



City of Powell, Ohio
City Council

MEETING MINUTES
AUGUST 5, 2014

A regular meeting of the Powell City Council was called to order by Vice-Mayor Brian Lorenz on Tuesday, August 5, 2014 at 7:30 p.m. City Council members present included Jon Bennehoof, Frank Bertone, Richard Cline, Tom Counts and Mike Crites. Jim Hrivnak was absent. Also present were Steve Lutz, City Manager; David Betz, Development Director; Megan Canavan, Communications Director; Gene Hollins, Law Director; Susie Ross, City Clerk; interested parties and members of the Press.

PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

Vice-Mayor Lorenz opened the meeting to Citizen Participation for items not on the agenda.

Janet Wartman, 130 S. Liberty Street, said she is not in favor of a road going through her property. In the past roads have been planned and have never happened, leaving stub roads everywhere. There was supposed to be a street at 50 S. Liberty Street where the retail development was built and one was supposed to be built that allowed the Village Green to have housing. There was supposed to be a road from Hall Street that went through the park to connect to Liberty Street. A road through the park would not be a good thing and if they do not want a road through the park, they should not consider a road through her property. Ms. Wartman asked that they consider putting a road through the dentist place and not through her house.

Don DePalma, 365 Shelby Avenue West, representing the Grandshire HOA, said he did not realize at the last meeting that it was the appropriate time to present his request so he is back tonight. He requested that while the City is performing the Street Repair work and has equipment in the area, they repair the bikepath through the Grandshire neighborhood. The funding could be taken out of any contingency funds available. Mr. DePalma presented photographs of the damaged areas of the bikepath. He said every year for the past three years they have asked for attention to this area. Many bikes are crashing because of this damage and many families and children use the path. He said the 297 households in Grandshire respectfully request that any contingency funds be used for these repairs. He said Staff has a quotation for \$24k for the work.

Hearing no further comments, Vice-Mayor Lorenz closed the Citizen Participation session.

APPROVAL OF MINUTES

MOTION: Councilman Cline moved to adopt the minutes of July 15, 2014. Councilman Counts seconded the motion. Councilman Crites abstained from the vote. By unanimous consent, the minutes were approved by the remaining Council members.

CONSENT AGENDA

Item

- Liquor Permit Request
Mojo Tago LLC dba Mojo Tago, 24 Grace Drive

Action Requested

Waive request for hearing

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

Vice-Mayor Lorenz modified the agenda to move Ordinance 2014-43 forward for consideration.

FIRST READING: ORDINANCE 2014-43: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 5.001-ACRE TRACT, MORE OR LESS, TO THE CITY OF POWELL.

David Betz, Development Director, indicated the area within the proposed annexation. The owner, Mr. Garverick, owns a house on the adjacent property and raised his family there. He has acquired the property to the east that is in Liberty Township and he would like to annex that property into Powell, and build a new house on tract 3. He would move from his current home to the new home; he has a buyer for tract 2 and

perhaps tract 1. Mr. Garverick would like to complete the closing by the end of the month. A lot split to divide the property into four lots of 2.5 acres each was approved by Planning & Zoning a few weeks ago. The plan is for two houses at this time with the possibility of up to four houses.

The applicant was present to answer questions. There were no questions from City Council.

Vice-Mayor Lorenz opened this item to public comment. Hearing none, he closed the public comment session.

Councilman Cline asked if Staff recommends approval. Mr. Betz said that is correct. Councilman Cline asked if they can waive the second reading of this ordinance to meet the closing deadline. Gene Hollins, Law Director, said there is no reason for this to go to a second reading with the closing looming; if they wish to suspend the rules that would be appropriate.

MOTION: Councilman Cline moved to suspend the rules in regard to Ordinance 2014-43. Councilman Crites seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2014-42. Councilman Crites seconded the motion.

VOTE: Y 6 N 0

EXECUTIVE SESSION IN ACCORDANCE WITH O.R.C. SECTION 121.22 (G) (3), PENDING LITIGATION.

MOTION: Councilman Cline moved at 7:40 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G) (3), Pending Litigation. Councilman Crites seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved at 8:30 p.m. to adjourn from Executive Session. Councilman Crites seconded the motion.

VOTE: Y 6 N 0

Mr. Hollins apologized for the length of the Executive Session. He said since the petitions have been filed this is the first time he has had the opportunity to speak with City Council about anything related to this matter. He thanked the audience for their patience.

