



City of Powell, Ohio
City Council

MEETING MINUTES
October 3, 2017

CALL TO ORDER/ROLL CALL

A regular meeting of Powell City Council was called to order by Mayor Brian Lorenz on Tuesday, October 3, 2017 at 7:29 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; Rocky Kambo, Assistant Director of Development; Debra Miller, Finance Director; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk and interested parties.

OPEN SESSION

PLEDGE OF ALLEGIANCE – Mayor Lorenz asked that, following the Pledge of Allegiance, everyone stand in a moment of silence to remember the victims of the recent Hurricanes in Texas, Florida, and Puerto Rico as well as the victims of the mass shooting in Las Vegas.

PROCLAMATION – *Declaring October 3, 2017 Jean Kirkham Day*

PRESENTATION – Update by Chief Tom O'Brien, Liberty Township Fire Department

- Went over the September Monthly Snapshot ([Exhibit 1](#)).
- There is an Open House on Sunday from 1:00 pm – 4:00 pm and everyone is invited.
- Things accomplished in Chief's first eight months:
 - Today the department just finished and sent to the [Liberty Township] Trustees our final review for a strategic plan. There has never been such a plan in place before. As part of this plan, succession planning and how management/response is being laid out.
 - There is a renewal levy on the ballot. It is estimated to bring in \$7.9 million annually for the next 5 years. Average cost right now is \$165 per \$100K of value.
 - In 2003, the cost of \$163 per \$100K with a population of the township at 18,000, with one fire station, 28 employees, and 1,300 calls.
 - Today, the cost is \$165 per \$100K with a population of 30,000, two fire stations, 43 employees.
 - All the candidates and Trustees support the levy.

Councilman Bertone: This is a fantastic report. Thank you for continuing to do this for us. On your succession planning, you mentioned that this was something that was concerning you. Is there anything else that was concerning you, such as equipment rotation?

Chief O'Brien: I looked at our capital purchases. We recently purchased a new engine this year. There has not been a replacement plan for equipment or for engines and they have gone out and purchased new medics. One of the things that I will be doing is using the National Accreditation for Fire Service Model, probably starting in January, to evaluate everything we do. In that, as well as in our Strategic Plan is equipment replacement, station placement, personnel, etc. It's much like what Chief Vest has with CALEA with the standards. We have budgeted for two new staff vehicles this year, but were able to purchase four because of our focus on what we need versus what we want. We will have one more big expense in that we need to replace another engine next year. After that replacement, we will start a schedule and have a reserve truck. We are also looking at refurbishing some of our equipment as a cost saving measure.

Councilman Bennehoof: How long does it take to refurbish a medic truck?

Chief O'Brien: It will be done by the original manufacturer and will take about 1-3 months.

Councilman Bennehoot: I have lived in many places around the country and I have not experienced a better fire or police unit than here.

Mayor Lorenz explained that the next presentation from Bob Lamb, Economic Director, Delaware County Commissioners, has been canceled due to the illness of the speaker.

CITIZEN PARTICIPATION

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

Mayor Lorenz: Speakers are allowed 3 minutes. As customary, I will keep the time on my phone and will alert the speaker when they are near the conclusion of time. When time expires, I will ask the speaker to conclude and failure to yield the floor after being advised to do so may result in removal from the premise. Non-speakers engaging in unruly or disturbing behavior, including shouting out, etc. are also subject to removal. And for those that are unable to finish their comments, you are invited to submit them in writing to Karen and she will make sure that they are put into the record.

Public comment is a time for you to share your concerns with Council and it should be directed at Council. We will take your comments under advisement. We may or may not respond to some of the comments if we need time to research an issue. I asked at the last Council meeting and I will ask again for acknowledgment from the gallery: Do you understand these rules? If you do, please nod.

[Multiple affirmative nods from gallery.]

I will be enforcing these rules and I will do it fairly. I am not going to put up with any outbursts or shenanigans like we had at the last meeting. Come on up, state your name and address for the record, and once you do that, I will hit my timer.

