



City of Powell, Ohio
City Council

MEETING MINUTES
December 6, 2016

CALL TO ORDER/ROLL CALL

A regular meeting of Powell City Council was called to order by Vice Mayor Jon Bennehoof on Tuesday, December 6, 2016 at 7:33 p.m. City Council members present included Jon Bennehoof, Frank Bertone, Tom Counts, Jim Hrivnak, Brendan Newcomb and Daniel Swartwout. Brian Lorenz was absent. Also present were Steve Lutz, City Manager; Eugene L. Hollins, Law Director; Dave Betz, Development Director; Chris Huber, City Engineer; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk, and interested parties.

PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

Vice Mayor Bennehoof opened the citizen participation session for items not included on the agenda. Hearing none, he closed the public comment session.

APPROVAL OF MINUTES – November 15, 2016

MOTION: Councilman Hrivnak moved to adopt the minutes of November 15, 2016. Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, the minutes were approved.

RESOLUTION 2016-22: A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO FILE AN APPLICATION WITH THE MID-OHIO REGIONAL PLANNING COMMISSION (MORPC) FOR THE PURPOSE OF ACQUIRING FUNDS FOR RESURFACING SAWMILL PARKWAY AND FOR MAKING SPOT REPAIRS AS NEEDED TO THE PARALLEL ADJACENT MULTI-USE TRAIL.

Steve Lutz, City Manager: In the next few years, the City will need to resurface Sawmill Parkway from Seldom Seen Road north to Home Road. The cost for that is approximately \$1.86 million. Our City Engineer, Chris Huber, has been looking for grant funding to assist with the financing of that project. A few months ago, Council passed a similar resolution to this which showed the City would contribute 20% of the funds and the grant would pay for 80%. We are going through the grant request process right now and we did not receive the funding for 80% of this project. Delaware County stepped in and the county engineer graciously offered to give some of his funds from projects which he was getting, funneling them towards ours, and when we changed our request from 80% grant funding to 60% grant funding, that did move our project up and to an award. With this, it looks like we would receive this funding if we moved forward. The grant would pay for \$1 million of the project and the City would be responsible for \$860,000.

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

Councilman Counts: I would just note from the City financial standpoint, there isn't \$1.8 million available to make this improvement. Obviously Sawmill Parkway is a very important thoroughfare within our community so we look for all sorts of alternatives to getting the funds. I think this is an example of that. We try to seek out funds from other sources rather than from our residents. That we are able to do this is a fantastic thing and I think it shows that we squeeze every dollar we can possibly get.

Vice Mayor Bennehoof: I also applaud the creative financing and funding methods.

Councilman Hrivnak: Gene, this being a commitment to spend \$860,000, is a resolution the correct thing?

Gene Hollins, Law Director: We know the scoring at this point. I think we're still asking for authorization, the resolution to make the application...[Mr. Lutz: This does not commit the funding. There will be an appropriation ordinance].

MOTION: Councilman Counts moved to adopt Resolution 2016-22. Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, Resolution 2016-22 was adopted.

SECOND READING: ORDINANCE 2016-55: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF POWELL REVISING SECTION 1147.11, REGARDING AGRICULTURAL-RELATED USES.

Mr. Lutz: This is a continued discussion from our last Council meeting. The City's Zoning Code Diagnostic Committee has forwarded to Council a proposal to allow residents to raise a certain number of chickens. Staff was directed to put together proposed restrictions which could be considered by City Council. As we stated at the last meeting, regardless of passage of this Ordinance, a majority of our subdivisions in Powell have HOA restrictions that would prohibit chickens regardless of whether the City permits them. If we do pass an ordinance that permits chickens and a resident lives in a subdivision that prohibits chickens, it would be the HOA's responsibility to terminate the use of chickens where the City would not be able to step in.

Dave Betz, Development Director: After a lot of research, we found that the City of Bexley's ordinance was the most straight forward ordinance, so we utilized that as a model and made some adjustments to fit in with Powell regulations. This started with a request from a resident who wanted chickens. They are here tonight and want to make a brief presentation.

Vice Mayor Bennehoof opened this item to public comment.

Maggie Carter, 262 Halverston Road: Thank you for considering a code change to allow backyard chickens in Powell as well as the feedback you gave at the last City Council meeting. I took that feedback and my dad and I consulted some experts and did some research for this second reading.

First, we consulted with Dr. Richard Slemons of The Ohio State University (Exhibit 1, PowerPoint presentation). He said, "With proper husbandry and management training, I believe the rodent and predator issues are not valid. Also, with correct selection of source of chicks and good management and sanitation practices, the public health risks would be minimal. We would be glad to work with the young person in setting up and managing the chickens and protecting the public health."

Next we contacted the City of Bexley to see how their chicken ordinance is going. We spoke with Animal Control Officer Amy Jennings. Ms. Jennings said the only complaints they had were with roosters and they were re-homed. She said that they had no complaints with odor. I am only planning on raising six chickens and plan on cleaning regularly to prevent any smells.

The two biggest concerns regarding transmission of diseases to humans are Avian Flu and salmonella. Small flocks of chickens have literally no risk of Avian Flu transmission to humans. Salmonella risk is the same as handling raw chicken or eggs from the store. We also plan on buying our chicks from hatcheries that participate in the National Poultry Improvement Plan set forth by the U.S. Department of Agriculture which is intended to reduce salmonella in baby chicks in the hatcheries.

