



City of Powell, Ohio
City Council

MEETING MINUTES
November 21, 2017

CALL TO ORDER/ROLL CALL

A regular meeting of Powell City Council was called to order by Vice Mayor Jon Bennehoof on Tuesday, November 21, 2017 at 7:30 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; Rocky Kambo, GIS/Planner; Debra Miller, Finance Director; Jessica Marquez, Assistant Finance Director; Chris Huber, City Engineer, Aaron Scott, Staff Engineer; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk and interested parties.

OPEN SESSION

PLEDGE OF ALLEGIANCE

PRESENTATION – [Hope Recovery](#) by Leigh Gadek and Lesa Bradley. This presentation was rescheduled at the request of the presenter.

CITIZEN PARTICIPATION

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

APPROVAL OF MINUTES – [November 8, 2017](#)

MOTION: Councilman Bertone moved to adopt the minutes of November 8, 2017 as amended prior to Council. Councilman Counts seconded the motion. By unanimous consent of the remaining members of Council, the minutes were approved as amended.

CONSENT AGENDA

- **Items**
[Departmental Reports – October 2017](#)
- [Objections to Renewal of a Liquor Permit](#)

Action Requested

*Receipt of Electronic Report
No hearing requested*

MOTION: Councilman Hrivnak 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.

SECOND READING: [ORDINANCE 2017-54](#): AN ORDINANCE AUTHORIZING AMENDMENT TO THE FEE SCHEDULE OF THE CITY OF POWELL. ([EX. A](#))

Steve Lutz, City Manager: Each year as part of our budget process we take a look at our Fee Schedule and make modifications to it as needed. As we discussed at great length in our last meeting, we made a few changes, such as our engineering inspection fees; engineering plan review fees; storm water prevention plan; and a few miscellaneous fees in the police department to reflect our increase in costs.

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 Ordinance 2017-54. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

SECOND READING: ORDINANCE 2017-55: AN ORDINANCE IMPOSING ASSESSMENTS ON PROPERTIES FOR SIDEWALK REPAIR AND REPLACEMENT AND CERTIFYING THE ASSESSMENTS TO THE DELAWARE COUNTY AUDITOR FOR COLLECTION. ([EX. A](#))

Mr. Lutz: This is the second reading. Each summer we have a sidewalk repair program where we identify sidewalks which do not meet the standards that have been established by the City for safety purposes. The City makes the repairs or the residents can make the repairs directly. If we make the repairs, we recoup our costs by notifying the resident what their actual cost is and they can either pay it directly to the City or they can have an assessment placed on their property by the county auditor. The auditor will split up the cost over a five year period. This year we have 60 property owners that had work done. Following the adoption of this Ordinance, we will notify residents and provide them the opportunity to make a payment to the City or, if they chose, to have an assessment placed on their property. The county auditor charges 5% interest annually for that service.

Councilman Swartwout: One of the addresses on Exhibit A is in Sunbury. Can you explain that please?

Chris Huber, City Engineer: That was a resident who has moved and now lives in Sunbury. That resident has paid in full. We do have the address of the property where the work was done [here in the City] for our records as well.

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 Bertone moved to adopt Ordinance 2017-55. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2017-60: AN ORDINANCE AMENDING CHAPTER 11 OF THE CODIFIED ORDINANCES REGARDING THE ZONING CODE OF THE CITY OF POWELL. ([EX. A](#))

Mr. Lutz: For the past two years the City's Zoning Code Diagnostic Committee has been conducting a comprehensive review of our Zoning Code. Jim, Brendan, Jon, Don Emerick from P&Z, and Bill Little from P&Z were on that committee. Tonight Rocky will give you an overview of the various changes for Council to consider over the next couple meetings.

Rocky Kambo, GIS/Planner: To provide a quick project background, the City completed its Comprehensive Plan review in 2015. In the new Comprehensive Plan, one of the recommendations that came directly out of it was to do an update of the Zoning and Development regulations and to do a diagnostic of the Code. As we know, once you do a

Comprehensive Plan, you ensure that your Code meets the vision of that Comprehensive Plan. Your Code is essentially the tool by which you make that vision of the Comprehensive Plan become a reality.

Council set up a Zoning Code Committee comprised of Jim, Brendan and Jon from Council; Staff from our Development, Building and Engineering Departments; P&Z was represented with Don Emerick and Bill Little; and our former mayor, Art Schultz and Tim Burnham who sat in on behalf of our residents.

This is a simplified flowchart [indicating], but I wanted to show that with our Comprehensive Plan, a committee was formed. We did analysis, edits, multiple revisions and reviews of our edits. We sent it out for public input and ultimately at last week's P&Z Commission meeting, it was adopted by the P&Z Commission and brought forward to you tonight.

