



**City of Powell, Ohio**  
City Council

**MEETING MINUTES**  
**April 4, 2017**

**CALL TO ORDER/ROLL CALL**

A regular meeting of Powell City Council was called to order by Mayor Brian Lorenz on Tuesday, April 4, 2017 at 7:30 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; Chris Huber, City Engineer; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk, and interested parties.

**OPEN SESSION**

**PLEDGE OF ALLEGIANCE**

The Mayor introduced the new Liberty Township Fire Chief, Thomas O'Brien. Chief O'Brien wanted to introduce himself to Council and put a face with the name. He has been new chief for 30 days. Chief forwarded Council a monthly report so they could see what has been going on. Chief O'Brien invited Council and Staff to feel free to stop in and see him any time with any questions or concerns. He has felt very welcomed in the community and is happy to be here.

Councilman Bennehoof: Chief, you have a great crew there and I look forward to your stewardship.

**PRESENTATION** – Preservations Park Update – *Tom Curtain, Executive Director of Preservations Parks of Delaware County* ([Exhibit 1](#))

- Park Mission is to preserve the natural and historic aspects of this county and to inspire exploration and learning
  - Environmental education and outreach
  - Several facilities available for rent
  - Incorporating natural play areas
  - Working on portion of the Ohio to Erie trail
    - Acquired and paved about 1.5 miles of the trail
    - Purchased a few more pieces of right-of-way and are still working on purchasing the additional 5 miles left in Delaware County
    - Working with townships and Sunbury Village about connecting to the Ohio-Erie trail
  - Natural Resource Management
    - Take care of what we have and do restoration work
    - Create wetland habitat or restore wetlands in the parks
    - Planting – in last two weeks planted 10,000 seedlings on new property in Orange Township
    - Prairie management and prairie creation
  - 150 active volunteers
- The Ice Age is returning to Delaware County on Memorial Weekend
- The Parks will be on the ballot this fall. The levy expires in 2018 and we will be asking the voters to renew the 6/10ths of a mill levy we currently have, and ask for an additional 3/10<sup>ths</sup> increase. A homeowner that owns a home valued at \$250,000 would see a \$26.25 increase.

**CITIZEN PARTICIPATION**

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

## **APPROVAL OF MINUTES – March 7, 2017**

MOTION: Councilman Bennehoof moved to adopt the minutes of March 7, 2017. Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, the minutes were approved.

## **CONSENT AGENDA**

<u>Item</u>	<u>Action Requested</u>
• Departmental Reports – February 2017	Receipt of Electronic Report
• Liquor Permits	Waive Hearings
o Drive By Entertainment	
o Submarine4 LLC	
o Yabos Powell LLC	

MOTION: Councilman Hrivnak moved to adopt the Consent Agenda. Councilman Bennehoof seconded the motion. By unanimous consent of the remaining members of Council, the Consent Agenda was approved.

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

Steve Lutz, City Manager: This proposed ordinance would allow residents to acquire chickens and/or construct a chicken coop. This is a second reading tonight. Development Director, Dave Betz, will give a review regarding the proposed ordinance.

Dave Betz, Development Director: City Council looked at this once before and sent it back to P&Z for another review. Based on the comments P&Z received through Council, they made some changes to the proposed ordinance. One is allowing chickens in residential areas. It would have a requirement of a conditional-use permit in order to acquire chickens and construct a coop. There would be an inspection by the Zoning Administrator. The conditional-use permit would go through the Board of Zoning Appeals, with a public hearing, for approval. There are some specifics with regard to coop sizes that were studied and the maximum size was set at 24 square feet; where the location of where the coop could go, in consideration of the neighbors, and kept in good repair; it would need to meet all rear and side yard setbacks for accessory uses; and no more than six chickens could be kept on the premises at any one time. There would be no selling of the eggs, it would be for personal use only. There would be no roosters, and they would have to care for the animals and comply with all other code sections with regard to care of animals. This was reviewed by P&Z and they have recommended approval by Council of this ordinance.

Councilman Hrivnak: Can you tell us again what a conditional-use permit is and does it require a public hearing?

Mr. Betz: A conditional-use permit is generally a use that's okay in general within the zoning district; however, it may have a little bit more intensity of use than what is normally seen as a permitted use. Conditional-use has certain things BZA would look at such as the location in relation to adjoining properties, to see that there's no problem with its location and is it going to affect anything with regard to public use facilities; is it going to increase any problems within the area with regard to the standards that are within our code in general. They do have a few standards that they look at and meet all the requirements within the code. There would be a public hearing where notification would be done.

Councilman Swartwout: The previous ordinance was a criminal ordinance. This is not a criminal ordinance, so what would be the procedures and processes for enforcing this ordinance and violations of it?

Mr. Betz: This follows our general zoning enforcement requirements and is not specifically different. So our process is that we notify them of a violation either orally or in writing. Generally we try to get people to comply with code within a certain time period. After that, if there is no compliance, we do an official zoning violation notice, give 20 days required to get it finished or file an official appeal, and finally take them to common pleas court to stop the violation. It still could lead to fines if it goes as far as to court.

Councilman Newcomb: What is the cost of the conditional-use permit?

Mr. Betz: Actually P&Z looked at that. We were going to make a proposal in our fee schedule, if this is passed, to change the conditional-use permit fee from \$400 to \$250.

Councilman Newcomb: So that cost would pay for the hearing?

Mr. Betz: Yes.

Councilman Newcomb: Is there an additional cost for another permit too?

Mr. Betz: There would be a miscellaneous zoning certificate fee for us to look at and that is another \$25 unless we put something in for the chicken coop. We will have to look at that should this ordinance pass.

