



City of Powell, Ohio
City Council

MEETING MINUTES

November 1, 2016

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

MOTION: Councilman Counts moved at 7:20 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G)(3), Pending or Imminent Litigation. Councilman Hrivnak seconded the motion.

VOTE: Y 6 N 0 (Councilman Newcomb recused himself from Executive Session)

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

VOTE: Y 6 N 0

CALL TO ORDER/ROLL CALL

A regular meeting of Powell City Council was called to order by Mayor Brian Lorenz on Tuesday, November 1, 2016 at 8:06 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; Dave Betz, Development Director; Rocky Kambo, GIS/Planner; Debra Miller, Finance Director; Jessica Marquez, Ass't Finance Director; Chris Huber, City Engineer; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk, and interested parties.

PLEDGE OF ALLEGIANCE

PROCLAMATION – Diabetes Awareness Month – *Gary Dougherty, Director-State Government Affairs and Advocacy, American Diabetes Association & Bill Hesse, Associate Director of Development for the Columbus Chapter of the American Diabetes Association*

- There are 1.3 million Ohioans that have diabetes and 3.1 million that have prediabetes.
- In central Ohio efforts are focused on community health education and corporate health & wellness initiatives to get the resources out within the community about services offered by the American Diabetes Association.

Mayor Lorenz: What are some of the warning signs of prediabetes?

Mr. Dougherty: Although there are no obvious symptoms, some of the symptoms include fatigue and excessive thirst. 90% of people with prediabetes don't even know they have it.

PRESENTATION – Delaware General Health District Update – *Sheila Hiddleston, Health Commissioner*
([Exhibit 1](#))

- We are finished with mosquitos for the year
 - Trapped many over the summer
 - Had 5 positive pools for West Nile virus in Delaware County
 - Did additional trapping for the aedes albopictus mosquito, a secondary spreader of the Zika virus. Some of the traps did contain albopictus mosquitoes.
- Flu season is here and there are flyers in the lobby regarding upcoming flu clinics.
- Free services offered In Your Neighborhood are blood pressure, blood sugar, cholesterol and answering questions about medications.
- Newborn Home Visiting Program offers free services to help infants get off to a good start. A public health nurse will meet with mom and baby in the home to ensure mother has the resources needed to raise a healthy baby. There is a grant available to give cribs to moms in need. Postpartum depression services are also available.

CITIZEN PARTICIPATION (Exhibit 2, Citizen Comments)

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

Tom Happensack, 127 Kellys Court: At the last meeting one of you made a comment that you felt that Bartholomew Run swayed the last election. I believe this is a grossly inaccurate statement and nothing could be further from the truth. Precinct C which is made up of three or four neighborhoods, one of which is Bartholomew Run, has 595 registered voters. Bartholomew Run has 99 households and 170 registered voters according to the voter registration I pulled off online today. There were 370 no-votes cast on the ordinance in Precinct C. So even if all 170 of the Bartholomew Run voters voted no, 200 voters voted no from other neighborhoods. I know when we get into comments, we want to make comments that we don't believe what's going on, but I would ask that you guys refrain from making comments that are unsupportable. If you want to support them that's fine, but this one was not supportable. And to call out a neighborhood when you don't agree with them is wrong.

Another one of you said that you didn't know why we couldn't get together and work together. The last meeting I listened to, several of you told us that you were misinformed and we misrepresented facts and then you want us to come talk to you. I don't understand that. That kind of decorum needs to start with you guys. Not one of you guys have ever reached out to our side. The City has not reached out to us. I've never received a phone call on any of these things. It's a two way street. If you want me to support you guys, then let's talk, but to berate us and put us down without facts is completely wrong.

Councilman Bennehoof: Mr. Happensack, you can't take statements that are unsupportable yourself. I approached Mr. Ebersole on three occasions in this chamber after session.

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

APPROVAL OF MINUTES – October 18, 2016

Councilman Newcomb requested a change to page 12 of the minutes to change "Court of Appeals" to "Board of Zoning Appeals."

MOTION: Councilman Bennehoof moved to adopt the minutes of October 18, 2016 as amended.

Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, the minutes were approved as amended.

SECOND 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. - tabled from October 18, 2016.

Len Pivar, Len Pivar Builder, Inc.: I'll keep it brief this evening because the merits of this plan have already been discussed and proven. Anyone who objectively examines the facts, not the spin and fictional 'what-ifs,' will agree that our proposed zoning change fully complies with Powell's new Comprehensive Plan, substantially reduces traffic from its present legally-zoned uses, benefits the adjoining neighbors, schools and Powell's tax base. The anti-growth and development group is trying to create what they perceive as their own little paradise at the expense of others – the Powell taxpayers and landowners. They have on occasion shown no respect to total disdain to you, our elected officials, as well as to the constitutional land rights of others. I've worked in the past with the City Staff, Planning & Zoning and Council and while we've not always agreed, I respect their concern for the well-being of all of Powell. But landowners have rights.

I'm a landowner in this case and after three years of effort, following Powell's Planning & Zoning and Staff suggestions, find us at an impasse. We either move ahead with the downtown residential rezoning or we proceed with development plans within the current zoning, which is not the best solution for this property. I'm here to answer any questions. I have Todd Faris, our Planner and Joe Miller here as well.

Joe Miller, Esq., Attorney for Applicant: We took to heart the questions of Council at the last meeting. We submitted to each of you a brief that I would like to tender to the clerk (Exhibit 3) to try to address specifically what the Charter provides, what this Council is empowered to do and not empowered to do.

This is not the same ordinance, in whole or in part, as last year. I think Councilman Bertone made the best point on that last meeting when he said we are not voting on that plan. There is no final development approval embedded in this Ordinance as there was last time. In fact, this is just a straight rezoning to an entirely different zoning classification so they could not be more different in whole or in part. Just as your

counsel advised Staff before the P&Z Commission, this is not the same ordinance. Under the City's Code, how rezonings are dealt with, it is your job to vote on this application by the Code, and likewise, by the Charter which vests power to zone property to this body. Your Charter does not provide the power for this body to send this matter to the voters. In any event, respectfully, the question as it may be phrased, is misleading. Section 1.03 of your Charter says, "Council can exercise the powers given it only in the manner prescribed in the Code." I would submit that 6.06(b) does not give this Council the power to send this matter to the electorate. It's certainly not in there expressly as it is in other places in the Charter, and it cannot be implied. I believe the citizens have spoken in this chamber and you know the right thing to do. This is the highest and best use for this property. Voting affirmatively for this application is both the right thing to do under your Code and the Charter and also on all of the evidence before you.

Mayor Lorenz opened this item to public comment. If you spoke to us before, we do have your comments in the record. We've received several emails since the last meeting and those will be included in the record as well. We will limit comments to three minutes. We ask that you be respectful and direct your comments to us. I will signal when time is almost up.

Suzanne Jacobs, 10623 Pembroke Place: I was here a month ago and spoke as a business person. Tonight I am speaking as a resident. I would like to move into a place like Harper's Pointe. I would like to downsize from the house I have, and position my husband and myself in a place where we can walk to restaurants, libraries and retail. In all of the neighborhoods I have looked at – Grandview, downtown, Worthington, Upper Arlington, Dublin – they have some positives, but I have lived in Powell for 25 years and want to stay here.