MOTION: Councilman Cline moved at 8:31 p.m. to reconvene in Regular Open Session. Councilman Crites seconded the motion.

VOTE: Y 6 N 0

RESOLUTION 2014-16: A RESOLUTION DETERMINING SUFFICIENCY AND VALIDITY OF A REFERENDUM PETITION TO SUBJECT ORDINANCE 2014-10 TO REFERENDUM.

Mr. Hollins said the next two resolutions pursuant to the City Charter; the processes for referendum and initiative petitions with respect to ordinances are set forth in Part 6. With respect to each type of petition, the first thing Council does is receive the report from the Board of Election about the number of signatures they found to be valid. Then they are to make a determination, by resolution, whether each petition is valid and sufficient. The Charter then says if they are found to be sufficient and valid, Council then will read and act upon the same; they can repeal the earlier ordinance, choose not to repeal it, or fail to take any action.

Mr. Hollins said the other thing before Council related to this is the ordinance with respect to the Charter Amendment. The Ohio Constitution says when the citizens initiate a Charter Amendment, Council must pass an ordinance to place that before the voters. There is an ordinance in their packet for that purpose. Under the Charter, ordinances go to two readings at different meetings so the first reading will be this evening and the second reading will be held at the next regular meeting on August 19th. He spoke with Counsel for the Petitioners and the land owner and indicated to them that because the ordinance was going to a second reading, since only six Council members are present this evening and they need four positive votes on each to consider them sufficient and valid, they may want to consider tabling the resolutions and taking all three pieces of legislation up at the August 19th meeting. This would also give them an opportunity to read the Position Statement received earlier today on behalf of the Petitioners. He said they have not had an opportunity to do any review or analysis of the arguments. They have had the filing on behalf of the landowner a little longer and the statement received today was distributed to Council.

Mr. Hollins said if they table the legislation to August 19th it would be ripe for their consideration at that point and there would be time for his office to do any further investigation as directed by Council. Councilman Bennehoof asked if there are any timeline considerations that would potentially cause filings with the Board of Election. Mr. Hollins said they were present at Board of Elections for the decision on the validity of signatures and met with their staff and counsel to review the timelines. At that time he told them there was a possibility they could not act on at least one of the measures until August 19th and the earliest they could return everything to them would be August 20th. He asked them if that would leave them enough time and they said they do not publish a drop-dead date because they do not print ballots anymore. They said it would leave the entire month which is sufficient time for them to have their BOE hearing on any protest filed, run it through the Supreme Court that has an expedited elections hearing process and have it returned to the BOE by their deadline for the November ballot. He said tabling the matter to August 19th will not cause a timing issue such that if it is ultimately on the November ballot, that they will not make the deadline.

Councilman Cline said he received the Petitioner's legal brief by email at 6 p.m. this evening when he came out of court. He would be very uncomfortable ruling on the merits without having read that submission in detail; it is inherently unfair to the Petitioners for him to make a decision when he has not even read their petition paper yet. He said there is a room full of people here tonight who he is sure are here for this item and if they are going to delay two weeks, which he requests, he requests that the Chair allow anyone here tonight who does not intend to be here at the next meeting to be able to address City Council. It is also unfair to these people to invite them to come out to talk to Council tonight and then say they must come back in two weeks. Vice-Mayor Lorenz agreed. He said they are also missing a Council member. He encouraged those to come forward during public comment if they cannot attend the next meeting. He said the comments will be limited to three minutes per person due to the number of people present and time constraints.

Councilman Counts asked to make clear to the Petitioners' and Landowner's Counsel that they will not be looking for them to make any statements tonight; those statements will be made at the next meeting. They will only receive public comment this evening. He said Council should give an indication whether they would like to table to the next meeting.

MOTION: Councilman Cline moved to table Resolution 2014-16 to the next regularly scheduled meeting of City Council on August 19, 2014. Councilman Bertone seconded the motion.

Vice-Mayor Lorenz opened this item to public comment. He encouraged those to speak who cannot be present at the next meeting and also welcomed written comments by email or mail.

Brian Ebersole, 215 Squires Court, said in the City Charter it says that Council will act "forthwith" and that means the next Council meeting. The reason is that they are just looking to see if there is a technical issue with the form of the petitions. They are not looking at substance and there is no reason to table this. Either they filled out the petition correctly or they didn't. Mr. Ebersole said they are looking for Council to act tonight or they are looking to talk about it in court next week.

