



City of Powell, Ohio
City Council

MEETING MINUTES
February 19, 2019

CALL TO ORDER/ROLL CALL

A regular meeting of Powell City Council was called to order by Mayor Jon C. Bennehoof on Tuesday, February 19, 2019 at 7:34 p.m. City Council members present included Jon C. Bennehoof, Frank Bertone, Tom Counts, Brian Lorenz, Brendan Newcomb, Melissa Riggins and Daniel Swartwout. Also present were Steve Lutz, City Manager; Eugene Hollins, Law Director; Rocky Kambo, Assistant Director of Development; John Moorehead, Assistant City Engineer; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk; and interested parties.

PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

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

Brittany Zoecklein, Delaware General Health District: I had a couple of updates. First, I'd like to remind you that our District Advisory Council is on March 14th at 6:15 p.m. You need to select someone to represent your division. If you have any questions, please let me know.

We are going to have a community profile for each subdivision. The goal is to gather and distribute local data in a way that townships and the public can share and utilize. Before the District Advisory Council, someone should be receiving an email with information.

Delaware County will have an electronics/tires disposal at the fairgrounds on Oct 12, 2019 from 9:00 a.m. to 1:00 p.m. Tires under 19 inches are \$4.00 each, \$20 for televisions, and other electronics are free.

Our Community Health Improvement Plan just rolled out. I brought some information regarding that. We do have people who can do a brief presentation if you are interested in having that.

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

APPROVAL OF MINUTES – February 5, 2019

MOTION: Councilman Lorenz moved to approve the minutes of February 5, 2019. Councilman Bertone seconded the motion. By unanimous consent of the remaining members, the minutes were adopted.

CONSENT AGENDA

Item

- Departmental Reports – January 2019
- Ohio Division of Liquor Control – Povita, LLC

Action Requested

Receipt of Electronic Reports
Request for Hearing

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

SECOND READING: ORDINANCE 2019-06: AN ORDINANCE APPROVING A ZONING MAP AMENDMENT FOR 4.011 +/- ACRES AT 2770 CARRIAGE ROAD, AMENDING THE ZONING MAP FROM FARM RESIDENCE DISTRICT TO PR, PLANNED RESIDENCE DISTRICT. (EX. A) (EX. B)

Steve Lutz, City Manager: Tonight Council is considering the zoning map amendment for this location at North Liberty and Carriage Streets. The site is proposed to be developed with 11 single family homes. The

applicant will need to go through the Final Development Plan approval process and come back to Council for final approval. Tonight is the second reading. The applicant is here to answer any questions.

Rocky Kambo, Assistant Director of Development: As Steve mentioned, this is a proposal for 11 single family homes. The entry is off Carriage Road, no entry off of Liberty Street, and there is a small retention pond in the southeast quadrant with a significant amount of landscaping around it. It is in front of the elementary and middle schools.

At the last meeting, Councilman Lorenz asked about a traffic light or other traffic solution at the intersection. We got in touch with the County Engineer. This is something that they are aware of, pre-development, and they are aware of the need of some sort of mechanism here. As part of the final development plan review process, we will be sure to work with the County and developer to ensure that, if any such solution is to be made, that it is part of the final development plan.

Chris Bradley, Applicant, 6760 Coldcourt: We are open-minded and cooperative to any solution you have at Carriage Road. We've spent a lot of time studying this area and its related traffic issues. We did a study of the traffic and the trips in this case are insignificant to the broader problem. So while we are willing to cooperate and help with the solution through the final development plan, I don't think this project is causing the need for a light. I believe it is more of a drop-off situation at the schools, a 20 minute window that is the issue.

Councilman Lorenz: I appreciate that Mr. Bradley and I tend to agree with you. I know that there are some things across the street that may be imminent for additional development in the future as well. Obviously the school has that drop-off. Some of us go through there twice a day. It's a regional problem. I don't want you to feel like we are blaming your 11 units for this traffic issue; however, to some degree they will increase the traffic. As long as you are willing to work with us on it, I think that is great.

Councilman Bertone: The intersection north of that point where you have the middle school entry and YMCA, that's a very heavily used area as well, probably even more so than the point to the south. Was that discussed in your call?

John Moorehead, Assistant City Engineer: No, not in great detail with the County. We were looking specifically at the Carriage Road and Liberty Street intersection relevant to this development. Both intersections are dealing with the same problem in that if you are leaving the school and want to make a left turn, you can't get out due to traffic. That is what the County is exploring and that is why they feel a light is justified here. It really doesn't affect Mr. Bradley's project so much. They know it's an issue and they're looking at options on how to partner with us to fix it.

