb cut.

Jim Lipnos, representing Homewood Corporation, 2700 E. Dublin-Granville Road, said his does not know the original intent of this as it was done by a previous developer at the request of the prior property owner. He said he does not know why the previous owner (Miller's) wanted the access but they did and they have since sold the property to the Dickey's with the full understanding that they would get that access. He said he is just following the contractual obligations in place. Mr. Lipnos said they also have to allow the current owner the ability to tap into the sewer if they want to. He said he does not know if the City can ask them to abandon the driveway on Home Road as part of the annexation. Councilman Bennehoof asked if the agreement encumbers the City for sewer taps and the dual access. Mr. Lipnos said it does not encumber the City for the sewer tap; that is something Homewood is required to install. Councilman Bennehoof said they are getting all of the benefits of being in the City without being in the City. Mr. Betz said it is Delaware County's sewer, not the City's.

Councilman Lorenz asked about the time frame for financing for this project. He said he is going to ask Council to table this because he is not comfortable with it but he needs to know if the developer can afford another two weeks. Mr. Lipnos said they have a pre-construction meeting this week and he is leaving the country soon and will be away for three weeks. He said he was hoping to have this approved so he can get the contractor started prior to leaving. Councilman Lorenz said he is concerned that they are approving a plat that has dual access. He said he wishes the current homeowner was here to be a part of the discussion. Mr. Lipnos said he has talked with them and let them know they are preparing to develop and at such time they will have to meet to mark out the location of the driveway. Councilman Bennehoof asked if they cannot develop the rest of the street straight through until this plat is approved.

Mr. Lutz said a plat provides legal authority to designate where the streets and sidewalks will be located. He said City code does not allow developers to start construction until a plat is approved. Councilman Lorenz said

they are creating an open-ended lot with two access points that is outside of the control of the City. He said he understands this was accepted by the City for annexation in this fashion but he wonders what prevents the homeowner from keeping both drives, selling the property, the Township allows it to be zoned commercial, and then there is commercial traffic moving through the neighborhood. He asked Mr. Hollins if they can amend this ordinance to remove the driveway and keep the easement so the landowner can still tie into the sewer.

Mr. Hollins said the legal issue is related to Golf Village and the terms of the annexation agreement that requires the City to honor the Township zoning. He said the Township zoning was contingent on an agreement between the developer and the property owner to allow access to the street. He said the intent was just good planning because they want to minimize the direct curb cuts to Home Road. He said if the new access point exists it will likely be the preferred access for this property owner because it is safer. Councilman Lorenz said there is no guarantee the Home Road access point will be closed. Mr. Hollins said that is why it was included in the Township zoning in the first place and it is the City's legal obligation to honor that zoning. He said they can table this two weeks if he so desires.

Councilman Hrivnak said it is not the City's to rezone. Mr. Hollins said even without this agreement, if there is a new sewer main the property owner would have access to that sewer main. Mr. Betz said if that area was rezoned, Reserve C would not be rezoned because it is in Powell. He said if the residential parcel wanted to rezone to commercial and have access off of Reserve C, he would say as the Zoning Administrator they would not be able to because it would be a commercial use within a reserve. He said the reserve protects the City from having commercial in that area. Mr. Betz indicated the location of the proposed driveway as well as Reserve C that surrounds it.

Councilman Counts said the plan shows landscaping but he did not see anything about it in the Memo of Understanding. He asked if it is an obligation of Homewood to provide landscaping. Mr. Lipnos said it is their obligation by virtue of Exhibit C. Mr. Betz said they intend to fully comply with the exhibit. Councilman Counts asked if the idea was that this property would be redeveloped as a residential property. Mr. Betz said the property owner at the time did not want to annex but wanted to have access to Hickory Rock so they worked with the developer during the zoning process. He said they were adjacent property owners and convinced the developers to allow this access. Mr. Lutz said the property owner did not want to sell their land to the original developer. Mr. Betz said that is correct. Councilman Hrivnak asked Mr. Lipnos if he is confident that the new property owner has equal interest in having access to Hickory Rock Drive. Mr. Lipnos said they purchased the property with full understanding and intent that this driveway would be put in. Councilman Crites said that the last sentence in Note "H" provides that Reserve C shall be deeded to the owner of 4085 Home Road and be maintained by them. He asked if Reserve C will attach to the owners. Mr. Betz said it will be deeded to them. Councilman Crites said it says that Reserve A & C shall be owned and maintained by the Golf Village Homeowner Association. Mr. Betz said that is a typo; it should read as Reserve A & B in paragraph 2 of the ordinance.

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

MOTION: Councilman Lorenz moved to amend Section 1 of Ordinance 2013-23 and add a part 4 which reads "Upon acceptance of the plat by the City of Powell, the existing driveway access to the Dickey property from Home Road shall be closed within 90 days of the construction of the new driveway that provides access to Hickory Rock Drive."

