



City of Powell, Ohio  
City Council

**MEETING MINUTES**  
**August 21, 2018**

**CALL TO ORDER/ROLL CALL**

A regular meeting of Powell City Council was called to order by Mayor Jon C. Bennehoof on Tuesday, August 21, 2018 at 7:30 p.m. City Council members present included Jon C. Bennehoof, Frank Bertone, Tom Counts (arrived at 7:33 p.m.), Brian Lorenz, Brendan Newcomb, Melissa Riggins and Daniel Swartwout. Also present were Steve Lutz, City Manager; Eugene Hollins, Law Director; Dave Betz, Development Director; Megan Canavan, Communications Director, Karen J. Mitchell, City Clerk; and interested parties.

**OPEN SESSION**

**PLEDGE OF ALLEGIANCE**

**PRESENTATION:** Delaware General Health District Update, Sheila Hiddleston, Health Commissioner.

- In the process of completing the new iteration of the Community Health Improvement Project (CHIP) Plan.
  - Chronic disease & mental health are the two top priorities.
- Mosquito Update.
  - 3 pools have tested positive for West Nile Virus. Powell traps have not tested positive.
    - 5 positive West Nile in human cases in Ohio with 1 fatality.
- Age-Friendly Assessment is being done in partnership with Sourcepoint.
  - Paper assessment sent to county residents age 55 and older to find out their needs if those needs are being met.

Councilman Lorenz: I would like to commend you, Traci Whittaker, and the entire Health Department as a whole, for your handling of the Chipotle case. Even though it's not technically in the City, many residents felt the effects of that. Tracy does a fantastic job of communicating and keeping us updated. It was no small task and with the amount of national media scrutiny you received, you should be commended. It was handled first class.

Ms. Hiddleston: Thank you. We have a full and part time staff of approximately 75-80 people. Over the last few weeks, at any one time, we have had 50 staff working on that issue. We interviewed more than 647 people. After additional testing at the CDC to find out the cause of the outbreak, which was time and temperature-sensitive food issues, we still have some further testing going on at the CDC so we might get some additional information back.

**CITIZEN PARTICIPATION**

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 31, 2018**

MOTION: Councilman Counts moved to approve the minutes of July 31, 2018. Councilman Bertone seconded the motion. Councilman Newcomb abstained. By unanimous consent of the remaining members, the minutes were approved.

**APPROVAL OF MINUTES – August 7, 2018**

Councilman Swartwout made one correction to the minutes.

MOTION: Councilman Counts moved to approve the minutes of August 7, 2018 as amended.

Councilman Swartwout seconded the motion. Councilwoman Riggins approved the minutes, in part, for that which covered during the time she was present. By unanimous consent of the remaining members, the minutes were approved as amended.

## CONSENT AGENDA

### Item

### Action Requested

- Departmental Reports – July 2018 Receipt of Electronic Reports
- Liquor Permit Request – Gallos Tap Room Powell LLC Waive Request for Hearing

MOTION: Councilman Counts moved to approve the Consent Agenda. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

**RESOLUTION 2018-13A:** A RESOLUTION OF INTENT TO APPROPRIATE FEE SIMPLE TITLE TO A .173 ACRE TRACT FOR RIGHT-OF-WAY, WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS, FROM MORELAND STREET, LLC, FROM THE PROPERTY CURRENTLY ENCUMBERED BY SHERIDAN STREET AND MORELAND STREET, FOR THE PUBLIC PURPOSE OF MAKING AND/OR REPAIRING A PUBLIC ROADWAY WHICH SHALL BE OPEN TO THE PUBLIC WITHOUT CHARGE. (EX. A)

Steve Lutz, City Manager: This Resolution has to do with entry to our new park, the Park at Seldom Seen. The first Resolution is the western side of Sheridan Street with the adjoining property owner and the next Resolution deals with the eastern side of Sheridan Street. This is the first of two steps to accept Sheridan Street as a public street. It is currently a private street utilized by the traveling public. This road provides access to Seldom Seen Park which is currently under construction. The park was designed with this entrance off of Sheridan Street in order to avoid additional curb cuts along Seldom Seen, which is busy, and to avoid conflicts of being close to another intersection or the railroad tracks. As part of this process following adoption of these Resolutions, the City will communicate with the two adjoining property owners located on the east and west side of Sheridan Street and make a good faith financial offer based on an independent appraisal. If we cannot reach an agreement with either or both of the parties regarding compensation, Staff will come back to Council with legislation authorizing us to file a complaint with the court to determine just compensation for all parties involved.

Councilman Lorenz: Why is the Resolution 2018-13A? I don't see a 13-B. Should it just be 13?

Gene Hollins, Law Director: This was [numbered 2018-]13 at the end of the last meeting. It technically passed, but we are not going use it, so we renamed this one 2018-13A.

Mayor Bennehoof opened this item to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Counts moved to adopt Resolution 2018-13A. Councilman Lorenz seconded the motion. Resolution 2018-13A was adopted.

