



City of Powell, Ohio  
City Council

**MEETING MINUTES**  
**September 5, 2017**

**CALL TO ORDER/ROLL CALL**

A regular meeting of Powell City Council was called to order by Mayor Brian Lorenz on Tuesday, September 5, 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; Kevin Moran, Acting Chief Building Official; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk and interested parties.

**OPEN SESSION**

**PLEDGE OF ALLEGIANCE**

MOTION: Councilman Bennehoof moved to remove Item 15 from the Agenda. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

**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 – August 15, 2017**

MOTION: Councilman Hrivnak moved to adopt the minutes of August 15, 2017. Councilman Bennehoof seconded the motion. By unanimous consent of the remaining members of Council, the minutes were approved.

**RESOLUTION 2017-21: A RESOLUTION TO GRANT CONSENT TO CARDINAL SELF STORAGE FOR USE OF ROAD RIGHT-OF-WAY FOR A BUSINESS SIGN.**

Steve Lutz, City Manager: Approximately two months ago, Cardinal Self Storage came before Council with improvement plans which have been approved. As part of that development plan, they had some new signage incorporated in that plan and we informed Council that legislation would follow which would permit the sign. This is that legislation and it allows Cardinal Self Storage to use a small section of the right-of-way to position their sign.

Dave Betz, Development Director: There is an existing sign that's been there since the late 1980s. Originally P&Z and City Council authorized the existing sign that's there to be in the right-of-way, but it was actually built just outside the right-of-way onto the property now owned by Germain. So they've asked that the sign be put back to where it was originally proposed to be back in 1987. They are changing it to reflect the design on which it was approved. It will be placed adjacent to the property line and the design of the sign would be the same as was approved in the development plan.

Councilman Hrivnak: Is there any issue with the line of sight caused by sign?

Mr. Betz: No.

Councilman Counts: I wanted to clarify that we are only talking about the location of the sign and not the sign itself.

Mr. Betz: Correct.

Councilman Bennehoof: In reading Exhibit C, it doesn't talk about if the right-of-way needs to be manipulated in some way, what happens to the sign.

Eugene Hollins, Law Director: There are special conditions that go along with your granted permission, one of which is if there was a need to improve Industrial Parkway, we have the right to have them remove it and negotiate with us in good faith for a mutually acceptable alternative.

Mr. Betz: It's Item No. 3 of Exhibit C.

Councilman Swartwout: In Exhibit C, Section 4, what is the process for monitoring their compliance with the insurance provisions?

Mr. Hollins: If they were ever to cancel their insurance policy or change their insurance company, that then requires the insurance provider to provide us notice of that. We call them and have them send us a new certificate of insurance.

Mr. Betz: We have a similar license with Kraft House and every year I get a new certificate automatically.

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

MOTION: Councilman Bennehoof moved to amend Resolution 2017-21, Section 1, to take out "Liberty Street" and insert "Industrial Parkway." Councilman Counts seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to adopt Resolution 2017-21. Councilman Bertone seconded the motion. By unanimous consent of the remaining members of Council, Resolution 2017-21 was adopted.

**SECOND READING: ORDINANCE 2017-37: AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR DJCF HOLDINGS LLC TO CONSTRUCT A 3,000 SF BUILDING ON AN EXISTING SITE LOCATED AT 18-36 GRACE DRIVE, TO BE USED AS A NANO-BREWERY WITH A PUB.**

Mr. Lutz: This is a second reading. At the last Council meeting we spent considerable time reviewing this proposed building and patio. Dave will give you a brief review.

Mr. Betz: This is for a new building that will be placed on the eastern side of the lot where Grace Plaza is located. The owner of the property wishes to build this for Ill-Mannered so it can expand their operations. This came through P&Z with no comments from the neighbors and was approved unanimously. The applicant worked with the Post Office to add additional tree planting as a buffer along the edge of the property and has also worked with the day care for shared parking. The parking lot is being revised and it fits well. They have included a very nice type of projections of how the building will be designed and it will have a patio out front. The sign plan will be coming back to P&Z. A key part of the approval is that the City will be withdrawing its right to the right-of-way along Grace Drive here [indicating] so that it evens out the property. There will be another ordinance implementing that part later. But this right-of-way is the result of when we redesigned the curve there in the late 1990s. It is no longer needed.

Councilman Bennehoof: David, is there a walk from the street to the patio?

Mr. Betz: There's a sidewalk. There is no walk coming into the site.

Councilman Bennehoof: With our drive toward walkability, is that a consideration?

Mr. Betz: It could be a consideration.