He said he does not know if they have the authority to ask for that condition because the property is not within the City. Mr. Hollins said this would be within the discretion of the property owner and the City has to comply with this agreement. He said they do that by permitting them to have a curb cut and access point. He said it is a piece of property which the City does not control.

Councilman Lorenz withdrew his motion. He said he is excited that the developer is before Council a lot sooner than expected but he is not comfortable with this situation.

MOTION: Councilman Counts moved to adopt Ordinance 2013-23. Councilman Hrivnak seconded the motion. VOTE: $Y_{\underline{4}} = N_{\underline{2}}$ (Lorenz, Bennehoof)

FIRST READING: ORDINANCE 2013-24: AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR EPCON COMMUNITIES FOR 23 SINGLE FAMILY CONDOMINIUM HOMES ON 5.58 ACRES LOCATED AT 9901 AND 9963 SAWMILL ROAD, AND AMENDING THE ZONING MAP TO PR, PLANNED RESIDENCE DISTRICT PENDING ANNEXATION OF 9963 SAWMILL ROAD TO THE CITY OF POWELL.

Mr. Lutz said the Public Hearing for this ordinance has been advertised for the second reading which will be

before City Council on June 18th.

Mr. Betz said the applicant does not intend to be here until the next reading. He said there is an ordinance pending for the annexation of the southern part of this property and that legislation will be on the agenda for the next Council meeting. He said Council will be able to take action on the annexation and Final Development Plan at the same time. Mr. Betz indicated the location of the proposed development and said the northern section is the remaining part of the Murphy Party Barn property. He indicated adjacent properties and uses. He said the property proposed for annexation was planned and approved for single-family condo development in the Township so Epcon has obtained a contract to buy both properties and propose a development of single-family condos. Mr. Betz said they propose 23 single-family units with detention ponds in the front and additional landscaping. He said the homes will be built around a loop and access is off of Sawmill Road. Mr. Betz said this has been through the Planning & Zoning process with only one resident with no objections in attendance. He said the Planning & Zoning Commission recommends approval of this plan.

Councilman Counts asked if there are any variances for density for this development. Mr. Betz said the density is higher than what they normally see for a single-family subdivision but it is a transitional piece between tis subdivision of Grandshire which is approximately 2.4 units/acre and the condos to the north at approximately 5 units per acre. He said this development is planned around 4.7 units/acre and there is commercial to the west and northwest. Mr. Betz said Staff sees this as a good transitional piece. He said they are still working with the developer on a tree replacement plan and the developer does not have a problem complying with that plan.

Councilman Bennehoof asked about the City's density requirement. Mr. Betz said the maximum density within code for a single-family subdivision is 1.7 units/acre. He said this is a transitional piece which is already zoned for this type of use at this same density. He said the Planning & Zoning Commission felt very comfortable with this density. Councilman Bennehoof asked if the only communal space is the pavilion. Mr. Betz said there is a private communal space with a pavilion at the center of the development. Councilman Bennehoof asked if the condos are built on a slab. Mr. Betz said that is correct. Mr. Lutz said this is a similar project to the product developed in the City off of Seldom Seen east of the railroad tracks.

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

Ordinance 2013-24 was taken to a second reading and public hearing at the next meeting.

FIRST READING: ORDINANCE 2013-25: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO AWARD A BID TO _______ IN THE AMOUNT OF \$ ______ FOR THE 2013 STREET MAINTENANCE AND REPAIR PROGRAM, AND DECLARING AN EMERGENCY.

Mr. Lutz said the Engineer received three bids for the 2013 Street Program and they were very tightly grouped. He said the low bidder was Decker Construction Company in the amount of \$436,006.93. He said based on the low bid Staff is recommending that they award the contract to Decker Construction Company. He said as a result of the budget they do not have funds available to bid any of the alternates. Mr. Lutz said they have had work done by Decker Construction in the past and were satisfied with them.

Councilman Counts said he noticed that the second highest bid, when adding alternates, was actually lower than Decker Construction. He said that led him to the question about the alternates and he wonders if the roads within the alternates are in such a condition that they should be doing them this year. Councilman Hrivnak asked for the dollar amount available for the program. Rob Rice, City Engineer said they have \$525k in the budget and of that they reserved \$5k for public service to purchase materials to repair pot holes and for payment for the bid publication. He said if they considered any one of the alternatives they would not have funding for the project contingency of \$10k. Mr. Rice said they have had it occur in the past where a higher base bid, when combined with some of the alternatives, resulted in a lower total bid. He said they have discussed this with legal counsel in the past and have awarded the contract on the base bid. He said the streets are in a condition where they should do the work this year; there are many more streets besides these that need attention.

