



**CITY COUNCIL
MEETING MINUTES
April 21, 2020**

CALL TO ORDER/ROLL CALL

A virtual regular meeting of Powell City Council was called to order by Mayor Frank Bertone on Tuesday, April 21, 2020 at 7:30 p.m. City Council members present included Jon C. Bennehoof, Frank Bertone, Tom Counts, Heather Karr, Brian Lorenz, Melissa Riggins and Daniel Swartwout. Also present were Andy White, City Manager; Steve Lutz, City Manager; Eugene Hollins, Law Director; Steve Hrytzik, Chief of Police; Chris Huber, City Engineer; Aaron Scott, Staff Engineer; Karen Sybert, Finance Director; Rocky Kambo, Assistant Director of Development; Megan Canavan, Communications Director; Karen J. Mitchell, City Clerk; and interested parties.

PLEDGE OF ALLEGIANCE

PROCLAMATION: [Arbor Day 2020](#)

APPROVAL OF MINUTES: [April 7, 2020](#)

MOTION: Councilman Bennehoof moved to approve the minutes of April 7, 2020. Councilman Counts seconded the motion. By unanimous consent of the remaining members, the minutes were adopted.

CONSENT AGENDA

Item

- [Departmental Reports – March 2020](#)

Action Requested

Receipt of Electronic Reports

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.

FIRST READING: [ORDINANCE 2020-05](#): AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PRIME CONSTRUCTION MANAGEMENT AND SURVEY FOR CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES FOR THE SAWMILL PARKWAY RESURFACING PROJECT (DEL-CR609-2.24, PID105806, AGREEMENT NO. 34739), AND DECLARING AN EMERGENCY. ([EX. A](#)) ([MEMO](#))

Andy White, City Manager: I would like to first direct Council's attention to the cover memo that I submitted with the packet. Ordinance 2020-05 and Ordinance 2020-06 are both referenced in it because they are both relative to the same resurfacing project. These Ordinances are being requested to be adopted as an emergency in order to meet the time lines with the busy construction season.

Ordinance 2020-05 is for the construction portion of this project. As you are aware, this is a significant thoroughfare within the community and through Staff's efforts, we have received a significant amount of funding for it. With that funding comes a certain level of requirements, notably, this inspection portion of the project, which has to be conducted throughout the construction cycle to maintain that it has been done in accordance with the plans we have submitted. Staff, along with a Council committee and some representation from counsel, reviewed eight different submissions for this project. Prime was selected based on that review along with the excellent reputation of the firm with other agencies.

This is before you for adoption of the resurfacing inspection of Sawmill Parkway. Both Engineering and I are available to answer any questions you may have.

Councilman Lorenz: I would add that back in January Council appointed me to participate on the Selection

Committee. I would complement Aaron [Scott, Staff Engineer] and Staff for job well done. We did a thorough exercise of the candidates and, based on the strict criteria in place to receive the funding, this group did a great job. It is the recommendation that Prime Construction be awarded this contract by adopting this Ordinance.

Mayor Bertone: As I understand it, this project was bid to be paved in the evening, is that accurate Aaron?

Aaron Scott, Staff Engineer: That is correct, yes.

Mayor Bertone: Can it also be done in the daytime?

Mr. Scott: It was bid with two alternates for two different forms of traffic. Alternate one was [audio problems] for all work to be done in the evening. Alternate two allowed paving in the daytime with just the intersection work at night to lower the traffic disruption. We are leaning toward Alternate 1 as far as keeping them off the street while we had the most drivers on the street. That ultimately came in cheaper than Alternate 2 [audio issues].

Mayor Bertone: I am going to try to summarize because of the challenges with the audio. Alternate one was to pave in the evening and Alternate 2 was to pave during the day. Alternate one came back less expensive, is that correct?

Mr. Scott: Correct.

Mayor Bertone: From the residents' standpoint, specifically for those living around Kinsale, is there any concerns or feedback for those that live up that way?

Councilman Lorenz: I think I am pretty qualified to speak on that. The setbacks from the houses, from the right-of-way, are significant. I have not heard anything from any of our neighbors up here with respect to that, but my door is always open. I think the topography, with the rolling hills in-between, will make it okay.

