



City of Powell, Ohio
City Council

MEETING MINUTES

October 4, 2016

Councilman Newcomb recused himself from Executive Session.

**EXECUTIVE SESSION: EXECUTIVE SESSION IN ACCORDANCE WITH OHIO REV. CODE SECTION 121.22(G)(3),
PENDING OR IMMINENT LITIGATION.**

ROLL CALL: Bennehoof, Bertone, Counts, Hrivnak, Lorenz, Swartwout, Lutz, Hollins, Betz, Canavan, Kambo, and Mitchell.

MOTION: Councilman Bennehoof moved at 7:30 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G) (3), Pending or Imminent Litigation. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Bennehoof moved at 8:06 p.m. to adjourn from Executive Session and into Open Session. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

OPEN SESSION

CALL TO ORDER/ROLL CALL

A regular meeting of Powell City Council was called to order by Mayor Brian Lorenz on Tuesday, October 4, 2016 at 8:14 p.m. City Council members present included Jon Bennehoof, Frank Bertone, Tom Counts, Jim Hrivnak, Brian Lorenz, Brendan Newcomb and Daniel Swartwout. Also present were Steve Lutz, City Manager; Eugene L. Hollins, Law Director; David Betz, Development Director; Rocky Kambo, GIS/Planner; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk, and interested parties.

PLEDGE OF ALLEGIANCE

PROCLAMATION – Walk to School Day, Ryan Vogel, Physical Educator, Tyler Run Elementary. Mayor Lorenz announced that Walk to School Day in Powell is scheduled on October 6, 2016.

CITIZEN PARTICIPATION

Mayor Lorenz opened the citizen participation session for items not on the agenda.

Shaun Simpson, 510 Bantry Street: In a day where it becomes so easy to complain, I feel people don't always get the recognition they deserve. I back up to Murphy Parkway. I wanted to thank the City for a great job on the project. It ended up a lot better looking than we anticipated, below budget, on time and any time there was a hiccup, we got great communication from the Staff. So I wanted to extend our great appreciation for the way that the project was handled.

Hearing nothing further, Mayor Lorenz closed the public comment session.

APPROVAL OF MINUTES – September 20, 2016

MOTION: Councilman Hrivnak moved to adopt the minutes of September 20, 2016. Councilman Bennehoof seconded the motion. By unanimous consent of the remaining members of Council, the minutes were approved.

FIRST READING: ORDINANCE 2016-44: AN ORDINANCE APPROVING A ZONING MAP AMENDMENT FOR 8.75 ACRES AT 2470 WEST POWELL ROAD, AMENDING THE ZONING MAP FROM R, RESIDENCE DISTRICT AND PC, PLANNED COMMERCIAL DISTRICT TO DR, DOWNTOWN RESIDENCE DISTRICT.

Mayor Lorenz: Let me briefly explain how we will proceed with this. First, we will have a brief staff report. We will allow the applicant to speak and then we will take questions from Council. Following that, I will open it up for public comment. You will be given three minutes for public comment because I suspect there are many of you that wish to speak on this matter. Please state your name and address for the record, direct your comments at Council and do not turn around to the audience. Let's be respectful of one another and follow decorum in this chamber.

David Betz, Development Director: The property is located off of Beech Ridge Drive that is generally off of Powell Road. The Powell Center is here [indicating] and Grace Drive is to the west. The proposal is to rezone the property. The current zoning of the property, the front portion (or what I like to call the pole of the flag) is PC, Planned Commercial District. The back part of the property is zoned R, Residence District, and, as far as I can tell, it has been zoned that way since the 1970s when the Powder Room and the bakery were opened in the front part [of the property] and the owner lived in the back part of the property in the house.

What's before us tonight is a development of 48 single family homes. They are individual home sites on single family lots. Everything that is being proposed is maintained by a homeowners association, including private streets. The proposal is to rezone the property to our Downtown Residence District. In looking at the zoning application, our P&Z Commission did look at a preliminary development plan, which is what you see on the screen [indicating]. P&Z reviewed this and reviewed it in relationship to our new Comprehensive Plan adopted last year by City Council. In the downtown area which is basically a village mixed-use area in our overall land use plan, the property is identified here as a Village Residential type of use, so it is suggesting in our Comprehensive Plan that this area be considered for a village-type residential development. This is at the edge of downtown as you transition from the downtown area to the single family subdivision, Olentangy Ridge, to the east. As such, the P&Z Commission did recommend the zoning map be amended to the Downtown Residence District and the plan be brought back to P&Z after the zoning change is approved, if it is approved, in relationship to the requirements set forth in the Downtown Residence District. This is for the rezoning of the property only, not the development plan. The development plan will come back to P&Z for a final development plan and to City Council if this rezoning is approved.