We already have predators in our yard. Predators are attracted to bird feeders, gardens, fish ponds, bird baths, trash cans and small dogs and cats. Chickens will not be attracting predators that don't already exist in our community. My chickens will be locked in their coop every night to protect them from predators.

Finally, I heard concerns that living in my backyard would not be a good life for chickens. I disagree and believe it would be a much better life than living in a cage its entire life, never getting to stretch its wings or legs. I believe that raising chickens in my backyard takes responsibility and work which I am willing to do. I've done my homework and will continue to study and learn more in order to be safe and provide a healthy environment for my chickens. I ask you to vote to approve this code change.

Stephen Carter, 262 Halverston Road: This has been in at least three different newspapers. It's been on the radio and has had plenty of public attention. We presented to P&Z a few times and this is our second hearing here and I've not heard one citizen speak against it. I think that says a lot for the citizens. Normally you don't hear about the good review, only the bad reviews, so I would expect if there were citizens that were really upset about this, we would have heard more about it and we really haven't.

Leif Carlson, 178 Beech Ridge Drive and Olentangy Ridge Association President: I was excited to come and speak with you because I thought this might be an opening to something that I have been talking about for

several years and it is help from the City, nipping in the bud obvious HOA discrepancies, like the City permitting fences that aren't allowed. We have several HOAs that by its rules don't allow chickens, but ours don't, and that's going to be disregarded by the City. We're left again to our own devices to come up and defend something else.

I thought that we could make a spreadsheet and capture which HOAs won't allow this and have a building permit process and nip this in the bud and neighborhoods that do allow for chickens could go ahead and have them. But that's not what's happened. I'm one of 25 HOA presidents that will now have an additional frustration to deal with if you change the zoning. Let's put something on the front end of this that protects the HOAs because even if there isn't a legal need for it, you guys have an ethical requirement to not clog up our systems with us fighting chicken coops in the future. It's the same issue albeit a different topic, that I've been crowing about for years.

Chris Shear, 8262 Wildflower Drive: I think that is a compelling argument. I think this sets a dangerous precedent. The people in my neighborhood are all against this. They may not have come in here to voice their opinion, but my neighbors and I can't support this in Powell. It puts the HOAs that are there to protect the residents in an odd situation if the City were to allow this. I consider this somewhat of a social engineering project. I really don't care if Bexley or Upper Arlington does it. This is Powell.

Catharine Gray, 385 Hopewell Dr.: I am not for this chicken thing. I live in a homeowners association – Olentangy Ridge – and Leif was saying we're not getting any support from you for the homes we have in our community. I will be one of the people that sues the one that puts up a chicken coop in their backyard if we don't get some support. Perhaps you can restrict it to larger acreage. I moved here from German Village. I didn't move to the country. I appreciate Ms. Carter wants to have chickens; however, I'm not signing up for this. You don't have a Mayor's Court. I'll be going up to Delaware. This is a bad thing. Also, you really are going have to support our HOA.

Christina Grasmus, 215 Halverson Road: I'm here to support Maggie. I am new to Powell and to Ohio. I'm having a hard time understanding HOAs and the City of Powell regulations. What Mr. Carlson said is that there is not consistency among HOA rules, is that right? And is it my understanding that Olentangy Ridge is very concerned? I don't believe the HOAs are really concerned with chickens so much as the building structures. The first hurdle would be allowing structures on property. For example, I know I can't have a shed. So there needs to be some clarity here. So while I appreciate that someone comes here and says that all their neighbors don't agree with this, I don't see their neighbors here. I am here to support Maggie. She has done a lot of research and there are minimal issues with regard to health and sanitation.

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

Councilman Swartwout: For me, as I look at the language of the Ordinance itself, before we even get to the issue of chickens, I have to be satisfied with the language of the Ordinance that we have in front of us. And the language of the Ordinance we have in front of us could submit someone to potential jail time for a second offense. Because of that, I would think that the parameters and requirements for what is necessary to comply with the Ordinance be clear, knowable and understandable. Here it just says that the "[C]oop be provided, kept clean, and in good repair." I know that different people can have different definitions of clean or what exactly 'good repair' means. I think two people could look at a chicken coop and logically come to two different conclusions as to whether this is clean and permissible under the Ordinance or this is dirty and therefore a violation of the Ordinance. I think this Ordinance is just too vague to submit someone to potential criminal penalties, including jail time. So for that reason, I am unable to support something that, in my mind, is too vague to allow the public to know whether they are complying with the Ordinance or not.

Councilman Newcomb: We received a memorandum from Mr. Betz that said in Olentangy Ridge the restrictions do not allow the raising of poultry. However there is an issue as to whether the restrictions had expired. So as far as Olentangy Ridge is concerned, it sounds like poultry...[Mr. Carlson interrupted from the back of the room: We renewed our deed restrictions...(remainder of statement is inaudible)]. Well, I'm just letting you know about the memorandum that I received.