Councilman Newcomb: How come the zone change and the final development plan isn't coming at the same time?

Gene Hollins, Law Director: Dave Betz [Development Director] and I had a spirited discussion about our different interpretations when you look at the Planned District Code and the Amendments Code. Dave's interpretation under the Amendment's Code is that a development plan that could be brought forward with a rezoning could be a preliminary development plan. By using this method, we are giving Council two bites of the apple and we are separating what would clearly be the legislative step – the rezoning and the preliminary development plan – from the later final development plan which is an administrative step. With that explanation, I told Dave if that would be the preference to begin taking it to Council at the preliminary development plan stage, let's give it a try. There are some legal reasons that would make sense, and let's see how comfortable you are with that process rather than waiting all the way until the final development plan and all the detailed drawings have been done just to bring it to you. Once we figure out what Council's preference is going forward, we will clarify the Code at that point. We would love your feedback as to whether you like this practice. We don't think we have been

bringing many of them at the preliminary development plan stage to you.

Councilman Newcomb: Have we done a fiscal study on this?

Mr. Kambo: Not on this one.

Councilman Newcomb: On that image [indicating to overhead] what is that line to the right of the pond that goes all the way from one edge of the property to the other?

Mr. Kambo: That is the property edge, the right-of-way edge.

Councilman Newcomb: There is no sidewalk there or trail?

Mr. Kambo: As of right now, no. In discussions with the developer and Facilities Manager of Olentangy Schools, we talked a lot about where to place the path. The schools preferred the pathway go northward. For the final development plan, the pathway that you see will be drawn in going northward.

Councilman Newcomb: Why are there private streets as opposed to them coming into the City?

Mr. Kambo: They are technically coming into the City, but as private streets. The City is not responsible for maintaining them or plowing them.

Councilman Newcomb: Why? I ask because I'm thinking of issues we've had with private streets and private culverts. If there is a problem 15 years down the line, then we get a bunch of people that come to us and expect us to help them out.

Mr. Kambo: That was the way the developer chose to have the streets and I believe this is in the best interest of the City to not take on more cost.

Councilman Counts: Gene, with respect to this zoning change, my view is this zoning change would benefit the City in the sense that this Planned Residence District provides us with a lot more control over what may happen on this parcel than under the current zoning. In this particular instance, it makes sense to do the zoning change first and then have the actual development later. Would that be an accurate assessment?

Mr. Hollins: Even from a legal standpoint, we like planned districts because your zoning is coming hand-in-hand with a specific text and plan and that constitutes your zoning. It's like your own zoning code for that parcel and we don't get the proverbial pig-in-a-poke. We know what we're getting when we grant that zoning change. We will continue to encourage people to consider planned districts rather than straight zoning districts. We have a hybrid uptown with the Downtown Residential and Downtown Business. It already has, in essence, its own preliminary plan and doesn't need another planned district, but in these other areas we certainly encourage it as a tool.

Councilman Counts: I just want to answer Brendan's question about private roads. It is typically in a small development, condos or apartment complexes, where you usually see private roads. These are roads that solely benefit that particular development whereas public roads go from one public place to another public place. In the instance you were talking about, The Retreat, there were some roads that do have single-family homes on them, and way back when they chose to make them private. I don't know that we would necessarily approve that today. Back then the restrictions for handling those things were very loose. Today you would not find that. The homeowners' associations are much tighter. They have lien rights, reserves, and all sorts of things. We have learned a lot since those days and we wouldn't allow that.

Councilman Swartwout: Gene, with respect to your earlier discussion about your conversation with

Dave Betz, could you make clear that there is no legal issue with the way we are handling this?

Mr. Hollins: Absolutely not. There's a whole chapter in our Zoning Code called "Amendments" that is the rezoning chapter. It asks that when we bring something to Council for rezoning, it should be accompanied by a development plan. It does not specify preliminary or final. So it is absolutely in accordance with that chapter.

Councilwoman Riggins: Just to be clear, we are amending to Planned Residence District and if for some reason this plan falls through, it is still Planned Residence District. If anyone else would come to develop this, they would have to start from the beginning again to make sure that they are compliant with what we are voting for: the Planned Residence District.

Mr. Hollins: If they want to change the plan one iota, they go back through the entire process, including a new preliminary plan.

Mayor Bennehoof: In all of our zoning and development, we are looking for the highest and best use. This is a mixed residential development that abuts a school. I think that's probably the highest and best use. Would you agree Rocky?

Mr. Kambo: It is an appropriate use.