Dave Hartline, 150 Glen Abbey Court, said they have all discussed full disclosure and the residents have been open about what they think should be done and they have spoken their views. The fact that these petitions were gathered in such a short period of time shows that people eagerly signed up. There should not be any delay because by the will and vote of the people it is quite obvious what they have been dealing with. They have had a lot of patience; he grew up in Marion, Ohio and he guarantees that if this had happened in a place like Marion, the Chief might have to bring in extra security. It would not have gone over too well to try to say they are going to pull some sort of routine where somehow or another they have the petitions and are not sure they are really correct. Mr. Hartline said he does not know how much more correct they could be. No one here who has spoken at the meetings he has attended is against development; they are all reasonable people who believe in reasonable development. They do not want development that will change the course of their community. People in the Arena District would not want quiet zones or different types of homes proposed in that area. This community tends to be a little more conservative than most but in Malibu, California it is a very liberal community yet they have the most conservative zoning records because that is what the citizens of that community want. They want and have no development and that is what they would like to have: a community as they have known it. Mr. Hartline said he walked to this meeting because it is easier than dealing with the traffic. They have been "lectured to" about demographics when they are all pretty familiar with what is going on in the world. They have even heard from Council that this Comprehensive Plan is now 20 years old and has not been updated. Now they are trying to throw stuff in at the last minute and he is not sure why. Twenty years ago he was working in Washington, DC and they did not have cell phones or email; now if they had a business plan that was not updated in two years that would be backwards. Yet, they have been told they have to react to

a plan that was made a long time ago. Mr. Hartline said he is saying that those here have voiced their opinions very quickly, honestly, openly, politely and they think they have done what a democratic movement does. They have presented legal petitions in a legal and timely fashion and they would like that voted upon for the will of the citizens because it is very clear what the vote would be.

Vice-Mayor Lorenz reminded the speakers that the comment should relate to Resolution 2014-16, the referendum petition, and they are not discussing the Comprehensive Plan.

Tom Happensack, 127 Kelly's Court, said he is one of the petitioners. The City has had their petitions for 19 days and that has been plenty of time to look at the form of them, which is their duty tonight. Substantive arguments are for court and those can be done after the election. Any delays in their vote puts the citizens, the petitioners at risk of running out of time. That is patently unfair to them. They have interpreted and complied with the guidelines and they are asking tonight that City Council look at the form only and determine if they did the right thing or they did not do the right thing. Mr. Happensack said that is it. The information they sent today was really talking about the protest; they feel they have a right to answer that protest. The Board of Elections came back and told them that 360+ signatures were authenticated. Those are voting citizens. They needed 238 and it is quite apparent they have done what they needed to do. Unless there is a form issue, they believe that Council has to put this on the ballot.

Sarah Ebersole, 215 Squires Court, said she does not want to waste Council's time even though clearly, their time is not valuable. As their elected representatives they are up there to represent the public. When they are tabling things and talking with lawyers and having side meetings outside of a public meeting where they can voice their opinions, it is public perception that they are doing things that are maybe best serving to their own or the developer's agenda rather than listening to the people. The people clearly made points before the development was passed that they did not want this and they now feel these issues should be voted upon by the people who elected Council. Ms. Ebersole said for them to say that they are not even going to consider this just again shows that they are not looking at the public's best perception. One of the ordinances does state that if this is not voted on tonight that Council has to send it to the Board of Elections tomorrow and they will be handling it. They should take that into consideration. Public perception, even those who do not know much about this, is that the public's opinion does not matter and City Council is not here to represent the public; they are here to do what they think they should do and listen to their "developer friends."

Sharon Valvong, 225 Squires Court, said in addition to the comments from Mr. Happensack about the time they have had the petition and the opportunity they have already had to review it, according to the City Charter two readings are not required. The second reading may be waived by Council vote and they can pass an emergency ordinance. They do not have to wait. They can do the two resolutions and the ordinance this evening.

Tony Dolciato, 142 Briarbend Blvd., said he echoes the thoughts of those who have spoken. He asked for those who have the same concerns to stand so Council can see how many there are. He said they want to move forward on this because it is a simple matter of determining if the paperwork is legal. He said these are voters who want this to move forward.