Mayor Lorenz: And then they have fees for building permits?

Mr. Betz: This will be a small enough structure where it won't require it.

Mayor Lorenz: You'll just do setbacks and things of that nature?

Mr. Betz: Yes.

Councilman Counts: In Section (B)(5), one of the criteria is "locate the coop in a place that will be mindful and considerate of the neighbors." Who is making that determination? Is that you or is that the neighbors?

Mr. Betz: As part of the conditional-use permit process, that would be one thing the Board of Zoning Appeals would take into consideration when reviewing the application. Of course, a neighbor could come up and testify at the hearing and state that it's not mindful, so BZA would have to weigh that as they make their decision.

Mayor Lorenz opened this item to public comment. The mayor mentioned that Council had received several emails in support and against this proposal over the course of the week as well as other emails on this issue over the last several months that this has been pending.

Maggie Carter, 262 Halverston Road: We met back in November when the first reading of the proposed chicken ordinance was read. In total, I have presented to P&Z twice and, as of tonight, three times here to Council. P&Z has twice passed the proposed chicken ordinance unanimously. I request that you vote to pass this ordinance so that we can approach our HOA for the next step of the process to allow backyard chickens. I would like to learn about raising chickens and collect eggs that are from a known healthy source.

Mr. Newcomb, thank you for your previous supportive comments. Mr. Hrivnak, I believe that the revised code addresses your concern by making the permit to have a chicken coop a conditional permit. Mr. Swartwout, I believe your concerns about possible jail time for not keeping a clean coop have also been addressed as the paragraph for violations being a minor misdemeanor has been removed. Mayor Lorenz, we met and you asked to hear from neighbors who were in support of the ordinance. I believe that emails have been sent by our neighbors to Council in support of approving chickens. You may recall, I have signatures of 14 neighbors who are in support.

As for other concerns about health, safety, smell and noise, these were researched and addressed at the second reading. The number of chickens has been reduced from 9 to 6, which will make any coops even less noticeable. Some residents have spoken out against having chickens in backyards with comments like "What's next, pigs and cows?" I have followed the legal process and we all know that this ordinance does not open up the door for large farm animals. I believe that P&Z and Council know the difference between small animals that have been successfully raised in Bexley and Columbus

and large animals that can be raised in neighborhoods. I have not heard a reason for not having chickens that I have researched and can agree with. "This isn't Powell" is another reason I've heard, but it's just an opinion, it's hard to define, and not based on any facts.

As Powell continues to change, so must our ideas. I represent the next generation of Powell residents and I'm hoping that Councilmen that have been elected can be open to new ideas from the younger generation.

Finally, we've heard the argument that chicken coops aren't allowed by most HOAs so why approve them at the City level first? I believe that HOAs and deed restrictions are a good thing and allow neighbors to create and revise rules that apply to exactly where they live. Therefore, I am not asking you to vote in favor of this code change so that I can have chickens, I'm asking you to vote in favor of this code change to allow HOAs the opportunity to revise their deed restrictions as they want. City Council will not have final say, the HOAs will have the final say.

Hearing nothing further, the Mayor closed the public comment session and opened the floor for comments and questions from Council.

Councilman Bennehoof: Maggie, I commended you, your stick-to-itiveness, your drive, and presentation the last couple of times I've seen you. You don't cease to impress everybody when you get up here at your young age and talk to a bunch of old guys about your cause. You are to be commended for that; however, I'm staying on my position. I took an oath to the City – one of four oaths I've ever taken: one to my country, one to my wife, one to the state and now compel to the City. That oath is to protect the safety and welfare of the community.

Chickens are allowed on 5 acres in the township when it is zoned FR1. There are a lot of good reasons for that. I cited all of my research the first time I met you at this podium. I can go through that again or put it to the record. I'll be happy to give you copies of that. I spoke with one of the first diplomats of veterinarian medicine in the United States. He said no, it was a bad idea. I spoke with a seasoned, certified and credentialed senior professor in the agricultural school at The Ohio State University. He said it was a bad idea. I spoke with a department head of the Health and Human Services in the state of Michigan, and he said it was a bad idea. I spoke with a fourth generation large farmer, who had all sorts of animals large and small. You said you haven't met any criticism of this that you're accepting. Everything that I read, including from your veterinarian neighbor said 'I believe', where I spoke with people, subject matter experts, who said they knew (not believed) it was a bad idea.

There are 21 sicknesses that beset chickens and 4 maladies that chickens have, some of which are communicable to humans. There are just far too many variables. I don't think it's a good idea.

I encourage you to go to 4-H or Stratford Farms, where you can get hands on with the animals and to seek those avenues.

Lastly, I think the HOA should have been approached first – my opinion. Most of the HOAs in Powell would not allow it. By enacting this legislation, we would be setting up pocket zoning. I know HOAs take precedence and I agree with that, but I think they should have been approached first.

I beseech my colleagues to understand the research I did last October when this first came up and found lots of reasons, none of which support chickens in the backyard. I'm sorry. You are to be commended and I do hope you would pursue your 4H interest, but my vote would be no.

Councilman Bertone: Maggie, as Councilman Bennehoof mentioned, you are to be commended. Great job as always. Nice presentation. You certainly do drive a hard close. For us in sales, that's a great attribute to have. It's hard to say no. But in reality, when I consider all of which you are trying to suggest or propose for our community, health and wellbeing is one of my primary concerns. And when I consider not only the predators that might be brought into our community in and around your neighbors, I sense there might be some concerns if a pet were to go missing. Maybe not today because everybody seems to be enamored with this concept. I just genuinely believe that with homes on a quarter acre to half acre sites, this may not be the most conducive area for this type of effort.

