



**City of Powell, Ohio**  
City Council

**MEETING MINUTES**  
July 18, 2017

**CALL TO ORDER/ROLL CALL**

A regular meeting of Powell City Council was called to order by Vice Mayor Jon Bennehoof on Tuesday, July 18, 2017 at 7:26 p.m. City Council members present included Jon Bennehoof, Frank Bertone, Tom Counts, Jim Hrivnak, Brendan Newcomb, and Daniel Swartwout. Mayor Brian Lorenz was absent. Also present were Steve Lutz, City Manager; Eugene L. Hollins, Law Director; Dave Betz, Development Director; Debra Miller, Finance Director; Chris Huber, City Engineer; Leilani Napier, Deputy Clerk and interested parties.

**OPEN SESSION**

**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 - July 5, 2017**

Councilman Swartwout requested a change from an inference to a statement that he was not present when Council adjourned from Executive Session into Open Session and then Adjourned the meeting. MOTION: Councilman Counts moved to adopt the minutes of July 5, 2017 as amended. Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, the minutes were approved as amended.

**CONSENT AGENDA**

<u>Item</u>	<u>Action Requested</u>
<ul style="list-style-type: none"> <li>• <i>Departmental Reports – June 2017</i></li> </ul>	<i>Receipt of Electronic Report</i>
<b>RESOLUTION 2017-18:</b> A RESOLUTION TO CONDITIONALLY ACCEPT AND BEGIN THE REQUIRED MINIMUM TWO-YEAR MAINTENANCE PERIOD FOR PUBLIC IMPROVEMENTS WITH REGARD TO THE BUNKER LANE IMPROVEMENT PLAN ASSOCIATED WITH THE PLAT FOR POWELL GRAND.	Adoption

MOTION: Councilman Counts moved to adopt the Consent Agenda. Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, the Consent Agenda was adopted.

**RESOLUTION 2017-19:** A RESOLUTION AUTHORIZING THE APPROVAL OF AN AMENDED AGREEMENT FOR A COUNTYWIDE EMERGENCY MANAGEMENT AGENCY.

Steve Lutz, City Manager: This is a matter which has been discussed in Finance Committee. We are part of a county-wide Emergency Management Agency. It's being recommended that there be some changes made to this agency and the changes can be found on page 3, in Section 7(a) and 7(b). These changes would no longer tie our local funding to a per capita amount, but instead to a population percentage model. What that means to Powell is that in growing parts of the county, our fees would increase, while those who are stagnant would probably see a leveling off. This past year we paid \$5,200 to be part of the county-wide EMA. Under this proposed change, our fee would be approximately \$7,400 to \$8,400 per year. To date, the agencies within the county that have approved

this change include the City of Delaware, Village of Shawnee Hills, Brown Township, Marlboro Township, Oxford Township, Kingston Township, Harlem Township, Berkshire Township and Berlin Township. The county needs a simple majority to approve this change.

Councilman Counts: I would note that this was discussed at Finance Committee and we recommended that it come before Council.

Vice Mayor Bennehoof opened this item to public comment. Hearing none, he closed public comment and opened the floor for comments and questions from Council.

MOTION: Councilman Hrivnak moved to adopt Resolution 2017-19. Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, Resolution 2017-19 was adopted.

**FIRST READING: ORDINANCE 2017-35: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF POWELL REVISING CHAPTER 1143.31, REGARDING PLANNED RESIDENCE CONSERVATION DISTRICT (PRC).**

Mr. Lutz: This proposed amendment is actually a new section. This is the work of the Zoning Code Diagnostic Committee which includes Jim and Brendan. This matter went before P&Z on July 12<sup>th</sup>. Dave Betz will review what's in this proposed language and how it impacts us.

David Betz, Development Director: The Planned Residence Conservation District is established by this ordinance. As you recall, in our Comprehensive Plan there are areas designated for conservation-type development. This means that the areas that are being planned for Conservation District areas have a varied type of development pattern where it's not your typical all-spread-out subdivision. This zoning requires 50% of the land to be dedicated as either open space or some other type of open use. It could be parks or farming. It depends on the type of plan that's approved for that particular property. This is mostly going to be reserved for larger tracts of land that come in.

The Planned Residence Conservation District is tailored from both the Liberty Township Conservation District as well as our Planned Residence Code. We tied them together to make it fit with the way we handle our process of a planned district development plan and it worked out pretty well. There's a chart of permitted and conditionally permitted uses that also establishes prohibited uses. The development plan process is required as this is a planned district. Density for the overall property has shifted to 50% of the land and the remaining 50% is left for natural areas, parks, farms and other uses that fit into the permitted uses.