Paula Ziebarth, 242 Hopewell Court, said she is a little new to this issue but has been following it on the wayside. She asked if the briefing Mr. Cline referred to, the one he did not have time to look at and the reason they are considering tabling this, is the one from the developer. Councilman Cline said the brief came from the Petitioners. Ms. Ziebarth said she does not know what that briefing contains or if it is a good reason to table this tonight. If all or some of them have had a reason to read it there is definitely a majority of the public here this evening and if the petition is indeed in order, they, as representatives of the people of Powell, should pass it this evening.

Mike Hadra, 168 Meadow Ridge Court, said the Board of Elections said they have plenty of time but he asks if that is in writing. Not too long ago Orange Township had a big problem between something that got emailed and did not reach the Board of Elections in time. He asked the Law Director what assurance they have that if this gets tabled, it is not going to miss the deadline. He asked if he has an answer. Mr. Hollins said he must wait for Council to direct him to answer. Vice-Mayor Lorenz deferred the question to the Law Director. Mr. Hollins said the issue with the township was that an election had failed and in order to put it back on the ballot they had to be filed the next day. The day after the election the Trustees had to meet, pass a resolution and file with the Board of Elections by 5 p.m. In the case of Orange Township, they missed that deadline. He said if one looks on the Secretary of State website they give all of the election deadlines. Mr. Hadra said he is not going to do that; he is asking Mr. Hollins the question. Mr. Hollins said he was asked if there is anything in writing and he is

saying that on the website there is a September 20 date on their long calendar of annual dates. He does not have to go do research but it is in writing that the deadline is September 20th to send out ballots. Mr. Hadra said he is still puzzled by the fact that he had to ask the question of the Board of Election if they had enough time if it was in writing. Mr. Hollins said he asked them for an answer out of a sense of decency to the Board of Elections to make sure they had time to do their job. He said they just want to keep things orderly and moving along and not miss any deadlines so they are not putting the Petitioners in a position where, after going through all of this work, they would miss the November election.

Hearing no further comments, Vice-Mayor Lorenz closed the public comment session.

Councilman Counts said he wants to make it clear that everyone on Council really wants to make a decision on this. The problem is that they have to be fair to all parties involved. Today they received a brief from the Petitioner and they owe it to the Petitioner to read that and read the case law. They have some pretty complex legal issues in this and both parties have briefed. Vice-Mayor Lorenz asked persons speaking out of order to hold their comments. Councilman Counts said they owe it to the City and the Council to understand the issues involved to really handle the matter. That is the reason why it is appropriate to table this, read everything that has been given to them and hear this at the next meeting.

Councilman Bennehoof said he wants to be sure they do the right thing. He has reviewed the three petitions and legislation but he was on the road most of today and received the Petitioners' brief when he walked in tonight. He said he has not even read the first page. He said he read the previous brief from the landowner but when they put the three things together it is not a simple issue. He begged that the public have the patience to allow Council to do an appropriate review and make sure they are doing the things that are legal. He said he is not a lawyer and they have to make sure they are doing things by the ORC and the City Charter. Councilman Bennehoof said Council did not have an opportunity to talk to the Law Director until this evening and the brief was not received by the City until today. He said he will read this and put it in context of the other documentation. Council will make what he hopes is a prudent decision and he understands the timeline will allow for this to go to second reading. Council wanted the audience to have the opportunity to speak and he respectfully thanks them for their comments. Councilman Bennehoof said he will take everything into consideration and he appreciates their patience with this body.

VOTE: Y 6 N 0

Vice-Mayor Lorenz said this resolution will be discussed at the next Council meeting on August 19th.

RESOLUTION 2014-17: A RESOLUTION DETERMINING SUFFICIENCY AND VALIDITY OF AN INITIATIVE PETITION TO PROPOSE AN ORDINANCE TO REPEAL ORDINANCE 2014-10.

Mr. Hollins said this is the second of the two petitions related to this ordinance. This resolution subjects Ordinance 2014-10 to a referendum to initiate a new ordinance to repeal Ordinance 2014-10.

MOTION: Councilman Cline moved to table Resolution 2014-17 to the next regularly scheduled Council meeting. Councilman Counts seconded the motion.

Vice-Mayor Lorenz opened this item to public comment. Hearing none, he closed the public comment session.