I talked to many of my friends who are in the same situation. Many times they thought this was already a done deal despite it being in the paper a lot, they didn't understand that it was still pending. I have a number of petitions from them supporting this project.

I also spent a day walking through downtown Powell talking to business owners and I have a number of petitions from them. They are excited about the fact that they are going to have 47 homes, not as much traffic as if you had a lot of retail there, and that these people will be walking to their businesses all the time and supporting those businesses. Some have asked me to meet with them again to show them a layout of the plan and are willing to sign the petition. If I have to go to every single business in Powell to get signatures, I will be glad to do that because I truly think that we can't be held hostage to a couple of people who don't want change. Change is inevitable. Many people didn't want [Murphy] Parkway and it's done a great job taking traffic out of downtown Powell. I think this is the type of development we need in Powell, not more retail, but a walkable community. ([Exhibit 4](#))

Tom Happensack, 127 Kellys Court: I understand there's people here that want this. I don't dispute that. I don't dispute the reasons they want it. I don't dispute why the builder wants to build it. I understand why he wants to build it. That's not my question that I'm raising with you guys today. The question I'm raising, and the question you have to answer individually, is whether or not the plan that they brought in – which were split into two parts – are the same. I don't think that when they put in the Charter that an ordinance that has been passed 'in whole or in part' would have been put there if they had been thinking that if you split it into two ordinances it wouldn't be considered 'part.' It is definitely 'part.' The exhibit attached to the pending ordinance is the exact same plan that was voted down with the exception of three things: (1) it was changed to houses instead of condos; (2) a house was added and (3) a road came out. The ordinance is different because our own Planning & Zoning board suggested that they change it and I question why they did that. When they first approached P&Z they were asking for the exact same ordinance as they had before from a zoning perspective. So in my opinion, the City is trying to help them with that legal argument.

I understand that you have to vote on it and you must vote on it. It's in front of you. He has the property right to develop that land as it is zoned today. He has the right to come to Council and the Zoning Commission and ask for that to be changed. But he doesn't have the property right that it will be changed. That rests with the City and the people. So when he comes up here and talks about property rights, fine, they can develop it exactly how he has it if he wants to. Put houses in the back. But for them to come and threaten the people that he's going to put things they don't want there, do we really want to do business with someone that's going to threaten us? He had a chance to walk away and he didn't do that. Instead he went ahead and bought the land because he is going to win. All I'm saying is let the people decide.

2,249 people voted on this ordinance. You can argue all day long whether they knew or didn't know what they were talking about when they voted, but that is the outcome of the vote: 354 person difference. This has to go back to the people. If the people want it, they will vote for it and I'm fine with that. But to do

otherwise is cutting feet out from underneath the public because any time the public stands up and disagrees with you, all you have to do is separate it into two ordinances and you can pass it. I don't envy you. It's not a bad plan from my perspective, but the people have already spoken on this.

Joe Valvona, 225 Squires Court: I feel I need to make a couple of comments related to comments that have been made in these chambers over the last couple of weeks. Several slanderous and libel comments have been made about the veracity of what the citizens of this City who were not in favor of this development did or didn't do, said or didn't say. So I'm going to throw out a little comment that I'm sure that some of you have heard before: "Let he who is without blame throw the first stone." And I'd like the people sitting behind me to think about comments they've made. I heard a comment a few minutes ago that the people have spoken in this chamber about this development. A handful of people have spoken. I don't know how big the hands are of the developers and the people for this project, but they have to be pretty big to hold 2,290 people. Relating to what Tom [Happensack] just said, if P&Z had done its job, we wouldn't be here now. Any reasonable person would see this as the same project that has already been voted down by the voters of Powell, including those in Bartholomew Run (who are, by the way, legitimate voters in Powell), and seven of the 10 other precincts. So the only way that this can get reconsidered is by putting it to a vote of the people of Powell and not to the people that show up at a Council meeting.

I also want to caution you about something because this has been made very clear over these last two meetings by the developers themselves and the lawyers involved: this Ordinance is only about a rezoning. It's not about what happens on that land. It's simply about a rezoning. So once this Ordinance is passed, carte blanche has been given [to the developer] to do whatever they want to do. The plan we've seen does not have to stay enforced at all.

Juan M. Hadra, 168 Meadow Ridge Court: I don't have anything prepared, but I am compelled to argue against some of the comments that this gentlemen [Joe Valvona] made. There is no alternative plan. Right now we have a dismal corner which is an embarrassment for the City. From my perspective, the only people that benefit out of this are attorneys. This has gone to court and if we go to vote again, it's going to cost of some more money. I made a mistake, and probably many others, of not voting and listening to what people said. So the thing that I've learned is that I need to participate if this goes to vote because this is absurd that we're saying no to something like this.

Andrea Thompson, 38 W. Olentangy Street: I am a downtown business owner in Powell. I honestly don't know why anyone would be opposed to this. Our downtown is struggling. Having walkable business would be wonderful for the downtown merchants.

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

Eugene L. Hollins, Law Director: There is a reference to what is attached as Exhibit A on the ordinance, which currently is the plan. I want to be clear that this is not before Council tonight. We need to do a motion to amend Exhibit A to make it clear on the record that Exhibit A to the Ordinance refers only to the legal description and its survey plat which is Exhibit B1 and B2 of the plan. What is actually under consideration tonight is the body of the proposed ordinance, legal description and survey plat. None of the rest of the plan is before Council tonight.

Councilman Hrivnak: I have a couple of questions for our Law Director. Ordinance 2016-44 is only for the zoning change. [Mr. Hollins: Correct.] However, our Code requires that we have an illustrated plan, which we've seen, associated with that zoning change request. In other words, we ask: show us what you might do with this property, something like this or similar, is what we're asking for?

Mr. Hollins: You can ask for a zoning change without a conceptual plan or preliminary plan, but it's the best idea to support why you would want to change the zoning. It's a little bit distinguishable for the planned district where the actual plan and text are part of the rezoning ordinance itself.

Councilman Hrivnak: Because this is now downtown residential, it's not a planned area, the restrictions are very well set and it's very different than the residential zoning that was requested with it.

Mr. Hollins: The earlier request was a planned district with a specific plan and text that came before Council. This is a straight zoning district and, as you pointed out, detailed development standards, but they are a Code provision.

Councilman Hrivnak: So the illustrated plan we have is no more than that and it's really only to give us some thought of what we may see here?

Mr. Hollins: Correct. And at some point in the future, under our Code, the final development would be consistent with any rezoning that you did and would come back before Council. But that would not be at this stage.

Councilman Hrivnak: I would like to reserve my comments until I see if there are any further questions by Council.

Councilman Newcomb: Mr. Betz, does amending the map to downtown residence district also expand the boundaries of the downtown district?

Dave Betz, Development Director: The downtown residence district does require the applicant to follow architectural styles and guidelines within that downtown district; however, the expansion of that downtown district is not part of that. It won't change the map.