Dave Ebersole, 287 Penny Lane: So two weeks ago you approved a 1.8 million dollar settlement with a real estate developer. You didn't provide any notice, didn't put it on the agenda. You suspended the rules so that the public wouldn't have an opportunity to be heard. That's very offensive. I've sent you a press release since then asking that you vacate the decision and hold a new hearing so that the public has an opportunity to be heard. Worse than that, you made a false statement when you approved it. Mr. Lutz stood up, he read a statement to you. He said that a court had determined that the developer was entitled to damages and fees. That's not true. He put it in a press release, it's still there today. I've had to contact two newspapers, Columbus Dispatch, This Week News, to correct that false statement and they've done that. But your press release is still false. And that's very offensive because not only is it false, it's materially false. You are misleading the public intentionally without notice. You haven't corrected it in order to appropriate that 1.8 million dollars settlement and the opposite is true. Right? The lower court said they had an opportunity to seek a hearing on damages and fees, but the higher court said that they weren't entitled to any compensation whatsoever. And compensation, damages, are the same thing. They are both referring to money lost from not being able to use that land. And you know that. But you voluntarily agreed to pay \$950,000 of a \$1.8 million dollar settlement and you shouldn't have done that. You're misappropriating public funds. And everyone sitting here knows that the math doesn't add up. We got 64 apartment units over there, 14,000 square feet of retail space. The math doesn't add up guys.

I've put in public records requests and you're not responding to them. You're not providing me with information, and it's not going to go away. The press release says that they are entitled to lost income. And if they were, it doesn't get anywhere close to 1.8 million dollars. There's no attorneys' fees here. We have the settlement agreement and it says each side bares its own attorneys' fees and costs. But

there's not punitive damages. It's clear, as a matter of law that punitive damages cannot be awarded against municipalities. So what we have is a severe violation of the public trust. This isn't going away.

I'm putting out a new press release tonight at www.protectpowell.org. It's up there now. I have it in writing. I expect answers to how you computed that. The public deserves to know how you reached 1.8 million dollars. And until you provide that, it's not going away. [Mayor advises that there are 10 seconds left]. There's 10 seconds. You're playing this three minute game. You didn't treat me fairly last time because you are hiding from the misappropriated funds. You let other speakers speak for four minutes [time expires]. [Written comments submitted as [Exhibit 2 – remarks.](#)]

Sharon Valvona, 225 Squires Ct.: I hope you weren't fooled by the staged event at the last [council] meeting. Since the settlement agreement was not publicized on your agenda and only apparently a select few people were aware that it would be discussed, it's no surprise that the discussion that you heard was all was one-sided except for my colleague, Dave Ebersole.

Contrary to the opinion of some on Council, citizen of Powell are not children. They disagreed with Council, they came together and exercised their rights to express their disagreement on the ballot and [at the] ballot box. Even the court that invalidated the charter amendment confirmed that they did it in the correct way, and they had the right to do it, and that it was an appropriate exercise of their rights. In spite of the efforts of some Council to chastise the citizens and make them somehow feel ashamed that they made the effort to make their point of view known and to exercise their rights, I believe that the majority of voters are still against high density housing in downtown Powell, disagree with the build-first-and-add-infrastructure-later approach, are concerned about annex, annex, annex, are concerned about the impact that this approach is having on their schools, and question whether spending \$30 million dollars will make a significant impact on traffic problems that have been allowed to develop over years and exacerbated by development choices that you all are making.

It's disappointing that the court that invalidated the charter amendment stated that the City adopted a position, agreed with the developer that the charter amendment was unlawful. Basically, fundamentally undercutting any effort to defend the efforts of its citizens. In spite of the City and Council's failure to support its citizens, I believe those citizens are still proud of their efforts to exercise their rights like mature adults and will support a Council that protects them from development that does not maintain our character or our environment.

I would further add that I think a comment was made that the City chose not to appeal. But if you have not defended something in the first place, it's pretty hard to be in a position to appeal it.

Brian Ebersole, 215 Squires Ct.: Brian Lorenz said at the last meeting that you offered us a seat at the table and it's always a one way conversation. I've heard other comments from him in the past that we wouldn't work with him. But Brian you have only ever called me once and that was three years ago. I did talk to you though. When I reach out to you via City Council, emails, even attending your happy hour, I get back blank stares, no answers, even go as far as to send me record requests denials. I mean talk about a one way conversation.