Councilman Bennehoof: I have heard no feedback on this project, pro or con.

Mayor Bertone opened this item to public comment.

Megan Canavan, Communications Director: There are no comments on our Facebook Live feed. In the Q&A section of Zoom, Les Wibberley, has asked if there is a schedule for the resurfacing of Sawmill Parkway and will the Sawmill trail remain open during the road resurfacing? Will the trail, in that same section as the resurfacing, be resurfaced at the same time?

Mr. Scott: Our contract stipulates a start date on June 8th. It does also leave room for an early start if that can be worked out with the contractor. Since we have not yet awarded it, we have not met with them to discuss this. I think that gave us a projected end date of October 8th. We gave them an extended period of time to do the work, but once they started, we wanted them to finish in a relatively short period of time.

We are not doing a complete redo of the pathway along Sawmill Parkway. We are, however, picking some of the spots that are really bad and replacing that. There will be periodic closings of the trail while this work is being done; however, we do not anticipate extended closures. That was something we stipulated to in the documents.

Mr. Wibberley: Thank you for the considerations on the trail. As everyone has observed during this pandemic, that trail is heavily used. There is no other north-south alternative through that area. Therefore, if closure of the trail could be minimized, I know it would be appreciated. Some sections of the trail are really falling apart, especially the bridge over Sawmill Parkway, north of Seldom Seen and south of Rutherford.

Mayor Bertone: Are there any emails?

Karen J. Mitchell, City Clerk: No, there are no email comments.

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

Councilman Bennehoof: With the Covid-19 crisis going on and the resulting reduction of traffic, it might be an opportune time, if the contractor is flexible enough to move into an earlier start period, and advantageous for all, vendors as well as public, to do so.

Mr. White: Just for the benefit of the public, this Ordinance is for the inspection portion. As proposed, this project has a cost not to exceed \$97,000 for the inspection. The original engineer's estimate put a total cost at around \$1.4 million. Through the bids that were competitive, we have come in significantly under that. I wanted to reference the financials of this project because that gives us some additional flexibility. We will report back to Council on the closeout of the project of how those shake out.

MOTION: Councilman Lorenz moved to suspend the rules regarding Ordinance 2020-05. Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2020-05. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2020-06: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO AWARD THE BASE BID AND ALTERNATE 1 TO SHELLY AND SANDS, INC. IN THE AMOUNT OF \$1,024,962.30 FOR THE SAWMILL PARKWAY RESURFACING PROJECT (DEL-CR609-2.24, PID105806) AND DECLARING AN EMERGENCY. (EX. A) (MEMO)

Mr. White: Ordinance 2020-06 would be the resurfacing component. The budget was established at \$1.4 million. Because of the competitive nature of the bids, we generated four total, we were significantly under the estimate. I think that is a sign of the economic period and it has benefited us in this regard. We will have a few hundred thousand dollars available for budgetary allocation. I will talk about that more when we get to the City Manager's Report. The shall-not-exceed is 120 days, which I do not see us going beyond, under any circumstance, the first part of November.

As with the last Ordinance, we are also asking you to suspend the rules in order to meet the construction timeline and get this job finished as quickly as possible.

Councilman Counts: If I remember correctly, I think we applied for a loan and this is going to be repaid by us over a period of approximately two to three year, something like that?

Mr. White: That is correct. Aaron and I spoke about that earlier today. I believe the repayment period calls for that to be fulfilled through 2024. We will front the funds now and the City will be reimbursed through the schedule and be paid in full by 2024.

Mayor Bertone opened this item to public comment.

Ms. Canavan: There are no questions from the public on Zoom or Facebook Live.

Ms. Mitchell: There are no emails related to this Ordinance.

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

MOTION: Councilman Bennehoof moved to suspend the rules regarding Ordinance 2020-06. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2020-06. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

COMMITTEE REPORTS

Development Committee: Next Meeting: May 5, 2020, 6:30 p.m. We will hopefully be meeting in chambers. We will be discussing some proposals for cell towers and locating them within the community and we will be discussing a possible right-of-way ordinance or beginning to work on it. The last item is exploring the possibility of naming some of our bike trails in an effort to increase visibility in that and then eventually partner with the township.

Finance Committee: Next Meeting: May 12, 2020, 7:00 p.m.

