



**CITY COUNCIL  
MEETING MINUTES  
October 6, 2020**

**CALL TO ORDER/ROLL CALL**

A regular meeting of Powell City Council was called to order by Mayor Frank Bertone on Tuesday, October 6, 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; Eugene Hollins, Law Director; Megan Canavan, Communications Director; Aaron Scott, Assistant City Engineer; Karen Sybert, Finance Director; Elise Schellin, Development Planner; Karen J. Mitchell, City Clerk; and interested parties.

**PLEDGE OF ALLEGIANCE**

**CITIZEN PARTICIPATION**

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

**APPROVAL OF MINUTES: September 15, 2020**

MOTION: Councilman Bennehoof moved to adopt the minutes of September 15, 2020. Councilman Counts seconded the motion. By unanimous consent of the remaining members, the minutes were adopted.

**CONSENT AGENDA**

<u>Item</u>	<u>Action Requested</u>
a. <b>RESOLUTION 2020-20:</b> A RESOLUTION TO CONDITIONALLY ACCEPT AND BEGIN THE REQUIRED MINIMUM TWO-YEAR MAINTENANCE PERIOD FOR PUBLIC IMPROVEMENTS ASSOCIATED WITH THE ARMITA PLAZA OFFSITE ROAD IMPROVEMENTS AS PART OF THE CONSTRUCTION PLANS APPROVED SEPTEMBER 17, 2017. (EX. A) (MEMO)	ADOPTION
b. <b>RESOLUTION 2020-21:</b> A RESOLUTION TO CONDITIONALLY ACCEPT AND BEGIN THE REQUIRED MINIMUM TWO YEAR MAINTENANCE PERIOD FOR PUBLIC IMPROVEMENTS ASSOCIATED WITH THE CARRIAGE TRAIL SUBDIVISION, AS THE SAME IS DELINEATED UPON THE PLAT THEREOF RECORDED IN BOOK 1685 PAGES 2326-2327 DELAWARE COUNTY, OHIO RECORDS. (EX. A) (MEMO)	
c. <b>ORDINANCE 2020-23:</b> AN ORDINANCE TO GRANT FINAL ACCEPTANCE OF THE PUBLIC IMPROVEMENTS OF VERONA PHASE 1 AND PHASE 2 AS THE SAME IS NUMBERED AND DELINEATED UPON THE AMENDED PLATS THEREOF RECORDED IN OFFICIAL RECORD 1394, PAGES 2202, AND OFFICIAL RECORD 1497, PAGE 1712, DELAWARE COUNTY, OHIO RECORDER'S OFFICE. (EX. A) (MEMO)	

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

**FIRST READING: ORDINANCE 2020-21: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH LIBERTY RESERVE, LLC AND BELL PROPERTIES, LTD, AND DECLARING AN EMERGENCY. (EX. A) (MEMO)**

Andy White, City Manager: We have already received the petition and passed the services resolution on this matter. This is presented as a next step in the process, a pre-annexation agreement that would allow the project to move forward in February 2021. There were a couple of questions that came up when the services resolution was before you. There is still a lot of legwork to be completed with regard to the development plan establishment and review of the entitlement process, so this is purely a mechanism to preserve their right and opportunity to begin to develop in February. I would note Staff's recommendation was that it would be passed as an emergency.

Councilmember Swartwout: On page 3 of the exhibit to the Ordinance, it refers to 242, but in parenthesis next to it only says only 42. Can you tell me which one is correct?

Gene Hollins, Law Director: It is not 242.

Councilmember: Swartwout: On Page 3, Section C, "The property is currently zoned under the Liberty Township zoning ordinance as \_\_\_\_\_." Does anyone know what that is?

Councilmember Lorenz: It is probably their farm residential or their FS1. It would not be anything other than that.

Elise Schellin, Development Planner: I believe it is Farm Residence, but I am not 100% certain.

Councilmember Swartwout: The other question I have is there is an Exhibit B referenced in the agreement that perhaps is a sketch plan. Exhibit B is not included in the materials we have.

Mr. White: If you would like, we could table this so we can get answers to these questions. We could still adopt it as an emergency at the next meeting. I apologize for that oversight.