Now I'm here with more questions regarding the surprise settlement you sprung on the community last meeting with no announcement. First, why hasn't the City corrected its press release on the settlement? No court ever said the developer was entitled to damages and fees. The [Columbus] Dispatch and This Week corrected their articles reporting on your press release. The settlement document you shared with us said the developer shall bare its own attorneys' fees. So where is this 1.8 million dollars coming from? Not attorneys' fees. What other damages could there be other than just a delay in construction? They don't have lost profits in this case but a shift of their profits to the future. We are talking about maybe \$15,000 in interest in delayed profits. I mean did you pay them for other things, like to build their project? Construction? Did you actually give them actual profits instead of just interest? Did you just buy their land for them? I mean that was only \$575,000.

Further, why is the insurance only paying \$850,000? I asked for the insurance policy but you sent me a bunch of policies so I can't be sure which one you are actually relying on here, but it looks like you have a \$15 million dollar umbrella policy. Why isn't the umbrella policy kicking in? I mean is it because the insurance determined a payment beyond \$850,000 was excessive? The community deserves answers to these questions. The lack of openness from this Council, your refusal to answer questions, and your inability to respect the wishes of this community is exactly why we want new leadership. I hope you don't just sit up there right now and pretend like I didn't ask any questions when I go and sit down like you have done many times I've been up here in the past.

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

APPROVAL OF MINUTES – [September 19, 2017](#)

Councilman Bennehoof made one change to page 9 of the minutes.

MOTION: Councilman Hrivnak moved to adopt the minutes of September 19, 2017 as amended.

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

[RESOLUTION 2017-26](#): A RESOLUTION TO ADOPT AN AMENDED CITY OF POWELL POST-ISSUANCE COMPLIANCE POLICY.

Steve Lutz, City Manager: The Finance Committee is continuing their ongoing review and updates of various financial policies that the City has. The Finance Director will review this and the next resolution, both of which have been discussed and recommended for approval by the Finance Committee.

Debra Miller, Finance Director: A post-issuance compliance policy is basically the rules and procedures of what the City needs to do once it issues debt for the general obligation bonds, any notes or bank loan, etc. We have the responsibility of posting on EMMA, which is a national repository. When we deposit our financial statement, because we do a CAFR with the additional section in it, it includes all the other items that bond issuers want to see. This is one of the pluses of us preparing a CAFR.

The City follows the Government Finance Officers Association, GFOA's, best practices. Periodically, about every two to three years, we review the policies to make sure that there hasn't been any updates. They've made two minor updates to post-issuance compliance. One is instead of filing with EMMA in a timely manner, it's within ten business days of our awareness of an event. That's for material event disclosures.

The second change is – I mentioned the CAFR earlier in my statement and the section that has additional charts that bond issuers like to look at – the City could also in a continuing disclosure agreement, make other commitments to other reports. We have not done that. If we do that, we need to refer to our Bond Council before we sign that agreement so that we can get the procedures in place to honor that commitment. Those are the additional two items to this policy.

Councilman Counts: The Finance Committee reviewed this and approved it to move 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.

MOTION: Councilman Counts moved to adopt Resolution 2017-26. Councilman Bennehoof seconded the motion. By unanimous consent of the remaining members of Council, Resolution 2017-26 was adopted.

RESOLUTION 2017-27: A RESOLUTION TO AMEND THE CITY OF POWELL FISCAL RESPONSIBILITY AND MANAGEMENT POLICY.

Ms. Miller: The fiscal responsibility and management policy is really a catch-all policy where there are a lot of little things that we need to have policies on but they don't warrant having 100 separate policies. We are adding a new Section F for Education Responsibilities to Employees. The GFOA says if we are offering fringe benefits or deductions from employees' paychecks, we have to offer education to them so that they understand what the benefits are. As an example, by law we are required to withhold for Ohio Public Employees Retirement System and the Ohio Public Police and Fire Retirement System. While they manage all the fiduciary responsibilities, our responsibility is to give access to those representatives of those organizations to our employees, post bulletins, etc., so that they become aware and knowledgeable about their benefits.

Councilman Counts: We also reviewed this in Finance Committee and recommended for approval.

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 Counts moved to adopt Resolution 2017-27. Councilman Bennehoof seconded the motion. By unanimous consent of the remaining members of Council, Resolution 2017-27 was adopted.

FIRST READING: ORDINANCE 2017-49: AN ORDINANCE ACCEPTING THE ANNEXATION OF 1.1186 ACRES, MORE OR LESS, FROM LIBERTY TOWNSHIP TO THE CITY OF POWELL.