Operations Committee: Next Meeting: May 19, 2020, 6:30 p.m. We met tonight and had a broad discussion of the organizational needs for the City, discussion of the goals for the Operations Committee, and talked with Andy about the needs of the City as we move through Covid-19, and what the organizational needs for the City may be as we come out of this situation. Andy has some goals that he can update us on in future meetings so that we are ready and prepared to deal with the reality of what the City might be facing for operations in the later part of the year as we are coming out of this pandemic. It was an excellent discussion and gave us a good framework to move forward.

Planning & Zoning Commission: *Next Meeting: May 13, 2020, 7:00 p.m. At this point, we are unsure if any application will be coming forward.*

Powell CIC: *Next Meeting: TBD. We do not have a meeting currently scheduled. I will get with Dave [Betz, Development Director] and Gene [Hollins, Law Director] to get something set up because we have not met for a while.*

CITY MANAGER'S REPORT/CITY CALENDAR

Mr. White: I wanted to address Council regarding a proposed cell tower to be constructed at Arbor Ridge Park. I started to go through some of the files and see that this has been discussed for at least a couple of years in Development Committee. As a result, I think it would be prudent to refer this specifically for more conversation at the Development Committee meeting on May 5th. There is quite a bit of information available on coverage statistics; look and feel of actual project; and how it would affect people. This is fairly close to a residential subdivision, so I would anticipate some public participation and want to make sure that whatever direction the City determines to go, the public is keenly aware of it. It is an interesting project that has been talked about for a while. I think it rests with the Development Committee now to review and update Council on a policy directive. There is a lot of moving pieces to this one because the placement within Arbor Ridge requires an offset of mitigation land and the applicant/petitioner has already secured some rights to another parcel of land that would be gifted to the City under the proposed terms. We need to work through all that. Arbor Ridge is regulated with certain variables that prohibit certain things. I think it would have to go before the City's BZA for a conditional use. Therefore, this is not a simple conversation, but I did want to bring it up so Council is aware of this issue. Staff's recommendation is to send it to Development Committee to give us more time to put together some information and furnish the committee members with some additional reports to get us into a position to move forward on this.

I was also happy with Staff's work with regard to the resurfacing program that you have approved tonight. That leaves a balance of resources available for future consideration. Aaron and I drove several proposed streets to be bid out as an expansion for the residential resurfacing program. The action taken by Council tonight puts the City in a better position to make a bigger impact with the road resurfacing. I know we have been late coming into the last couple of years, but it was a good program. The budget relates about \$500,000 for residential resurfacing in 2020. We looked at a number of streets, will go out to bid, and hopefully be able to expand some of those with some alternates. I will be putting together a report so that you can see what we are looking at. Ultimately, I think the City has a good program in place to maintain a specific targeted level of pavement conditions. We seek to continue to enhance that and not drop below a certain benchmark. Depending on the bids that we get, maybe we will see some additional favorable bids come in and do some more work. I also think it would be an opportunity for Council to consider some additional flexibility going into 2021 for us to allocate those funds toward additional infrastructure maintenance.

At Operations Committee, we also talked about some updated personnel policies to potentially be included within the summary of personnel policies for the City. We talked about a specific direction that we would like to target in terms of the development efforts of the City because of the opening that we will soon have. We will have some additional conversations and feedback from Staff on that at the next meeting.

I know that there are many moving pieces regarding the transition within the Covid-19 epidemic and returning to normal. I had a chance to talk to Chief today as we started to think about having a formal Council meeting back in chambers and what that is going to look like. It is my understanding, but I will report back to you in further detail, that some of the restrictions that are currently in place will continue to be in place and would make it fairly impractical for us to have a meeting in chambers at the next meeting. As I understand it, we will still be limited to a gathering of 10 or less, so if you account for the seven members of Council, the City Manager, Law Director and Clerk, there is no room for public participation. Perhaps we can look at some innovative ways to address that so we can get back to some level of normal. I am not sure what that would indicate for our committee meetings because they are generally smaller. That is something we will have to look at.

I tried out a couple of different communication pieces for Council this week such as the legislative memo. I hope that helped your discussion. As a supplement to that, I will be sending you the activity report on a weekly basis. If there are items that Council is interested in including in that, please let me know before the close of business on Thursday so I can work that into my narrative that will then go out Friday afternoons.