I agree with Jon. I think that Stratford Farms is a great option and a nice alternative. I think your HOA should be approached first. It's the classic chicken and eggs story – which one came first. Your HOA is going to supersede a lot of what we say and do here. But for the City to force that upon them concerns me and it's a horrible precedent for us to set. I admire you. I think I embody a lot of what you say of your passion and zeal for what you want to strive to do, but I'm a firm no as well. I believe that for the greater community this is not a fit for us.

Councilman Newcomb: Maggie, you know I'm all for you and I'll give you some reasons why. I've been thinking about this and to me it's coming down to freedom – more freedom or less freedom – and we are saying less freedom. I'm in support of more freedom for people and I'd like to return it back to a more local form of government, which is your HOA, and let the individual HOAs, your neighbors and residents, decide amongst themselves whether or not they want chickens in their neighborhood. I don't think it's up to us to prohibit this city-wide. I support what you are doing.

Councilman Hrivnak: Maggie, last time we spoke about this, I suggested that we use a conditional-use permit. What that will do is allow the neighbors to be advised that this is coming up and gives the neighbors a chance to weigh in. You have neighbors that don't mind. Maybe someone else has neighbors that can't be near chickens. The conditional-use permit is a good addition to this and it allows each individual area in each individual neighborhood to make that decision. We did take the size of the coop down and the number of chickens is less. P&Z has come back with the changes that I had asked for so, based on that, I would support the ordinance as written.

Councilman Counts: I thought a lot about this and there are arguments on both sides of why it's helpful to grow your own chickens. We also have zoning and I think zoning is a very important aspect of why we have this police power to regulate uses so that you don't have an intermixing of uses. It used to be that industrial sites were next to homes and homes were next to facilities that didn't make sense. So we created this zoning structure that allows for separation of uses. I think that agricultural use is something that needs to be separated from residential uses. That's a policy decision and I think zoning is good. I think that the restriction of our uses on our property is good in many senses. It doesn't mean we can't change those. But I'm not hearing an overwhelming cry from residences that this is something that they want. I know that this is something Maggie that you want, but it's not something that I think from a policy standpoint that I'm willing to change. I believe the existing restriction to 5 acres is a good thing for agricultural uses so I'm opposed to changing the ordinance.

Councilman Swartwout: Is it still believed to be the case that Olentangy Ridge would be the only part of Powell that would approve this if we were to approve this Ordinance?

Mr. Betz: No, I believe Maggie's subdivision has an option too where the HOA can approve it.

Councilman Swartwout: Ok, that's different than what we were told at the last meeting on this matter. I am looking at those minutes.

Councilman Counts: Dan, and there are other areas that do not have HOAs.

Councilman Swartwout: This is a tough one, because like Tom said, there are some very good arguments both for and against this. Maggie – wow. I've been on this side and I've been at that podium, and that podium is a lot more stressful and nerve-wracking than this side. Every time you've been in front of this Council, you have just done an amazing job. I have a daughter who is five and what a tremendous role model you are for her and all other kids in Powell. You've raised some excellent points. I tend to fall in line with what Frank and Jon have said that the HOAs should be approached first. This has been in the news since last October. We've considered it and that would have been the time for the various HOAs to say 'yeah, we're all on board with that.' But that really hasn't happened. If that were to happen, I'd be willing to reconsider this. In truth, the majority of people who have contacted me and talked to me about this have been opposed to it. That's why, regretfully, I would stand to be opposed to it as well with the thought that if the HOAs or local communities came out in support of this issue, I would definitely consider revisiting this.

Steve Carter [from the audience]: We did approach our HOA, and they said why would we approve it if it's not allowed in the City? They gave the exact opposite advice. [inaudible due to distance from the microphone]

Mayor Lorenz: Maggie, I did get to meet with you and your father this past winter and indicated that we have to look at things holistically. What I mean by that word is for the whole benefit of the City. We encouraged people to reach out to us to give us feedback. We did get four emails from your neighbors. We also got emails from people as well that don't want to see this passed. I think some of my colleagues summarized it for you, but a lot of our neighbors and residents have told us not to go forward with this because of a lot of the concerns that my colleagues raised. I've gone back and forth on it like Dan has. I think he summarized it very well.

I still have a few issues with the ordinance as written. I think Tom brought up an excellent question about giving the BZA the authority to locate the coop. I think it just sort leaves it up in the air. I would tend to want to see that dressed up more. I also think that with some subdivisions like Olentangy Ridge, if this were passed, someone could just apply for the conditional-use permit as soon as the ordinance went into effect. I also tend to agree with Brendan a little bit on his point where he indicated that we need to enact more freedoms. But generally speaking, and I've spoken with some HOA people, the feedback I'm getting is that we do not want this in the City. They are not, from a zoning standpoint, something that is appropriate. So I have to weigh all those options as well. I have some health, safety and welfare concerns on this as well.

MOTION: Councilman Counts moved to adopt Ordinance 2016-55 in order to allow for a vote.  
Councilman Hrivnak seconded the motion.

VOTE: Y 2 N 5 (Bennehoof, Bertone, Counts, Lorenz, Swartwout)

Mayor Lorenz: Maggie, thank you for all your efforts and all the time you put into this. We appreciate it. I think you did a wonderful job. I'm sorry. I'm sure you're disappointed, but you should be very proud. Your parents should be very proud of everything that you have done. I think a few of us said it: you're going to be a great role model to other kids. Good luck going forward.