VOTE: Y 6 N 0

Steve Lutz, City Manager, suggested they move Ordinance 2014-41 forward on the agenda.

FIRST READING: ORDINANCE 2014-41: AN ORDINANCE TO SUBMIT A PROPOSED CHARTER AMENDMENT, ENTITLED "AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO" TO THE ELECTORS OF THE CITY OF POWELL.

Mr. Hollins said this is the third of the petitions. This petition is to submit a Charter Amendment to the ballot. The City does have a short section in the Charter that refers them to the Ohio Constitution and the Ohio Constitution requests that when initiated by the citizens, that this Council consider an ordinance to submit that to the ballot. Mr. Hollins said this is that ordinance. Councilman Counts said since this is the first reading, this would not have to be tabled because it would ordinarily go to a second reading. Mr. Hollins said that is correct; it can go to second reading unless there is a motion to suspend the rules and the affirmative vote of a supermajority to adopt it at the first reading.

Vice-Mayor Lorenz opened this item to public comment.

Mr. Happensack, Petitioner, said the Supreme Court says they must do these "forthwith" and that has been defined by the Supreme Court as "immediately." Tabling this for two weeks is not immediately. They have already acted upon and put themselves in this position and he does not think that is a smart thing. Mr. Happensack asked that the rules be suspended and that it be dealt with tonight.

Brian Ebersole, Petitioner, said he would like to point out that by choosing not to act tonight at the next meeting, he assumes they will be sending their petitions and the Charter Amendment to the Board of Elections tomorrow as stated in the Charter. He said he wanted to make sure it is clear they are making that decision.

Hearing no further comments, Vice-Mayor Lorenz closed the public comment session.

This item was taken to a second reading which is scheduled for August 19th.

TABLED FROM JULY 15, 2014: SECOND READING: ORDINANCE 2014-35: AN ORDINANCE TO VACATE A PORTION OF A STORM SEWER DRAINAGE EASEMENT, LOCATED ON REAL PROPERTY OF RECORD IN PLAT BOOK 2, PAGE 648, IN THE RECORDER'S OFFICE, DELAWARE COUNTY, BEING LOT 2571 MURPHY'S PARK SECTION 3, AND DECLARING AN EMERGENCY.

Mr. Lutz said this is the vacation of an easement so a property owner can sell their property. The County Engineer has required that the property owner acquire a legal description for this to occur and that has not been completed since the last Council meeting. Mr. Lutz said it has been recommended that this be tabled to the next meeting.

Vice-Mayor Lorenz opened this item to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Cline moved to table Ordinance 2014-35 to the next regularly scheduled Council meeting. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2014-42: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2014.

Mr. Lutz said this item was discussed with the City's Finance Committee and at the Council Committee of the Whole meeting. Liberty Township applied for and received grant funding to make improvements along Sawmill Parkway and SR 750. This project would involve adding an additional westbound turn lane onto Powell Road from Sawmill Parkway and would also widen Powell Road from Sawmill Parkway west to the Zoo. This is a \$7.25 million project with the majority of funding of \$3.5 million coming from MORPC, \$875k coming from Delaware County, \$3 million coming from ODOT and \$425k from the ODOT Preservation Fund. Mr. Lutz said as part of Liberty Township's grant for this project it requires \$300k of local funding. Liberty Township has committed \$150k and the City has been required to contribute \$150k. The project encompasses portions of the City and involves work on the north side of SR 750 east to Galloway Drive; it also involves construction of a bikepath on the north side of SR 750 from Sawmill Parkway west to the Zoo.

Councilman Counts asked if it is correct that this was part of a much larger plan of improvement from some time ago but there were insufficient funds to do it. Mr. Lutz said he assumes it was always part of a bigger plan as improvements around the zoo have taken place but cannot confirm that. The additional turn lane from Sawmill Parkway onto Powell Road is due to the tremendous growth at the Zoo. Their attendance is over 2 million now and regardless of the time of year or day of the week it creates a tremendous amount of pressure on the infrastructure in this area. He said construction of the path creates a continuous bikepath link that is currently missing.

Councilman Bennehoof said most of the Council members had the opportunity to meet with the Township officials at a Council Committee of the Whole meeting last week. He asked Tom Mitchell, Chairman, Liberty Township Trustees, to attend this evening in case there are any questions. Councilman Bennehoof said there are three intersections involved and there are separate funding plans in this collaborative grant. A different project for Sawmill Road has a grant being worked on; it will relieve both the City and Township of some fiscal responsibility for repairing the road to a tune of almost the amount they are being asked to contribute toward the SR750 grant.