As far as the health issues that have been raised, I feel that if there are any issues that come from the public, that this Ordinance can always come back to us and we can always repeal it. Second, in Zoning Diagnostic Committee, we have been talking about conservation areas and we've been talking about the identity of Powell. The identity of Powell historically has been a farming community, so I think this Ordinance would be

line with that. I view this as a mini-conservation easement. Third, I'm not going to stand in the way of an 11 year old girl's dream of raising chickens, so I am supporting this Ordinance.

Councilman Counts: I am a resident of Olentangy Ridge and a real estate lawyer by profession. We have public restrictions as well as private restrictions. Public restrictions are zoning ordinances. Private restrictions are property that people own that they agree, as parties, that they will have certain restrictions on their property, usually put on by developers before they buy the property. So, those private restrictions are in no way effected by what happens with the public/zoning laws. So you can have a situation where the Zoning Code permits it, but the private restrictions do not. It's usually up to the HOA to enforce those [private] restrictions because very rarely does one neighbor want to sue another neighbor. We have those restrictions because people want them. They want a certain sense of what they are getting into, the types of homes that they are getting into, what they can use with the property, and that is what the situation is. In much older communities, like Bexley, there are no private restrictions like we have today. There were some, but they were the bad ones like trying to keep people out of their community. Then you have Olentangy Ridge which is one of our oldest subdivisions in the City and it has restrictions which, frankly in this day and age, doesn't pass muster. In addition, the restrictions only lasted for 30 years, not in perpetuity. Several years ago, we had an attempt to try to renew those restrictions. My personal belief as a lawyer is that unless you have a 100% of those residents sign-up for that, it basically doesn't work.

We now have a situation throughout our community where we have a place like Olentangy Ridge that does not have as restrictive covenants as some of the newer places, and suddenly you have this uneven balance, and newer subdivisions more restrictive, so there's an unbalance. And then you have things that are allowed in Olentangy Ridge that then the City has to control through zoning. The problem from our standpoint is, we cannot zone for one subdivision, that's what it comes down to. When we have ordinances like this that come before us, we have to look at how it's going to affect not only the entire community, but those particular areas where they don't have restrictions.

As I said in last meeting, my wife and I come from a long line of farmers, people who are trained to husband animals. There's a right way of doing this and it requires education and experience. It's not like getting a dog and bringing it to your home. I fully expect Maggie would learn those practices in a 4H group. My children were in 4H as well. There are a lot of kids within the City who are in 4H and they find ways of handling their 4H project outside the City when they want animals. I know that you do need something more than just, 'Oh, I'd like to have some chickens in my backyard to raise'. You have to have some experience and education in order to do this correctly.

The number of chickens in this ordinance are also a concern to me. In all the press that I have seen, I have not seen a number as high as we have here.

Finally, there are appropriate places to raise animals that are not pets. Those areas are areas that have lots of land with them and not next to neighbors on 80 foot lots. As a policy matter, I think that in a community like Powell where we have attempted to create a certain kind of living condition that frankly raising farm animals are not appropriate. I also think about if it's not chickens, then rabbits. Rabbits are a 4H project and not a house pet. I find it a slippery slope. I applaud the desire to have a 4H project and to raise chickens, I just don't think that Powell is the place to do it.

Councilman Bertone: Maggie, I commend you and applaud your preparation and determination. You certainly created a compelling conversation for many of us tonight. I have three daughters of my own. After last Council meeting the first thing I did is explain to them how confident you were and the message you brought to us here. I loved it.

As I explained a few weeks ago, I am concerned about the health issues and I am considering it in a broader context of all of our community. I agree that you have demonstrated a desire, willingness and capability of doing a fantastic job. Your neighbor seems to be supportive of it as well, but this decision is much broader than your 14 neighbors and that is where I'm having a hard time. We have a limited resource pool right now for inspections. What if one of your 14 neighbors were to move out and somebody were to come in and say I have an issue, can you come inspect this? It then creates issues for you. I encourage you to find a location in which you explore your opportunity to do this, be it a 4H or somewhere else in our community. I'm concerned strictly from a health perspective, and I'm against this for that reason, but I don't want you to lose your love for this opportunity. I encourage you and if I can help in any way, let me know.

Councilman Hrivnak: Last time we talked about the possibility of a conditional use. Can you give us a little bit of detail on that and what it might be, Dave?

Mr. Betz: Within the Ordinance, we can state that it's a conditionally-permitted use and requires a conditional use permit to be approved. That would go to a hearing before the Zoning Board of Appeals to analyze and make a decision on a case-by-case basis.

Councilman Hrivnak: Would that be subject to input from neighbors?

Mr. Betz: Yes. There would be notification requirements.

Councilman Hrivnak: I am part of the Zoning Code Review Committee and Maggie brought this before us. We thought it was worthy to come before Council. We looked into it ourselves and had Staff do some work on it. The Ordinance you see in front of you is a result of that. I think that one thing the Ordinance lacks that may be a help is a conditional use which would allow for a hearing of public comment prior to the issuance of this type of permit. That way we would know that those in the area are not opposed to such things and I think that should be considered. Because that's not included in this one, I'd like to see a new ordinance drafted. I'm insistent upon if we are going to have this we are going to have some sort of public hearing. So because this ordinance doesn't include that, I really can't support this one for that reason.