Councilmember Riggins: To follow up on Dan's comments, on page 3, Section C in the first and second paragraphs, it says it includes 42 units, but seven lines later, it says 42 two-family duplex dwelling units. In the report review, it is 21 duplexes. I just want to make sure that there is consistency in what we are talking about is 21 duplexes of 2-dwelling units.

Mr. White: Understood.

Mr. Hollins: Somehow, signals were crossed. I am looking at the final draft of this that I worked on with Aaron Underhill that addressed that specifically. The current township zoning is FR-1. It makes it clear that it is 42, 2-family residences contained within 21 buildings. The most recent and final version of this was not attached to the Ordinance, but there is one that has both exhibits and all the blanks filled in. We apologize for that not being the exhibit to the Ordinance as it should have been.

Councilmember Bennehoof: I know that this is a pre-annexation, is the DU 4.8? Is that the right math? If it is 42, 2-family dwelling units, it is not 4.8.

Mr. Hollins: [inaudible].

Ms. Schellin: We have not seen anything in Planning & Zoning on this yet.

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

Ordinance 2020-21 was taken to a second reading.

**FIRST READING: ORDINANCE 2020-24: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2020. (MEMO)**

Karen Sybert, Finance Director: The request is to take the full amount of Council contingency of \$75,000. We had an appropriation on budget for \$250,000, but \$274,000 when you include all legal fees, such as the prosecutor. There were some carry over funds from last year that could fund some of the expenses that I noted in the cover memo, but we recently received a \$134,000 invoice for additional legal fees. For the most part, that amount pertains to events that occurred over the last few months and some pertain to ongoing litigation.

We did seek reimbursement from CORMA for what is eligible to be reimbursed; potentially as much as \$52,000. Even with that reimbursement, before the end of the calendar year, I still need the additional appropriation to be able to pay the invoices. The invoices were not submitted to CORMA dating back to 2018. I verified that with our CORMA representative, and I submitted all eligible invoices last Friday. This amount of \$75,000 I estimate will get us through the end of the year. There could be some additional legal fees with the upcoming bargaining.

Mr. White: I would add that Council's authorization of the measure also puts us into position then to receive the \$52,000 worth of funds, which will have a benefit to reconciliation, not of the full amount, but a stern effort by Staff to recover some of those funds that are due to the City.



Ms. Sybert: I will add that we will submit these invoices going forward to CORMA. I apologize. I was unaware of the agreement. Now that it has been brought to my attention, I will make sure that these invoices are filed on a monthly basis.

Councilmember Riggins: Are we penalized in any way for the delay in submitting these invoices in a timely manner?

Ms. Sybert: I did not understand that there would be any penalty. I have communicated with our representative and he was aware that they had not been submitted and he did not mention that there would be a penalty.

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

Councilmember Counts: I did mention to Karen that there was a reference to an Exhibit A that is not attached. I think the thought is that we no longer need the exhibit. If that is true, then we need to modify the Ordinance to take out that reference.

MOTION: Councilman Counts moved to amend Ordinance 2020-24 to strike the words "in accordance with the information attached as Exhibit A" in the first Whereas clause. Councilman Bennehoof seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to suspend the rules regarding Ordinance 2020-24. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

MOTION: Councilman Bennehoof moved to adopt Ordinance 2020-24. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

#### COMMITTEE REPORTS

**Development Committee:** *Next Meeting: October 6, 2020, 6:30 p.m.* We had a robust meeting with a presentation from TowerCo folks who have come back with some modifications and a different proposal for possibly locating a tower at Arbor Ridge Park. We have asked Staff to do some updates for us regarding legislation entitlement process and financial implications. That will be continued to next month. We gave authorization to our Building Department to provide patio heater guidelines as we see different businesses expanding out to their parking lots and the pending colder weather. We had a brief discussion on Halloween that will go on as planned on October 31, from 6-8 pm. We will be bringing to you at the next meeting, a Resolution regarding the positivity numbers and lack of reporting that we have been committed to from the Ohio Department of Health. The reason it comes from us is that it is germane to economic development and it is limiting transparency for our businesses on the amount of occupancy counts. We adopted in concept some bike path guidelines. If we decide to put up signage, we will have to have cost for that. We wanted to give Staff some policy and directions on dos and don'ts. We had a brief conversation about the Council goals session we had earlier this year. I implored the Committee to review those minutes and let them know they will be refined and we would be concentrating on some of those goals going forward.