**FIRST READING: ORDINANCE 2017-11: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A COOPERATIVE PROJECT AGREEMENT WITH LIBERTY TOWNSHIP FOR THE PURPOSE OF MAKING IMPROVEMENTS TO RUTHERFORD ROAD BETWEEN SAWMILL PARKWAY AND LIBERTY ROAD.**

Mr. Lutz: This proposed ordinance would allow us to enter into an agreement with Liberty Township for the repaving of Rutherford Road between Sawmill Parkway east to Liberty Street. Last night the Liberty Township Trustees approved this agreement. A portion of this road is in the Township and a portion is in the City. Liberty Township would be the lead agency and the Delaware County Engineer would add this to their resurfacing program. The City's portion is from Sawmill Parkway east to just about Flag View Drive, which is west of the railroad tracks. That would be resurfaced along with the Township's portion. We would share the cost for our fair share - \$67,472.50. These funds come from our annual street resurfacing program. Our City Engineer, Chris Huber, is here to answer any questions you may have.

Councilman Hrivnak: Chris, when I look at the map, it would appear that the Liberty Township portion is much longer in length [Mr. Huber: yes]. We seem to have more square yards. Is it because the road gets wider as it comes...

Chris Huber, City Engineer: The road gets wider as you approach Sawmill Parkway – that's three lanes there. There's two intersections where we pave into the subdivision and it's in the City. We've measured it and it is accurate. I have one clarification. The City's portion is \$74,000. I believe the township was \$67,000.

Councilman Newcomb: The Ordinance is an emergency due to county deadlines and construction schedules. Do you know what the deadlines are and what the schedule is?

Mr. Huber: They are trying to bid in April, and they want us to be onboard prior to their bidding, so that they can get this construction done during this upcoming summer.



Councilman Bertone: Chris, \$67,000. What does that leave us remaining for our own street maintenance program this year?

Mr. Huber: We plan on spending about \$375,000. \$150,000 of that is Sawmill Parkway. This is going to be approximately \$75,000, so we're left with another \$150,000 or so to do some slurry seal this year and then do some more mill and overlay next year.

Mayor Lorenz opened this item to public comment.

Les Wibberly, 5005 Bayhill Drive: To clarify, this is asphalt not chip and seal, correct?

Mr. Huber: Yes.

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

MOTION: Councilman Bennehoof moved to suspend the rules in regard to Ordinance 2017-11. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2017-11. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

**FIRST READING: ORDINANCE 2017-12:** AN ORDINANCE ACCEPTING THE ANNEXATION OF 108.851 ACRES, MORE OR LESS, FROM LIBERTY TOWNSHIP TO THE CITY OF POWELL.

Mr. Lutz: Tonight is the first reading of this proposed annexation. We will have a second reading on April 18<sup>th</sup>. Following this ordinance is the proposed development plan for this land. This property was subject to a Pre-Annexation Agreement between the property owner, the developer and the City of Powell. It's located on either side of Steitz Road between Home Road and Rutherford Road. Dave will give you a brief review regarding this land.

Mr. Betz: The property is located [indicating] adjacent to Powell and Golf Village. It meets all the requirements for an expedited annexation. It's mostly farm land with some wooded area. There's a development plan. We will get into that presentation next.

Councilman Newcomb: Did we do a Financial Analysis on this other than the one that we received? Have we done a 20 year, 40 year financial analysis of this project?

Mr. Betz: I've updated the numbers from the previous one. [\[Revised Smith/Shelly Annexation Fiscal Impact - Exhibit 2\]](#). It includes a couple more pages and shows some more information. What this shows is the run of the model that was created at the end of our comprehensive plan update. We did a whole financial analysis of the City with Bill Lafayette. He developed a model for us to use and it is based on our budgets. We take that and analyze how this will be either a benefit or detriment from a finances standpoint based on projected home values or based on other commercial values, if there is commercial, and other known values. This is an annual number and it's based on last year's budget. There would be a positive net of about \$36,500. To analyze something 20-30 years down the road would not be accurate. We don't know what our budgets are going to be like. We know what our current budget is. And we know what our current budget is in relationship to the next five years, but I don't think you can project with accuracy that far out.

Councilman Newcomb: I guess when we are looking at stuff now, we can project even what we're doing already 20 years from now, and we're going to have to redo all of those streets. Twenty years from now, maybe just 10 years from now, we're going to have to look at a Keep Powell Moving for that area and there's going to be some expense to that that I think we can anticipate. So I don't think those expenses are so far out that we wouldn't be able to at least attempt to calculate them.

Mr. Betz: I can get with Chris. I don't know what prices are going to be in 20 years. We can project out a certain percentage increase per year and say, okay, if we need to maintain these streets 5, 10, 15 years out, what would that process be? What can we anticipate? We have not done that before. We can try to do something, but I'd need to talk with Chris.

Councilman Newcomb: I'm just afraid we get into those conversations now that we're having in Finance Committee about how do we pay for roads, how do we pay for lights, how do we pay for new street connections, and all of those things.

Mr. Betz: Unfortunately, in the development patterns of Ohio, under Ohio law and public finance, you see a lot of times where development is going to outpace infrastructure improvements. Every city fights with that. Steve and Debra can speak more to that.

Mr. Lutz: There are other issues too such as development fees. One thing that Council's been looking at is how to fund Seldom Seen Park. I think one item was to talk about the developer contributing money to the City for that park. So that's another piece to the puzzle.

Mr. Betz: This shows [indicating] what we consider our development-related revenues when the Finance Committee looks at development-related revenue based on when a conflict comes in, as well as a recreation fee. This total is over the build out of the project. We do have money coming in for infrastructural improvements with this development.