I also want to show Megan [Canavan, Communications Director]'s work here to solicit public comment and input on this process. We set up a webpage where we invited the public to comment. Each and every one of the titles that we changed were made available redlined so that people could actually see the changes as well as providing them bullet point form notes of what exactly we changed. This was in addition to being put on the website and all our social media sites to ensure that we made our residents aware of our update.

Project Details: the purpose is to update our Development, Engineering and Building Codes. The project goal was to create a code that was easy to read, improve procedural efficiency, and is in line with the 2015 Comprehensive Plan. The objective was to complete the revisions by the end of 2017.

Key Tasks: Determine the areas of the Code that need updating; compare and assimilate best practices of other municipalities; update dimensional and use requirements with the 2015 Comprehensive Plan; improve development review, Council and P&Z processes; educate and inform residents on the processes and necessity of updating the Code.

Some of the items that have already been completed and have been adopted by Council are: Building Code and a new zoning district, as well as the Planned Residence Conservation District.

Changes for Adoption: Titles 1, 3 and 5.

Title 1: Subdivision & Development Regulations. Added new street types to be consistent with the Keep Powell Moving Plan. Added electronic submissions in place of paper copies. Reference current design manuals. Updated storm sewer design capacity. Clarified the conditions when approval of an Engineering Plan expires. Provided means for small projects to avoid obtaining performance guarantees. Altered design criteria for Open Water Courses. Posting notification signs on sites under review.

Title 3: Zoning Administration. Adds intent to achieve the vision of the Comprehensive Plan. Defines mobile business and adds food truck requirements. Changes submittal requirements from 15 paper copies to 5 and a digital copy. Updates items due to change from village to city status. Posting notification signs on sites under review.

Title 5: Zoning Districts and Regulations. This was our largest section of review: 150 pages. Removes zoning upon annexation requirements as recommended by our Law Director. Clarifies park dedication requirements and payments of fees in the lieu of dedication. Adds provision of fiber optic or other utility conduit at City discretion. Requires posting of hearings on City website rather than newspaper ads. Makes reference to City's Pedestrian Scale Design Guidelines. Clarifies downtown district parking requirements. Establishes requirements for mobile businesses. Updates street tree list and adds park tree list. Adds preservation and enhancement of environmental character references and requirements such as slope preservation and stream corridor preservation zones. Removes downtown architectural guidelines from codification as it is its own adopted design manual referenced in the Code.

We anticipate this will have a second reading before Council on December 5th.

Councilman Newcomb: What are some of the new streets coming to downtown that we've added?

Mr. Huber: We have added some additional definitions for alleyways, wider alleyways that have parking off the alley – a business connector. For example, if we have a connector that's going to bypass our downtown corridor, we will have a business connector which will be a narrower street than a normal street. Then we have an option to have different types of parking off that type of street. Those were the main additions. We did update some of our thoroughfare right-of-way widths. For example, we now have Sawmill Parkway which is a 150 foot right-of-way, but we didn't have 150 foot right-of-way in our ordinances previously.

Mr. Kambo: We didn't have anything on the books for those types of roads because they are not roads like the typical streets in the City. They are narrower, single lane or double lane roads.

Vice Mayor Bennehoof: it's road classifications. [Mr. Kambo: Yes, exactly.]

Councilman Swartwout: You mentioned that you assimilated from time-to-time ordinances that worked in other municipalities. Looking at Titles 3 and 5 relating to the mobile businesses and the food trucks, did you take those from another local municipality? How did you develop the Code as it relates to mobile business and food trucks?

Mr. Kambo: We had this three tiered way of writing the Zoning Code for food trucks. When we looked at different municipalities, some had them one of the two options, two out of three options or all three options. We cobbled together all the different ways the other municipalities are doing it, but we took from that and decided that all three of these iterations are important for us.

Councilman Swartwout: So they weren't made out of whole cloth. They were taken from things that worked. [Mr. Kambo: Exactly.]

Councilman Counts: You had mentioned that the Zoning Upon Annexation Requirements were changed. As a point of clarification, so when a property is annexed, until zoning is changed, it comes in as the zoning it was in the township or the county?

Eugene Hollins, Law Director: Correct. The existing Code would have said it comes in as Rural Residential and those type of provisions had been questionable anyway. Our practice has been to bring in most annexed property under one of our planned districts and you guys get that zoning ordinance so we don't rely on a codified ordinance. You get that when the annexation comes forward. Absent that, our other practice has been, on certain developments, to have to stay with the township zoning. So removing this provision achieves both of those goals. Either we're going to annex it probably to one of our planned districts as it comes in or it's going retain its township zoning. And that third category of putting it into Rural Residential is (a) not necessarily the most enforceable legal process and (b) it isn't serving our purposes anymore.