Councilman Counts: I was concerned at the last Council meeting about what our obligations would be if we were to find this Ordinance to be similar in whole or in part because our Charter says that if it is similar it needs to be voted on by the residents. I believe that we as a Council need to have a discussion about whether we believe that this Ordinance is different than the other ordinance. I had asked our Law Director to prepare a proposed amended ordinance which not only has the existing language in it but that it has language which sends it to the ballot. The one thing I want to make somewhat clear, and I'm only doing this based on the vote that was taken of the previous ordinance and the comments of Council that I've heard so far, I believe that there is support for the plan. There was support for the plan before. There is support for the plan now. The big difference that we have is that there was a vote of the residents that turned down what we had approved. Whether our residents did that knowingly or unknowingly doesn't matter because it's done. If this Council were to approve this Ordinance, it would have to be based on the fact that they believe that this Ordinance is somehow different than the old ordinance. I believe that this Council has to make a decision as to this proposal because it is imperative, whether this goes to the ballot or not, that there is a determination as to whether this is an ordinance which is different in whole or in part.

My particular problem is that there is virtually no case law on this. Dan [Swartwout] found a case, Columbus Gas & Fuel Co. v City of Columbus, which had a very similar situation. The court said that the basic purposes to be served by the ordinances must be kept in mind. And yet it says, in this case, it was about a settlement – there was also a rate change – but a settlement that was in both of the ordinances. It said, "The burning issue is not that both ordinances presented propositions of settlement, but whether the two propositions so presented were the same" – splitting hairs. I think that is where we are tonight. I think we can support this Ordinance, but if we find that it is substantially the same, in whole or in part, then the next step would be to take it to the voters.

I'm going to propose, only for the purpose of having a discussion on that topic, some revised language in the form of an amendment so that we can have this discussion.

[Reads sections of proposed revised ordinance relating to placing ordinance on the ballot, [Exhibit 5](#)].

Councilman Hrivnak: In discussing whether this is the same in whole or in part, I would be in favor listening to such an amendment discussion.

Councilman Bennehoof: I would argue that I don't think the time is ripe because this Ordinance in front of us is solely for us looking at aligning with the Comprehensive Plan and taking a parcel from a more intensive use to less intensive use, which this Ordinance does.

It has been asserted that this is high density when, and I know that this is a tangent but I want to get this on the record, this property would have small lot sizes but they are larger than what's in the northwest quadrant of downtown – these would be approximately .2 acres and across the street, north of us, they are .17 acres – so it doesn't seem to be denser to me. It is denser than the neighbors directly to the east of it by .04 or less acreage. I submit that this room is larger than .04 acres.

I don't think it's ripe to have the discussion on the development because this paves the way for cleaning up the lead and taking it to a less intensive use. I'm in favor of not amending to send it to the ballot.

Councilman Newcomb declined to comment.

Councilman Bertone: I agree in some respects to Jon. I agree that this parcel has some sizeable challenges and issues associated with the lead. I consider the fact that this is also in alignment with the Comprehensive Plan. We are discussing zoning, but to go back to Tom's point, we are splitting hairs in some respects over this matter; however, when I look at the benefits associated with this effort, not only from a revenue point of view - that's minor to me - but a clean-up side, this zoning change - moving from R and PC to a DR code - is less intensive, but it does bring this whole effort into our Comprehensive Plan. It is not a condo association anymore. It is now an HOA. We want to talk about them together, but it's a separate issue. We are discussing the zoning issue. For me, while I appreciate Tom's efforts and thoughts, I agree with Jon. I don't believe we're ripe for this conversation.

Councilman Swartwout: I would like to first thank everyone who came and spoke to Council on this issue over the last several meetings.

As I look at the issue specifically as it relates to the proposed amendment, the law ideally should promote certainty. This is, for me, uncertain. I do not know how this would play out in a court of law and I don't think anyone in this room knows that for certain. We've also been threatened with lawsuits over this issue and I don't believe those are idle threats.

The only way I can guarantee that we don't have an issue with this proposed amendment, the Charter language, in court is to vote no on the rezoning. But, at the same time, when I look at the project, I don't think that a no-vote is necessarily in the best interest of the community. Is this a perfect development? No. Is it necessarily the best? Maybe, maybe not. I don't know if 47 units - and I know I'm talking about the proposed plan, not the zoning, but the end result for doing this rezoning is to bring that about eventually. Is 47 or 48 units necessarily better than 40 or 35? I don't know if there's a magic number to that. And to some extent this will increase traffic over what is there now, which is nothing, but there won't always be nothing there. Based on all of the potential things we have seen that can be used with this property, I think this is the best that we get. I've had people tell me that we should turn it into a park. Well, we don't have the money to build the park that we promised everyone in 2012. We certainly can't buy this and turn it into a park. We have a parcel that will be developed and we have to look at what is best.

So when I say that the only way for certain that we do not run afoul of our Charter language is to vote no, in my mind, a no-vote is not in the best interest of Powell. I can't say for certain how a court would rule on this. We can't see how it would turn out in a court of law unless we pass it. I'm not certain that we have the power to put it on the ballot. I think there have been compelling arguments from both sides. We've been threatened with litigation and that's an unfortunate reality of the situation we are in. I want everyone to know that everyone on this Council takes that very, very seriously. It's unfortunate that we've been put in this position that regardless of the outcome tonight there is a potential for litigation, but at the same time, getting the correct answer legally might be worth that.

Mayor Lorenz: Thanks Dan. I would build on one of your comments a little bit further. This is a zoning which is in accordance with the Comprehensive Plan. We have a request for a rezoning to meet that plan. If we were to turn that down as you suggested, we are probably also opening ourselves up because we're not zoning in accordance to our Comprehensive Plan which is a requirement in the state of Ohio for Planning & Zoning.

We talk about splitting hairs. I concur with Frank and Jon on this that what I have in front of me is a rezoning only and that's what I have to look at. I do not have a plan with this. This is not a planned district like it was the last time. You do not have a plan that is married up to the zoning. The zoning is a straight zoning district, and you've heard that term a couple of times tonight, is just a classification that does not have a plan in front of it. Planned zoning can be negotiated. There are tradeoffs on things like setbacks and densities and heights and things like that which are written onto the plan. We don't have that today. We have a rezoning. For that, I have to act on that zoning legally, so therefore, I wouldn't support the amendment.

Councilman Hrivnak: I did second the amendment to have the discussion that ensued, but let me tell you what my feelings are. The Ordinance in front of us tonight has to do with the zoning change. In my opinion, we are not being asked to change to planned residential as we were asked last time. The planned residential, if you recall, comes with its own zoning request. In other words, when you ask for a planned residential, you say, "I want the planned residential and I want to do exactly this" and you actually write a dialogue and that becomes the zoning for that property if it is approved. What we have here in front of us today is very different

In my opinion, There's no doubt that it's been requested to be downtown residence district which lacks the word 'planned.' There are very specific languages in our Charter and Zoning Code that talk about how that should be constructed. There are restrictions on size, density and all that is already spelled out and it is very different than what we saw before. I think that downtown residential district is exactly what the Comprehensive Plan calls for and the fact that someone has requested to move it to downtown residential district is exciting to me because that's where we want to go as a City. We have an illustrated plan and it may be like that, but one thing we can tell for sure, it will be according to the DR restrictions that are in our books now. I find this, when I look at it, to be different from what we saw before so I don't think we send it to the ballot. I will be voting against the amendment.

Councilman Counts: I said this before. I am in favor of this proposal. I have always been in favor of this proposal. It's unfortunate what happened and I think the City has lost. My subdivision, Olentangy Ridge, has lost because of the time it has taken to get where we are and that is unfortunate. But I also need to remind my colleagues that this Charter has a provision in it that has to have some meaning to it. The residents did vote this down and so what does it mean that we should enact something that, quite frankly in substance, is the same? As I said, I wanted to bring it to everyone's attention so that we had a good, robust discussion on that topic. I personally am going to be voting in favor of the amendment because I think that it was the voters that voted it down, they are the ones that can correct their mistake.