Councilman Bennehoof: With regard to the pole of the flag, I see dotted lines on that map. Do any of those dotted lines line up with the part being rezoned?

Mr. Betz: No. The whole parcel is being rezoned into the Downtown Residence District. The dotted lines merely represent certain phases that it would be built in during the construction.

Councilman Bennehoof: So the only commercial part is what you highlighted...[Mr. Betz: Basically from this line extended (indicating) to the south]. Ok. And the rest if it is already residential, it's just going from Residential to Downtown Residential.

Mr. Betz: Yes.

Councilman Counts: Dave, you mentioned that the actual plan would come after any rezoning that might be approved. So what we see up there [indicating] is not really before us, is that correct?

Mr. Betz: The plan here is representative of the preliminary development plan that was approved by P&Z. As part of a rezoning application, a plan is required to be submitted for the property. It's not necessarily a part of the rezoning application, per se, it is merely informational for the decision makers as to how they propose to develop the property. Within this context however, they do have a preliminary development plan approved by P&Z. A final development plan would have to be submitted consistent with that or they go through the preliminary process again.

Councilman Counts: So this is informative, but not necessarily set in stone. [Mr. Betz: Not tonight.] And you mentioned that this is proposed to be rezoned to a Downtown Residence District. Can you very succinctly tell me what the parameters of that Downtown [Residence] District are?

Mr. Betz: Yes. Our Downtown Residence District is designed to be representative of what we already have in our downtown area that is residential. That area is established by the original plat of the town back in 1876 and developed up through the early 1900s in 50 by 150 foot lots. It's representative of that but you do not necessarily need to establish every development as 50 by 150 foot lots, but that is a minimum size – with some smaller sizes allowed. Therefore then you have the density that you would get by having subdivisions within that, or residential developments within that area, looking at those kind of lot sizes. This proposal would have representative lot sizes similar to that – maybe not as deep, but certainly as wide.

Councilman Counts: Any other particular restrictions or features of the Downtown...?

Mr. Betz: One thing that we will be coming back with, a plan in a Downtown Residence District, is a home style. Some of that may have to be tweaked from an architectural standpoint to fit in better with our architectural guidelines downtown; however, not necessarily matching. Those sort of things.

Councilman Hrivnak: Gene, we use this information, this illustrated plan to help visualize what may be here. If we make this zoning change, is the developer restricted by this preliminary development plan?

Eugene L. Hollins, Law Director: Remember this is Council's step of the process. At the P&Z step, it is something that we ask them to submit and P&Z to act on and they did. In this step it is just the rezoning to a new district, that being the DR. Then we go back to P&Z for an additional step which is the Final Development Plan and then that Final Development Plan ultimately will come back here [to Council] and you will act on a Final Development Plan. But to answer your question, now they have the DR zoning, – let's say that happens - they can start the whole process over with some new preliminary plan, maybe something different than what we see. But after putting all the resources and already having P&Z approve the preliminary plan, it's highly likely that the final development plan will follow in the steps of this [current preliminary development plan] if the rezoning is adopted. Theoretically possible, probably not. They're not going to wipe the slate clean and start a new plan.

Todd Faris, Faris Planning & Design: I have with me tonight Len Pivar and Joe Miller. They are both here to answer any questions you may have. As Dave stated, this will be a single family subdivision. These are platted lots on private streets. The way that this has been designed is like a village. We have narrow streets with homes that are close to the streets. Very similar to what was done in the village-style of development. That's the characteristic of downtown Powell. We have kept that in mind as we have gone through this process. We are obviously looking for a rezoning to the Downtown Residential. That's not exactly what we started off with, but that was a recommendation of P&Z and we agreed to that and the different points that they have had. The development team is all here to answer any questions you may have.

Len Pivar, Len Pivar Builder, Inc.: Gentlemen, you completely covered my first point. I had received some phone calls from some residents. They were concerned that what we were coming in for was final approval, that if we walked away with approval, we could start developing. I tried to explain to them that the development approval is a separate process and we are here strictly for rezoning.