Mr. Lutz: This proposed annexation is located near the southeast intersection of Sawmill Parkway and Seldom Seen Road. This is the Verizon retail center which has been built and is in operation. This came before Council earlier this year. In order for Verizon to have access onto Bunker Lane, which the City helped to develop, there was a requirement for them to annex into the City. The benefit to the City is that we can receive taxes from them, it's a business that's going to be there regardless of whether or not it's annexed, and they chose to annex into the City. Once this annexation is complete, the next step will be to add them to the Seldom Seen Tax Increment Finance District of the City. As you know, the Seldom Seen TIF is contributing a million dollars for the development of Seldom Seen Park.

Councilman Hrivnak: If I recall, this was built with the township zoning?

Mr. Lutz: Yes.

Councilman Hrivnak: So we really don't see anything objectionable about the building of the property at this point? I have no issue with it.

Councilman Bertone: Do we have a feel for their revenue structure, what does it mean from a wage/tax impact to the City, if any?

Mr. Lutz: The property tax, whatever it is assessed, the City gets a small percentage of property tax, about 5%. The primary revenue source for the City is our income tax. Being a business within the City, we would collect % of the income generated by their employees.

Councilman Bertone: So do we have a feel for what that payroll number is?

Mr. Lutz: I do not, but I can certainly look into that before the next reading.

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 2017-49 was taken to a second reading.

FIRST READING: ORDINANCE 2017-50: AN ORDINANCE APPROVING A COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN BY BEATZ STUDIO FOR A PROPOSAL TO CONSTRUCT A DANCE STUDIO ON 1.18 ACRES FOR THE PROPERTY LOCATED AT 80 CLAIRE DAN DRIVE.

Rocky Kambo, Assistant Director of Development: Chris Winkle is here representing Beatz Studio should you have any further questions. This site is located in Wolf Commerce Park [indicating]. That is currently vacant and behind the current athletic facility. What is being proposed is a site of approximately 1.118 acres in the Planned Commercial District. The proposed building is about 8,800 square feet with a potential future option, not yet proposed, of 4,600 feet. Currently the lot coverage is about 9%. Allowable in planned commercial district is about 20%, so they are not quite half of that. The amount of parking spaces they are required to provide is 1 space per 100 square feet of hall area and one space per employee which equates to about 34 spaces and they have provided 34 spaces.

This is the proposed building here [indicating], the dance hall is here and the training/watching area, the 34 spaces here [indicating]. The optional, future building is proposed here at about 4,200 square feet with about 25 spaces in the back, should they expand. The water detention/retention area in the back is sufficient to handle both the building as it stands and any future development should there be any. Our Engineering Department has reviewed all that.

Overall, since this is in the Wolf Commerce Park, it has to be consistent with the Wolf Commerce Park Plan. It does meet the requirements of height, set back, materials. They are proposing board and batten siding up in the front, a stone here [indicating], asphalt shingles in front and metal siding as well as metal roofing for the larger back side here [indicating]. When we went through this process [in P&Z], we started with a development plan that didn't quite fit in with Wolf Commerce Park and I think one of the approaches that we take to new development is that we want it to look new, to be new, but not be so different from what exists that it clashes. So we changed materials and colors, and we feel that it blends in better with Wolf Commerce Park, but at the same time providing a little bit of newness to the site itself.

Councilman Hrivnak: In Section 1 of the Ordinance, Item 5, it says the Applicant shall update the final development plan package in accordance with all the changes submitted. Can you tell us if it's been updated with all the changes?

Mr. Kambo: Yes, it's updated.

Chris Winkle with GHG Civil Engineering: Rocky did a good job describing the architecture and the plan. But I'd like to add that this is an adult fitness facility where they will be doing Zumba and spinning classes and that sort of thing. She does some fundraisers for cancer and events like that too. The front spot will actually be a training spot. It said waiting area, so that's if the parents were there, they would have a spot for the kids to hang out while the parents were training or another office or training area. They are looking forward to getting started.

Mayor Lorenz opened this item to public comment.

Joe Valvona, 225 Squires Ct.: I have a question, because I suddenly became confused. On the agenda it says that this land is proposed for a dance studio and I just heard a fitness center.

Mayor Lorenz: It's Zumba dance, fitness. I'm pretty sure it meets within the confines of the zoning code.

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

Ordinance 2017-50 was taken to a second reading.