Councilman Newcomb: I think it's great that we're getting that money for Seldom Seen Road [Park], but also the last time we spoke, there was property within this development that is now going to be a park that I assume the City, at some point, can anticipate will be another liability that we are accepting and at some point we will have to pay for that. Otherwise, it just remains a pasture.

Mr. Betz: The development plan here does still have that park as an HOA maintained park and developed that way. So unless at some point in time the City would accept it later, then you don't have any cost.

Mr. Lutz: And that would be one of the costs, 20 years from now, you project the City accepting that park or not. Twenty years is a difficult time to project out with accuracy.

Councilman Swartwout: I do not have the last fiscal impact statement in front of me, but I do remember roughly the number and this amounts to about a \$15,000 increase from the last statement we received. [Mr. Betz: Correct] Could you tell me what accounts for that additional \$15,000?

Mr. Betz: The bottom part of the projected average price for the homes was accounted for less than what the developer had mentioned. They came back to me and said we're looking at an average of the age-targeted area being \$450 and I had it down to \$350. By changing that up, it changed the numbers.

Councilman Hrivnak: Another question on the model. Brendon brought up the road maintenance. Is that included in the model? It says incremental expenses. You described that as being an annual basis. There's \$40,000 annually for road maintenance. Is the possibly already included in the model?

Mr. Betz: That's included. That's based on our current budget. That would be whatever income we get from whoever is living in there.

Councilman Hrivnak: So, in other words, 20 years from now we'd have \$800,000 dollars?

Mr. Betz: However, you will be applying some of this money five years from now to some other road.

Mayor Lorenz: Jim, we held the CEDA meeting earlier in Development Committee. Do you want to summarize that?



Councilman Hrivnak: The CEDA plan review committee meeting is made up of five representatives from the City and five from the township. It's for the township and City to get together on property that's being annexed for the sole purpose getting the township's thoughts and ideas as to the use of the property and the zoning. There were four items brought up and I'm happy to say the majority of those items were addressed during the Planning & Zoning hearing. First, there was a question about the connection to the Windsong subdivision. There were three or four alternatives studied – this is where a street in the subdivision interconnects with a street in Windsong. There was a difference in widths of the streets. The recommendation of the engineer was to do a tapered intersection there. That would adjust for the different varying streets. You can see the taper is on the site of the Pulte Homes. What that does is calms the traffic before it leaves that area. That combination should take care of the problem.

There was talk about traffic at the Steitz and Rutherford Roads intersection. The comment was made that the county engineer has looked at that based on the traffic study provided by Pulte and recommended no changes. There was comments about traffic and speed of cars on Steitz Road in front of the neighborhood. In this case, the county reviewed traffic study and informed the developer that they will be putting in left turn lanes there and the road would be widened.

I'm not sure if the final recommendation is germane to tonight's discussion, but it was about the speeds on Rutherford and Steitz Roads, what they were and if they were appropriate. The discussion would be referred to the county engineer because determination of those speeds are in his authority.

Matt Callahan, Applicant and Tom Hart, Esq., Attorney for Applicant: We are here to answer any questions on the annexation. We will do the same on the zoning.

Mayor Lorenz briefly explained the process of having one ordinance to address the annexation and one for the development plan and opened this item to public comment.

Les Wibberly, 5005 Bayhill Drive: I just wanted to get some clarification on the resolution of the issue that you mentioned concerning the traffic and the impact on the intersection of Rutherford and Steitz Roads. As was discussed at one of the previous meetings, it is already backed up with traffic coming down Steitz to Rutherford. There's limited visibility at that intersection. When I read through the traffic studies I was a little puzzled by the fact that the traffic on Steitz Road was going to justify a left turn lane on Steitz, but no improvement to the intersection at Rutherford. I think the study showed something like 75% of the traffic from this new development was going to be going south because that's towards Columbus. So that additional traffic added to intersection without improvement to the intersection is a concern to those of us that live in that area.

Mayor Lorenz: The City has no control over that intersection as you know. It was brought up in our earlier meeting and discussion with the township. I think several of us have concerns with that as well because we use it quite a bit living in Golf Village. The county engineer has the ball in his court on this, but I understand what you're saying. It's our understanding from Staff and the county engineer that it's been studied.

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

Ordinance 2017-12 was taken to a second reading.

**FIRST READING: ORDINANCE 2017-13: AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR PULTE HOMES OF OHIO LLC FOR A PROPOSAL TO CONSTRUCT A RESIDENTIAL SUBDIVISION CONSISTING OF 183 UNITS ON APPROXIMATELY 108.851 ACRES, LOCATED ON BOTH SIDES OF STEITZ ROAD NEAR HUNTERS BEND, AND AMENDING THE ZONING MAP AMENDMENT TO PR, PLANNED RESIDENCE DISTRICT PENDING ANNEXATION TO THE CITY OF POWELL.**

Mr. Lutz: This proposed development – 183 unit development – has been looked at by Council when you approved the Pre-Annexation Agreement. So it will look very similar to when you saw it a few months ago. Dave will review the details.

Mr. Betz: The proposed subdivision is located on both side of Steitz Road, with Golf Village to east and north. There are some larger lots to the south and west. There is another farm to the south of the property. The development is shown with various lots sizes and unit types. The lot sizes are in a different colors [indicating], going from larger lots along Golf Village to smaller lots that are more consistent with that which is in Golf Village surrounding it to the east. On the left side of Steitz, you are looking at some estate lots to the south end where it's mostly treed and patio home lots in purple area [indicating] that establishes an alternative housing unit aimed at people who are empty-nesters.