As many of you know, we have been working with the City on this development of this property for three years. The project has evolved after many meetings and much input from the City planners, P&Z and Council. It currently reflects changes that were required to make it significantly different from the plan that was approved in 2015 by Council. As I will clarify, this proposal will substantially reduce traffic over any other use, either as it is currently zoned or in re-renting the 8,800 square feet of existing commercial space, and will create substantial income for both the City and the school district.

At the last public meeting we presented optional uses for this property. From an investment standpoint, there are many attractive options. Taking the easiest course of action would have been to work within the existing zoning. But as I've stated at earlier meetings, I'm a custom homes builder and my passion is

building quality, unique homes and this passion was the driving force behind designing Harper's Pointe as a high-end community, developed and built exclusively by me. The project was well thought out and is a win-win for everybody involved.

I'd like to show some important bullet points [indicating]. I did not produce these numbers. They came from the Auditor's Office or by Powell's Finance Committee:

- Adds 2.6 million in the TIF funds for Powell's use
- Projected school tax income increase of \$320,000 without impact on enrollment
- Enhances value of surrounding property
- Clean up under EPA guidelines for existing lead contaminated soils
- Traffic reduced by 50% to 70% over commercial or existing building usage
- Walkable to downtown Powell businesses
- Provides options for seniors that want to stay in Powell

Councilman Counts: I just want to clarify when you say that it will produce \$320,000 without impact on enrollment, that's assuming there are no children in this development?

Mr. Pivar: The development itself is targeted for empty-nesters and retirees and that's who we are getting the majority of our phone calls from. They are very small lots. They are totally maintained. There's nothing in the development that would attract people with young children. For the price point alone, these people could buy a larger lot in one of the other subdivisions where there's other children in the neighborhood. I can't guarantee anything - a grandparent could move in and end up with children living at home.

Councilman Counts: I just wanted to clarify - assuming that there are no children in that subdivision that would be in the schools, then there would be a net increase...

Mr. Pivar: According to the Auditor's office, based on about \$18 million dollars in sales, it would produce about \$320,000 or more per year in new school income.

Councilman Counts: The other question that I had for you is that while the preliminary plan that we have before us is just informative for us at this hearing, there was a plan that was presented and voted on by Council and I was wondering if you could describe what the differences are between this plan and that plan that we heard about before?

Mr. Pivar: The original plan was to be a condo association. This plan is a home association with fee simple lots. There were 47 units with a public road going through the front of the plan, but we deleted the road. The zoning classification was changed on us. We were going for Planned Residential zoning and instead it's Downtown Residential zoning. Any single family plan that you put up there is going to look similar because they're lots and houses, but it is substantially different than the other plan.

Mayor Lorenz opened this item to public comment.

Suzanne Jacobs 10623 Pembroke Place: I'm here for the first time to give my support for Harper's Pointe. I've lived in the area for 25 years and love living here because it is a great place. I also sell real estate here and have been doing so for about 13 years. Many of my clients are asking for a walkable community, and when they do, I have them looking at Arlington, Grandview and Old Worthington because they want to be near a downtown and walk to all of the amenities - libraries, restaurants, etc. I hope you look very positively on this particular location and the way it is planned right now and not more retail because I really think this is a great additive for our community to allow people to live close to town and to be able to walk.

Shaun Simpson, 510 Bantry: I think that a good philosophy in development is 'best possible use of the land.' When I look at this project and strictly speaking about the zoning of this project, we're looking at a site that roughly 35 to 40% is commercial. I don't see how that would be the best possible use of the land that is in downtown Powell. I'd say to anybody that comes up here and is against the project, I'd love to know what their alternative use would be that would be better than \$400,000 to \$600,000 condos.

Larry Coolidge, 78 W Olentangy Street: I've been up here many times and I think it would be fair to say I carried the torch for downtown as much as anybody. I've defended good projects and I've gone against

bad projects. I'd like to think I won most of them. When I see something like this, which I think is an excellent project for the downtown, I think of some other events that happened.