Councilman Bertone said he was able to participate in last week's meeting and this effort will benefit the residents from both the Township and the City of Powell, knowing the through traffic issues and ongoing traffic

matters. This is something that will go a long way toward resolving those issues. A lot of credit goes to the Township for working hard to get this grant in place.

Vice-Mayor Lorenz opened this item to public comment.

Tom Mitchell, 4426 Mettler Court, Liberty Township Trustee, said they had a great meeting last week and he found it very positive. This is a project that both communities can look upon positively; it will be great to get to the Zoo on the bikepaths. This is a service to the community both in the traffic and infrastructure. He looks forward working together with the City on this project if they should decide to go forward.

Mr. Happensack said this is a great idea and they need more of these solutions to infrastructure. The City has ignored them for too long and they must address them. They are hearing from the citizens and a lot of the opposition is traffic; the community survey talks about traffic and they have been blind to it. They close their ears and think it will just go away. If it can't go away they will just keep growing. These are the things that need to be done. They need collaborative effort with Liberty Township to help solve the problem with SR 750 coming across and through the middle of town. It can be done if they work with them.

Denise Wible, 226 Beech Trail Court, said she loves the bikepath idea. They have had conversations about this in her home all summer because currently they cannot get to the Zoo. There is a beautiful bikepath at the Zoo that gets you to Dublin and this would open the world to them. They could bike instead of drive to the Zoo. This is a great opportunity to work with the Township and it would benefit not only the residents but the community because there would be another way to get around. The bikepaths make it irresistible and a lot of people avoid passing the Zoo in the afternoon because it is always a traffic jam. It will be great to see that intersection and stretch of road opened up to allow more traffic to move freely.

Martha Cornett, 168 Kelly's Court, asked if these funds will allow them to put pedestrian walkways on Sawmill Parkway because there is no way to cross safely right now. Mr. Lutz said it is an ODOT project and he assumes there will be "ped heads" when the bikepath is extended. This project is scheduled for construction by ODOT in 2015 and 2016. He said a "ped head" is the availability of a button to change the signal and signalization for pedestrians to walk/don't walk.

Hearing no further comments, Vice-Mayor Lorenz closed the public comment session.

Councilman Cline said he was very hesitant about this entire project and he questioned if it provided any benefit to Powell residents. He questioned why they were spending Powell money on a project that at the time appeared to be outside of the Powell City boundaries. He has to say that Mr. Mitchell and his colleagues were very persuasive with facts and that is what drives his decision-making process. Councilman Cline said some of the facts have been alluded to already but the bikepath to the Zoo is a benefit to the entire community, not just Liberty Township's unincorporated residents. The project relieves some of the eastbound traffic into the Four Corners and that will not be a great relief but when they are drowning even a few drops of relief are better than nothing. That is a positive step. This project does border the City so the concern about spending City money outside of the borders is no longer a concern. Councilman Cline applauded the Township's expressed goal to use a special fund that does not come from the taxes City of Powell residents to pay for the Township's portion of this. He said that is a direct result of the concern expressed that somehow City residents would be taxed twice. The Township Trustees made it very clear that they cannot absolutely guarantee that that is how it is going to go because there are steps that have to occur, but in good faith they expressed an intent to pursue that option. He said that is a very favorable step from the Trustees. Councilman Cline said with all of that new information he is pleased to support Ordinance 2014-42.

Vice-Mayor Lorenz said he has been particularly hard on the Zoo; he feels there is some culpability of their part and they should be helping the City with the traffic issues we have. He said he will never back down from that and he looks forward to partnering with them on some future plans to help relieve traffic and stress. This project is a win-win and it gives the community another complete bikepath connection so riders will have that opportunity.

Councilman Counts said Mr. Happensack makes an excellent point: they have not been able to deal with many of the traffic issues and the frustration that many of the residents have is also a frustration on the part of Council. He said one of his concerns about doing this funding is that this is \$150k and the City has multiple uses for that money. They have traffic management issues and bikepaths within the City they could be using those funds for. They went to the voters in 2010 on a capital improvements budget and the City residents voted that down and they are paying the price for that. Councilman Counts said they are not able to do the kinds of

things that they would all like to do so it is important that the residents know and understand that it is not just about Council not doing anything. It is that they do not have the funds to do it. He said he will vote for this funding but it will be with some trepidation because clearly the City has lots of places that this \$150k can be used. For the betterment of the greater community this is the right thing to do but rest assured, there are projects within the City of Powell that are not going to be done as a result of this.