Vice Mayor Bennehoof: Maggie, I want to join all my Councilmembers in applauding you. You went out and did some counterpoint research and then you stood in front of seven old guys last time and six old guys tonight and did an outstanding job. I haven't seen anything that changed my mind, but I do want to address a couple of points that were brought up today that I think are important for everyone to realize.

HOAs have specific rules for specific areas for specific reasons. Your HOA does not approve of livestock, wildlife, on your quarter acre lot. The request for uniformity of HOA rules and City Council zoning; there are reasons for the differences and that's not going to happen. This Council represents the entire City of Powell. I appreciate and applaud that you went out and got 14 neighbors to sign up with you. I think there's probably a couple hundred houses in your HOA and I don't know if you approached your HOA yet. We don't permit outbuildings, so a chicken coop would have to be a part of building code that goes forward. There may have been a dulled outcry of opponents to chickens in Powell because people understood that their HOA rules prohibited them, and they didn't think there was a need to come to this meeting. I don't know, I'm assuming that.

I stand by the research I did. I know that you reached out to some very good research sources and that should be commended as well. As far as satisfying this desire in a different way, my belief would be that you could start out with Stratford Farm Park. It's less than 5 miles up Liberty Road. If you haven't been there, I suggest that you get there. Whether or not this Ordinance passes, I really encourage you to get out there, get involved with the people there and look at the programs. There are reasons that livestock and wildlife don't exist in many cities.

Councilman Newcomb: People seem to have issue with the statute language. Can we rework the language, address the conditional use and the permit process, and amend the section with regard to misdemeanors?

Vice Mayor Bennehoof: Gene, what are our options?

Mr. Hollins: It being a Zoning Code amendment, it would have to go back for a recommendation from P&Z, so if you would like to consider that, the appropriate motion would be a motion to refer it back to P&Z for further study and return of a new ordinance to you.

MOTION: Councilman Newcomb moved to return Ordinance 2016-55 back to P&Z for further study based on the feedback received by Council. Councilman Hrivnak seconded the motion.

VOTE: Y 4 N 2 (Bertone, Counts)

Vice Mayor Bennehoof: Maggie, I almost said no. I hesitated. But because I am of the opinion that you should rip the Band-Aid off quickly. What that means is that you get over the pain faster. I don't know that an acceptable amended ordinance will come back to us. But we will see what comes back. I implore you to exercise the options that some of us suggested and I might also implore you to perhaps address your HOA and see where they fall on it

because this may all be moot. That might have been the more appropriate path. Thank you for everything, including your patience and tenacity.

SECOND READING: ORDINANCE 2016-57: AN ORDINANCE APPROVING THE FINAL DEVELOPMENT PLAN TO CONSTRUCT AN APPROXIMATELY 88,320 SQUARE FOOT, THREE-STORY, STORAGE FACILITY ON 3.02 ACRES AT VILLAGE PARK DRIVE NORTH OF PENNY LANE.

Mr. Lutz: This is the second reading of this proposed development. Dave Betz will give a brief review and representatives of the applicants are here tonight to answer any questions you may have.

Mr. Betz: The site is located off of Village Park Drive in an area zoned Planned Industrial District that is part of the Wolfe Commerce Park development plan. Across the street is a storage facility and Village Self Storage. There's an office warehouse which currently handles automobile repair-type uses. There is an age-restricted apartment complex to the south. To the east are medical and professional office buildings.

The property includes not only the lot, which is in Wolfe Commerce Park, but also an acre of land to the east. That acre is being utilized for a redevelopment of the storm water system for all of Wolfe Park. It will now be brought over to that one acre parcel. The proposed use is for a totally enclosed storage facility. Access to the storage units are from the inside. There is some landscape screening to the south toward the apartments. For future buildings that will be added to the north, this shows [indicating] how that area is then blocked from view. The site plan shows the changes where the retention basin will be added to here. It went through a lot of review with P&Z in terms of changing the design of the building and also adding landscape screening and examination of where a fire lane would be added, which is required for this type of facility. P&Z did review this plan and sends it to you their recommendation for approval.

Melanie Wollenberg, Brexton: I am here with Shawn Boysko of MS Consultants, Todd Faris of Faris Land Planning, and our engineer, Steve Fox. I appreciate your consideration of this. We respectfully request approval tonight. We spent about seven months in partnership with Chris Meyers, your excellent staff, and P&Z making about 15 changes to this building to bring what we think is a beautiful design that looks more like an office building than a luxury self-storage. This is a very quiet use and fits in the context and scale of Wolfe Commerce Park. It's an approved use in the park. Tremendous tax revenue is generated by this project with limited City services required, and this provides a service to the community that there is a strong demand for.

Vice Mayor Bennehoof: I did go back there two days ago and looked at the apartments. Their back windows are high. They do have small decks. All the leaves are off the trees, so the shielding isn't really there at the moment, but I don't think with the architectural design that it's a big deal.

Ms. Wollenberg: We are planting a thick line of evergreens there as well.

Vice Mayor Bennehoof opened this item to public comment.

Mr. Carlson: I spoke about this with the Development Committee. It's another 3 story building. It's changing the landscape of Powell. I know these guys can ask for it, but that doesn't mean we have to grant it. It's a continuation of bigger buildings which I don't want to see more of.

Hearing nothing further, Vice Mayor Bennehoof closed the public comments session.