Several years ago there was an SOS committee that had to be formed because some people didn't like what was going on with the fire department. They said we were overstaffed. The first levy failed because these people planned everything right but they got out the wrong information. I think we're getting the correct information now. I think the developer has responded to any questions they have had about the tax dollars, the traffic, and it's not going to be the burden that everybody thought it was. On the SOS committee, we got out 5,000 flyers, gave them a website to get the correct information out, and the fire levy passed by 80% that time.

Another event was when Village Green was going to be purchased. There was a small group of people that went out and told everybody this was going to be a black hole and today we stand in a building that was once a structural truss building. So it turned out not to be a black hole but a small group went out, they didn't like it, and tried to stop it because of increased tax dollars.

The last one was one I fought against hard. Bennett Parkway was approved. It was funded, MORPC, Ohio Dep't of Transportation approved it, and a group of people got together and stopped it. I think in our recent planning, we found out we would have been better off if Bennett Parkway was there. I think this is another one of these projects. I think this will be good for downtown. I've sold real estate, including these empty-nester projects, and they go good. There's people waiting to move into a lot of these. If you look at the success of the Epcon units, this is just a higher scale and I think it will be a success for Powell. It's not going to have the traffic that everyone feared. I would like to see you approve this.

Carol Reeves, 7442 Scioto Parkway: I just had one thing to say about this. Everyone keeps asking what the biggest difference is between what he's planning and building now and what was planned before. The biggest difference is condos are now changed to single family homes and I'm pretty excited about it. As much as I love condos and the lifestyle it offers, single family homes is now going to give a whole new group of people that always thought condo was a bad word [a different option]. The state of Ohio changed condo law a few years ago and it now means that you all have to follow these rules and it's detailed and restrictive for the homeowner as well as the builder. Moving forward, there is a lot of things you can't even change if you wanted to. But now, being single family homes, it's going to allow the builder a little more availability to make changes, to not make the community restrictive, you're going to see a lot more of these seniors citizens that said they'd never live in a condo actually move there because they're not as restrictive as condos are. This single family home on high end is going to allow people that didn't want the stigma of condo life to still live there. I really think you should consider that it is different – it's not a condo – it's totally different now because it doesn't come with the state of Ohio guidelines that condos come with.

Mike Broderick, 6926 Kinsale Lane: When this project started, I was excited about what Len was going to do. I got involved in it right away and said 'count me in guys.' Then the bottom fell out and I then had to choose another place to live and I now live in Kinsale. But I would have preferred to live there [Harper's Pointe]. I am slightly handicapped and getting around is difficult. Had I been able to move into Harper's Pointe, I would have been able to walk around downtown. Now there's no walking but in your own subdivision. I just wanted to say I'm really happy it's finally going in. I hope it will work out for somebody even though it didn't work out for me.

Dave Minger, 3468 Timberside Drive: I've lived in Golf Village for twelve years. I support the rezoning, especially the commercial part to a Downtown Residential district. I'm especially keen to point out that part of the zoning would require the developer to clean up the environmental contamination that is no doubt there from forty years of the Powder Room's leadings. It was only recently that lead bullets have been disfavored at ranges. But my understanding is that in order to do this to a residential standard, they've got to clean it up to an Ohio EPA residential cleanliness level which eliminates quite a bit of burden from Powell. If it's left at a commercial level of cleanliness, it doesn't need to have the lead removed to the level that a residential standard does. So I would encourage that to be part of the deliberations as well.

One of the earlier commenters made a reference to senior citizens. It's my understanding that this is more for empty-nesters and that is a much more dynamic cohort than the classic senior citizen. I would argue that this includes income tax revenue to the City and the kind of dynamic and kind of influential people that you might want to have as your neighbors.

Juan Hadra, 168 Meadow Ridge Court: I'm going to be very brief because everyone has been very positive. I can't add anything other than that we've wasted a year. We probably would have moved to one of these new condos. We are seniors, we're downsizing and looking to move, and this is perfect. Traffic is a lousy excuse. Three, four hundred additional cars in thousands that go through the City is meaningless. The value of the property is going to raise the value of the other properties because they're primarily higher than most of the current sales in the Olentangy Ridge development, and they look very good. We've been looking at condos in other areas and we would rather stay here. What is there [now] is an eyesore. The longer we wait, the worse it will get.

Suzanne Campell 107 Forest Ridge Court: I have no issue whether they are condos or homes. I do wonder since people over here seem to indicate what we have there is what we are going to get in the end – that's fine, except for one issue from me and that is traffic. The road that was originally planned is now missing. I use that way a lot when everything gets backed up downtown. It gives me another way to avoid the traffic and I would just like to know why that was important to remove because it's been very helpful for me.