Councilman Counts: You mentioned that public hearing notices will be on our website. Is that solely for P&Z or is that for Council? Does that work for all of our Council hearings?

Mr. Kambo: The way we were thinking about it was for P&Z, BZA and HDAC.

Mr. Hollins: But if you would like to convert over to that, we believe that the newspaper general circulation state requirement is really something that is set forth by statute, but could be overridden by Home Rule. And you can define your own publication type of requirements. So we could look at it in other context and change any of those codes or just bring an ordinance that basically designates it. In this day and age, the print media isn't the best way to get the word out and the ones that do qualify under the state definition are not ones that are going to be effective to get a message to Powell residents.

Councilman Counts: I don't consider that to be a discussion for tonight, but it is something for a committee to look at. I think it's worthy of discussion there.

The last question I had was, in all of the changes you made, you haven't made any kind of changes to density or those things we hear whenever we are talking about zoning or rezoning of a property, is that correct?

Mr. Kambo: Yes. We did some pretty heavy analysis regarding density. We went as far as actually doing a density map of the City. Ultimately we decided that the density as it stands in the Code was fine because, being a planned district community, we still ultimately have authority on what we determine the density is per development. So changing the high and the low didn't make sense.

Councilman Hrivnak: Since we are going to take this to a second reading, I would recommend that each of us, who have all the information, can have any additional questions answered at the next Council meeting.

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

Ordinance 2017-60 was taken to a second reading.

FIRST READING: ORDINANCE 2017-61: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2017. (EX. A)

Debra Miller, Finance Director: This is one of those end of the year housekeeping matters for our budget. During our audit, the state looks to see if our actual resources was sufficient to our appropriations. Since our appropriations were based on estimate revenues and expenditures, they do not always match. So, as an example, in the Debt Service Fund we had auditor's fees that we have authority to spend \$2,000 but I don't have \$2,000 to spend, so we need to unappropriate that. That is what these line items are for.

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 Bertone moved to suspend the rules in regards to Ordinance 2017-61. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Bertone moved to adopt Ordinance 2017-61. Councilman Hrivnak seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2017-62: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2017. (EX. A)

Ms. Miller: Again, doing our year-end bookkeeping, we check to see if our appropriations are sufficient on our payroll expenses and our insurances to actually what has occurred during the year. In the Administrative Department, we had some leave and extra use of temporary assistance that requires us to request an additional \$3,000 for the remainder of the year to pay for all of the administrative costs.

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 Bertone moved to suspend the rules in regards to Ordinance 2017-62. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Bertone moved to adopt Ordinance 2017-62. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2017-63: AN ORDINANCE TO ACCEPT THE PROPOSED BUDGET, AND TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2018. (EX. A)

Mr. Lutz: Tonight is the first reading of the proposed budget. As Council knows, since October 10th, we've had Council committees reviewing this budget over the course of three meetings. Tonight, we will present an overview of the proposed budget.

Ms. Miller: Before we get started, I would like to remind you that pursuant to our Code, the budget needs to lay fallow for one meeting, so if there is going to be any recommended changes, please let us know so that we can make those changes prior to our first meeting of December and then we would use the adoption at our second meeting of December. If we make no changes, then we can adopt it on the first meeting of December.

You've been given the draft proposed budget. It's in the same format that we've been putting together based on the GFOA best practices and the Distinguished Budget award. Our budget book is at the highest standards with the most information you will see around the country and we do get lots of compliments for a City our size in what we put together.

If you are just trying to learn about the City, the two sections I would recommend is the Introduction and the Overview. It contains the City's history, what our revenue sources are, how we spend our money, and gives you a little bit about the numbers.

Mr. Lutz, Ms. Miller, and Ms. Marquez reviewed the 2018 budget highlights to Council. [\[Exhibit 1, 2018 Budget Highlights\]](#).

Councilman Newcomb: In 2016, the "All Other Revenue" that we had was \$2.9 million and then it tailed off. What happened in 2016?

Ms. Miller: If you remember in 2016, we had a \$2.2 million dollar advance to the project at Seldom Seen. It was repaid the same year so there's the expenditures of \$2.2 million dollars and then the revenue of \$2.2 million dollars that came into the "All Other" category.

Councilman Bertone: A question about the police building. When is the final payment for the police debt from this fund? Is that this year?

Ms. Miller: 2024.