Councilman Bennehoof said he mentioned the OPWC the City is getting relief on for Sawmill Road and it does not directly correlate but it is competing for funding. He said this is \$150k out of a \$7.5 million project. People need to be very clear on the facts and he would like the City Communications Director to thoroughly communicate the reasoning behind this funding. There is a deadline for the local funding so time is of the essence.

MOTION: Councilman Bennehoof moved to suspend the rules in regard to Ordinance 2014-42. Councilman Cline seconded the motion.

Councilman Crites said this is an outstanding example of what the City and the Township can do when they partner together. He said it is not always easy. He said he was a prosecutor for many years at the State and Federal level and over that period of time he saw similar things that he has seen between the City and the Township in the past. He said Law Enforcement used to fight over minor decisions and after a while they learned that they only have a finite amount of resources and when they fight amongst themselves and can't partner together there are winners and losers. The winners are usually the criminal element in that regard and the losers are usually the people they were elected to protect. Councilman Crites said this is a similar situation and if they have disagreements and cannot partner together and move forward in a collaborative effort, the losers are the people they are elected to serve. He said he likes that they are attempting to step forward in an effort in a way that will benefit the community; he would like to see them continue to do this on a more frequent basis. Councilman Bennehoof said at the meeting they agreed to try to meet regularly as the Committee of the Whole with the Township. They are aiming for those meetings on a quarterly basis.

VOTE: Y 6 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2014-42. Councilman Cline seconded the motion.

VOTE: Y 6 N 0

COMMITTEE REPORTS

Development Committee: Vice-Mayor Lorenz said the Committee met this evening and discussed a Green building incentive program. They decided to put that on a back burner; some of the enforcement issues and items may not be appropriate by code yet. A new version of LEED is coming out soon and if they are going to try to mimic ordinances to that they will need to be in compliance with the Ohio Building Code, Version 4. They briefly discussed a parking study provided to P & Z last month. It outlined the number of parking spaces available in the town center. They will discuss other ideas to try to open up more parking and making the existing parking more readily known. They will try to publicize it so people have a clear understanding of available parking in town. *Next Meeting: Tuesday, September 2nd, 6:30 p.m.*

Finance Committee: No report. *Next Meeting: Tuesday, August 12th, 7:00 p.m.*

Operations Committee: No report. *Next Meeting: Tuesday, September 9th, 6:30 p.m.*

ONE Community: No meeting will be held in August. *Next Meeting: September 8th, 7:00 p.m.*

Planning & Zoning Commission: No report. *Next Meeting: Wednesday, August 13th, 7:00 p.m.*

Comprehensive Plan Committee: Councilman Crites said they will be taking to the Finance Committee at their August 12th meeting the recommendations regarding the cost estimates from the consultants. *Next Meeting: Tuesday, August 26th, 6:30 p.m.*

Powell Community Improvement Corporation: No report. *Next Meeting: Thursday, August 14th, 6:00 p.m.*

CITY MANAGER'S REPORT

No report.

OTHER COUNCIL MATTERS: Multi-Family Dwelling Development Moratorium Discussion

Councilman Crites said he asked that this item be placed on the agenda. As designated Chair of Comprehensive Plan Committee they have started to have discussions about the Comprehensive Plan and one of the things raised by citizens is whether a moratorium is possible during the pendency of the plan review. He contacted the Law Director and asked if he would be willing to open up the dialogue about the possibility of a moratorium on multi-family dwellings and whether it is feasible and lawful.

Mr. Hollins said he has not had the opportunity to complete further research but there certainly is the opportunity for this Council to pass an ordinance of this manner. He said they are looked at by the Courts as to whether they are narrowly tailored in scope of the moratorium and is the time period reasonable in the sense that it is just a time period to allow them to do good planning and then revisit the zoning districts placed on certain lands and the zoning code related to those uses. There is Ohio and Federal law that supports the possibility of some type of moratorium. He would be willing to discuss that with the Comprehensive Plan Committee if that is a direction they would like to head.