Tim Wheeland, 217 Paddock Circle East: My property lot is four residential houses from this. I do live in Olentangy Ridge. I do support this. I'm sure the traffic could be no worse than it is today. Hopefully it will be improved. I am in support of the connecting road that was just discussed. Again, I'm just here to say from my perspective in Olentangy Ridge, I fully support this.

Jan Orosz, 315 Ridgeside Drive: I've lived at my current address since 1986, so I've had a lot of experience in Olentangy Ridge. I'm in support of this project. I'm especially interested in getting the contamination cleaned up. In talking about it in the neighborhood, people seem to want to have the road [being constructed] discussed further and not having it removed. I would ask that it be part of the discussion. I think it's a great addition and I'd like to see it move forward quickly.

Tom Happensack, 127 Kellys Court: We've heard from a lot of people tonight that they like this idea. On November 4th of last year, we heard from a lot more people who do not like the idea. [Begins to read statement, Exhibit 1]. This is not the first development, this is the third development downtown. So we're not talking about 48, we're talking about 150. So we want to talk about it one item at a time and I've asked many times how many is enough? But I don't get an answer back. And that's why I oppose these because as they go in, they just keep adding more and more. When's the end? Is it 200? Is it 300? Nobody will give me that answer. So we're left with no option than to oppose every one of them because as soon as one gets to go in, they all get to go in. I understand from most of these people this is in their backyard. I've got one in my backyard. They weren't there supporting me when mine went in. There's another one over across the railroad tracks. I understand we don't want these things in our backyard, but as a community we had a vote. [Continues to read from statement, Exhibit 1].

Mayor Lorenz indicates that time is about to expire.

Mr. Happensack: People have argued that we duped the people. A small group of 10 people duped the community. Frankly that's hogwash.

[Timer goes off]

Mayor Lorenz: Ok, your three minutes are up. [Mr. Happensack continues to read his statement]. Thank you.

Mr. Hollins: We will accept your written statement in full if you wish to submit it. [Mr. Happensack submitted his written remarks, a copy of which is attached as Exhibit 1 to these minutes].

Brian Ebersole, 215 Squires Court: So last November the citizens of Powell voted not to rezone this land and not build a virtual identical project at the Powder Room site. Now rezoning this land now is telling the Powell voters that you don't care what they want. I mean I honestly don't know how any of you expect to get re-elected after doing something like that. I mean that's above and beyond ridiculous. Now you have to understand that beyond that there's a realistic possibility that if you rezone this land, that project's not going to end up there. And now you're opening up the door to make it easier for the developer to build something else less desirable in this exact same spot.

Now, finally before you vote, we have to understand here what's the City's stance on the election after this. So you need to understand that the City's planning to follow the law and put this ordinance on the ballot, should you pass it and obviously that's going to create an election. Now I read this before. I'll read it again

just to make it fresh in everyone's mind. It's straight from the Powell Charter. [Reads Powell City Charter, Sec. 6.06(B)]. Now we voted down to rezone the land. You're voting to rezone the land again. That will end up on the ballot. Now that being said, I would actually imagine that because it doesn't say in the ordinance that you're going to put it on the ballot that you likely aren't but at the same time I'd want to understand if you're voting for an election here - if you're going to create an election with this vote in addition to rezoning this land. Even further, if you did put this through and the stance is you're not going to put this on the ballot, you're voting for a lawsuit and then it's ending up on the ballot anyway because what I just read is black and white and it's going to end up on there. Finally, either way, voting for this project is going to create an election that's going to highlight your willingness to go against the voters of this community.

Joseph R. Miller, Esq., Counsel for the Applicant: Just to the last point – I know you're well advised by your counsel. Your Charter only says that you must reject or you cannot reenact an ordinance previously appealed. Compare Ordinance 2015-18 to Ordinance 2016-44. Your Staff points out very well in its report to the Planning Commission the differences. There is a different layout with different access. There is a different number of units. There is a different ownership structure. For goodness sake, they are being rezoned to completely different zoning classifications. It's not even the same zoning that was discussed before and you are right Councilmen, that the prior plan involved not only rezoning, but final development plan approval. That's not what you have before you tonight. There will be an opportunity for citizens to be heard on a final development plan. If you believe that this is the highest and best use for the property; if you think that cleaning up this property is the right thing to do; if you think that this property as proposed by this developer is a benefit to the City of Powell versus the alternatives under the existing zoning, you are in no way transgressing your Charter by approving this new, different and better plan.