Councilman Hrivnak: To add to Dave's comments, this really flows from the Comprehensive Plan which establishes what we are going to do north of Home Road. This actually puts it into chapter and verse as a codified ordinance. I think the committee did a nice job studying this. Staff did a lot of nice homework when they presented it to the committee. This isn't going to happen in the City of Powell today, it's going to happen in the City of Powell tomorrow as the City grows north. We think pretty highly of our Comprehensive Plan. This has the detail to make that happen. I don't think there's any rush in the event we want to take it to a second reading, but I think it's something Council should get behind much like they did the Comprehensive Plan.

Councilman Counts: Dave, give me some context of how this differs from what I would call our garden variety residential housing? Give me about five things that are distinctly different, whether it's the density or...

Mr. Betz: You could do conservation-type development within our current plan – Residence District – if you wanted to. However, we do not have the standards in our current code that this provides. For example, this provides that it leaves at least 50% of the ground as open space or some other kind of use that is a desired type of active open space, passive open space. It could be a farm village where there are active farms on it. You could also set this as a commercial area as long as you have at least 50% open space.

The one thing that is different is this really does work best in larger tracts of land. If you had a tract of land of 100 acres and 50% of it was wooded, you could keep that wooded area and build houses on the remaining unwooded 50%. You could do that in our Planned Residence District; however, a landowner only has to give 20% of the land as open space versus 50%. At our insistence of utilizing this zoning code as far as our review process, we could accomplish that goal by putting all the density to one side of it or the other. You may end

up with different types of housing units then. You may end up with two unit type houses versus single family houses. You may have a cluster of smaller lots versus doing a bunch of larger lots.

Councilman Hrivnak: But it doesn't necessarily mean that every 100 acre tract is going to be a conservation district? [Mr. Betz: No.] It just gives us the ability to do that..[Mr. Betz: A lot of times you want to pick this district if there are some features on that land that you want to preserve that is greater than what we would normally require. As we do with any developer or annexation that comes in [to the City] in the future, we could require them to preserve an area and get the density in at an area where it should go.]

Councilman Counts: So this would allow chickens?

Mr. Betz: If there is land that would qualify under this zoning and someone wants to do an active farm that may be an appropriate place to put it. There are some places in this country where this has been done very successfully.

Councilman Counts: Typically with these kinds of conservation areas who is responsible for the land that remains undeveloped?

Mr. Betz: That could be anybody. It could be set up as an association responsibility or it could be a separate, distinct nonprofit organization or the City could decide to take it and maintain it as an active park.

Gene Hollins, Law Director: If it's just fallow, open space, it tends to be the homeowners' association. I don't think we would recommend the City take ownership and maintenance responsibility.

Councilman Swartwout: Dave, can you point to some examples of developments around Central Ohio that have been developed in accordance with this type of zoning, just for a frame of reference?

Mr. Betz: Yes, I'll send you several before the next meeting.

Councilman Newcomb: Were there any public comments at P&Z?

Mr. Betz: No. I had two public hearings on it and there were no other comments.

Vice Mayor Bennehoof: Dave, on the density on page 4, it says "maximum lot coverage - 25%." Is that the dwelling?

Mr. Betz: That's for the dwelling on an individual lot.

Vice Mayor Bennehoof: And we're going to take 100 acres, 9 units per acre, and we're going to smash that 9 units per acre into 18 units per acre, effectively, right? I'm thinking structurally.

Mr. Betz: You could in essence.

Vice Mayor Bennehoof: So I have a home that's on a quarter acre and I'll bet I exceed 25% lot coverage...[Mr. Betz: In Golf Village generally no.] No? Okay.

Mr. Betz: I'm very familiar with how the lots work around here and in general you can get a pretty large lot home on a lot, especially in these densities. Now, if we go up higher and we do accommodate for other types - not single family lots - then those lot coverages we'd certainly want to look at. But we would set up different types of lots. It wouldn't be single family lots.

Vice Mayor Bennehoof: Is that a maximum of 50% or could a conservation district be set up where 35% of the land is left open?

Mr. Betz: The conservation district generally requires 50%. Now, as a planned district, you could adjust that.

Vice Mayor Bennehoof: But we probably wouldn't exceed the aggregate density...[Mr. Betz: No.] You would want to try go in...[Mr. Betz: Yeah, that would be one thing you wouldn't want to do.] If a piece of

that land is left open and it goes fallow, what is our recourse? Let's say the homeowners' association says they are going to keep it up in good faith and two years, five years down the road it looks like hell?

Mr. Betz: We do examine, from a legal perspective, deed restrictions and covenants just to make sure that they are not inconsistent with our Code. There are provisions you could set up in a plan for when something like an HOA has some sort of holdings. Maybe we can make provisions in there for that property as part of the plan.