FIRST READING: ORDINANCE 2017-51: AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO CONVEY A .098 +/- ACRE TRACT OF LAND ON GRACE DRIVE TO THE POWELL COMMUNITY IMPROVEMENT CORPORATION TO PROVIDE FOR ITS SUBSEQUENT CONVEYANCE TO DJCF HOLDINGS, LLC PURSUANT TO ORDINANCE 2017-37.

Mr. Lutz: Ordinance 2017-37 was recently enacted by the City relating to the construction of Ill-Mannered Brewery off Grace Drive. As you recall during those discussions, there's quite a bit of right-of-way along Grace Drive. The discussion was utilizing some of that excess right-of-way to help provide more land for this development which helped with the setbacks and squared everything off. This ordinance will dedicate the .098 acres. It would be conveyed to Powell CIC and, pursuant to the Ohio Revised Code, the Powell CIC would actually be the ones to provide this land to the holding company.

Councilman Hrivnak: We did review this in the CIC and we think this is in the best interest of the City as well as the business.

Councilman Newcomb: Mr. Betz described this as being a right-of-way but owned by DJCF Holdings. Now it seems to be property owned by the City that we are conveying?

Eugene Hollins, Law Director: I don't remember how we had described it. It's clearly old right-of-way. It used to be when there was a different road configuration, it was part of where the pavement was. Now with the new road configuration, it's sort of orphaned property, but it's right-of-way. Typically you can do a vacation of right-of-way and that just splits it up between adjoining landowners and it works if it's just a straight piece of right-of-way. This is the irregularly shaped one. So the other way to turn what is now a road right-of-way into just plain old real estate is a statutory procedure through the CIC. It allows the City to convey to the CIC and then it's the CIC's real estate. This was a condition of Council's earlier approval that we cooperate with the CIC and the CIC convey it to this particular user in support of the project which the City has determined is beneficial.

Mayor Lorenz: In essence, you're just transferring it from one entity to another. It's a pass through.

Mr. Hollins: Exactly. And the CIC has specified purposes. It's enhancement of the economy, job creation, things like that and it fits within those criteria.

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 2017-51 was taken to a second reading.

COMMITTEE REPORTS

Development Committee: Next Meeting: October 3, 2017, 6:30 p.m. We met this evening and we talked about the next step in the Seldom Seen Park which is the request for additional proposals or revised proposals for the park as part of our Council-directed negotiated contract.

Finance Committee: Next Meeting: October 10, 2017, 7:00 p.m.

Operations Committee: Next Meeting: October 17, 2017, 6:30 p.m.

Planning & Zoning Commission: Next Meeting: October 11, 2017, 7:00 p.m. We have a potential proposal and a plat review coming up for 110 Grace Drive mixed development and the other is Carpenter's Mill plat review for Phase 1.

Powell CIC: Next Meeting: Next Meeting: TBD

Zoning & Building Code Update Diagnostic: Next Meeting: October 24, 2017, 6:00 p.m. We are nearing our completion of the Zoning Code Diagnostic Committee. We are finalizing our engineering codes and development codes, as well as discussing charging stations.

CITY MANAGER'S REPORT

There are two items. Next Tuesday's Finance Committee is our line-by-line review of the proposed 2018 operating budget. All councilmembers are invited to attend that meeting.

I am also pleased to announce that the City has hired Kevin Moran as Chief Building Official. The hiring committee was composed of Lt. Bob Saunders, Fire Prevention Officer for the Liberty Township Department, Mayor Lorenz and Bob Schutz, Chief Plans Examiner for the City of Columbus. We went through an interview process and we found our CBO right here at home. Kevin has been a building inspector for the last 3 years. Kevin has previous experience for the City of Dublin and other private sector jobs.

OTHER COUNCIL MATTERS

Councilman Counts: On my own behalf, and not necessarily on behalf of Council, in terms of the comments that were made by the speakers during Citizen Participation tonight, I would agree with Ms. Valvona and some of her comments about how it was very much a right to have a referendum to allow the citizens to vote on that. But I think the one place I disagree with Ms. Valvona's assessment of the situation is that if it's going to be done, it needs to be done in a Constitutional manner. That's exactly what the court case was all about. Was what these individuals did in putting this on the ballot done in a Constitutional manner? We got some guidance from the Ohio Supreme Court on that. Once we were sued, we had Council engaged by our insurance company. They represented us. They kept Council informed and explained exactly what the law was on this matter. It ended up before a federal judge and the federal judge made a decision. That decision was not simply a statement that the City did not agree with this, but as my colleague, Dan Swartwout, said so eloquently last Council meeting, it was a 52-page well-reasoned decision discussing all the merits of the case. The judge ultimately determined that the City was liable. And in terms of liability, the City was liable for damages and attorneys' fees.