[Mr. Ebersole shouts out to Mr. Miller from the back of the room (inaudible).]

Mayor Lorenz (bangs gavel): Alright. That's enough Brian. You don't need to do that – come in here and go against the rules. I asked that you not to do that. Please do not do that again or I will have you removed - in this hearing or another one.

Marcy Freed, 97 Beech Ridge Drive: I live four houses in, right on the proposed development, and I just want to point out that while Tom [Happensack] and Brian [Ebersole] have brought up the multiple developments that their against that tonight we are actually just talking about one. I feel like it does make a lot of sense to look at each individual development case-by-case and what makes sense case-by-case and not take it in a big, wide spectrum of the entire downtown housing. If Tom or Brian had come to me and said in my backyard this is happening and I'd really like your support, I would have been here to support them. And what I am disappointed in is that they aren't, as my neighbors, listening to me asking for them to support me. I realize that this is not pertinent to your vote tonight, but in terms of a revote, I do think there are plenty of citizens who would like that and they are representing in the community. I am obviously in support of the project.

Leif Carlson, 178 Beech Ridge Drive: I didn't intend to speak tonight, but the direct access is interesting to me because the difference between a 90 degree entrance and a straight entrance – it's the same exact entry point. It's interesting that he [Mr. Miller] brought that up because they are calling it a legal difference and it's really close.

Hearing nothing further, the Mayor closed the public comment session.

MOTION: Councilman Counts moved to continue the public hearing of Ordinance 2016-44 to a future date of October 18, 2016. Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

Mr. Hollins: We will not make an official public notice since we noticed it for this meeting and we will continue it from this one, but we will get informal notice out that it's still available for public hearing at the next Council meeting on October 18, 2016.

Mayor Lorenz: The public is welcome to submit written comments to Council at any time for our consideration. It can be mailed or emailed.

SECOND READING: ORDINANCE 2016-42: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE LIBERTY TOWNSHIP TRUSTEES FOR THE PURPOSE OF ENTERING INTO A JOINT MULTI-USE PATHWAY IMPROVEMENT PROJECT IN AN UNINCORPORATED AREA OF LIBERTY TOWNSHIP ALONG NORTH LIBERTY ROAD KNOWN AS THE RUTHERFORD ROAD TRAIL SECTION.

Steve Lutz, City Manager: Both the City and Liberty Township plan to construct bike path sections along North Liberty Street primarily to fill in the gaps which are currently present. Working together, the City and the township will bid this project together and go out for contracts. Under this agreement the township will administer their own easement acquisition and utility relocations. Once the bids are opened up, the township does have the right to reject their bid if it exceeds the cost that they have budgeted or that it feels is reasonable. If it's aborted, then the City will administer the construction process and at the end of the process will make sure that all the costs go to the party who actually incurred them.

Councilman Counts: On the exhibit there was an amendment. I didn't know if that was part of the exhibit or whether that is something separate. Normally you don't amend something that has already been signed, so could you explain that for me?

Mr. Hollins: The draft cooperative agreement was reviewed by the county Prosecutor's Office. In this case he had a pdf. The other agreement we were working on was in WORD. So instead of trying to scan it in and redo it as a WORD document, he just did an amendment to it. We drafted it originally based on a document that they had used with us in the past. We didn't think it required a whole bunch of amending, but they had some new boilerplate that they wanted to see on this.

Councilman Counts: So are we approving everything including this amendment? [Mr. Hollins: Yes.] And it will be an amendment that is sign contemporaneously with the agreement?

Mr. Hollins: Exactly.

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

Councilman Bennehoof left the room and was unavailable during the vote.

MOTION: Councilman Counts moved to adopt Ordinance 2016-42. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2016-45: AN ORDINANCE APPROVING THE SUBDIVISION PLAT FOR THE RESERVE AT SCIOTO GLENN, PHASE 3, BY METRO DEVELOPMENT, LLC FOR THE PROPERTY SOUTH OF HOME ROAD AND WEST OF STEITZ ROAD.