(Applicant from the audience): [inaudible]...for any of our other tenants. It is low traveled, but there are many entry points into the plaza, so you're not really fighting other traffic. So to add concrete, and the expense of it, is probably unnecessary.

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

Councilman Hrivnak: Gene, Section 1, Item 2. P&Z recommends City Council abandon the triangle portion of the Grace Drive right-of-way. Can we vote on this tonight and then vote to abandon the right-of-way later?

Mr. Hollins. Yes. That will be a condition of your approval this evening. We can do that later and I will need an ordinance to authorize the City Manager to sign a deed to convey that portion to the CIC and then the CIC will convey it on to the appropriate land owner.

Councilman Hrivnak: So I guess my question is, say we approve this tonight and then Council decides a month from now that we are not going to give up that right-of-way, what does that do to this? Is it contingent?

Mr. Hollins: It really is. It is a contingent approval. You hope that situation would not occur, but if anybody had any qualms with that, we should probably raise that and talk about it now.

Councilman Hrivnak: If I understand David correctly, it was put there early on and then when the road was curved in the way that it is today, it's no longer required.

Mr. Betz: Yes. When the first phase of Grace Drive was built actually extended straight to about where the end of that right-of-way is to the post office site. Later it was built with a slightly different, wider curve coming down to where it ended prior to us rebuilding it. When the City rebuilt Grace Drive, we put a different radius on and, ever since that curve happened, we didn't really need this section. It's really nothing that we need for any future use.

MOTION: Councilman Counts moved to adopt Ordinance 2017-37. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

**FIRST READING: ORDINANCE 2017-38: AN ORDINANCE APPROVING A COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR FORD & ASSOCIATES ARCHITECTS/DR. KHAKSARFARD TO CONSTRUCT A RETAIL CENTER ON 1.51 ACRES FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF WEST OLENTANGY STREET AND MURPHY PARKWAY.**

Mr. Lutz: This is also a second reading for a proposed retail center. We spent quite a bit of time at the last Council meeting going over this. It is located adjacent to Best Friends Vets. Dave will provide an overview of it.

Mr. Betz: This is the last empty lot fulfilling the overall development plan for the 100 acre Murphy Park development plan that happened in the early 2000s. This lot is for retail use. Part of the plan does restrict it to have no restaurant or higher uses because of the parking ratio. It is accessed from the existing common access drive. It is similar in design to the retail center on the other corner where Old Bag of Nails is located where you have an L-shaped retail center with parking in the back off the access drive. Special features are the post light and sign for the center, hidden mechanicals in the back, and a tower on the corner with an inserted wall interior to allow for a seating area and a connection to the bike path off the site plan. They will continue the bike path along Olentangy Street and make that connection. P&Z approved the plan unanimously with the conditions attached to Section 1 the Ordinance. A representative is here tonight to answer questions.

Councilman Bertone: For clarity, this parcel is strictly retail and office, no restaurant, correct? [Mr. Betz: That is correct.] No parking arrangements whatsoever between applicant and the vet?

Applicant representative (from the audience): Not at this time.

Councilman Bennehoof: Not at this time indicates that you might continue to have those conversations.

Mark Ford, Ford & Associates, 1500 W. First Ave., Grandview, OH: As far as I know, Dr. Ali has spoken with the vet. The vet also has a partner that is a co-owner of the building and they have been trying to get everyone to agree. There were some concerns about maintenance and using the lot concurrently, so I have pretty much stayed out of that. I don't believe they have reached an agreement but hopefully they will.

Councilman Bennehoof: One of the concerns that was brought forward in the first reading was the location of the dumpster and I wondered if there could be a co-location for the dumpster between the two entities. Without headway on parking I doubt that there would be headway on the co-location.

Mr. Ford: Trash pickup can be abusive to a parking lot. So I would say keeping it on this site is really the only option at this time. Actually, during the P&Z meetings our original submittal had it backed up to Murphy Parkway by the transformer and P&Z had suggested that we move it to the southeast corner, which is what we did.

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

MOTION: Councilman Bennehoof moved to adopt Ordinance 2017-38. Councilman Bertone seconded the motion.

VOTE:        Y   7                                  N   0  

**FIRST READING: ORDINANCE 2017-43: AN ORDINANCE MAKING LEFT TURN CHANGES AT THE INTERSECTION OF OLENTANGY STREET (STATE ROUTE 750) AND LIBERTY STREET AND DECLARING AN EMERGENCY.**

Mr. Lutz: This past summer, when the state closed sections of S.R. 315 for road work, the City was inundated with traffic. In an effort to ease traffic during this road work, Council passed an ordinance temporarily restricting left turn movements from Liberty Street onto Olentangy Street from 4:00 p.m. to 7:00 p.m. weekdays. That proved to work out very well and helped to alleviate some of the traffic concerns. During that time, City representatives met with business owners downtown and they also agreed that the change did not impact their business and was well received by all. This ordinance would make those restrictions permanent. The matter was discussed earlier tonight at the Development Committee meeting and was unanimously supported.