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

MOTION: Councilman Counts moved to adopt Ordinance 2019-06. Councilman Lorenz seconded the motion.

VOTE: Y 6 N 1 (Newcomb)

SECOND READING: ORDINANCE 2019-08: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH HOME STEITZ, LLC AND TLK DEVELOPMENT, LLC, AND DECLARING AN EMERGENCY. (EX. A).

Mr. Lutz: Tonight is the second reading of the proposed Pre-Annexation Agreement which covers property at the northwest intersection of Home and Steitz Roads. The applicant, Mr. Wicks, is here tonight. If this Pre-Annexation Agreement is approved, he has a proposed development plan which is in flux right now. It appears that there is some commercial and office use, some residential and apartments, and a possible location of a future library branch. As a result of the discussions at the last meeting, page 3 of the Pre-Annexation Agreement was amended based on your comments.

Councilman Newcomb recused himself from discussion of this matter.

Mr. Kambo: There is a 25,000 square foot space for the potential library; two commercial outlots at 15,000 square feet; and garden-style and townhouse apartment units with 183 parking spaces. The gross acreage of the site is about 12 acres.

When we first saw this development, we received a lot of ire from the surrounding community over the proposed gas station. This newer development is more in line with our Comprehensive Plan by creating mixed-use nodes outside of the City center. A mixed-use development such as this provides additional potential commercial office space outside our City center, outside of just Sawmill Parkway, and lends itself to providing another node within a highly residential neighborhood.

There was much discussion at Operations [sic, Development] Committee on whether or not the library was going to go in. One of the ideas Staff had as an alternative option, was of two commercial buildings instead of one large building. This is more aligned with the Comprehensive Plan. The node

idea is very important because right now we have a significant amount of residential development going in and out of the City northward that has already been approved and there is no commercial areas anywhere around there to create some sort of destination spot for people to go to for services.

Councilman Swartwout: Where is this project at through the P&Z process?

Mr. Kambo: It's in the Preliminary Plan stage, which was approved on January 16th.

Councilman Swartwout: It's been several months since we had a Pre-Annexation Agreement. So assuming something happens with the potential development, what does the Pre-Annexation bind us or not bind the City to going forward?

Mr. Hollins: We have been very careful to make sure that we can tell the applicant/landowner/developer interested in annexation that Staff can support it and we've looked at the conceptual plans and it agrees with the principles that are in some of our documents; but we cannot negotiate away the jurisdiction of this Council or the Planning & Zoning Commission. On this present case, they've started a bit earlier than normal. They had a preliminary plan together before we even got the Pre-Annexation Agreement done, which is good and getting ahead a little bit. That helps give them a comfort level. But at the end of the day, it's a contractual agreement. We can do certain things by contractual agreement which is great. It is a roadmap to get things done, but cannot bind your votes.

Mayor Bennehoof opened this item to public comment.

John Wicks, 267 N. Liberty Street: I don't have much to add other than I know there was a library meeting today. My understanding is that it went well and we are still optimistic that our site is still in the running for the library branch. We hope to find out in the next month or so. We are excited about how everything has come out. We did commit during the preliminary development plan approval that if the library doesn't go there, we would not seek to put residential units in that space. We further committed to a maximum number of square feet of office/retail. We understand the need for the Pre-Annexation Agreement. We did go this extra step to get our plan approval prior to that because we want to have that level of comfort that we are not going to put a lot of resources into this and then find out the City really doesn't support the plan.

Mayor Bennehoof: I think it was stated at the first reading and I just want to make it clear: you are to be commended for the work you've done with the surrounding community neighbors, etc., and your extensive persistence and tenacity with P&Z, so thank you very much.

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

MOTION: Councilman Counts moved to adopt Ordinance 2019-08. Councilman Swartwout seconded the motion.

VOTE: Y 6 N 0 AB 1 (Newcomb)

FIRST READING: ORDINANCE 2019-09: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO AWARD THE BASE BID AND ALTERNATE #2 TO STRAWSER PAVING, INC. IN THE AMOUNT OF \$261,288.25 FOR THE LIBERTY STREET AND OLENTANGY STREET INTERSECTION IMPROVEMENTS PROJECT, AND DECLARING AN EMERGENCY. (EX. A)

Mr. Lutz: This matter was discussed at the last Development Committee meeting. We went out to bid for the resurfacing of the Four Corners. It does require mill and overlay. As a result of that, federal law requires us to redo the curb ramps. We received three bids from three contractors that we've worked with in the past and they've all done good work. The low base bid was Strawser Paving Company. We did have two alternative bids. The first alternate was to not include fiber in the asphalt. Fiber

strengthens the asphalt and there was not a great deal of cost savings by eliminating the fiber so we are not recommending to eliminate the fiber. Alternate 2 would reduce the project cost by about \$3,500 and that permits the contractor to close the intersection between the hours of 10:00 pm and 6:00 am if they so desire. Mr. Moorehead is here to answer any technical questions you may have.