Councilman Bennehoff: I mentioned it in passing, but I don't believe the discussion on the development is ripe at this point. This is a completely different zoning request. It makes it more restrictive as far as development because with a planned district you could have pink elephants with unicorn horns on them and say that's the Code. If everybody agrees to it, you end up with that as the Code. But with downtown residential, there are requirements to be met. Downtown residential is more restrictive than planned residential district was and it's certainly more restrictive than commercial, that is a potential here, and because it cleans up, etc., etc., I think the time needs to be ripe for the discussion on the development. But I believe at this point, we are compelled to act in accordance with the Comprehensive Plan, align this zoning to the Comprehensive Plan directives and then when the development comes forward, it would be ripe for that discussion.

Councilman Swartwout: I would tend to disagree. I would think that the discussion is ripe now. I think it would be irresponsible to rezone a property completely oblivious to what is going to go there or is planned to go there. I know there's been some discussions about property rights tonight. I believe the law is pretty clear that nobody has the right to a rezoning. If we don't consider somewhat what the plan is, and we have the exhibit/attachment, we talked about what the plan is, I think it would be irresponsible to go blindly into a rezoning without at least discussing the development at this time. As I previously stated, there are many things I find advantageous about this plan. My vote, whether to rezone or not rezone, will be influenced by how I feel about the plan that has been presented.

MOTION: Councilman Counts moved to amend Ordinance 2016-44 to add language to send the Ordinance to the ballot. Councilman Bertone seconded the motion.

VOTE: Y 2 N 5 (Bennehoff, Bertone, Hrivnak, Lorenz, Swartwout)

Mr. Hollins: We also need a motion to amend to formally revise the exhibit to formalize what's being considered is only the legal description and survey plat.

MOTION: Councilman Counts moved to amend Exhibit A to Ordinance 2016-44 to include only the legal description and survey plat. Councilman Bertone seconded the motion.

VOTE: Y 5 N 2 (Newcomb, Swartwout)

Councilman Swartwout: I truly support the power of referendum. I believe that a referendum is a part of the checks and balances that make the foundation of our government at all levels. So as I move forward on this, I do not look at the referendum as anything that was illegitimate. At the same time I also believe that a vote is not forever. If you look at some other municipal charters, there are time periods where things can be reenacted after a referendum. I don't think that because this vote was taken that it is forever set in stone and as new information comes to light, as people re-evaluate what they thought at the time they voted, things can change, minds can change, votes can change. So, as I move forward, I just want to say that I believe in the power of referendum and I seriously considered that as I made up my mind on this issue.

Councilman Bennehoff: I too believe in the laws of our land, our state and our City, our Charter and the power of the people. I also believe in the value of representative government which is what this panel

signifies. I also believe in the Constitutional right of a landowner to develop. If somebody wants a park there, they should buy it and support the development of a park.

All that said, by moving this to downtown residential, it confirms that this land will get cleaned up from the lead. It can't be developed residential unless the lead is cleaned up and that is why I believe that taking this amendment separately positions us for the best interest of the City of Powell. If that lead leeches into the aquifer we're screwed. That is why I think it is the best interest of the City of Powell to move this to downtown residential because that assures that the property will be cleaned up. There can be arguing about the development when it comes, but this assures that this land will never be developed until the lead is cleaned up. It's that simple for me.

Councilman Hrivnak: Let me be clear as well. We do hear the vote of the people. We do know that the former ordinance was voted down by referendum. However, as the representative body, we have to make a decision if this new Ordinance is different than the one that we saw before. It's my opinion is that it is. If that is the case, we are bound to vote on it as it is. But that does not limit those who would again refer it to the ballot on their own recourse. In other words, this Ordinance, as in many others, are always subject to referendum. Because I believe this is a different Ordinance than we saw before, I will be voting that way.

Councilman Bertone: I agree with Jim wholeheartedly. I respect everyone's concerns here, not only at this meeting but at the previous meetings on this subject. Be it positive or negative, everyone has a point of view that has merit and meaning to me and my peers here. The vote did mean something. Mr. Happensack is very good at telling us what that number is. It's etched in my mind. I remember it very well. Again, this measure this evening is strictly a zoning discussion. Jon, spot on about the lead contamination without question. I agree with Jim, this is a very different element we are discussing. We are strictly talking about the zoning. We do have an exhibit attached to it. We understand what that means to us. But again, I have be balanced in this conversation. Understand that I am in support of what this effort is doing not only for the City of Powell but what it does for the residents in this community in terms of the lead containment and the economic opportunities down the road.

Councilman Newcomb declined to comment.

Mayor Lorenz: I agree with everyone here. I think I'd be remiss if I didn't acknowledge the vote last time. But again, it is a totally different situation, a totally different process, totally different set of procedures that followed under that process and I'm obligated to follow that process because it is in accordance with the Comprehensive Plan. I do not discount any of the voters. But this is a straight zoning district. We have a rezoning application and so maybe I see it a little bit differently than others. My decision is based on (1) you putting me in this position to make it for you; (2) the numerous messages sent to me overwhelmingly in support of this project; and (3) with the proposal that is substantially different and (4) it's a zoning and not planned development. For those reasons, I am going to vote in favor of it.

MOTION: Councilman Bennehoof moved to adopt Ordinance 2016-44. Councilman Bertone seconded the motion.

VOTE: Y 6 N 1 (Newcomb)

RESOLUTION 2016-19: A RESOLUTION ADOPTING THE KEEP POWELL MOVING: DOWNTOWN POWELL STREET AND CIRCULATION PLAN.

Mr. Betz: Last year we adopted a new Comprehensive Plan which sets forth policies within our transportation guidelines, and made some recommendations on how to handle future traffic demand. The Comprehensive Plan looks forward 20-30 years and identifies that there are things around us that affect us such as new growth and development outside our jurisdiction that end up bringing problems into our jurisdiction. Based on the recommendations coming out of the Comprehensive Plan, it was recommended that we take a closer look at our downtown area road plan and see how we can make changes to that area because that is the area that affects us the most in terms of traffic congestion.

Since the beginning of this year we've taken a look at this area with our consultant team. We've had two public open houses to go over ideas that continue to develop our downtown area street program as well as looking at how parking occurs. We have a presentation outlining our final results. This was reviewed at Planning & Zoning Commission last week. They sent it on to Council with a slight change or an examination of one of the proposals that Justin will talk about in more detail.

Justin Goodwin, Project Manager, MKSK: I am here with Neil Schwartz of EMH&T. Trans Associates and MurphyEspon were also part of our team.

You are well aware of the broad concern with traffic in Powell and at the Four Corners. It was one of the major topics of the Comprehensive Plan process and was really what drove us to examine this plan in more detail. There are ten guiding principles in the Comprehensive Plan and 5 of 10 principles concern traffic congestion in some way.