Councilman Crites said they are anticipating the Comprehensive Plan review will be completed in 14-15 months. If they were to consider a moratorium, is 15 months a reasonable period of time in tying it to the completion of the Comprehensive Plan. Mr. Hollins said it would be as long as they can document that they are actively going through the process of reasonably and responsibly studying the impact of that type of use. There are issues about existing zoning and existing approvals and whether they have reached the point where they have vested rights. In Ohio, generally the onus is on the landowner to make the case that they have vested rights and showing they have devoted substantial resources pursuant to the approval before the moratorium was enacted. There would be a subjective determination by the Courts on a case-by-case basis, to determine if the resources invested are sufficient that the landowner has a reasonable expectation to be able to continue the process without stranding their investment.

Councilman Cline asked if he is saying that there is no bright line rule that says that if they filed their application they are vested and if they haven't filed their application they are not vested, but this is determined on a case-by-case basis primarily on the resources devoted. Mr. Hollins said that is correct. The landowner must show that they have backed up the expectation they had with an investment and if so, it is their constitutional right to continue through the process. It is a fact-driven process. Councilman Counts asked if one of the facts be that all of the zoning is in place, they complied with the zoning but needed a couple of variances, versus a piece of property that was zoned for something completely different and would have to be rezoned. Mr. Hollins said that is correct.

Vice-Mayor Lorenz said he brought this up as a discussion item back in April at the Development Committee. This is something that is very important to consider, especially with the updated plan. He would be curious to know if the Comprehensive Plan Committee is concerned with the town center area or looking at this holistically across the board. Councilman Crites said the Committee is not even looking at it; this is something that was raised on at least two occasions by members of the community. The Committee decided to follow up on this with Mr. Hollins. Vice-Mayor Lorenz said the majority of the folks are concerned with that and the Community Attitude Survey pointed to multi-family development as a concern. He encouraged City Council to take a look at this.

Councilman Counts said if they consider this he will be most concerned about the scope. A two-unit multi-family is completely different than a 250-unit project that might be considered so they will really have to look at it. Councilman Crites said Council will have to establish the dialogue and perhaps ask the Development Committee to bring forward a proposal. They will need to have ongoing discussion on this and they cannot sit back on their hands on it. The community has made it clear that this is important to them. Vice-Mayor Lorenz said this discussion would be appropriate for the Development Committee and they could start discussions in September.

Councilman Crites brought to Council's attention that the community is starting a discussion on the issue of Heroin. As he has traveled throughout the country he has seen this issue on the front pages of newspapers for several years. He said he, Police Chief Gary Vest and City Manager Steve Lutz have already had several discussions with OLSD Superintendent Wayne Lucas on this issue. He emphasized that this is a community problem, not a school problem. The community tends to think they live in a "cocoon" here in Powell and that they are not affected by some of the other problems that go on throughout the world, but they are. Councilman Crites said the Mayor has been aware of his work on behalf of City Council. He has been working with Jennifer Biddinger, the Drug Awareness Outreach Coordinator for the Ohio Attorney General's Office. They are looking at scheduling working groups that are composed of educators, law enforcement, Courts, business, treatment recovery, etc. to address issues facing students within the OLSD. He applauds the school district for taking on this problem. They have pledged over \$300k over the next three years to start a program and they will set up a first planning session. Councilman Crites said he would like to have the approval of City Council to continue to serve in this capacity. He has a great interest in this and when he was a United States Attorney for several years he traveled around the country and spoke about the ravages of the drug problem in this country. He would like to be Council's representative on the committee; he would report back to Council periodically.

Their only commitment is to provide a representative to spend some time and hopefully be a part of the solution.

MOTION: Councilman Bennehoof moved that Mike Crites be the City Council Representative to the committee. Councilman Bertone seconded the motion.


VOTE: Y 5 N 0 Abstain: Crites

ADJOURNMENT

MOTION: Councilman Cline moved at 8:54 p.m. to adjourn the meeting. Councilman Bennehoof seconded the motion.

VOTE: Y 6 N 0

MINUTES APPROVED: August 19, 2014



Brian Lorenz
Vice-Mayor

10/3/2014
Date



Sue D. Ross
City Clerk

10/3/2014
Date



City Council

Jon Bennehoof Frank Bertone Jim Hrivnak, Mayor Tom Counts Mike Crites Richard Cline Brian Lorenz