Councilman Bennehoof: Dan made a comment at the Development Committee meeting that I think should be reiterated here. There was some very excellent coordination and communication and I thought it should be read into the record that staff and all involved did an outstanding job – police, staff, everybody – in making that happen. So I second Dan's comments.

Mayor Lorenz: I would agree with that. I would say that this is a long time in coming and a step in the right direction. It dovetails out of our Keep Powell Moving plan. This is certainly helping quite a bit. From some of the comments that I hear, and you may hear as well - "Well it's not being enforced" - you have to remind everyone that we have somewhere in the neighborhood of 8 square miles of roads for our guys to patrol and they are certainly focusing on that area as much as anything else. They are out there looking at it and taking care of it as they can. I would just like to thank everyone for collaborating on this as well. I think it is a big win-win for the City.

Councilman Bennehoof: We may not be done with this intersection, but there are other pieces that need to fall into place before we might take any other actions with the intersection. I think ultimately we will have further improvements with this intersection.

Mayor Lorenz: We get comments in our bi-annual survey about traffic, traffic, traffic. This is a really positive step in the right direction and it was a low hanging fruit item that we could do with minimal cost impact to our residents so I am very pleased that we were able to get this going.

Mayor Lorenz 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 suspend the rules in regards to Ordinance 2017-43. Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2017-43. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

**FIRST READING: ORDINANCE 2017-44: AN ORDINANCE TO PROVIDE FOR A CONTRACTING PROCEDURE FOR CONSTRUCTION OF THE PARK AT SELDOM SEEN ROAD, AND TO DECLARE AN EMERGENCY.**

Mr. Lutz: Last month, the City opened bids for the construction of Phases 1-3 for the Park at Seldom Seen Road. Those phases include site grading, ballfields for soccer and baseball, parking lot, restrooms, playground, and the wetland area. We received three bids and all exceeded the amount of money we have available for this project. We followed up with the contractors following the bidding to get some feedback from them on why the prices were what they were. Several did not bid because they were too busy wrapping up projects for this year. Others expressed some concerns about the timelines we had in the bid specs for completing certain work by the middle of October this year.

We spent a great deal of time last month in Operations Committee talking about some options going forward, whether to go out and rebid the project. Following discussion, we decided it would probably be in the City's benefit and taxpayers' benefit to use a negotiated process to contract for the first phases of this park. Under Home Rule authority, we have the ability to do so. We would negotiate a contract and bring it back to Council for consideration.

Councilman Bertone: As Steve has summarized, what we are seeking is flexibility and this approach gives us that opportunity to couple or decouple opportunities here and get some of this effort moving in the right direction and get some earth moved. This way we are not now relegated to those that provided bid responses. We can expand that conversation to others who may now be in a position to help us going forward.

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

Councilman Counts: In terms of suspending the rules, will that help in this whole process? And if we don't suspend the rules, will that create a delay such that it would...?

Mr. Hollins: Yes it would be helpful to suspend the rules. We can design our own process but we really shouldn't start that process until it's been designed and passed by Council. So it would help us by allowing us to begin contacting some of these folks and they can start working on their proposals.

In looking at the terms of this, we may end up bringing back more than one contractor because, as you remember, part of the issue was fifty percent [inaudible]. If I may suggest one change. It's on the last line of the first page where it says 'City Manager recommends to City Council a proposal and contractor.' We might put a "(s)" at the end of the words 'proposal' and 'contractor.'

Councilman Hrivnak: We did talk about that tonight in Development Committee in that each contractor seems to have their own specialty even in the bids we have today. If we can pick those specialties, we have a better opportunity to get more for our investment.

Mayor Lorenz: It almost allows the City to act as a project manager and take more ownership and drive that schedule. I think that's good. And I think the sense of urgency in passing this is paramount as well.

Councilman Bennehoof: I believe in the bid process, but I also think this process is a very healthy one

that we should have in our toolbox and, when it's appropriate, exercise this type of a process. Because the Ohio Revised Code allows for it, I will be recommending that we move forward.

MOTION: Councilman Bennehoof moved to amend Ordinance 2017-44 to add "(s)" to the end of the words *proposal* and *contractor* to Section 1, at the last line on the first page of the Ordinance.