Vice Mayor Bennehoof: But that's going to be on a case-by-case basis...[Mr. Betz: Yeah.] I'd think we would want those sorts of protections.

Councilman Hrivnak: Just a reminder that it is a planned district. This is the starting point for it and like any other planned district, it can be adapted based on the wishes of P&Z and Council to best use the site.

Vice Mayor Bennehoof opened this item to public comment. Hearing none, he closed public comment and opened the floor for comments and questions from Council.

Shaun Simpson, 510 Bantry: Fifty foot side yards for homes or the distance between two homes sounds very large when you are already giving away fifty percent of your property. So I wonder about the affordability of homes if we are requiring 25 feet on each side.

Mr. Betz: Those are for very large lots. If you wanted to do a subdivision within the Conservation District, this is the way that it would be set up. It's coming right out of our Planned Residence Code.

Ordinance 2017-35 was taken to a second reading.

**FIRST READING: ORDINANCE 2017-36: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO AWARD A BID TO COLUMBUS ASPHALT PAVING, INC. FOR COMPLETION OF CATCH BASIN REPAIRS BASE BID AND ALTERNATE 3, AND DECLARING AN EMERGENCY.**

Mr. Lutz: This is one of the projects which will be funded through our capital improvement bond issue. We had estimated that we would spend approximately \$110,000 repairing catch basins throughout town. Many of them have sunk and are in need of repair. Chris and his staff went out to bid and received four bids. We recommend the contract be awarded to Columbus Asphalt & Paving for the base bid and Alternate 3, which combined amount to \$94,270 and is within the funds we've budgeted for this project. Chris can briefly discuss what this project entails.

Chris Huber, City Engineer: We are awarding the project to Columbus Asphalt. Many of you are familiar with Columbus Asphalt. They have done our street program a handful of times over the past 10 years. The base bid is the worst catch basins in the City so we want to take care of those first. Your exhibit shows that they are located all over the City, but most are in the older sections of the City. Where there are fewer [catch basin marked] is where we have had some recent street programs and a lot of that work happened at that time. Alternate 3 is located mostly in the southwestern portion of the City - Woods of Sawmill, Lakes of Powell area.

Councilman Newcomb: Catch basins are the sewers?

Mr. Huber: Yes. It is the inlet that accepts the water into the sewers.

Councilman Swartwout: Chris, any potential explanation for why the bids are so widely divergent? The bid from one of these contractors was much higher.

Mr. Huber: I would venture to guess that it had something to do with that contractor's availability. They are busiest at this time of year. Columbus Asphalt is a local contractor and they are here to punch list from last year's street program, so they are in town.

Councilman Hrivnak: Chris, this has been a long time coming. I know that people in a lot of the neighborhoods have talked to me about calling the City about their crumbling catch basin and then someone comes out and puts a cone there and the cone has been there a year. So I applaud the

effort here and I think we need to move forward with it. People don't understand why it takes a year. Good work.

Councilman Bertone: Chris, how many total catch basins and sewers are being done?

Mr. Huber: Base bid, approximately 40-50. The alternates, about 10 and that includes all asphalt that is around the catch basin as well, so that might be up to five feet of the curb on each side of the catch basin. Each catch basin is a little different, so it includes all those indirect costs outside the catch basin.

Councilman Bertone: Will this bring us to 100% completion of all those that need to be done? I recall during our capital improvements tour, Jeff had mentioned there were 70 or 75 of these catch basins that were in disrepair?

Mr. Huber: Alternates 1 and 2 are not going to be completed so it would need to be done in a future year. But those are much newer and in better condition.

Vice Mayor Bennehoof: If I see the colors correctly, some of these base bid catch basins are in newer neighborhoods. Is that faulty workmanship or incidents like accidents or something like that?

Mr. Huber: There are various reasons why those catch basins failed. Usually it's not faulty workmanship. A lot of times it's the street moving and retracting with the changing temperatures. If you drive up Sawmill Parkway you will see some of those starting to buckle at the surface. The ones we chose were chosen because they needed to be maintained first, not necessarily how old they are.

Vice Mayor Bennehoof: Is some of this work caught in the street repair program?

Mr. Huber: Yes. If we are doing a street in the street program, we check all storm structures and do it at the same time we do the street. We have coordinated with Public Service to make sure we weren't stepping on each other toes to avoid the overlap.

Vice Mayor Bennehoof: I don't remember the last time we did a specific catch basin program.

Mr. Lutz: It's been over 21 years.

Mr. Huber: We did a small program in around 2012 and did about 15 structures.

Vice Mayor Bennehoof opened this item to public comment. Hearing none, he closed public comment and opened the floor for comments and questions from Council.