This is a diagram from the Comprehensive Plan [Page 14 of Exhibit A]. It's an inset of the thoroughfare plan. It's showing a very conceptual network of streets and alleys. Through the examination of the detailed transportation analysis in the Comprehensive Plan, there was a lot of focus on different options for the Four Corners, whether or not a turn lane might be added, whether or not the current restrictions on left turns would continue or ultimately would we move toward a full restriction of left turns at the intersection. What the analysis showed, in broad terms, is that adding a left turn lane would actually exacerbate traffic congestion in the downtown by drawing more traffic toward the intersection. So this drove a lot of the general recommendations in the Comprehensive Plan and the recommendations we have examined in more detail. With this plan, how do we resolve and start to improve traffic flow through downtown without requiring left turns at the Four Corners?

We set out earlier this year with three objectives in mind: (i) facilitate better traffic movement through and around the Four Corners; (ii) enhance access, parking and circulation to downtown businesses and destinations within downtown Powell, and (iii) preserve and enhance character and walkability of downtown Powell.

We want to recognize that the City is already doing some things to help deal with the traffic congestion in downtown and elsewhere. The most obvious one is the recent opening of Murphy Parkway. Some ongoing design work that we have coordinated with as part of this planning process is the planned installation of traffic signals at both intersections of Grace Drive with Liberty and Olentangy Streets.

As Dave mentioned, we attempted to engage the broader community as much as possible. We have had two open houses. We've also engaged with a number of stakeholders, property owners and other business owners with interest in the success of downtown. Some of the highlights that came out of those meetings are:

- Interest in the future of the Martin-Perry House
- Discouraging cut-through traffic, specifically on Case and Scioto Streets
- Encouraging alternative routes to avoid downtown and the Four Corners altogether if they don't need to be adding to the traffic.

Highlights of the Recommendations (Exhibit A, Section 2)

- Prohibit left turns at the Four Corners at all times. In order to do this, other logical points for left turns need to be identified, particularly on Olentangy Street.
 - The two primary points identified as alternative left turns are Hall Street and Grace Drive.
 - Improve Olentangy Street/SR 750 to provide left turn movement at Hall St.
 - Reconfiguration of street to two travel lanes and one center turn lane through downtown.
 - Remove street parking on Olentangy Street
 - Add additional off-street parking on Liberty Street (and other streets)
- By not widening Olentangy Street through downtown, we can preserve the tight, compact walk and character of that intersection as the recognized part of downtown. Allowing left turns at other locations (in lieu of the Four Corners) will allow traffic to flow through the Four Corners while also maintaining a pedestrian character to that intersection.
- Additional street connections (Sharp Street, Scioto Street, Martin-Perry Drive) or parking lot connections, some are a higher priority in phasing than others. This plan is not necessarily recommending that the City layout a specific capital improvements program for every single thing, but to have a network in place to understand that, as opportunities arise, certain connections should be pursued.

- Martin-Perry Drive is a new street connection that is providing left turn movement at the existing Grace Drive intersection into the southeast quadrant of downtown. This is the item that got the most discussion in P&Z last week.

As part of the new street connections, those are really providing access into the rear parking areas that are serving the downtown businesses and because some of the existing parking areas would be impacted, we took a close look at how we could lay out a more efficient network of parking areas, ideally more consolidated and interconnected parking areas.

There was much concern expressed about the existing residential streets, specifically Case and Scioto Streets, and we made some recommendations to help address the concerns:

- Any new street in the downtown area should not be considered a high speed/bypass street. These are connections but are really serving the destinations downtown and should be designed as such;
 - Improvements could be made to provide sidewalks to residents that live there and other things to keep traffic at a minimal speed through the neighborhoods; and
 - At specific locations such as the intersection of Hall and Scioto streets, we recommend a reconfiguration to discourage east-west movement and encourage traffic flow onto Hall Street from the eastern leg of Scioto Street.
- We believe finding a wayfinding signage program to make it clear to motorists that there are alternative routes that don't require them to go through the Four Corners.

Mr. Goodwin showed several graphics of the streetscape improvements based on the plan's proposed recommendations to Olentangy and Liberty Streets.

- An intersection is proposed at the existing Martin-Perry House gravel parking lot and the beginning of the Martin-Perry Drive intersection with street connection to the south. (Exhibit A, pg. 26). The new roadway would move to the south and quickly turn to the west to provide access into the parking areas in the southeast quadrant.

We have gone through a lot of analysis/attention to this specific roadway in the planning process. There was a lot of discussion on it at the P&Z meeting last week. We conducted a more detailed design and engineering analysis of what might be feasible and how something could actually align and provide access in a safe way meeting engineering standards and urban design objectives.

The first iteration explored was the name of the road. We decided to change it from calling it the Grace Drive extension because Grace Drive acts more like a bypass and that is not the intent for this part of the road. It is not intended to be a high speed roadway. The 30 mph design speed has engineering characteristics that require broad curve radii.

There are a couple of other residential properties that are impacted by this and other alignments that we've explored, as well as the the historical society parking lot. This road is aligned with Grace Drive because it was one of the criteria that we were dealing with in that Grace Drive is the one available point that provides a signal controlled left-turn movement into the southeast quadrant.

Another alignment was moving to a 25 mph design speed. This allows for a tighter curve on the roadway but will still have some impact on the properties within the area.

As we moved through the planning process, we tried to explore as much flexibility as we could from an engineering perspective in terms of meeting safety and design standards, but doing that in a way that minimizes impact on the properties involved as much as possible. What we ultimately go to was a perversion of this alignment – a 15 mph speed. There are still some design requirements for left turn stacking to dictate how far this roadway needs to come to the south, but it eventually became the recommended alignment in the plan. This does feed into a parking area further to the west and there is an access point shown in the plan but that really can't be used as a left turn movement. We are able to explore a few adjustments to this alignment to minimize the proximity of the street to the Martin-Perry

house that would involve some striping of the lanes on Grace Drive, but that would allow us to shift this roadway a bit further to the west than was shown in the previous diagram.

The primary improvements (Exhibit A, pg. 58) are broken into three categories, and we recommend exploring with further design analysis to understand all the specific cost implications/constraints on how these connections could be constructed. This includes the Martin-Perry Drive connection and associated reconfiguration of parking in the southeast quadrant, as well as parking to serve the historical society. It includes the reconfiguration of Olentangy Street to provide left turning movements at Hall Street and the new Martin-Perry Drive and the streetscape improvements associated with that. Then the additional parking that would be necessary because of the loss of on-street parking on Olentangy St., so we recommend adding parking to the existing alley that parallels Olentangy Street and improvements to Hall and Scioto Streets. Lastly would be the wayfinding signage.

We have done some preliminary order of magnitude of cost analysis (Exhibit A, pg. 60):

Primary Improvements	\$ 8.8 million
Secondary Improvements	\$ 5.8 million
Ancillary Improvements	<u>\$15.5 million</u>
Grand Total:	\$30.1 million

The secondary improvements are focused on additional improvements to interconnected parking areas in and around downtown Powell and some long term costs associated with those, including on street parking on Liberty Street, interconnections to parking areas to Olentangy and Liberty Street moving out of the downtown, providing a more continuous, connected bicycle/multiuse path to serve the broader community and some other specific roadway improvements that would enhance the inner connectivity in and around downtown Powell.

One of the next steps would be to pursue a more specific funding strategy for various improvements should the City decide to pursue those or prioritize them. Then going through a much more detailed design process for those priority improvements that have been recommended to get a clear understanding of the very specific costs associated with the improvements.

Mr. Betz: We do have this set up for two council meetings even though it is a resolution.