Councilman Counts: You mentioned our income tax revenue being approximately 71-72% of our budget. Do you have any sense of where that number has come from, say 10 years ago?

Mr. Lutz: It's been fairly consistent, plus or minus 5%, but it's always been right up there.

Councilman Counts: The CORMA expense has gone up. But several years ago we chose to join CORMA. What is the sense of what our expense was back then or would be now if we were not in CORMA?

Ms. Miller: We went to CORMA, I believe, in 2010. At that time, we left a company and we were spending approximately \$80,000 per year on our premium. When we went to CORMA, it was reduced substantially and it wasn't until around 2015 or 2016 that we reached the \$80,000 mark again. While I can't quantify the savings, I think it shows that we did save money for the City.

Councilman Counts: This is more of a comment than a question. I think we are required to estimate income and revenues and project out several years. If you were to go back and look at what those projections were for years that already passed, you would see much different numbers than what our actual numbers would be. I think one of the things you

always have to keep in mind with a budget is it's just a budget. We always spend our revenues wisely and in many instances, come well within what those budget numbers are. As you see those future numbers, don't think that we're actually going to spend that. We are going to live within our revenues. I think that's an important point as any resident looks at this budget and those future numbers that needs to be kept in mind.

Ms. Miller: I agree. We have a very conservative approach on our budget and that has served us well over the years and allowed us to survive many different economic issues. You will find that at each one of the committees the City has, we are always looking at ways to improve and save costs. So while we may not be doing anything major each year, we are making small changes that add up. I think that is why we have been able to stay well within this income tax rate that we have.

Vice Mayor Bennehoof: On page 15, you mentioned what our reserve fund was. Did you say it was \$1.8 million?

Mr. Lutz: \$1.1 million is our rainy day fund. We have various reserve accounts and we also have our general fund unappropriated carryover.

Ms. Miller: Jon, if you ever have that question that is listed on the Executive Report each month. At the bottom it shows what each reserve, rainy day fund and fund balance is.

Vice Mayor Bennehoof: Leveraging off Tom's comment, do you go back in time and look at what your projections were to see how far off or how close you were and does that refine our estimating going forward?

Ms. Miller: Yes and no. I don't go back to get definitive answers, but I try to find out any major reasons [there was a difference]. I look for blimps and why I was off so much or under so much.

Vice Mayor Bennehoof opened this item to public comment.

William Simpson, 251 Shalebrook Drive: I have two questions. One, I noticed the report on the pie chart around 2018 revenue has the 'All Other' at the second largest percentage of money that the City expects to be bringing in at about 11%. Is there any insight the finance team can share with the citizens as to what the key drivers are of that "All Other," and how comfortable are you that the second largest bucket of revenue is coming from something that is not specifically called out as to what it is?

Ms. Miller: While I was presenting, I mentioned that we were making our last advance payment. That \$250,000 is the largest driver of why that jumped up so high. I know what that one time revenue is and that's the advanced repayment. I do not anticipate it to continue.

Mr. Simpson: My second question was I really appreciate what Councilman Counts mentioned about when we look at the budget for future years, the residents should not automatically assume that we plan to spend whatever we bring in. I've not seen the budget before tonight, but as a quick look, it appears as though the budget has us planning to spend about 5% more than we are going to bring in for the year of 2018 and that year hasn't started yet. So we are already planning to dip into funds that we don't expect to bring in. What's the

general thought behind that as opposed to living within our means and spending what we know we are going to bring in?

Councilman Counts: I'll give you a quick answer and then I'll let Staff refine it. When we plan for the future, we plan our expenditures high and our revenues low. So, our expenditures may have a 5% increase, but on our revenues, it may be a 2% increase.

Mr. Lutz: That is a good example and that's usually a question that is brought up every year. I don't know how many years to go back, but there's only been one year I can recall that we've actually spent more than we've taken in. While the budget shows that [spending is over revenue], when you look historically, we actually spend less than we take in and that's how we have been able to grow our unappropriated balance each year. It is because of our conservative budgeting where we underestimate revenues and overestimate expenditures.

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

Ordinance 2017-63 was taken to a second reading.

FIRST READING: ORDINANCE 2017-64: AN ORDINANCE AMENDING ORDINANCE 2015-64 TO ADD A CERTAIN PARCEL OF REAL PROPERTY TO THE DECLARATION OF PUBLIC PURPOSE MADE IN THAT ORDINANCE, AND DECLARING AN EMERGENCY. ([EX. A](#))

Mr. Lutz: A couple of meetings ago, the new Verizon store on Sawmill Parkway annexed into the City. Now that this annexation has occurred, that business can enter the Seldom Seen TIF. That means this business will generate some additional income in that fund which is being utilized to help construct Seldom Seen Park.