VOTE: Y 7 N 0

**RESOLUTION 2018-14:** A RESOLUTION OF INTENT TO APPROPRIATE FEE SIMPLE TITLE TO A 0.214-ACRE TRACT AND A .032 ACRE TRACT, MORE OR LESS, FOR RIGHT-OF-WAY, WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS, FROM TRIANGLE PROPERTIES, INC., FROM THE PROPERTY CURRENTLY ENCUMBERED BY SHERIDAN STREET AND MORELAND STREET, FOR THE PUBLIC PURPOSE OF MAKING AND/OR REPAIRING A PUBLIC ROADWAY WHICH SHALL BE OPEN TO THE PUBLIC WITHOUT CHARGE. (EX. A) (EX. B)

Mr. Lutz: While the last Resolution dealt with Moreland LLC, the western portion of Sheridan, this deals with the eastern portion with Triangle Properties.

Mayor Bennehoof opened this item to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Counts moved to adopt Resolution 2018-14. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

**RESOLUTION 2018-15:** A RESOLUTION OF APPROVAL AND SUPPORT FOR THE DEVELOPMENT OF VARIOUS STATE AND U.S. BICYCLE ROUTES DESIGNATED BY THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS. ([EX. A](#))

Mr. Lutz: This Resolution has been proposed to us by ODOT. They have a coordinator for the U.S. and state bike route system in Ohio. ODOT is working to secure resolutions needed in order to designate bike routes around the state. This is not a construction or maintenance project, but merely a designation project. It designates our bike path along South Liberty Street, Murphy Parkway, S.R. 750 west to Sawmill Parkway north as part of this designated route program. This route will show up on bike route maps. Any signage that may or may not be done will not be the responsibility of the City, but provided to us. This effort is being coordinated throughout the state.

Councilwoman Riggins: It looks like this is all subject to ongoing collaboration with affected jurisdictions and over time this may change. This isn't locking us into anything if we would decide to do some type of development or something? Would this prohibit us from doing anything like that?

Mr. Lutz: No. This is strictly to get it on an official bike route map. We can repeal the Resolution at any time if we want to.

Mayor Bennehoof opened this item to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Counts moved to adopt Resolution 2018-15. Councilman Bertone seconded the motion. Resolution 2018-15 was adopted.

VOTE: Y 7 N 0

**SECOND READING: [ORDINANCE 2018-37:](#)** AN ORDINANCE AUTHORIZING THE CITY MANAGER TO AWARD A BID TO STRAWSER PAVING COMPANY IN THE AMOUNT OF \$274,556.01 FOR THE OLENTANGY STREET AND LIBERTY STREET INTERSECTION IMPROVEMENTS, AND DECLARING AN EMERGENCY.

Mr. Lutz: This was discussed at the last meeting. We went out to bid to mill & overlay the Four Corners along with redoing handicap accessible ramps which are required whenever mill & overlay is done. The Engineer's cost estimate for this project was \$163,000 and we received one bid in the amount of \$274,000. At the last Council meeting, we stated we would be meeting with the contractor to discuss why the price was higher than anticipated. We had that meeting and it was difficult to tell [why the bid was so high] with only one bid. We are going to recommend not proceeding with this project this year and rebid it again over the winter. We will look at some alternative means for constructing this project. This bid required the contractor to keep the Four Corners open at all times and do night work. We will probably do an alternate bid, keep that work in, and have the bid where they close the Four Corners down from 11:00 p.m. to 5:00 a.m. We will be able to do some comparison pricing that way.

In talking to Gene, he felt the cleanest method tonight would be to amend this Ordinance. He's distributed an amended ordinance where we are rejecting the bid from Strawser Paving Company on this project.

Mayor Bennehoof: So the reading of this would be an ordinance rejecting the bid?



Mr. Hollins: Yes. What we do first is a motion to amend [Ordinance] 2018-37 to read as the amended ordinance that was distributed to Council tonight. Then we could read that and proceed as normal.

Councilman Swartwout: What did Strawser say about the higher than estimated cost in your meeting?

Mr. Lutz: They were playing poker. What they did say was contractors are busy now. We got a sense that they threw in a number in there to see if we would bite.

Councilwoman Riggins: Should this amended Ordinance we are voting on be titled "Amended Ordinance" since it has the same number?

Mr. Hollins: We've always said "amended to read as" and put the new wording in. Since we are just substituting, we will read it as it appears it in the substituted Ordinance. We can also rename as it [Ordinance 2018-]37A if that helps to be clear that it is separate and distinct from the original Ordinance. But it is okay to do it this way.