P&Z reviewed the development plan and looked at details such as lots, layouts and block layout, the improvements on Steitz Road where pathways are, and the preserve/wetland areas in an open space or reserve there, preliminary utility layout – keeping utilities far enough away from tree lines so as to not affect the tree lines but also provide backyard drainage - mounding and landscaping along Steitz Road and open spaces, street tree plans. They are minimizing the tree removal and increasing tree planting falling well within our Code. There's over 25% of the site that is open space. They are doing some unique features at the entrance in terms of landscaping, as well as an entry feature making it look and appear as though it's an old mill. It's along Steitz Road right at the entrance, keeping in mind local architecture and the green spaces we like to see happen when new development occurs and whereas no housing backs up to Steitz Road. They're still showing a park in the area that will be owned and maintained by the HOA as well as developed. This survey shows how they laid the lots out to maximize the preservation of the existing tree lines which is also consistent with our Comprehensive Plan that shows a growth area to the north and some to the west of Powell in a single family nature. P&Z has recommended approval with several conditions outlined in the ordinance. I'd be happy to answer any questions.

Councilman Bennehoof: If you say this is three developments: there's the east of Steitz Road that's development 1, the empty-nester community is development 2, and the estate lots are development 3. Excluding the estate lots, what's the density of development 1 and 2 separately? I presume that we are considering the density of the whole [Mr. Betz: That is correct], but I'd like know what...[Mr. Betz: I'll have to get you that answer]. But the overall density, there's not a variance?

Mr. Betz: No.

Attorney Hart: Matt Callahan, Vice President of Land Acquisitions, Pulte. Also here is Greg Chillog. He's the landscape architect from the Edge Group that developed a lot of the nice stuff in terms of presenting the site and keeping the natural features and the rural aesthetic theme that we came up with for our open spaces in our buildings. We don't want to replicate Dave's presentation or take any more time. We'd rather just get to questions and address them as a group.

Councilman Newcomb: Are there sidewalks in this development? And will there be a bike path on Steitz Road?

Mr. Hart: Yes.

Mr. Betz: There's sidewalk on both sides completely throughout, plus the bike path. There will be a bike path on Steitz Road.

Councilman Newcomb: How far do those pathways go?

Mr. Betz: Just the extent of the subdivision itself. Then across the road, there would be a crosswalk at that intersection... [Councilman Newcomb: There's a crosswalk at the intersection of Peach entrance?] Yes.

Councilman Newcomb: Will there be a traffic light there?

Mr. Betz: No.

Councilman Bertone: Does it warrant a light?

Mr. Betz: No. On the west side, landscaping along the edge, and the pathway comes across and goes up and around over to the subdivision to the north and connects with sidewalks to The Reserve at Scioto Glen subdivision. There's no pathway that leads to the south on this side.

Councilman Newcomb: So there's no connections north and south on Steitz?

Mr. Betz: There is on the east side, but not on the west side.

Councilman Newcomb: As you cross Hunters Bend on Steitz to get to the park, is that going to be a pedestrian cross walk there? I guess I'm looking at Hunters Bend as a cross at Steitz Road to the west of Steitz.

Mr. Betz: There are no sidewalks in this subdivision on this side [indicating]. There are sidewalks in this subdivision here.

Councilman Newcomb: There really aren't great connections from this development to that park.

Mr. Betz: The Reserve at Scioto Glen is here [indicating]. The park at the Reserve at Scioto Glen is located in about this area [indicating]. When this finishes out and gets built, the sidewalks will connect to this street which then connect to the development here and crossing Steitz Road at this location.

Councilman Newcomb: All we've heard from the people is that there is a big connection. I mean these two projects alone are going to have 1,800 car trips by themselves with a development further north that comes with at least 1,000 homes that are getting built. Are we're going to have 5, 6, 7, and 8 year old kids crossing Steitz Road to get to Scioto Glen Park? It's just a concern of mine.

Mr. Hart: I think we heard a lot of different things about the traffic study. Let me set some base line, just basic information. It did assume 39% distribution on Steitz to the north, and 61% to the south toward Rutherford. It did assume some traffic would go into the existing subdivision connections, but in terms of evaluating what we are supposed to pay for as far as improvements, it didn't count any of that. It assumed everything went on Steitz in terms of evaluating what our fair share contribution is. To be clear to your point about number of trips, that many people, that many homes. The am peak traffic for the morning peak rush hour for both sides is 138 trips. That's a one hour duration. The pm rush is 181 for the whole site. When you divide that by the hour peak in the morning it's 2.3 trips per minute, average. In the pm, it's about 3 minutes per trip, average.

We already talked about the north and south turn lanes that they required installation of. One other thing that we want to make a point of about that study: we have empty-nester housing, 67 units. There is recognition in the traffic engineering circles that empty-nesters do commute differently. There's less traffic impact from those folks generally. But since we are not age restricting; however, the study counted it all as traditional single family, 10 trips per day per house, etc., so the numbers are higher. We were also required to count one of the farm properties to the south (the Miller property) that was assumed at a build out density to either Powell or the Township. That is in our study and assumes it gets built out with ours and that traffic volume is associated with our development even though there's nothing there yet.

Councilman Newcomb: We've all looked at the Comprehensive Plan and it has a lot about connectivity. And I see you made an initial connection here since the preliminary plan, but I'm thinking more pedestrian connections and those pedestrian connections I'm thinking are at Catherine Crossing and at Robert's Court. It's that idea to get away from cul-de-sacs which is in our Comprehensive Plan. You don't have a whole ton of cul-de-sacs, but you have a couple. But when you get into those cul-de-sacs, I'm not saying a road, but a pedestrian connection at Robert's Court cul-de-sac to Steitz Road. Otherwise, you have to loop all the way up Robert's Court, make the left, make another left at Scott's Way, make another left at Harold Drive and then you get out to Steitz Road.