Mr. Hollins said they typically take the base bid and add in whatever alternates Council chooses, and then determine the lowest and best bidder. He said in this case they do not want to award the base bid and then add alternates by change order later to make it look like they are hand picking a contractor. He said whatever base bid and alternates Council wants to award in good faith is their decision and then they will determine who is the best and lowest bidder.

Mr. Rice said if they add the lowest base bids and add in the alternatives it is roughly a different of \$10k or 4% of the total cost of all of the alternates combined. He said it is not a huge savings in the big picture of things and if they awarded all three they would be looking at a possible contract of \$750k. Councilman Counts said he asked these questions because they know as they move forward they will have trouble keeping ahead of the game. He said he would like Council to determine if this is an opportunity or incentive to try to get ahead of the game now. He said that incentive may be pretty small but they need to consider it before they award the contract.

Councilman Bennehoof asked if they have done business with all of these companies in the past. Mr. Rice said they have done business with all of them but B & C Blacktop, who is a first-time bidder with the City. Mayor Cline said the City has the obligation to award the contract to the lowest and most responsive bidder within the scope of work they intent to do. He asked if they are statutorily bound to pick the lowest bidder once they decide the scope of work or do they have the discretion to decide they want to work with a particular company regardless of whether they are the lowest bidder. Mr. Hollins said there are other criteria to take into account: the company's experience, resources and prior experience with the City. He said generally without regard to the actual individual bids, they can award the base and any combination of the alternates after they determine the criteria. Mayor Cline said it is his understanding that the City is not bound by Charter to always take the lowest bidder although it is an important consideration. He said it looks like the three bids, assuming they would award all three alternates, would be: Columbus Asphalt Paving at a total bid of \$631k, Decker Construction with a total bid of \$641k, and B & C Blacktop at a total of \$652k. Mr. Rice said that is his recollection.

Mr. Lutz suggested that Council send this matter to the Finance Committee which is scheduled to meet on the next week so they can look for the availability of funds and report back with a recommendation at the next Council meeting. Mayor Cline said he knows the unexpended balance is one source for the additional \$100k to \$125k needed to do all three alternates. Mr. Rice said they must have contingency fund related to the alternatives as well. Councilman Lorenz asked if they have to go back out to rebid if they change the scope of work. Mayor Cline said they do not because the alternates were part of the original bid. Councilman Counts asked if it will significantly delay the project if they take this to the Finance Committee. Mr. Rice said it does because school begins this year in mid-August and they endeavor to have the work completed by that time. He said that schedule change will reduce their construction period by about ten days and sending it to Committee will delay it further.

Mr. Lutz said they have had good experience with Columbus Asphalt and Decker Construction and Staff would recommend whoever of the two is the lowest bidder. He asked how important it is to Council that they complete the project before school starts. He said if that is not a top priority, a two week delay may be acceptable. Councilman Lorenz said school starts August 14th. Mayor Cline asked for clarification about where the roads are (within the base bid and all three alternates) in relationship to the schools.

Mr. Rice said they are working on paving in Grandshire on Presidential Parkway and Whitaker Avenue South. He said if they include two of the alternates they will be able to complete paving on all of the streets in Deer Run except possibly one. He said they are also working in Falcon Ridge on the other alternate. Mr. Rice said North Liberty Street is scheduled for crack seal and they are doing crack seal and slurry seal in parts of Golf Village. He said they are also doing slurry seal along Seldom Seen Road. He said the concern is not necessarily proximity to the schools but the kids going to the corners to catch the school bus and having construction machines and activity near them. He said they would have to navigate through a construction site and however safe that is, it is not preferable. Mayor Cline asked if Mr. Rice would agree that the \$631k total bid for Columbus Asphalt Paving, through Alternate 3, would require roughly \$700k to allow enough contingency to be prudent. Mr. Rice agreed. Mayor Cline said he is asking because they have approximately \$525k devoted to this program in the current budget and will need an additional \$175k from somewhere. He said the alternates as bid may represent a \$10k to \$15k savings if they devote the money now and it puts them less behind in the game they are losing. He asked the members of Council to consider if they conclude tonight that this contract should be approved for base bid plus alternates 1, 2, and 3, and be awarded to Columbus Asphalt Paving, and then sent to the Finance Committee for a recommendation as to where they can come up with the extra money.

Councilman Lorenz asked about the grade of the three roads within the alternates. Mr. Rice said they are in significant need of attention. He said the roads are passable but they are the lower rated within the City. He said he cannot say the actual rating but they would definitely be the first ones included in the 2014 program. Councilman Lorenz said he is willing to go forward with the plan to allocate the funds and get the cost savings. He said the residents deserve to have the roads repaired and who knows how much worse they will be after

the next winter. Mayor Cline said Mr. Rice must have thought they could conclude the base and the alternatives or he would not have bid them. Mr. Rice said that is correct. Mr. Lutz said if they do award the base bid and all three alternates tonight, he will not have the authority to sign the contract until the next Council meeting when they do an appropriation for supplemental funds. He said they may as well take the time to send this to the Finance Committee.