Mayor Bennehoof opened this item to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Counts moved to amend Ordinance 2018-37 to replace it in its entirety with the proposed Ordinance 2018-37 with the heading "**AN ORDINANCE REJECTING THE BID FROM STRAWSER PAVING COMPANY IN THE AMOUNT OF \$274,566.01 FOR THE OLENTANGY STREET AND LIBERTY STREET INTERSECTION IMPROVEMENTS.**" Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved to suspend the rules regarding Ordinance 2018-37. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2018-37. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

**FIRST READING: ORDINANCE 2018-39: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2018. (EX. A)**

Mr. Lutz: This was a matter that was discussed in Finance Committee last week. Seldom Seen Park is moving along, remains on schedule and within budget. When we started this project, we didn't appropriate the full amount knowing there could be some change orders or we could run into some issue along the way which, fortunately, we have not. We feel comfortable making the appropriation now for the contract amount, plus a 5% contingency in case there are any changes between now and the finish of the project. The appropriation is coming out of two accounts. One is out of the Voted Capital Improvements Fund. We are draining that and we continue to get some interest each month. That was where the \$23,456.33 will come from. \$176,543.67 will come from the Seldom Seen TIF. With this appropriation, it should provide us the funding through the remainder of the project. Once the project is over and wrapped up, whatever money is left over will be taken back to Finance Committee to determine how the Committee and Council would like to spend it.

Councilman Counts: Steve, can you describe the difference between Capital Outlay and the transfers?

Mr. Lutz: The outlays are where the funds are from and the transfers are where they are going to.

Councilman Counts: This was discussed in Finance Committee and recommended for adoption.

Councilman Swartwout: The park is still on budget, on time?

Mr. Lutz: The anticipated completion date is the end of November, early December. The seeding will go down early next month, and the park will be basically completed at the end of this year. Many parts of it will be available for use. What we will have to determine is how long we want to keep teams off the athletic fields to let that sod grow in.

Mayor Bennehoof opened this item to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Counts moved to suspend the rules regarding Ordinance 2018-39. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2018-39. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

**FIRST READING: ORDINANCE 2018-40:** TO AMEND SECTION 181.12, COLLECTION OF UNPAID TAXES, RELATIVE TO THE INCOME TAX CODE FOR TAX YEARS BEGINNING PRIOR TO JANUARY 1, 2016, AND SECTION 182.096, REFUNDS, RELATIVE TO THE INCOME TAX CODE FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2016.

Mr. Lutz: This proposed ordinance was also discussed in Finance Committee last week. I will recommend that we take this to a second reading when Debra can give a much better explanation than I can. The state's income code was changed in January 2016. This Ordinance adds clarity to our City Income Tax Code which applies now prior to January 1, 2016. It was not perfectly clear that if nonresidents paid City income tax to the City and yet they had not earned any income here and were not actually responsible for paying income tax here, that they were limited to a 3 year look-back period for getting refunded. So this makes it clear and closes up any possible loophole which we had in our tax code. This came out as a result of a tax appeal a few years ago with the City.

Councilman Counts: I would just note that Steve accurately described the situation, the proposed solution, and what this Ordinance is attempting to do.

Mayor Bennehoof opened this item to public comment. Hearing none, he closed the public comment session.

Ordinance 2018-40 was taken to a second reading.

#### **COMMITTEE REPORTS**

**Development Committee:** Next Meeting: September 4, 2018, 6:30 p.m.

**Finance Committee:** Next Meeting: September 11, 2018, 7:00 p.m.

**Operations Committee:** Next Meeting: September 18, 2018, 6:30 p.m.

**Planning & Zoning Commission:** Next Meeting: August 22, 2018, 7:00 p.m. There is a proposal for an apartment complex located on the north side of Home Road, west of the railroad tracks.

**Powell CIC:** Next Meeting: August 29, 2018, 6:00 p.m.

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

I would request Council convene into Executive Session at the conclusion of tonight's meeting to discuss litigation matters.

## OTHER COUNCIL MATTERS

There were none.

MOTION: Councilman Counts moved at 8:04 p.m. to amend the agenda to add an Executive Session for O.R.C. Section 121.22(G)(3) Imminent or Pending Litigation. Councilman Lorenz seconded the motion.

VOTE: Y 7 N 0

## EXECUTIVE SESSION: O.R.C. SECTION 121.22(G)(3) IMMINENT OR PENDING LITIGATION.

MOTION: Councilman Counts moved at 8:05 p.m. to adjourn into Executive Session for O.R.C. Section 121.22(G)(3) Imminent or Pending Litigation. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved at 8:45 p.m. to adjourn from Executive Session into Open Session. Councilman Bertone seconded the motion.

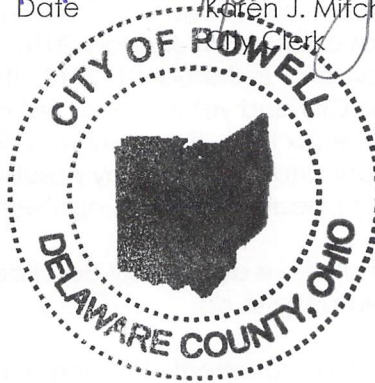
VOTE: Y 7 N 0

## ADJOURNMENT

MOTION: Councilman Counts moved to adjourn the meeting at 8:45 p.m. Councilman Bertone seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

MINUTES APPROVED: September 4, 2018

Jon C. Bennehoof / 9/7/2018      Karen J. Mitchell / 9/7/2018  
Jon C. Bennehoof      Date      Karen J. Mitchell      Date  
Mayor      Clerk



## City Council

Jon C. Bennehoof, Mayor

Frank Bertone

Tom Counts

Brian Lorenz

Brendan Newcomb

Melissa Riggins

Daniel Swartwout