MOTION: Councilman Counts moved to adopt Ordinance 2016-57. Councilman Bertone seconded the motion.

VOTE: Y 5 N 1 (Newcomb)

SECOND READING: ORDINANCE 2016-61: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH ROBERT L. SMITH AND JERRY L. SMITH, INDIVIDUAL LANDOWNERS OF 70+/- ACRES, TIMOTHY SHELLY, AN INDIVIDUAL LANDOWNER OF 38 +/- ACRES, AND PULTE HOMES OF OHIO, LLC, AND DECLARING AN EMERGENCY.

Mr. Lutz: Tonight is the second reading of this proposed Ordinance which is a proposed single family and patio home development on the east and west side of Steitz Road. Dave Betz will give a brief review of this. The applicants are also here tonight.

Mr. Betz: The proposed development is located south and east of Golf Village. The annexation is adjacent to Powell at the location on the east and partially on the north. The proposal consists of single family homes east of Steitz Road and patio homes west of Steitz Road. There's a difference in the types of homes that are being proposed are those east of Steitz Road have larger lots and larger homes and those west of Steitz Road are generally smaller lots and aimed for the empty-nester. It is anticipated that there will be improvements needed to Steitz Road as part of a traffic study that would be ongoing as we go forward through the development plan process. We've heard a lot of issues with regard to that from the general public, through P&Z Commission, so that will be one of the items of consideration. What's before you tonight is a preannexation agreement that moves this forward in our process of Pulte submitting for the petition to annex the property.

Tom Hart, Pulte Homes: Also with me are Matt Callahan and Julie Mott. We don't really have anything to add from the last meeting. We're happy to answer any questions you may have. The point of the pre-annexation agreement is letting us get into the process and have the full hearings at P&Z and then back here with you.

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

Councilman Counts: Dave, I asked you at an earlier meeting to tell Council what the development fees might be on a development of this size.

Mr. Betz: Looking at our budget, as Finance Committee looks at your budget, you have development-related revenue in the reports that you get from the Finance Department. That development-related revenue is broken down by accounts. That subtotal, as well as our recreation fees that are generated if land is not dedicated for public use in the area for public parkland, you'd see fees totaling upwards of \$950,000.

Councilman Counts: So the recreation fees would be used for parkland or something else similar, but its...

Mr. Betz: Yes. It can only be used for acquisition of parkland and/or development of parkland within the City, like an impact fee. What we have set up in our fee schedule is a way for a park to be dedicated if that is so desired by the community. There are several open space areas that could be identified for public dedication that we review as part of our development plan process, and if not, then there are impact fees that are associated with each home as it is built.

Councilman Swartwout: I know we talked about this in the various committee meetings but I'm not sure it's been mentioned at Council. The estimated tax benefit per year for the City for this project is approximately \$20,000. Do you have the exact number?

Mr. Betz: I did not bring that spreadsheet. As we reviewed this possible annexation, we looked at the financial impact that this could bring overall. That financial impact analysis is based upon cost associated with service to this development as well as revenue gained by this development. Our overall analysis shows a positive \$20,000 for the City if it is annexed into the City.

Councilman Swartwout: Just as this was mentioned that this plan will be massaged throughout the process, reviewing the P&Z minutes, I just echo some of those same concerns and I hope as the process goes forward those concerns are adequately addressed. Specifically, Steitz Road, Rutherford Road and some of the other concerns.

Another thing that I hope can be massaged somewhat is an earlier version of this plan, the projected net benefit tax for the City was approximately \$60,000 per year as opposed to \$20,000 and over a decade that's a difference of \$400,000. I know there's a lot of capital projects that need funding in our City and, as we massage this, if there's a way of inching that process closer to \$60,000, I would find that to be beneficial.

MOTION: Councilman Counts moved to adopt Ordinance 2016-61. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

SECOND READING: ORDINANCE 2016-62: AN ORDINANCE TO ACCEPT THE PROPOSED BUDGET, AND TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2017.

Mr. Lutz: This year's budget process began back in July when department heads were requested to prepare proposed budgets for their operations. Since then, Staff has worked on massaging those numbers and it's been forwarded to Finance Committee, Operations and Development for extensive review and discussion. Two weeks ago, the first reading of the budget was held and we gave you a lengthy presentation. The proposed budget keeps the income taxes the lowest tax rate in Central Ohio while continuing to fund fine services for our residents and businesses. It also adds several enhancements for next year and one of those includes one for public safety.

As the City continues to grow, there are demands on our police department and our proposed budget includes the funding for another full time officer, effective in July. Another item that this budget proposes is to fund the first phase of construction of Seldom Seen Park which we are excited to get underway so we can utilize it in 2018.

I would like to thank the department heads for their hard work on this and City Council who has spent countless hours reviewing and refining it. Special thanks goes out to our Finance Director, Debra Miller, and Jessica Marquez for their numerous hours in preparing the document.

Vice Mayor Bennehoof: Where there substantive changes from the last reading?

Mr. Lutz: There were none.

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

MOTION: Vice Mayor Counts moved to adopt Ordinance 2016-62. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2016-63: AN ORDINANCE APPROVING THE FINAL DEVELOPMENT PLAN TO CONSTRUCT A 3,672 SQUARE FOOT ADDITION TO AN EXISTING CHILD CARE FACILITY AT 14 GRACE DRIVE.