Mr. Betz: It's not on this color drawing, but it is on the detail that's shown right here [indicating].

Gene Hollins, Law Director: Tom, I don't want to speak for you, but perhaps for the second reading. What we have is 30,000 foot view of the connectivity of the paths. I don't think it's been updated. If you could do more of a detailed path system for Council detailing the paths I think that would be helpful to address this issue.

Mr. Hart: Fair enough.

Mayor Lorenz opened this item to public comment.

Mike Pechinak, 8038 Wildflower Drive: My home is directly adjacent to the easement where the bike path would connect from this development into Wildflower so I obviously have a personal bias here. I'm concerned about the loss of privacy with that multi-use path coming along the side of my yard.

I was before Planning & Zoning three times and voiced some concerns, some of which we have already talked about tonight. I'm still skeptical about that traffic study. I drive Steitz every day. The road is in disarray, is a drag strip and I worry about adding additional traffic to it.

I'm also concerned about the additional population in the schools. I hear about these patio homes and they are not age-restricted so anyone can go in there and fill those smaller homes with a number of kids.

To me the annexation doesn't make sense with respect to the incremental revenue that we get from the taxes. It doesn't seem to justify having to maintain and police it. I think the number I heard was \$36,000 a year once it's fully built out. It seems like a relatively nominal amount of money per year. A number of people have spoken out about this development and I have heard no one speak for it but lots of voices against it.

Les Wibberley, 5005 Bayhill Drive: Can you bring up diagram that shows the trails along Steitz? As a cyclist, coming up Steitz, which is a major pathway to the northwest area, I'd like to see that the bike trails are constructed so that before you get to the development you can easily get on the trail, continue north, and where the development ends you can easily exit the trail back on to Steitz. A lot of trails seem to be built along and in front of developments with no connection to the road. In this case, Steitz Road will be less safe for bicyclists due to the additional traffic, so we want to be able to go up the road, go onto the trail that bypasses the road through that section, and get back onto Steitz.

If I understand it correctly, the trail on the east side goes up as far as the entrance and then you have to cross over to the west side to go up the rest of Steitz?

Mr. Betz: It stays on the east side from south to north, but there is a crossing here, then it goes north. We can only require them to build that which is in their jurisdiction.

Mr. Wibberley: So I guess a connector from the beginning and the end of the trail to Steitz Road itself.

Mr. Betz: It's not shown here. It's uncommon for that to occur, and I understand your concern with that. I'm not a bicyclist, but...[Mr. Wibberley: They would stay on Steitz Road except for the fact that there's going to be significantly more traffic and so it's going to be safer to get off on the path and then get back onto Steitz Road. That's something that's often missing is the connection between the path and the road. The other thing is because Steitz Road is a major connector for bicyclist, the suggested width of trails that are built along corridors like that is 10 feet to accommodate pedestrians and cyclists.]

Mr. Hollins: Would it be helpful where we have undeveloped properties to the south? Right now we terminate the path at the south property line. Can we dovetail it back toward the roads?

Mr. Hart from the audience: [inaudible]

Mr. Wibberley: Yeah, it makes the path useable to bicyclists now who are trying to avoid the additional traffic that's going to be on the road.

Councilman Counts: Before we do that, I'd want a traffic and safety engineer to opine on that because my gut reaction is that it is an unsafe situation. It puts people in harm's way because you are creating an intersection between the road and bike path and I'd want a traffic engineer to just opine on that. I could be totally wrong on that.

Mayor Lorenz: Les, is there an example that you could tell us of that particular situation where you ride around that we could look at?

Mr. Wibberley: When you go down Liberty Road at the intersection with Murphy Parkway there's a need to get off the pathway when you're coming around Murphy Parkway and get onto Liberty Road to continue south because the pathway today goes off to the school. So there's an opening there between the pathway....[Mayor Lorenz: Is there an example where the path Ts in exactly to the road as you're describing it?]

Mr. Wibberley: I'd have to find one and email it to you.

Michelle Murphy, 8312 Steitz Road: My main concern is back to the Steitz and Rutherford intersection. I'm fine if you are widening Steitz. But that intersection is very narrow and doesn't handle traffic well during school hours. Bus drivers cannot turn if they are coming east down Rutherford turning north on Steitz. They cannot turn if there's a car at that stop sign. They have to wait for all the cars or the third car back before the bus can turn. I've been out there for 10 years with my kids. I see it every single morning. Now with more cars and buses with this development, you'll have more traffic sitting at that stop sign. That intersection cannot handle the current traffic and certainly cannot handle more.

Hearing nothing further, the Mayor closed the public comment session and opened the floor for comments and questions from Council.

Councilman Counts: I would like to ask Dave or Chris to contact the Delaware County Engineer and find out what the future plans are to widen Rutherford Road, the whole thing. I have to believe there is something out there. It would also be helpful to understand what it was that caused the Delaware County Engineer to say there wasn't any traffic improvements necessary for that intersection. Obviously, from what I'm hearing, Rutherford Road needs to be modified to be safe and I have to believe the issue is probably money. They're just unwilling to allocate money to that because there's other projects ahead, but I'm making an assumption.

Mayor Lorenz: I'd agree with you 100% Tom. I was actually a little surprised to hear Tom [Hart] when you said your traffic study assumed the southern property as well after hearing the county engineer said you didn't need any improvements to that intersection – especially when you're considering additional traffic on the south. So if you could check into that for us and help us with some of these folks' concerns. I drive up and down it every day myself, so I know.