Councilman Hrivnak: There was a lot of discussion in the P&Z meeting about Martin-Perry Drive and its location, routing and so forth. Was the information that you presented us tonight also presented last week or is this in addition to what we saw last week?

Mr. Goodwin: It was not presented last week. We based this series of slides that went into the background on the various alignments that we explored with Martin-Perry Drive on those discussions at last week's meeting and the specific recommendation from P&Z was to bring it forward to you but with more detail. We decided to give you the background of the study that has already been completed. It would be your decision if you want additional study to occur for that roadway.

Councilman Hrivnak: Did P&Z see this 15 foot buffer that was the last of the Martin-Perry slides that you showed us?

Mr. Goodwin: I don't believe we had that one included. We did share that at the last public open house on August 30th.

Mayor Lorenz: That 15 foot buffer, does that taper off or would that extend around the two property owners' property?

Mr. Goodwin: [indicating] So, what we are recommending in the plan is that if this roadway were to move forward, then there clearly needs to be an emphasis on landscape buffering around that entire roadway, anywhere adjacent to the properties, and specifically the properties that would be physically impacted. We're conceptually showing that here. That would be part of the additional detailed design that would happen with the roadway and what exactly is the width of that buffer at any given

location, what's the right amount of landscaping and the type of landscaping to best meet the needs to buffer for those residents.

Councilman Bennehoof: Justin, were the landowners of any of the affected properties involved in the discussions that ensued?

Mr. Goodwin: We had the opportunity to meet specifically with the historical society a few times and at the public meetings. We met a variety of landowners and the specific stakeholder meetings. We did not have an opportunity to meet specifically with the two residential properties here (indicating). We did have an opportunity to speak with Mr. Margello and some of the other commercial properties downtown; however, we did have an opportunity to speak with this landowner (Mr. Creek) through attendance at the public meeting.

Councilman Bennehoof: This looks like a lot of dense parking and I know that it is not because we have other parking distributed differently, so it's condensing some of it perhaps. But is it primarily a 1:1 – taking it away from the street and it's added off street or is it 1:2?

Mr. Goodwin: One of the things that was added into the presentation because it came up prior is specifically noting what the net impact on parking would be. We've done that quad by quad and it is highlighted in the plan. Generally within each quadrant, the impacted parking areas with an efficient layout, we can have no net loss of parking and actually provide at least a little bit more. In this case, it's probably about 12 more parking spaces in the southeast quadrant than is provided today. That would include the angled parking that's in front of Local Roots that would be moved back to this consolidated area.

Councilman Bertone: Justin, great job. I think we have been a party to these conversations for a number of months, if not a year or so now. We have implemented quite a few efforts here in the last several months and I'd like to see where we are having some effect to those first. Before we start discussing Martin-Perry Drive and how this goes in, how we layer this conversation is very important to me. We want to do the right thing. We may find that we don't necessarily need all of it. What's the right mix? And I think that's something I'm going ask from your planning efforts to have some more information on down the road.

Mr. Goodwin: I'm glad you mentioned that because I failed to mention that but it is described in the plan as part of the recommendations, which is to continually monitor and evaluate the effects of each project and improvement that you undertake. And that starts with Murphy Parkway. You have had a big change that's not been operating for a full month yet. So you need to look at what the incremental impact is and that's going to help to drive additional decision-making on some of these other projects.

This is a long term plan, and we don't have a specific horizon date on it, but it will take many, many years. It took many years for Murphy Parkway to be completed, so our recommendation is to start to set some priorities, and we have provided some recommendations that we think would provide the most immediate impacts, and at least start pursuing some more detailed design to be prepared for those. Obviously you wouldn't pull the trigger on a big capital improvement until you have an understanding of what the impact is on past improvements. So this plan might change over time as you get a better understanding of what the incremental impact is on traffic.

Councilman Bertone: I'm very familiar with Murphy Parkway. It's very close to my yard. I've often said that all of these efforts – they are just small puzzle pieces into the comprehensive solution. I get that. But we need to layer it in a manner that makes sense, not only for us financially, but also makes sense for our residents as well.

Councilman Bennehoof: I know you know this, but our audience may not – there are studies being conducted, or will be conducted, on the impacts of Murphy Parkway. Those kind of things are going on so we can put the right measures in afterward if there needs to be.

Mr. Goodwin: Similarly, once traffic signals are installed at Grace Dr.

Mayor Lorenz opened this item to public comment.

Brian Creek, 126 Kellys Court: I live at the property that would be the most directly impacted by the extension of Grace Drive, also referred to as Martin-Perry Drive. The current version of the design shows the extension of Grace Drive dramatically encroaching on my property lines. I see several issues with this plan. First, the woods that border my property are old growth trees that contribute substantially to the beauty of Powell. Second, the elimination of many of those trees, not to mention the addition of a road directly adjacent to my land, would substantially degrade the value of my lifetime home and those of my neighbors, including the Burgas and Happenacks. In this rendering, there's a lot of buffering which would put the road not quite adjacent to where my children would be playing. But either way, I'm losing 50% of my yard there or I'm having a road adjacent to my property and so it feels like a lose-lose for me personally.

Additionally, it could cause a safety issue for my children depending on how much buffering is there. My children spend a lot of time in my backyard. We camp out there all the time. Somebody coming around this extension either too quickly or impaired would land directly in my back yard where my family could be and that's a major concern for me. As already noted, there are several projects that have recently been aimed at alleviating the traffic issues, like Murphy Parkway and Sawmill. I think those are good projects to evaluate before we go forward. Furthermore, I want to make note that during P&Z on October 26th, Mr. Goodwin showed a slide that showed the expected traffic increase on 750 over the next 20 years to be roughly 30%. I would ask Mr. Goodwin to please submit that study, that summary he showed to Council so everybody could see that. That's a pretty big deal to spend 8.8 million dollars to alleviate a problem on a road that traffic is only grow 30% over 20 years. Twenty years is a long time and 8.8 million dollars is a lot of money.

As noted by a lot of people, the whole problem with the traffic around downtown Powell is already addressed by current infrastructure. We have Murphy Parkway, Grace Drive, and Bennett Parkway. I believe the infrastructure is already in place. For the reasons already noted, one member of P&Z voted against this plan. The others voted that this specific component be reviewed in detail and so I really appreciate Council taking a very close look on if this portion of plan is absolutely necessary because it has a big impact on me and my neighbors. For the reasons I mention, I don't anticipate agreeing to sell any of my property, and I would hope the City would not entertain the ugly practice of taking property by eminent domain. It's a precedent that has been set in the past, and that I think Council should uphold, that we in Powell don't infringe on our neighbors' property by eminent domain.

Terry Burgas, 134 Kellys Court: I am directly behind the Martin-Perry house. Great presentation, really. They put a lot of time and effort into this clearly. Very well done. Brian [Creek] pretty much hit on all the points I had. When you look at some of the pictures from the drone up above at an angle, it's going to show it as a lot denser than if you are down on the ground. Please keep that in mind. The end of the woods where we are at are not nearly as dense as towards the entry to Bartholomew Run.