Mr. Betz: I am personally biased with this project because I really like it. This development plan has gone through our planning process with some input from neighbors in the back and everybody, in the end, is happy with everything that's happening here. Also, the architect worked closely with our architectural advisor on this. The property is located at Liberty Street and Grace Drive. It's been a daycare for many years and now they wish to expand. The expansion of the building will happen in the front and will provide new walkways going to the parking lot on either side. The plan is to have some sort of storm water control with a new added impervious surface to the roof in the front – that's going through our Engineering Department right now. The building itself is being transformed from an early 80s brick office building look into a school house look. P&Z recommended approval.

Shawn Bogenrife, architect & Brenda Warnock, from Big Hearts, Little Hands: I don't think I have anything to add to Dave's remarks. We are here to answer any questions you may have.

Councilman Counts: Parking didn't need to change as a result of....?

Mr. Betz: No, they have enough parking which is based on the number classrooms and they did not expand in number of classrooms to require additional parking.

Councilman Bertone: In terms of elevation, where are you at now, where are you elevating to, and any other concerns from residents in the surrounding area?

Mr. Bogenrife: It's fairly low right now, it's about 12 feet. It is getting higher, but not that high. It came up at the zoning meeting with the neighbor behind and he was okay with it. It is also permissible by code.

Mr. Betz: Right now the top of the ridge is 18 feet and this cupola goes up to about 24.8.

Mr. Bogenrife: And part of that is the result of the roof structure that is already there. I was trying to make that work, trying to work with what we have to begin with.

Councilman Bertone: So you're re-skinning this entire complex?

Mr. Bogenrife: Three sides. The back we are not re-skinning.

Mr. Betz: The back remains brick but the sides do wrap around to the corner.

Councilman Newcomb: Are you going to remain operational during this?

Ms. Warnock: Yes. The first stage is to build a shell on the front of the building, so we cannot occupy any of that space until that's completed and occupancy is granted, but we will make a different entranceway in the back to come into the building for safety while under construction.

Councilman Newcomb: This past summer I noticed Grace Drive has a lot of trees between the sidewalk and the street. Will that extend in front of this building?

Mr. Betz: Those trees – Ash trees - were actually removed. They are planting two new trees in front, not between the sidewalk and curb. We found it is too narrow between the sidewalk and curb.

Vice Mayor Bennehoof: And for historical reference, those Ash trees were removed because of Ash borer.

Councilman Swartwout: I have a question as I'm looking at the floor plan based on parking and new classrooms versus existing classrooms. Can you go over what's existing, what's new? Because as I look at the floorplan, I see....

Mr. Betz: There are new classrooms, but they are still meeting the parking requirements even though they [added classrooms].

Councilman Hrivnak: Dave, We are right on the set back that's approaching Grace Drive?

Mr. Betz: They are at the minimum setback that's on the plat that was approved as part of the original plan for that part of Grace Drive and we are within that setback.

Councilman Hrivnak: I presume that when the children enter and exit from the front they are escorted by parents in and out? The playground is out back and that is where it will stay?

Mr. Warnock: Yes to both questions.

Councilman Hrivnak: Is there some elevation difference between the floor of the building and the road Dave?

Mr. Betz: It's pretty flat. It might go down a little bit.

Vice Mayor Bennehoof: I'd like to revisit the question of operation during demolition. You are going to build the addition out in front of the existing building. You will then demo...

Mr. Bogenrife: It's really a remodel. The demolition is pretty minimal actually. This is a skin that's coming off. The structure of that is remaining because that's converse support and support for the new roof. The amount of space that is actually in transition is minimal. We've worked through that with the contractor.

Vice Mayor Bennehoof: I assume your project plan is going to try to hit those kind of events when the kids aren't there.

Ms. Warnock: Correct.

Mr. Betz: Chris Meyers had those same concerns to begin with and went through all that with the architect here so we're all comfortable with that.

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

Ordinance 2016-63 was taken to a second reading.

FIRST READING: ORDINANCE 2016-64: AN ORDINANCE ENACTED BY THE CITY OF POWELL, OHIO, HEREINAFTER REFERRED TO AS THE LOCAL PUBLIC AGENCY ("LPA"), TO ALLOW THE CITY MANAGER TO GIVE CONSENT TO THE STATE DIRECTOR OF TRANSPORTATION TO REPAIR AND RESURFACE SR315 IN DELAWARE COUNTY, AND DECLARING AN EMERGENCY.

Mr. Lutz: The Ohio Department of Transportation has requested we approve this legislation. They plan to resurface State Route 315 from the county line north up to the intersection of State Route 23 late this Spring, Summer and Fall. We have a very small portion of SR315 which is located just in front of The Retreat subdivision. This legislation authorizes the state to resurface that portion.

Councilman Counts: The Section between Jewett and Powell Road, I thought, was going to be rebuilt. Are you suggesting that this is going to be repaved?

Mr. Lutz: My understanding is that it is going to be resurfaced. I think what you might be thinking about is the retaining wall that is going to be used to secure the roadway.

Councilman Counts: Right. I'm just a little surprised that they would repave before doing that retaining wall.