Councilman Newcomb: John, \$261,000 seems high. This initially went out to bid and then we didn't get any bids we liked, so we rebid it. What was our original estimate?

Mr. Moorehead: The original estimate in August was from Strawser. It was a single bid of \$274,000. EMH&T's engineering estimate was \$163,000. It was substantially higher at that time. Following that bid, which we didn't adopt, we met with Strawser and other contractors, reviewed the costs on the project and upwardly revised our estimate to \$219,000. We received three bids this time. Strawser landed about where they were originally. I attribute that difference between the estimated cost and the cost bids we received to the nature of this intersection. This is not a typical paving program. Between the specialty fiber asphalt in small quantities, brickwork, ADA improvements, and night work, it has dramatically increased the price. We believe the prices given to us are fair and realistic.

Councilman Newcomb: When is it going to start and how long will it take?

Mr. Moorehead: If it is authorized tonight by Council to award the contract, we will have a preconstruction meeting with Strawser soon. It usually takes a few weeks to get the contract squared away, but I would expect they might begin work as early as April once it warms up a little bit. We have a substantial completion date of the entire project slated for mid-June. We want this completed before school gets out and sidewalks done before the Memorial Day parade.

Councilman Newcomb: That's good to know as we have been contemplating restricting left-hand turns [at the Four Corners] and what's going to happen there at some point.

Mr. Lutz: That is a good point. Maybe we need to rethink that after [the improvements have been done].

Councilman Bertone: We did discuss this item in Development Committee and walked away with a suggestion to Strawser Paving's bid opportunity. John, thank you for outlining the dates and the phased approach. To that end, the desire to have [the sidewalks] completed before the parade would great, but we will work with whatever the weather may bring.

Councilman Lorenz: As it was alluded to by Brendan, Operations is going to bring forward an ordinance to eliminate all left-turns at the Four Corners, but we may hold off on that until this work is done. I don't know what kind of impact that would have.

Mr. Moorehead: For elimination of left-turns, it's a signage change really, so it wouldn't be effected in a negative way.

Councilman Counts: Are the funds coming from the Street Maintenance Fund for this?

Mr. Lutz: I believe TIF dollars are being utilized for this project, not the road maintenance funds. We have those committed for future projects.

Councilman Swartwout: Stawser has done quite a bit of work for the City in the past, correct? Can you remind me of a couple of their projects and the quality of their work?

Mr. Moorehead: Strawser Paving did the Murphy Parkway extension. It was a large, complex project with a few hiccups, and they really did remarkably well given the setting, as a pavement contractor.

They've also done our street program a number of times, which typically includes intersection improvements, less complex than this, but comparable. They are very widely used by most municipalities around this region. They are one of the top three firms and reputable.

Councilwoman Riggins: Is Strawser Paving aware of the timelines for completion of the work?

Mr. Moorehead: Yes.

Councilwoman Riggins: Is time of the essence part of the contract?

Mr. Hollins: In our construction contract, it has a substantial completion date listed. If they don't hit those, or any milestone, there are usually some liquidated damage issues. It is weather-dependent. There are mechanisms where they can ask for change orders on the completion date, but they know when they bid on these projects that those are firm expectations and there are consequences attached to not meeting those.

Councilwoman Riggins: If they are able to start work in April, is that 6 to 7 weeks enough time?

Mr. Moorehead: Yes. The duration of the work to be performed is not a large volume of work. It's nuanced in how it has to be phased around the intersection to maintain pedestrian and vehicle traffic. So for them to show up and do this work, they could condense into two to three weeks if they were just out there really working every day. I think they have the sufficient time frame to meet our deadlines.

Mayor Bennehoof: Can you point out just how far out from the intersection this project is encompassing?

Mr. Moorehead: You may have noticed driving through the Four Corners that there is a stark difference in the pavement condition when you enter the Four Corners area. On S. Liberty that is about here [indicating] and north to about this point [indicating]. You can see a bit of a gap in the asphalt. On S.R. 750, just past the parallel parking line here [indicating] and then we are extending the paving out on S. R. 750 quite a bit because the rutting in the asphalt is severe enough that we'd like to address that before it gets worse. The conditions of all the pavement surrounding the Four Corners is markedly better than this intersection and we avoided repaving it for a number of years because the federal requirement to improve the intersection would be triggered and we didn't want to do that until the City knew for sure we weren't going to add a turn lane or some other improvement there.