Councilman Hrivnak seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to suspend the rules in regards to Ordinance 2017-44.

Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bertone moved to adopt Ordinance 2017-44. Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

**FIRST READING: ORDINANCE 2017-45: AN ORDINANCE AMENDING CHAPTER 13 OF THE CODIFIED ORDINANCES REGARDING THE BUILDING CODE OF THE CITY OF POWELL.**

Mr. Lutz: The City Zoning Code Diagnostic Committee, which includes Jim and Brendan, have been busy for almost the past two years. This item has been through the Zoning Code Diagnostic Committee and recommended for approval.

As you are aware, Doug Wenzel has retired from the City as our Chief Building Official and Kevin Moran is our Acting Chief Building Official. Kevin has been with the City for a few years as one of our Building Inspectors. I give credit to Kevin for working on this over the winter and spring. Dave and Kevin can review the changes to the Building Code.

Kevin Moran, Acting Chief Building Official: Chapter 13 of the Code needed a good housekeeping. Probably about 90% of what was in there hadn't been updated since 1987 and has references referring to many codes that do not even exist anymore. So we cleaned all that up, removed a lot of language that was in our current code so there was no need to have it in both places since we are adopting the state codes. Other changes were mainly things like changing the name *Building Commissioner* to *Chief Building Official* which is the proper terminology.

Mayor Lorenz: Our codes are really adopted from the Ohio Building Code [Mr. Moran: Correct] which is a form of the International Building Code, so a lot of this is handed down to us anyway, right?

Mr. Moran: Yes. It starts out at the International Code level and Ohio adopts that. Ohio throws out Chapter 1 and they have their own Chapter 1, which is administration, and then the rest of the code pretty much stays the same, with very few changes.

Mayor Lorenz: And we are on the 2015 version?

Mr. Moran: We are currently on the Ohio Building Code, which is the 2011 commercial code and the 2013 residential code. The state is shooting for a November 1<sup>st</sup> date to have a new commercial building code which will be based on 2015 international code.

Councilman Hrivnak: Quite frankly our code in the past had a lot of reiteration of the Ohio Building Code which is really probably not in our best interest in that as the building code changes that puts our code out of compliance. Kevin did a nice job of weeding all that out and referring in every case to the Ohio Building Code so that when it moves we will move also. We do have a few things that are in addition to the Ohio Building Code and, as a City, we are allowed to do that. One good example is swimming pools. We talked about that earlier in the year. That way the Chief Building Official has control of those structures and improvements and property. Nice job by the Building Department. The committee recommends that this be approved.

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

opened the floor for comments and questions from Council.

Ordinance 2017-45 was taken to a second reading.

**COMMITTEE REPORTS**

**Development Committee:** Next Meeting: September 5, 2017, 6:30 p.m.

**Finance Committee:** Next Meeting: September 12, 2017, 7:00 p.m.

**Operations Committee:** Next Meeting: September 19, 2017, 6:30 p.m.

**Planning & Zoning Commission:** Next Meeting: September 13, 2017, 7:00 p.m.

**Powell CIC:** Next Meeting: Next Meeting: TBD

**Zoning & Building Code Update Diagnostic:** Next Meeting: September 26, 2017, 6:00 p.m. Among the items we will be talking about will be introducing some work on electric charging stations for automobiles and bike racks.

**CITY MANAGER'S REPORT**

Megan has completed a video regarding capital improvements funding. We will show it to you during the next meeting, but it is on our website if you want to take a look at it.

**OTHER COUNCIL MATTERS**

There was none.

**EXECUTIVE SESSION:** EXECUTIVE SESSION IN ACCORDANCE WITH O.R.C. SECTION 121.22(G)(1) PERSONNEL MATTERS, O.R.C. SECTION 121.22(G)(2) AND PURCHASE OF PROPERTY FOR PUBLIC PURPOSES (LAND ACQUISITION) AND O.R.C. SECTION 121.22(G)(3) PENDING OR IMMINENT LITIGATION.

MOTION: Councilman Hrivnak moved at 8:15 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)(2) Purchase of Property for Public Purposes (Land Acquisition) and O.R.C. Section 121.22(G)(3) Pending or Imminent Litigation.

Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved at 8:40 p.m. to adjourn from Executive Session into Open Session.

Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

**ADJOURNMENT**

MOTION: Councilman Bertone moved to adjourn the meeting at 8:40 p.m. Councilman Counts seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

**MINUTES APPROVED:**

	10/3/17		10/4/2017
Brian Lorenz Mayor	Date	Karen Mitchell City Clerk	Date