Mr. Lutz: The developer of this development is ready to begin construction of the third and final phase. This would include the southern phase of the subdivision and this is the phase which includes approximately ten acres of land which will become a public park for the City. As part of this final phase, the developer will be grading that park land and developing the parking for this area.

Councilman Newcomb: This is 42 homes on 31 acres. Is that 10 acres included in the 31?

Mr. Betz: It should be included in the entire surrounding area within this plat. This is the administrative act of doing the subdivision plat, setting up the lots and streets and open spaces per the approved development plan. They are following the development plan that has been approved for this entire subdivision. This being the third and final phase of the development.

Councilman Newcomb: So the 31 acres includes the 10 acres?

Mr. Betz: Yes.

Councilman Newcomb: It was in P&Z over a year ago, why is it just coming to us now?

Mr. Betz: The original plan review by P&Z was for both Phase 2 and 3. The developer built Phase 2 to begin with and it has since sold out, but is now ready to build Phase 3.

Joe Thomas, Metro Development: I would ask that you waive the rules for a second reading to allow us to begin construction immediately. We are going through a phasing process with MI Homes. We're the developer and MI Homes is the builder. They've come to their final phase take down in December on a Phase 2. We're ready to start and have lots available for them in March of 2017. So we're looking at starting underground construction quickly.

Councilman Counts: Gene. The applicant talked about an emergency. Currently this does not have emergency language in there. There is a vote on a rules suspension...[Mr. Lutz: A rules suspension would allow it to take effect in 30 days]. I just want to make sure everybody understands that.

Mr. Hollins: It would save two weeks because of the second reading, but it would still have a 30 day referendum period.

Mayor Lorenz opened this item to public comment.

Les Wibberley, 5005 Bayhill Drive: Is this at the corner of Home & Sietz?

Mr. Thomas [from the audience]: No. It's actually about two parcels to the west.

Mr. Wibberley: But along Home Road?

Mr. Thomas [from the audience]: Correct.

Mr. Wibberley: I can't tell from the diagram, but does it include a multi-use trail along Home Road?

Mr. Thomas [from the audience]: [inaudible].

Hearing nothing further, the Mayor closed the public comment session.

Councilman Hrivnak: This drawing that we see here today is that the same drawing that we saw introduced with Phase 2 & 3? Any changes from the one from a year ago?

Mr. Betz: Pretty much, except this is just Phase 3. There are no substantial changes. There were some conditions placed on P&Z's approval for some lot number references and things like that that are being corrected before it gets recorded.

Councilman Swartwout: I just want to clarify because I think somebody mentioned some conflicting things perhaps. Somebody mentioned 30 days for referendum but at the beginning we were told this is administrative? So it would be 30 days not for a referendum but for a legal challenge of some sort?

Mr. Hollins: Basically. It's an administrative act, but since it's an ordinance, our Charter would say it's got a 30 day wait. Whether it's really subject to referendum [inaudible].

Councilman Bennehoof: Is there any reason not to suspend the rules? We reviewed this a year ago. There's been a public hearing, etc., etc.

Mr. Hollins: Not that I'm aware of. I think it meets all the criteria.

MOTION: Councilman Bennehoof moved to suspend the rules in regard to Ordinance 2016-45. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2016-45. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2016-46: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2016.

Mr. Lutz: The City's Park & Rec Department is a self-sufficient department in that it operates on revenues generated from registration fees and any sponsorship that they can acquire. As a result of an active fall program, they have taken in additional money than what we had appropriated. We are recommending appropriating \$15,000 so it can be spent for the programs.

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

MOTION: Councilman Bennehoof moved to suspend the rules in regard to Ordinance 2016-46. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2016-46. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2016-47: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2016.

Mr. Lutz: The City's legal budget included \$110,000 this year and we are recommending appropriating an additional \$10,000. We don't know if it will be spent or not, but what Debra likes to do toward the last quarter of the year is take a look at accounts which may be short and appropriate funds if they may be necessary. That way at the very end of the year, you are not shackled with a lot of appropriation requests. The \$110,000 that's utilized for our Law Director, for labor and bond counsel, tax legal services and for legal defense.

Mayor: And I think this appropriation is only for \$10,000.

Mr. Lutz: Yes.

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

MOTION: Councilman Bennehoof moved to suspend the rules in regard to Ordinance 2016-47. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2016-47. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2016-48: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2016.