MOTION: Councilman Counts moved to suspend the rules in regards to Ordinance 2017-36.

Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Bertone moved to adopt Ordinance 2017-36. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

## COMMITTEE REPORTS

**Development Committee:** Next Meeting: August 1, 2017, 6:30 p.m.

**Finance Committee:** Next Meeting: August 8, 2017, 7:00 p.m. This may need to be rescheduled because I will not be in town August 8<sup>th</sup>.

**Operations Committee:** Next Meeting: July 18, 2017, 7:15 p.m. We met this evening to discuss our 2018 Community Attitude Survey of which many of you were in attendance for so I will not repeat the conversation here.

**Planning & Zoning Commission:** Next Meeting: July 26, 2017, 7:00 p.m. We will have a commercial project on the agenda for the corner of Murphy Parkway and W. Olentangy Street.

**Powell CIC:** Next Meeting: Next Meeting: Our next meeting is being contemplated for July 26<sup>th</sup>. That's to be confirmed. We will be meeting prior to that P&Z Commission at 6:00 p.m.

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

**CITY MANAGER’S REPORT**

The only item I have is for Executive Session tonight. I’d request that you add one another item which would be litigation.

**OTHER COUNCIL MATTERS**

Councilman Swartwout: Before we vote on it, I just wanted the record to reflect that I will be recusing myself from participating, and will be leaving the room, during the discussion involving O.R.C. Section 121.22(G)(1), Personnel Matters.

Vice Mayor Bennehoof: I’m on a steering committee for the honor court which we are trying to form in Delaware County. I’m just trying to get the word out that we are doing it. I’m working with Judge Marianne Hemmeter and a couple of other people too. An honor court is a diversion program for veterans. It’s aimed at reducing recidivism by getting them help they may need. I’m a Vietnam vet that had PTSD, so this kind of hangs close to me and I’m really glad we are doing it. Our meeting will be on August 10<sup>th</sup> and our hope is to have this up and running by January 1<sup>st</sup>, 2018. If you have a chance to talk to anyone that might possibly need some help, please let them know.

**EXECUTIVE SESSION: EXECUTIVE SESSION IN ACCORDANCE WITH O.R.C. SECTION 121.22(G)(1) PERSONNEL MATTERS AND O.R. C. SECTION 121.22(G)(3) PENDING OR IMMEDIATE LITIGATION.**

MOTION: Vice Mayor Bennehoof moved at 8:09 p.m. to adjourn into Executive Session in accordance with O.R.C. Section 121.22(G)(1), Personnel Matters and O.R.C. Section 121.22(G)(3) Pending or Imminent Litigation. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

Councilman Swartwout left the room after the discussion involving O.R.C. Section 121.22(G)(3) Pending or Imminent Litigation and before O.R.C. Section 121.22(G)(1), Personnel Matters and did not return.

MOTION: Councilman Counts moved at 9:30 p.m. to adjourn from Executive Session into Open Session. Councilman Bertone seconded the motion.

VOTE: Y 5 N 0

MOTION: Councilman Counts moved to amend the agenda to add Resolution 2017-17 for consideration by Council. Councilman Hrivnak seconded the motion. By unanimous consent of the remaining members of Council, Resolution 2017-17 was added to the agenda.

VOTE: Y 5 N 0

**RESOLUTION 2017-17: A RESOLUTION AUTHORIZING THE APPROVAL OF THE TENTATIVE AGREEMENTS ACHIEVED IN COLLECTIVE BARGAINING BETWEEN THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC. AND THE CITY OF POWELL, OHIO, FOR THE SERGEANTS’ UNIT AND AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY AND APPROPRIATE ACTIONS TO FINALIZE THE COLLECTIVE BARGAINING AGREEMENTS NEGOTIATED BETWEEN THE PARTIES.**

Mr. Lutz: This would authorize me to execute the tentative bargaining agreement that the City and the Police Sergeants negotiated.

Vice Mayor Bennehoof opened this item to public comment. Hearing none, he closed public comment and opened the floor for comments and questions from Council.

MOTION: Councilman Counts moved to adopt Resolution 2017-17. Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, Resolution 2017-17 was adopted.

**ADJOURNMENT**

MOTION: Councilman Hrivnak moved to adjourn the meeting at 9:34 p.m. Councilman Bertone seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

**MINUTES APPROVED: August 15, 2017**

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Brian Lorenz  
Mayor

Date

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Karen J. Mitchell  
City Clerk

Date

**City Council**

Brian Lorenz, Mayor

Jon Bennehoof

Frank Bertone

Tom Counts

Jim Hrivnak

Brendan Newcomb

Daniel Swartwout