Councilman Swartwout: With the Seldom Seen TIF there are two specific places that the money is going. One to the park and one to improvements on those specific parcels. Is the money that we are bringing in for the new Verizon store all going to the park?

Mr. Hollins: The idea here is it is beneficiary of the extension of Bunker Lane. If they wanted to make access to that, we felt it important they actually help support the payment. The developer built Bunker Lane. This money... [Mr. Lutz: The overflow goes into...] Overflow would go into Seldom Seen.

Mr. Lutz: So it would first go into Bunker Lane and then once that's paid, it flows into the park.

Councilman Swartwout? Do we have any idea what the percentage of the money will be? What percentage to Bunker Lane and what percentage to the park?

Mr. Hollins: It's more on a time rather than a pro rata each year.

Mr. Lutz: It would be the initial years going to Bunker Lane and when that's paid off, then it flows into Seldom Seen.

Mr. Hollins: It helps support the initial borrowing which included a million dollars for the park. So in essence it does and I can give you that breakdown, but it would be the

breakdown...[Ms. Miller: It would be approximately \$2.2 million or \$2.3 million. A million was for the Seldom Seen Park, \$1.1 million...[Councilman Swartwout: Right. So this is contributing...] to pay the debt payment. [Multiple speakers].

Councilman Counts: In my simplistic view, the more money you have going in to pay this, there should be more left over to go to the park because the Bunker Lane cost...[Mr. Lutz: Has a finite cost.] is fixed.

Mr. Hollins: The quicker we get it paid off, the quicker the overflow goes to....[Councilman Counts: The practical answer is absolutely, it will go for the park.]

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.

Ordinance 2017-64 was taken to a second reading.

COMMITTEE REPORTS

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

Finance Committee: *Next Meeting: December 12, 2017, 7:00 p.m. We met last week and discussed the budget and some policies for the City with respect to finance. Our next meeting may be cancelled, but we will figure that out later and let everyone know.*

Operations Committee: *Next Meeting: November 21, 2017, 6:30 p.m. We met this evening and spent it talking about our 2018 Community Attitudes survey.*

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

Powell CIC: *Next Meeting: Next Meeting: December 7, 2017, 6:00 p.m.*

CITY MANAGER'S REPORT

A week from Saturday will be our annual Holidays in Powell which ends with a tree lighting by Santa at 6:00 p.m. That gets everyone home before the 8:00 p.m. Big 10 Championship kickoff.

OTHER COUNCIL MATTERS

EXECUTIVE SESSION: O.R.C. SECTION 121.22(G)(1) PERSONNEL MATTERS AND O.R.C. SECTION 121.22(G)(3) PENDING AND IMMINENT LITIGATION.

MOTION: Councilman Hrivnak moved at 8:37 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

MOTION: Councilman Counts moved at 9:25 p.m. to adjourn from Executive Session into Open Session. Councilman Newcomb seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Hrivnak moved to authorize the City Manager to execute the terms and provisions of the October 16, 2017 – October 15, 2020 Public Service Contract. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Counts moved to appoint Gregory Short to the vacant Board of Zoning Appeals seat and Erin Wesson to the vacant Historic Downtown Advisory Commission seat. Councilman Bertone seconded the motion.

VOTE: Y 6 N 0

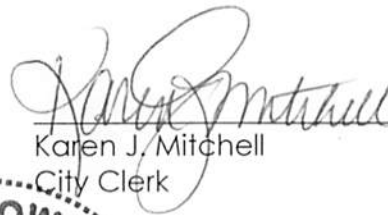
ADJOURNMENT

MOTION: Councilman Hrivnak moved to adjourn the meeting at 9:25 p.m. Councilman Swartwout seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

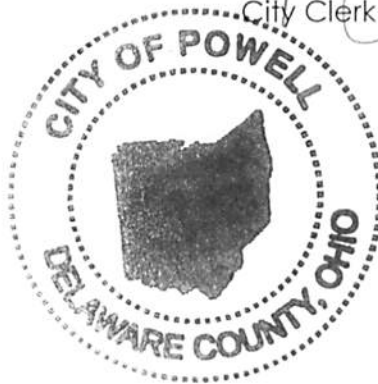
MINUTES APPROVED: December 5, 2017


Brian Lorenz
Mayor

12/20/17
Date


Karen J. Mitchell
City Clerk

12/20/2017
Date



City Council

Jon Bennehoof

Frank Bertone

Tom Counts

Brian Lorenz, Mayor

Jim Hrivnak

Brendan Newcomb

Daniel Swartwout