Mr. Lutz: And this ordinance I would recommend that we take to a second reading. This is appropriating funds for engineering the intersection of North Liberty Street and Seldom Seen. We've talked about this project in Finance Committee on a couple of occasions and this project would be a joint project between the City and Delaware County and we would be sharing in the costs. The reason I recommend that we take this to a second reading is we're still going through the consultant engineer selection process and in two weeks we should actually have a firm number so we don't have to appropriate more than necessary. I would anticipate it will actually be something less, but we will have a better idea in two weeks.

Councilman Counts: When we had the discussion at committee I think we were presented with an agreement with the county that covered the entire project rather than just simply the engineering. I think Chris was supposed to go back to the county and say we only wanted to go so far...[Mr. Lutz: The

county was fine. We are just to proceed with engineering knowing that the City is not committing to the funds at this time.]

Councilman Hrivnak: When we come back for the second reading would you give us some indication where the funds are coming from?

Mr. Lutz: I can do that tonight actually. It's identified on the ordinance and that's from our Street Maintenance and Repair Fund. We are appropriating this amount out of that fund for this project.

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

Ordinance 2016-48 was taken to a second reading.

COMMITTEE REPORTS

Development Committee: Next Meeting: October 4th, 6:30 p.m. We met this evening. We talked at length about the Lechler building. I think we came up with a consensus on what we want to do with that building. The next question is where would that financing come from and we hope to get that answer with some help from Finance Committee in the next few weeks. We did also touch on Murphys Parkway railroad crossing and the construction update. To summarize the construction update: early and under budget. Very good project. Staff did a wonderful job. Contractor did a good job and it turned out well.

Finance Committee: Next Meeting: October 11th, 6:30 p.m. We will meet next week to discuss the 2017 budget. I urge all to attend. The review of the budget happens at a relatively high level. That allows the budget discussion to move smoothly. If there's anyone that wishes to have a more detailed review, I would suggest that you talk to Steve or Debra about any specifics beforehand.

Mr. Lutz: If you're going to look at one page of the budget, it would be page 63 because that gives you a complete look at the budget.

Operations Committee: Next Meeting: October 18th, 6:30 p.m.

ONE Community: Next Meeting: October 18th, 6:30 p.m. A debt of gratitude to Parks & Rec. ONE Community is the benefactor of its surplus tent saving the City a little bit of money.

Planning & Zoning Commission: Next Meeting: October 12th, 7:00 p.m.

Powell CIC: Next Meeting: October 26, 2016, 6:00 p.m.

Zoning & Building Code Update Diagnostic: Next Meeting: October 25, 2016, 6:00 p.m.

CITY MANAGER'S REPORT

Keep Powell Moving will be presented to P&Z at their special meeting on October 26th and the plan will most likely be presented to City Council in November.

Mr. Hollins: Mr. Happensack did hand me his written comments after the close of the public hearing. I will forward these to Karen for the official record and to Council for your review and consideration.

OTHER COUNCIL MATTERS

Councilman Hrivnak: I have a public service announcement. Liberty Township Fire Department is having an Open House this Sunday from 1:00 pm to 4:00 pm. This year's theme is replace your smoke detector every 10 years. Check the date on the back of the device and if it is ten years old or older, replace it.

Councilman Swartwout: I just wanted to recognize Karen. We had some Girl Scouts come in on Friday and tour the facility and she really went out of her way to put together a very neat, fun, engaging and educational program for the Girl Scouts so I just wanted to recognize that. It was really phenomenal.

Mayor Lorenz: I would also like to quickly commend Staff and everyone involved with the Murphy's Parkway extension and everyone that came to stand out in the rain with us. I said it when I was there, but I really appreciate all the effort and really want to thank the neighbors that are most effected by that extension for putting up with the construction and the noise for the past six weeks.

ADJOURNMENT

MOTION: Councilman Counts moved to adjourn the meeting. Councilman Bennehoof seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned at 9:38 p.m.

MINUTES APPROVED: October 18, 2016

Brian Lorenz
Mayor

Date

Karen J. Mitchell
City Clerk

Date



City Council

Brian Lorenz, Mayor

Jon Bennehoof

Frank Bertone

Tom Counts

Jim Hrivnak

Brendan Newcomb

Daniel Swartwout