Taxes and traffic are the top two things that somebody's going to complain about. You guys have done a great job of keeping our taxes down, but still we continue having a lot of growth. We need to be careful with this because it may change the tax and we're probably going to have to raise taxes to pay for some or all of this. So it may be a little soon. I'm just starting to learn how it all works – that we will have a second reading [Mayor Lorenz: Yes], but then after that second reading then you would vote [Mayor Lorenz: to adopt or not adopt the plan], and then I don't know what happens after that. Because when I hear that it took so long for Murphy Parkway, I don't know why necessarily. So our concern is that a 35% increase is a very low number for 20 years to spend any kind of money. We're just getting Murphy Parkway and some of these other outer belt areas, and that is going to help us downtown. If you adopt this resolution in two weeks, do you immediately start a marketing campaign to start working on a tax increase to pay for it?

Councilman Bennehoff: There was a comment earlier that it's a piece-part plan and it may or may not be adopted in whole or in part and that it would be studied along the way. But I get your concern.

Les Wiberley 5005 Bay Hill Drive: I work with a citizens group called Olentangy-Powell & Liberty trails ("OPAL") and our focus is to try to make our community safer for walkers, bikers and runners as well as the rest of the traffic and try to work toward a multi-modal transportation environment where everybody is safe. I have lived out here for over 30 years. I bike through this area and Powell. I think anyone would tell you that it's pretty challenging to bike on these roads.

I think that the plan that's been put forth is very well thought out. The problems are well identified, a lot of great solutions. We submitted some written comments recently which makes some suggestions to make it

safer for bikers going through downtown. In particular, there were a couple of diagrams put up about West Olenangy Street and a division between pedestrian spaces, planters, turning lanes. The problem I see with that is you're putting bicyclists and pedestrians in the same small space. A lot of the folks walking in downtown Powell are looking for businesses and are not really expecting to deal with a bicycle whipping by them on the same space that they are in. Likewise, car traffic is impeded by bike traffic on the same space, and in some cases these lanes are going to be narrower now with the reconfiguration. So, the basic proposal that we put forth is to add bike lanes into that configuration and we put an example in the written comments that illustrated that. The idea is that this would not impede car traffic flow, but bike traffic can flow alongside car traffic, not interfering with pedestrian traffic. This gets bike traffic through Powell in both directions – Olenangy and Liberty – and significantly increases the safety factor for all involved.

Andrea Thompson, 38 W Olenangy Street: From a business owner perspective, I have concerns about removing all the parking on Olenangy St., especially the economic impact this would have on the downtown merchants through the whole construction phase. I know we can't control all the construction, but I don't know how much more the merchants can bear during all of this construction, so I'd ask you to consider the impact on the downtown merchants.

Tom Hapensack, 127 Kellys Court: In concept I don't disagree with this. You have a tall task in trying to move traffic through the downtown. I think I'm not in total agreement with this concept maybe because it puts a road in my backyard and where headlights will flash through my backyard when everybody makes a turn. And we all know you cannot heavily vegetate it enough to stop that in the first five years when you are putting four foot trees in. I ask that we think about the phasing of this project. My only comment on the plan is, as it's designed, even the consultants are saying this really isn't going to significantly impact the traffic downtown. So for a \$30 million spend, I think we have to be ready to explain why that is. A lot of this parking. A lot of this is back roads to that parking. In the southwestern quadrant, for example, you can see the first phase doesn't even connect the southwestern quadrant to anything. It merely is going to take property away from current owners, produce more parking for a gentlemen who's already got parking and the road goes nowhere. The only way they can get out is through the condominium complex which is not built for traffic. Phased approach. Set the blueprint for what you are going to do. So the question becomes should this be in Phase 1? I would like to see us take a really phased approach of putting this in place. If you pass this resolution as it is, it really sets the blueprint for what you are going to do and I'm not sure we really know what we are going to do at this point, especially in the southeast quadrant. It's less me, it's not in my backyard, but the roads are close enough that this is where traffic is going through. My two neighbors lose part of their backyard. If you add a lot of density for a buffer, you're taking more of their backyard to do that. It will hurt their home values.

I think the left-hand turn lanes is a good idea. I think the purpose of this was to allow people to get to businesses (indicating). I don't think people have trouble getting to those businesses today. If you're spending \$30 million, I'd like to see us phase it a little different to make more sense with what we're trying to accomplish. I think the northwest quadrant will have some pass through and I'm not sure why we're going to widen the road if they're not for pass-through. I believe it is a first step. I commend both the consultants and the City for doing this. I don't think it's time yet to pass this, but to kind of hold it as a concept off to the side and let it work a little bit.

Chris Burga, 134 Kellys Court: I have lived here for 15 years. It seems like the Martin-Ferry extension is really only going to benefit the developer at the expense of the homeowner. If you need to turn south on Liberty you can use Bennett Parkway, so I think Martin-Ferry is unnecessary because you can turn right on Grace and head south like the signage already directs you. Or you could use Murphy Parkway.

Nobody came to talk to us. I know you talked to Mr. Margello and clearly you are working with him, but if you see those trees right there in that road (indicating) you're going to take the Martin-Ferry driveway and move it right behind their house and it's going to cut into those trees that buffer our property. Why do you have to screw Brian and us at the expense of the developer? I'm all for keeping Powell moving but I just feel like we are getting a raw deal here.

Janet Wariman, 130 S. Liberty St. I hear your talk about Constitutional rights for property owners yet you are using eminent domain. And I don't see you using it once, I see you using it over and over in this plan. I see you using it all the way through Martin-Ferry, all the way to my house. I see you using it on Hall St and taking away the parking lots from the businesses that are on Liberty St. I don't know why you are taking away parking lots. That's the only way I could see you could do Hall St. I just see one stair-step after another. You don't need to start this. There are other alternatives. What I really don't like is that it is for private

development. Eminent domain for private development is wrong. All those areas in there that are going to the Martin-Perry House, that are going into that development, are owned by two of the richest, best, biggest developers in Powell. We are putting a road in for them so they can develop it. They can build more buildings. They can add more of their things and they have problems there already. They have problems with semis at that shopping center at 55 S. Liberty St. I have watched semis have trouble there. They get in and can't get out. It's very poorly designed. Are we supposed to fix the poorly designed shopping center? Maybe it's our fault because we didn't do it in the beginning right, I don't know, but it's not our job to fix the shopping center. Besides, the Martin-Perry road will then be used mostly for the semis, the grocery trucks, the moving vans, all the big equipment will be going down that road. It should not be a public expense. You won't build a park at that location but you are going to spend all this money on eminent domain. I just think that fixing zoning problems at 55 S. Liberty Street should not be a public expense. I think we are going to have to do something.

As I look at this I want to give you an alternative: If you go to Grace Drive, go to a left turn on that alley that goes in front of the shopping center that already exists, make a left turn there, make a roundabout from Olentangy to Grace Drive and the Bartholomew Run entrances. That could be one thing that would solve all the problems without eminent domain. And that is what I ask you to do.

Megan Dowdell, 9723 New California Drive, Plain City, OH: In your current Keep Powell Moving Plan you propose connecting Martin-Perry Drive to S. Liberty Street with three connectors, if I'm seeing that correctly. Two of the three proposed connectors go through privately owned land that the owner has no interest in developing, that owner being my mother, Janet Wartman, who just spoke. There are parcels of land north of this that people have interest in developing that own that land and there are viable opportunities for you to build connectors through that. For example, the Liberty Green Condominiums – there could be a connector through there. As the gentlemen mentioned earlier, next to the shopping center there could be a larger connector there. So I understand you wanting to build connectors, but you don't need to build two out of three of those through land that the owner has no interest in developing. That land has been in our family since the 1800s. Also, when talking about Harpers Pointe, someone mentioned if you want to build a park through that then maybe you should buy the land and support the park. Well following that logic, if you don't want a road through some property then maybe you should buy the land and not support the road. My mother has bought the land and she does not support the road. So I ask you to find some other viable connectors and land that people have interest in being developed.