I would also like to recognize Staff in preparing us for another good meeting, as we get a little bit better at Zoom Council meetings.

OTHER COUNCIL MATTERS

Rocky Kambo, Assistant Director of Development: We have The Retreat slated to come back to Council on May 5th. Knowing how important this project is, I wanted to get Council's opinion whether we wanted to do this as a

virtual meeting or if we wanted to wait until we can meet again in chambers in order to allow residents to be at the meeting. From what I have gathered from the Applicant, they would prefer to have it when people can come.

Mayor Bertone: As we have been talking here tonight, right now it appears that the May 5th meeting will be a virtual meeting. If the Applicant is seeking to move the date, it is probably wise to do so if they want to have a face-to-face conversation. If you want to communicate that information back, please do so. We can certainly continue to have the conversation in a virtual fashion. As you have seen this evening, it has worked rather well. We have had a lot of feedback on this subject already. I believe we have had at least two full meetings on this conversation. I do not want to relegate folks' comments to the corner. We want them to have the opportunity to speak, but we do have a well-documented trail of not only verbal comments, but also emails that have been sent in by a fair number of the residents. That is just my opinion. We are okay with having the conversation, but if the Applicants want to park it, then they are more than welcome to have that conversation with Andy and you.

Mr. Kambo: Very good. In hearing that and seeing a lot of nodding heads, I will relay that information to the Applicant. If the Applicant is comfortable with continuing with the virtual meeting, we will ensure we get all comments from the residents to Council.

Councilman Lorenz: I was going to offer something on that. I have been participating in many of these public hearings for my clients from planning & zoning meetings that I have had to attend that have been in this virtual format over the last three weeks. One of the things I see in jurisdictions across the USA is an opening of a public comment period for a time between meetings. If you put something like that on the agenda and in light of the fact that we have had numerous discussions already on this issue, it may be a way to keep that process moving. So put it on the agenda and then allow the comment period to continue until the next meeting and then close it and make a decision on it. It is just something that I have been seeing in a few of the states.

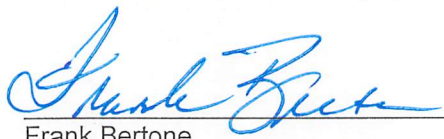
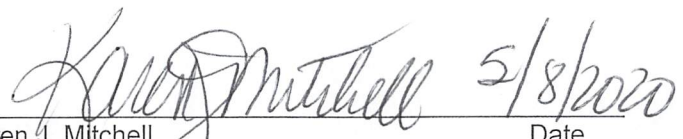
Gene Hollins, Law Director: Last time, we continued it to a date certain so it will be on the agenda and the real issue is whether we are going to go ahead and communicate to the Applicant that we will be tabling it or not. We will get with the Mayor and Council before the next meeting and get direction on that.

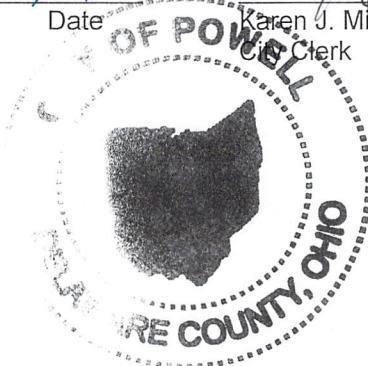
Councilman Lorenz: I was approached by several members of one of the Liberty High School teams and sent some correspondence on that about utilizing our light pole banners downtown to put up banners for the seniors since school is out for the rest of the year. I forwarded it to Andy and Megan and I know that Megan has been working with that individual. We do have a fee for renting banners. I will offer to pay the fee if Council does not want to waive it.

ADJOURNMENT

MOTION: Councilman Bennehoof moved to adjourn the meeting at 8:07 p.m. Councilman Lorenz seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

MINUTES APPROVED: May 5, 2020

	
Frank Bertone	Karen J. Mitchell
Mayor	Clerk
Date 5/6/2020	Date 5/8/2020



City Council
Frank Bertone, Mayor

Jon C. Bennehoof

Tom Counts

Heather Karr

Brian Lorenz

Melissa Riggins

Daniel Swartwout