David Ebersole (shouting from the audience): That's not true.

Mayor Lorenz warns Mr. Ebersole against disrupting.

Councilman Counts continues: What the judge said was that it was going to be heard on the issue of damages and attorneys' fees. From that point, we had a settlement and settlement discussions. What, basically, the City could decide was to have discussions with the plaintiff on this matter or allow it to go to the judge and the judge ultimately make a decision. In my opinion the City made a decision that it was in the best interest of both the City and the residents to make that decision consensually with the plaintiff and that was what resulted in the settlement agreement. As far as the issue of the decision at our last meeting, it is my personal opinion the reason why we made the decision last week was because until the offer is accepted, it can always be revoked and, in my personal opinion, it was in the best interest of the City to accept that settlement offer as quickly as possible.

Councilman Newcomb (reads written remarks Exhibit 3): I have two issues. To start with, I have a procedural concern related to making information available to the public in an impartial manner. Just two weeks ago, we had two agendas for our meeting. One agenda was posted on the City's website and made available to the general public in advance; while the other was a private agenda shared with a few insiders. The agenda posted for our meeting included notice of Ordinance 2017-46, which merely stated that we were transferring money for the calendar year. The amount was not disclosed. Attachment "A" which provided the context of the lawsuit was not posted.

Up until that date and time, we, the City Council members, the City attorney along with a few City employees only spoke about the settlement in Executive Session. We were told repeatedly that we are not to divulge anything discussed in Executive Session. So while the general public wasn't informed that we would be discussing the Powell Crossing litigation, how did confidential information get leaked ahead of the meeting? Interesting to observe that of the 12 individuals who spoke, two were former Councilmen, two were developers, and two were real estate agents, among others. One individual

submitted prepared, written comments including reference to the actual dollar amount that was not added to the exhibit until the general session was underway, while another speaker posted information on a closed Facebook group regarding the lawsuit and reading of the settlement more than an hour in advance of the meeting. Still nothing on the city website. What was the purpose of hiding this information from the public? Was information really shared equally? Why was Channel 6 news alerted to cover this specific meeting, along with others in the audience prepped to cover, social media posts, videos and all? All appearances indicate confidential information was leaked, duties breached, and trust broken. If we were putting on a show, this is not the message we should be sending.

The other item that concerns me is a matter of disparate treatment towards our residents when they come before us to speak. When we make the Pledge of Allegiance before every meeting, we assert "With liberty and justice for all." What happened to that idea at the last Council meeting? If we don't like you or if [we] disagree with your point of view, you might be subject to having the police physically remove you from our proceedings amid calls for your execution. If we invited you here because you agree with us, you'll be allowed to speak for more than 3 minutes, we won't interrupt you, your questions will be entertained, we'll allow you to go off topic, and we'll accept your written comments concerning confidential information that was provided to you before the meeting.

Nonetheless, I encourage members of our community to continue to share their thoughts, their concerns, their points of view, even when and especially when you feel your voice is not being heard.

One final comment that comes in the aftermath of what was a very emotionally charged meeting and emotionally charged past two weeks. I have had many people approach me one-on-one with questions regarding Powell Crossing, questions about the events, questions about all the statements that are being offered up, and questions on the comments directed to and about me. I appreciate the outreach and support from people. Some I know and some that I have not met previously. For those I have spoken to, it is hard to explain that it would be a tireless endeavor on my part to clarify the partial truths, the misstatements of information, the anecdotal information that evolves like a game of telephone tag passed along to the point that people may not even knowingly be aware they are spreading untruths. I, like my fellow City Council members, serve this office with a desire to represent and serve this community. So with a shared desire to move forward, I'll pledge to continue to be an advocate for the community at large, I will continue to be very considered of any development that comes before us, and I will work with my fellow Council members to carefully evaluate each application with a goal of being open to the range of discussion.