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

Councilman Hrivnak: In general, I think it is a well-founded plan. I look at it as a future vision of what we see ourselves moving toward. That future is a long way off, but it is important to have a vision of what that future is so each time we take a step, like Murphy Parkway or the signals at Grace Drive, we are heading to this future vision. If you don't have a vision of where you are going, you will never get there by doing small steps in and around the downtown. So let's look at this as the future vision for the City and then each time we make a decision, each time we take a step, each time a developer comes and wants to do something, we refer back to this plan as a guide. It will not all happen tomorrow. I don't know where we will find \$8.8 million to start tomorrow or next meeting when we approve this, but it's important to me to have a plan and that we move in that direction. We may find that not all the things suggested are needed, but in my mind it is a plan that shows us where we are headed and we will take each step as we go.

Councilman Bennehoof: I agree that we need to have a vision. I would also point out that it's even in the documentation that this is conceptual. I understand the concern about if you approve something that it will end up like that. Well this is intended to be conceptual so that it can be a work-in-progress. We do have to have a vision for the future or we will never get there like Councilman Hrivnak said.

I do feel for the issues of encroachment. I am sympathetic to that and I think we need to try to accommodate those concerns as much as we can.

Ms. Wartman spoke out from the back of the room, but it was inaudible due to the distance from the microphone.

Mayor Lorenz: Public comments have closed. Ms. Wartman, you may write, email us, or call me regarding your concerns before the next meeting.

MOTION: Councilman Bennehoof moved to table Resolution 2016-19 to a date certain of November 15, 2016.

Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

SECOND READING: ORDINANCE 2016-48: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2016. - *tabled from October 18, 2016.*

Steve Lutz, City Manager: This appropriation ordinance is to fund the City's contributions to study the North Liberty Street and Seldom Seen Road intersection. We are working jointly with the county engineer's office on this. We are going to apply for grant funding for the improvements. This afternoon I received an email from the county engineer stating that they've received a preliminary proposal from the firm selected to do the work. I'm expecting the submittal of a final proposal with final costs in the next few days and I will forward those to you. Since we still don't have the costs for another few days, we would recommend tabling this Ordinance to the November 15th meeting.

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

MOTION: Councilman Bennehoof moved to table Ordinance 2016-48 to a date certain of November 15, 2016. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2016-54: AN ORDINANCE AUTHORIZING AMENDMENT TO THE FEE SCHEDULE OF THE CITY OF POWELL.

Mr. Lutz: Each year at this time we look at our fee schedule to see if any changes are needed and recommended. This year we spent most of our time looking at our building fees. What we want is for new building construction to pay for itself so that existing residents and businesses aren't subsidizing new construction. The Building Department took a look at the fee schedule of Delaware County, Dublin, Worthington, Westerville, Union County, and Columbus and compared our current fees to our neighbors. At the Finance Committee meeting earlier this evening we spent extensive time talking about the recommended fee changes to make sure that the fees cover the City's costs and to make sure they are consistent with what surrounding communities are charging. This Ordinance will be taken to a second reading.

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

Ordinance 2016-54 was taken to a second reading.

RESOLUTION 2016-18: A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE DELAWARE, OHIO CITY PROSECUTOR'S OFFICE.

Mr. Lutz: Each year we enter into a contract with the City of Delaware Prosecutor's Office to prosecute all cases before the Delaware Municipal Court arising out of alleged violations of Powell Ordinances. We found this to be cost effective. The City of Delaware is proposing to increase the fee from \$200 to \$205 for a contested case. We would recommend continuing with City of Delaware.

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

MOTION: Councilman Counts moved to adopt Resolution 2016-18. Councilman Bennehoof seconded the motion. By unanimous consent, Resolution 2016-18 was adopted.

COMMITTEE REPORTS

Development Committee: Next Meeting: November 8, 2016, 6:30 p.m. We have a long agenda. The good news is that we don't have a hard stop so we can get through our entire agenda.

Finance Committee: Next Meeting: November 1, 2016, 6:30 p.m. The 2017 budget reading will be heard at the next Council meeting.

Operations Committee: Next Meeting: November 15, 2016, 6:30 p.m.

ONE Community: Next Meeting: November 15, 2016, 6:30 p.m. We have not met since our last meeting. We will meet on our next regularly scheduled meeting on November 15th; however beyond that, I'm going to be entertaining a change of schedule for this meeting.

Planning & Zoning Commission: Next Meeting: November 9, 2016, 7:00 p.m.
Powell CIC: Next Meeting: November 30, 2016, 6:00 p.m. Last time we talked about a website that's nearing completion. We hope to have that up and running by the 1st of December. The website is dedicated to the idea of assisting new businesses that come to Powell.
Zoning & Building Code Update Diagnostic: November 16, 2016, 6:00 p.m. We moved it up from Thanksgiving week.

CITY MANAGER'S REPORT

Mr. Lutz: A week from Thursday, November 10th, the county engineer will be opening up the Sawmill Parkway extension from Hyatts Road north to Route 42.

OTHER COUNCIL MATTERS

Mr. Lutz: We have received two notices from the Ohio Department of Liquor Control for MJG Design Co., LLC dba Board and Brush Creative Studios and Liberty Square Unit A LLC. if we wish to request for a hearing on either of those. We have not had any problems with either establishment. Thumbs down by all for no hearing needed.

EXECUTIVE SESSION: EXECUTIVE SESSION IN ACCORDANCE WITH OHIO REV. CODE SECTION 121.22(G)(1), PERSONNEL MATTERS.

MOTION: Councilman Counts moved at 10:35 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G)(1), Personnel Matters and added O.R.C. Section 121.22(G)(3) Pending or Imminent Litigation. Councilman Hrivnak seconded the motion.

VOTE: Y 7 N 0

Mayor Lorenz left the meeting.

MOTION: Councilman Bertone moved at 11:15 p.m. to adjourn from Executive Session into Open Session. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

ADJOURNMENT

MOTION: Councilman Bennehoof moved to adjourn the meeting at 11:15 p.m. Councilman Swartwout seconded the motion.

VOTE: Y 6 N 0

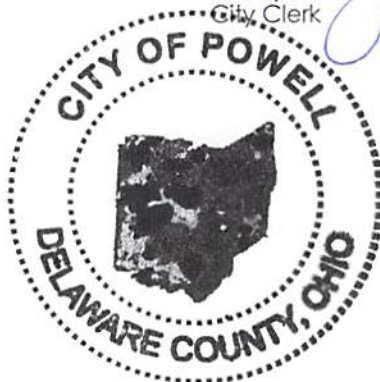
MINUTES APPROVED: November 15, 2016


Brian Lorenz
Mayor

NOV 23, 2016
Date


Karen J. Mitchell
City Clerk

11-22-2016
Date



City Council

Brian Lorenz, Mayor

Jon Bennehoof

Frank Bertone

Tom Counts

Jim Hrivnak

Brendan Newcomb

Daniel Swartwout