Mayor Bennehoof: How crippling would it be to shut the entire intersection down and how long would that take?

Mr. Moorehead: To close it down during the daytime would be quite unpopular. Alternate 2 that we've awarded is to allow the entire intersection to be closed fully, but only at night. Originally we had it that traffic would have to be maintained at all times and that would really constrain what they could do. They are going to be closing it fully at night. If you recall the detour when the railroad tracks on S.R. 750 were closed, because S.R. 750 is a state route, closing the intersection in its entirety forces us to set up a detour down at S.R. 315 and S.R. 750, to go all the way around the City. That detour operation is necessary if we close this intersection. To do that in the daytime would direct a lot of traffic into our neighborhood streets around the Four Corners. Downtown businesses would be quite upset that you closed the downtown during business hours. It would generally be a poor idea. It would not expedite the duration much. The roadway might get done in 3 to 4 days, but I think it will take that amount of time with all evening work.

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

MOTION: Councilman Counts moved to suspend the rules regarding Ordinance 2019-09. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved to adopt Ordinance 2019-09. Councilman Bertone seconded the motion.

VOTE: Y 7 N 0

COMMITTEE REPORTS

Development Committee: Next Meeting: March 5, 2019, 6:30 p.m.

Finance Committee: Next Meeting: March 12, 2019, 7:00 p.m.

Operations Committee: Next Meeting: February 19, 2019, 7:00 p.m. We met tonight. We discussed some noise issues between the church and neighbors in Deer Run. We also discussed some funding and a summer concert series. Finally, we will be bringing forth an ordinance for Council consideration to ban all left-hand turns at the Four Corners.

Planning & Zoning Commission: Next Meeting: February 27, 2019, 7:00 p.m. We have two plat reviews for Carpenter's Mill, the Pulte subdivision on Steitz's Road.

Powell CIC: Next Meeting: February 27, 2019, 6:00 p.m.

CITY MANAGER'S REPORT

On Thursday night from 7:00 pm – 8:00 pm, there will be a public forum on the housing and commercial real estate analysis.

I will be out of town from Thursday and returning March 1st. During my absence, Chief Vest will serve as acting manager.

OTHER COUNCIL MATTERS

Councilman Newcomb: On Thursday morning, Development is meeting here with COTA and DATA. If anyone would like to attend, all are welcome.

Mr. Kambo: There's been discussions on public transportation – trying to help some of the businesses bring in employees into the area. We are setting up a meeting with representatives of Executive Leadership at both COTA and DATA. The meeting will begin at 9:00 a.m. We will also have some members of P&Z there as well. I believe an invitation was sent to all of you, so if you are free, please join us.

Councilman Lorenz: I received an email, which I forwarded to all of you, about the MORPC Insight 2050 Academy. It's been brought to my attention that it would be great if we had a representative. The meetings are four weeks on Friday mornings. I am the MORPC representative from Council. I'd be happy to attend the majority of those unless someone else would like to step in. I do have a conflict on March 8th and Brendan expressed interest in that.

EXECUTIVE SESSION: O.R.C. Section 121.22(G)(3) Pending or Imminent Litigation, and O.R.C. Section 121.22(G)(8) Economic Development.

MOTION: Councilman Counts moved at 8:24 p.m. to adjourn into Executive Session pursuant to O.R.C. Section 121.22(G)(3) Imminent or Pending Litigation and (8) Economic Development. Councilman Swartwout seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Counts moved at 10:00 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 10:00 p.m. Councilman Lorenz seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

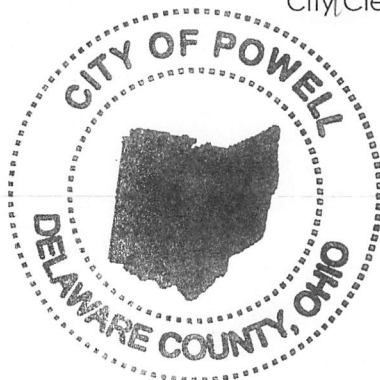
MINUTES APPROVED: March 5, 2019

Jon C. Bennehoof
Jon C. Bennehoof
Mayor

3/18/2019
Date

Karen J. Mitchell
Karen J. Mitchell
City Clerk

3/18/2019
Date



City Council

Frank Bertone

Tom Counts

Brian Lorenz

Jon C. Bennehoof, Mayor

Brendan Newcomb

Melissa Riggins

Daniel Swartwout