Councilman Counts: I just had one other comment. This will be in front of us at our next meeting. One of the things we as Council have to do is consider all the other options we have. And I don't want to sound facetious in saying this, but obviously this is where Maggie's chickens could go. Literally. It's more than 5 acres. Unfortunately, they could put chicken coops right up against some of our residents' homes based on current zoning. That's one option that we have. Another option is to reconfigure this so that it's all single family.

If you look at this financial report, you can see that this is a positive to Olentangy Schools, in part I think, because of the empty-nester housing. Now you have all these choices, but the most important thing I think about is are we going to keep this property from being developed? And I think the answer is no. It's going to be developed in some way. I don't think we want it as chicken coops. I don't think that we want it as industrial. So what is truly the appropriate use for these parcels?

Finally, if we choose to annex this property, and annex it as it's been proposed, then that creates a situation for us to then figure out things, such as how do we fund Seldom Seen Park? So I'm not making any type of determination of how we should vote on this, but you have to take all of those things into



consideration knowing that if you make a decision one way or the other, it's going to affect a lot of other things as we play into this.

Councilman Swartwout: I know I've mentioned this before with the empty-nester homes, but I'm just somewhat concerned about a potential glut of these types of homes in this area. We've got the Powder Room, Verona, now we have these. We have a 350 plus senior-style living apartment complex coming in. I would like to see a little bit of analysis on how these homes fit into our community with the simultaneous developments that are going to be competing for the same type of owner or occupier. Nobody thinks there is going to be a bubble until the bubble happens. I would like to see some sort of analysis about that at our next meeting.

Councilman Counts: Dan, to your point, and I think that's a good one, there was an article in The Dispatch maybe a month and a half ago that talked about new development and what is happening. One of the issues we have going on, especially in our area, is that we have a glut of single family homes. And with respect to those homes, it's harder to get the demand for new single family homes than it is for existing homes because of the cost. The demand is for the empty-nesters in part because of the demographics. There is a prediction that there will be a glut of single family homes that you and I currently live in that I'm going to be selling in the next 10-15 years and that's the home we have to be concerned about and that's what 98% of what Powell is. So I think your consideration is good, but we need to consider if not that then what else?

Ordinance 2017-13 was taken to a second reading.

#### **COMMITTEE REPORTS**

**Development Committee:** *Next Meeting: April 4, 2017, 6:30 p.m. We met tonight and talked with the CEDA plan review committee. We also reviewed a proposal from EMH&T regarding the paving at the Four Corners. We talked a little about wayfinding and CSX pedestrian crossing.*

**Finance Committee:** *Next Meeting: April 11, 2017, 7:00 p.m.*

**Operations Committee:** *Next Meeting: April 18, 2017, 6:30 p.m.*

**ONE Community:** *Next Meeting: April 10, 2017, 4:30 p.m. We had a meeting between our last sessions. We met and advanced the discussion on the logo on the tent. We have obtained five sponsors for the tent windbreak. Their logos will be on the windbreaks subservient or smaller than the ONE Community. We're going to be designing that this coming Monday with the graphic artist. We talked about our beautification program and I don't have an update. She had letters ready to go to a couple of schools to involve them and I don't know if that's been advanced or not.*

**Planning & Zoning Commission:** *Next Meeting: April 12, 7:00 p.m.*

**Powell CIC:** *Next Meeting: April 5, 2017, 6:00 p.m. This meeting has been cancelled.*

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

#### **CITY MANAGER'S REPORT**

First, letters have gone out to residents that are impacted by the City's annual sidewalk repair program. The Resolution of Necessity will be heard before Council at the April 18th and May 2nd meetings and that's where residents can come in if they're concerned about being identified for sidewalk and repair in front of their property.

In your packet I included an agenda for a meeting which was held last week with the Columbus Zoo, the City of Powell, Liberty Township, Shawnee Hills and the Delaware County Sheriff to talk about traffic and ways to mitigate traffic when things get busy like they did over Presidents' Day.

Also included in your packet was an updated schedule from Meyers & Associates regarding the Seldom Seen Park schedule. Based on the schedule he's presented to us, I would recommend that we have Chris Meyers attend our May 2nd Development Committee meeting because by then he will have the cost estimates completed for Council's review.

#### **OTHER COUNCIL MATTERS**

Mayor Lorenz: I'd like to officially point to an email that Steve provided from Dick Fusch who has indicated his retirement from P&Z. Dick's been on P&Z for a long time and has been very influential in helping on that front and moving it forward. I know he's not here, but for the record, I'd like to publicly thank him for his service.

**EXECUTIVE SESSION:** EXECUTIVE SESSION IN ACCORDANCE WITH O.R.C. SECTION 121.22 (G)(1) PERSONNEL MATTERS – BOARD & COMMITTEE APPOINTMENTS AND 121.22(G)(3) IMMINENT OR PENDING LITIGATION.

MOTION: Councilman Bennehoof moved at 9:18 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22 (G)(1), Personnel Matters and 121.22(G)(3) Imminent or Pending Litigation. Councilman Hrivnak seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Swartwout moved at 10:00 p.m. to adjourn from Executive Session into Open Session. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

**ADJOURNMENT**

MOTION: Councilman Counts moved to adjourn the meeting at 10:00 p.m. Councilman Bertone seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

**MINUTES APPROVED: April 18, 2017**

  
Brian Lorenz  
Mayor

5/4/17  
Date

  
Karen J. Mitchell  
City Clerk

5/3/2017  
Date



**City Council**

Brian Lorenz, Mayor

Jon Bennehoof

Frank Bertone

Tom Counts

Jim Hrivnak

Brendan Newcomb

Daniel Swartwout