Chris Huber, City Engineer [from the audience]: They are going to be repaving that section with the retaining wall together under the previous consent legislation we did earlier this year. The remaining areas not affected by the retaining wall is what this current proposed legislation includes [inaudible due to distance from the microphone].

Councilman Bertone: So we are not at risk of paying this twice?

Mr. Lutz: We're not paying for it regardless, except as state taxpayers.

Councilman Hrivnak: Section 2 refers to the City to assume and bear 100% of the costs of features requested that are not necessarily for the improvement. We've made no such request.

Mr. Lutz: Correct. There will be no expense incurred by the City.

Mr. Hollins: Its strange terminology, I'm sure, in some of the sections of this Ordinance. This is their boilerplate legislation.

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

MOTION: Councilman Hrivnak moved to suspend the rules in regard to Ordinance 2016-64. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2016-64. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2016-65: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO AWARD A BID TO MILLER CABLE COMPANY IN THE AMOUNT OF \$212,632.50 FOR THE GRACE DRIVE/EAST OLENTANGY STREET TRAFFIC SIGNAL IMPROVEMENTS PROJECT, AND DECLARING AN EMERGENCY.

Mr. Lutz: This is another initiative under Keep Powell Moving. We recently opened up Murphy Parkway to help alleviate traffic concerns within the City and this is another step that the City is taking to listen to the residents' concerns. This will be the installation of a traffic signal at Grace Drive and East Olentangy Street. As you may recall, we went out to bid over the summer for this installation and we received bids in the range

of \$260 - \$321,000. We rejected those bids because they were unusually high and we thought we could do better by bidding the project during the winter. That proved to be the case. We received 2 bids, and we are recommending awarding it to Miller Cable Company in the amount of \$212,632.50. Later you will see an additional appropriation for the balance of \$6,176.

Councilman Newcomb: What's the timeline on this?

Mr. Huber [from the audience]: Completion date should be at the end of July. We do have some minor utility relocation on the south side of East Olentangy Street.

Councilman Hrivnak: I looked at the bids and they are 20% apart. It seems like for a lot. How do you explain that?

Mr. Huber: The main difference between the two bids was the traffic maintenance on 750. We have a small section that we are overlaying to create an ADA crosswalk. I think they may have been a little nervous about being on S.R. 750 versus the other contractor.

Vice Mayor Bennehoof: Did both of these contractors bid the first time?

Mr. Huber: Jess Howard did. Miller Cable did not.

Vice Mayor Bennehoof: Do we have any experience with Miller Cable?

Mr. Huber. No, although they are very experienced with ODOT and several municipalities around Ohio. They have been around since 1971, so they are well established.

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

MOTION: Councilman Counts moved to suspend the rules in regard to Ordinance 2016-65. Councilman Bertone seconded the motion.

VOTE: Y_6_ N_0_

MOTION: Councilman Counts moved to adopt Ordinance 2016-65. Councilman Bertone seconded the motion.

VOTE: Y_6_ N_0_

FIRST READING: ORDINANCE 2016-66: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO AWARD A BID TO STRAWSER PAVING COMPANY IN THE AMOUNT OF \$444,102.11 FOR THE 2016 MULTI-USE PATH PROGRAM, AND DECLARING AN EMERGENCY.

Mr. Lutz: These public improvements are being funded by the voted bond issue approved by the residents several years ago. This will fund the construction of missing links on our N. Liberty Street bike path, and our new bike path extension on Rutherford Road west of Sawmill Parkway. I will have Chris get into what alternates 1 and 5 will fund. These bids were quite close and they were all from three contractors we are experienced with and do recommend the low bidder of Strawser Paving Company.

As we were doing our Sidewalk Program and Street Program this year, one thing that Chris stated that he was planning on doing was using some of the voted bond issue to make repairs to existing bike paths throughout town.

Mr. Huber: To recap, most of our base bid for our program is a combination of surface overlay and sealing along the existing path. We are focusing most of that along Bennett Parkway and Murphy Parkway. ([Exhibit 2, Multiuse Path Program](#)) On Murphy Parkway, we are addressing a lot of the ADA ramps along that route. We also have the new extensions that we talked about over the past year along Rutherford Road from Tricia Price to Sawmill Parkway - that will be a completely new pathway extension - as well as segments on North Liberty extending all the way to Seldom Seen Road. We did cooperate with the township who has a small section that goes north of Rutherford Road and ties into our existing path in Woods of Powell. They have a segment there that they are going to cooperate with us on this project.

Mr. Lutz: We bid the project for the township and they are funding the construction cost and the inspection fees. That was part of the One Community initiative.

Mr. Huber: The total project cost that does include alternate 5, which is going to be deposited by the township and would also include the alternate 1 that we are recommending, is sealing all the paths that are on our parks to the south of S.R. 750, Murphy Park, Village Green, Library Park and Arbor Ridge Park, will all be sealed as part of alternate 1. We hope to advertise the remaining alternatives in 2017 with the pathway funds we have available.

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

Councilman Newcomb: I don't see an alternate 5.

Mr. Hollins: If you recall, there was an earlier piece of legislation Council considered for the agreement we have with the township where upon deposit of the \$50,000, we agreed we would bid it out for them, with a limit of \$50,000. We told them we would bid it out as an alternate rather than as part of the base bid. We shared the bids on that alternate with them, and we received indication to go ahead and award that alternate on their behalf. For what is paid for by the City is base and alternate 1.