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

Mayor Cline asked for the will of Council. Councilman Counts said they are on the line and it could go either way; he is concerned that they take efforts to get ahead of the game because in future years it will be very difficult for them. He said there is a potential savings here and they have been very conservative in their spending so they have the ability to take advantage of that savings. He said if the group decided to just go ahead with the base bid he would also approve of that. Councilman Bennehoof said he is in favor of saving money, buying good will and getting ahead of the game; this train of thought accomplishes all three of those things. He said if they are not sacrificing significantly to find the extra funds he is in favor of sending this to Finance. He said they may want to consider getting ahead of the game a little more next year.

Councilman Lorenz said he agrees. He said this Council has a history of being very fiscally responsible and he sees no reason to not take advantage of the savings. He said they have a good standing with the public regarding how they steward City dollars and if they can save money they should do so. Mayor Cline said the worst case analysis is that they take the funds from the unappropriated balance but there may be other fund sources that Finance can identify. Mr. Lutz said the voters approved Capital Improvement funding and they have already talked about bonding part of that money. He said if they dip into the fund that much they may be able to reimburse themselves. Councilman Hrivnak said they should go with the base bid plus all of the alternates. Councilman Crites said for all of the reasons mentioned, he agrees to the base bid plus the alternates.

Ordinance 2013-25 was taken to a second reading and requested the Finance Committee to review the ordinance at next week's meeting to identify funding sources, if any, they recommend as resources.

COMMITTEE REPORTS

Development Committee: Councilman Hrivnak said the Committee met earlier this evening and discussed several items. He said the North Liberty Street drainage project funded by the Downtown TIF is now nearly complete. He said if one walks northbound from the Four Corners to The 44, they should be greeted with a walkway that is dry, much safer and more direct. He said they are looking forward to the next project downtown. *Next Meeting*: June 4^{th} , 6:30 p.m.

Finance Committee: No report. Next Meeting: June 11th, 7:00 p.m.

Operations Committee: No report. Next Meeting: June 18th, 7:00 p.m.

Planning & Zoning Commission: Mr. Betz said there are three items on the agenda for next week, the biggest being the Preliminary Development Plan for The Reserve subdivision. Next Meeting: June 12th, 7:00 p.m.

Powell CIC: Councilman Hrivnak said the Committee met last night and are finalizing an agreement with Metro CD Engineering. He said they are a LEAD accredited engineering firm that has moved into Powell. He said they are a growing concern with 9-10 professionals and looking to grow to 15-20. He noted that Eric Fischer has had a great part in the CIC and he will be missed; he is thankful for Eric's service. Next Meeting: TBA

2012/2013 CITY COUNCIL INITIATIVE UPDATES

Mayor Cline directed Ms. Ross to remove this item from the permanent agenda.

CITY MANAGER'S REPORT

Mr. Lutz said they hope to give City Council a brief summer recess at the July 2nd meeting because of the close proximity to the July 4th holiday. He said they do not anticipate any items requiring their action so they are looking to cancel that meeting.

Mr. Lutz said Ms. Canavan has emailed Council a draft of the City's Annual Report. He asked that Council submit any changes by Wednesday at noon so they can be sent to the printer. He said she is distributing a draft copy that shows its actual format and size. Megan Canavan, Public Information Officer said the report will be 9" x 9" in size with a fold-out promo for the Powell Festival. She said the actual paper is similar in weight to the

sample. Mr. Lutz thanked Ms. Canavan for quickly producing a very attractive and informative document for City residents.

OTHER COUNCIL MATTERS

There were none.

MOTION: Councilman Counts moved at 8:35 p.m. to adjourn to Executive Session in accordance with ORC Section 121.22(G)(2), to discuss Land Acquisition. Councilman Crites seconded the motion. VOTE: $Y_6_$ $N_0_$
MOTION: Councilman Crites moved at 9:00 p.m. to adjourn from Executive Session. Councilman Counts seconded the motion. VOTE: Y_6 N_0
MOTION: Councilman Hrivnak moved to reconvene in Regular Open Session at 9:00 p.m. Councilman Lorenz seconded the motion. VOTE: Y $_6$ N $_0$
MOTION: Councilman Bennehoof moved to adjourn from Regular Open Session at 9:00 p.m. Councilman Counts seconded the motion. VOTE: Y 6 N 0
DATE MINUTES APPROVED: June 25, 2013

Richard Cline Mayor

Date

Sue D. Ros City Clerk Date

OF POWER

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