I have attached to these remarks a copy of Ordinance 2016 [sic]-47 that was posted on the City's website before our meeting as well as a copy of Attachment A that was given to us minutes before we voted.

Councilman Bennehoof: I share the voiced concern about lack of confidentiality in our Executive Sessions. However, I think that it might be misdirected in some ways very similar to some of the misdirection that has happened in the biosphere or the social media and delivery of petitions without cover pages, etc. that we have all heard about. The circulation of those petitions, I would think, demands that one would recuse themselves [from Executive Session for discussion related to that]. I serve on a number of different boards in the community and the Central Ohio area, and I am obliged to and would recuse myself if there were something from one of the other boards that came before this board. I would recuse myself Mr. Newcomb. And if something from this board came in front of one of the others, I would recuse myself. That conduct has not been so, and I suspect might be a problem for ethical issues.

However, I think most people, especially those on this Council, should know that Executive Session is provided by the Ohio Revised Code. It is provided so that there can be a discussion of a variety of issues, including legal matters, and this appropriation was foretold long ago. The people that carried the instrument for the petitions have lost every single court case every single time and yet that group

persists in threatening this City with litigation through their litigation against Harpers Pointe which puts us at risk, yet again, for exposure to another legal decision. The petition was deemed to be unconstitutional before it was put on the ballot by a judge and that judge said that it should go to the ballot because it is a properly formed, [albeit] maybe not properly executed, petition. That petition went to the ballot despite the fact it would eventually be struck down, and it was. Every single court case has cost this City, and its citizens, dearly in social capital, in real capital, we have lost 1.8 million dollars in settlement, increased insurance, and potential lack of future bond rating, etc. This is going to cost the City for a very long time. Continued participation in these efforts will only put this City at greater risk.

This Council has operated appropriately and within the confines of the law and after extensive legal consultation [all of which] has born true as opposed to the opposing side.

Mayor Lorenz: Brendan if you're going to call me out for expelling someone from a meeting for having disruptive behavior, that's fine. You can read the council rules that you were provided quite some time ago.

I guess your brother [Brian Ebersole] left, but I wanted to respond to his comment that I haven't talked to him for three years. In this case, this Council has struggled with this for three years and it's been pending litigation. So when people accuse us of not talking about it or engaging them on this, we are just simply not permitted to do that. That is the main reason. And having one-way conversations just doesn't work either.

The comment Mr. Ebersole made about the public records requests. Our Staff fulfills as many of those as we can in accordance with the law, but when they are constantly filed and don't have specific details in them, or ask for things that we can't provide because they don't exist, we can't provide them. When we receive emails constantly on a daily basis asking for these things, we have a timely responsibility. We have a small Staff. Quite frankly, the bullying of our Staff is just irresponsible on your behalf as well.

Finally, with respect to your press release and your request to amend our press release, the City will not be amending our press release. The facts of the matter of the case are within our press release. You may see it a different way and that is fine, but we followed the letter of the law, we did everything we needed to do in a bad situation for the benefit of our citizens, and we will stick with that.

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 Bennehoof moved at 8:39 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 Swartwout seconded the motion.

VOTE: Y 7 N 0

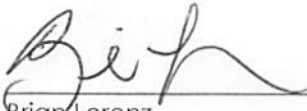
MOTION: Councilman Swartwout moved at 9:50 p.m. to adjourn from Executive Session into Open Session. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

ADJOURNMENT

MOTION: Councilman Hrivnak moved to adjourn the meeting at 9:55 p.m. Councilman Counts seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

MINUTES APPROVED: October 17, 2017



Brian Lorenz
Mayor

10/20/17

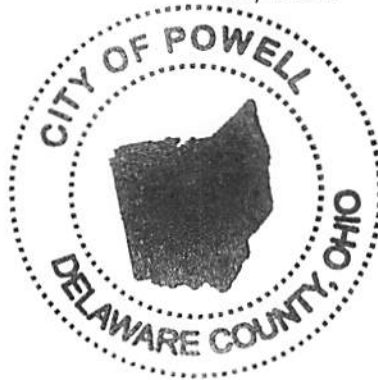
Date



Karen J. Mitchell
City Clerk

10/23/2017

Date



City Council

Brian Lorenz, Mayor

Jon Bennehoof

Frank Bertone

Tom Counts

Jim Hrivnak

Brendan Newcomb

Daniel Swartwout