Vice Mayor Bennehoof: The objective of that was that there would be a congress of scale for the township and we'd get more connections done. We are working to try to get all the interconnections completed, but it takes time.

Councilman Hrivnak: Do we have an enforceable document that they've agreed to?

Mr. Lutz: Yes, it's been enacted by Council and the township trustees and the county.

Councilman Newcomb: When is this project expected to begin?

Mr. Huber: This Spring and hopefully complete this Summer – July or August.

Councilman Newcomb: Do we really need to suspend the rules?

Mr. Lutz: We are required to award the bid within 30 days. Our next Council meeting will fall within that 30 day period if you want to take to a second reading or approve it tonight and get it off your plate.

MOTION: Councilman Counts moved to suspend the rules in regard to Ordinance 2016-66. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2016-66. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2016-67: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2016.

Mr. Lutz: This appropriates \$6,175.75 from the City's downtown TIF to cover the slight shortfall for the traffic signal installation at Grace Drive and East Olentangy Street.

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

MOTION: Councilman Bertone moved to suspend the rules in regard to Ordinance 2016-67. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2016-67. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

COMMITTEE REPORTS

Development Committee: Next Meeting: December 6, 2016, 7:00 p.m. We spent our time reviewing the Development process and some potential opportunities to change that process. The committee suggested that we go back and work on it a little more. We appreciate the idea of giving the developers some earlier feedback; however, we would like to reserve the right for final approval. The Zoning Code Diagnostic Committee will review that and resubmit to Development for further discussion.

Finance Committee: Next Meeting: December 13, 2016, 7:00 p.m. We are going to meet next week. I'm not sure what's all on the agenda, but I think there will be some preliminary discussion about various scenarios to fund capital improvements, is that correct? [Mr. Lutz: That will be the main topic on the agenda. Debra may have to leave town depending on if her mother-in-law passes away. If that happens, then we will cancel the meeting, but it is scheduled at this time for next Tuesday].

Operations Committee: Next Meeting: December 20, 2016, 6:30 p.m. We have a light agenda and it may be cancelled and moved into the new year.

ONE Community: Next Meeting: December 20, 2016, 6:30 p.m. I am negotiating with the Committee to move our meeting to business hours on a Monday evening. It probably won't happen before the next meeting.

Planning & Zoning Commission: Next Meeting: December 14, 2016, 7:00 p.m. The only item on the agenda is for a review of a Certificate of Appropriateness for the renovation of 26 W. Olentangy which has been purchased to be converted into a restaurant.

Powell CIC: Next Meeting: Next Meeting: Next Meeting: Our annual meeting will be December 19th at 60 S. Liberty St.

Zoning & Building Code Update Diagnostic: Next Meeting: December 13, 2016, 6:00 p.m. We will have a hard stop at 7:00 p.m. for the Finance Committee meeting.

CITY MANAGER'S REPORT

Several items. Megan's going to show some new videos that we will be posting on our Powell Pulse. [Videos played] Holidays at Powell was a great event and we had good turnout.

Each year at this time, the Ohio Department of Liquor Control asks if we wish to have any hearings on liquor licenses in town because they do review them at the beginning of the year. The Staff and the Police Department have had no problem with our agencies and we will not request a hearing unless Council deems otherwise.

Frank had mentioned that Operations Committee will most likely cancel their meeting in two weeks. I would recommend that the Council schedule an executive session from 6:30 pm to 7:30 pm where we can talk about litigation, personnel matters, board and commission appointments, then have our Council meeting at our regular 7:30 time. Continuing the tradition of the last meeting of the year, following the Council meeting, we could head to Gallos for some holiday cheer. Our other board and commission members would be invited to attend that also.

At this time, it looks like we will be able to cancel our January 3rd Council meeting. We should be able to confirm that in the next few weeks.

OTHER COUNCIL MATTERS

Vice Mayor Bennehoof: I had the distinct pleasure of heading the lighting of the Christmas tree. My granddaughter, who was with me, was floored that Mrs. Claus knew me. But I think Staff did an outstanding job again and I appreciate it.

ADJOURNMENT

MOTION: Councilman Counts moved to adjourn the meeting at 9:22 p.m. Councilman Bertone seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

MINUTES APPROVED: December 20, 2016



Brian Lorenz
Mayor

JAN 15, 2017

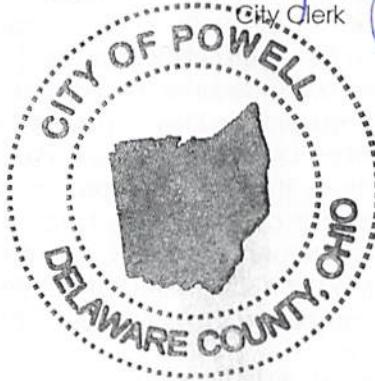
Date



Karen J. Mitchell
City Clerk

1-18-2017

Date



City Council

Brian Lorenz, Mayor

Jon Bennehoof

Frank Bertone

Tom Counts

Jim Hrivnak

Brendan Newcomb

Daniel Swartwout