**Finance Committee:** *Next Meeting: October 13, 2020, 7:00 p.m.*

**Operations Committee:** *Next Meeting: October 20, 2020, 6:30 p.m.*

**Planning & Zoning Commission:** *Next Meeting: October 14, 2020, 7:00 p.m.*

**Powell CIC:** *Next Meeting: October 27, 2020, 6:00 p.m.* At our last meeting, we welcomed Andy as a new member. There was some discussion on possible agreements and more to come.

#### CITY MANAGER'S REPORT/CITY CALENDAR

Mr. White: We did have a good Development Committee meeting tonight. There is a lot of development interest starting to percolate within the community. Staff has met with several developers interested in doing some things and you are starting to see some variables of that effort. Powell Center Plaza has taken on some new skin and there are some plans for that to be built out. We did have some conversation with a firm interested in locating upwards of 30 personnel within the new space in several suites. We will be working with the CIC on the possibility of some type of variable loan. There have been other general development inquiries and I would expect, as we move into the end of the year, that we will continue to have some more robust discussion and hope to bring back some specific plans to you.

I wanted to touch base on the Cares Act memo and get some policy direction. I think this is exciting yet a little bit daunting in terms of how to accomplish what we would like to do to infuse these dollars to the community as opposed to seeing them return to the federal government. I think the memo highlights \$600,000 plus dollars available to the City. To date, of the \$207,000 initial installment we received, we still have a significant balance available. In talking with the Law Director and some other communities, they have used their Community Improvement Corporation to create a forgivable

loan program. This would be a way for us to be able to look at investing these dollars into programming that would your policy objectives. We also talked about some of the guidance we are putting out there for temporary heaters for outdoor temporary structures to provide for additional space for the businesses to be able to continue in the colder seasons.

We recently met with officials from the CSX railroad and identified the potential to come in under the track along SR 750 to bring fiber to this building. In conversations with CSX, there is the possibility that if we could put funds on deposit with them and let them roll with the program that we would select the outcome to bring the cable through the conduit. We also talked about some enhancements in the downtown. We are looking at potential parking amenities for 44 N. Liberty as well as some landscaping upgrades. We also looked at some internal technology upgrades. I know it is one of the items we talked about as a Council within the objective measures that you would like to see going forward.

Then with facilities. We met with a consultant who did the analysis, work in this building in the past, and revisited a model for an upgrade to various facilities throughout the City. I wanted to know how much of that would be relevant, modernized, and potentially used with some of these funds. The footprint of the City has changed in the 15 years since this was done, so some of the recommendations of the past may have changed. It is worthy of discussion. There was also the inclusion of other City buildings. I think it is very important to consider. After all, we are a real property owner. We have a responsibility to maintain all of our facilities. This Council chambers in particular and some of the upgrades that are coming, such as the Lechler Building, need consideration. I saw a fantastic design that I had not seen before today's meeting where that facility was hollowed out and became an active recreation component to the community. That is a gateway entry to the City from the south. At Adventure Park, the removal of the barn and footprint we have out there provides additional space. In addition, I know we had talked about another facility for some of our services fleet out toward Seldom Seen Park. These are all things we can consider. I want to impress upon Council our need to be somewhat expedient. Nevertheless, at a minimum, I would like get some direction to tie dollars up before the end of the year so as not to be in a position to return them.

Mayor Bertone: Here is what I would propose. You have a couple of committee meetings left yet. There is Operations in two weeks. Finance meets next week. These are all great concepts, but my ask would be that we pick those conversations up there and within the next two weeks you will have a pretty solid framework and policy coming from Council.

Councilmember Lorenz: From a Development standpoint and with the DORA really utilizing the downtown to help bolster economic development, I would like us to possibly put some investment into the DORA or our Keep Powell Moving Plan, which dovetails nicely into that. It really helps spur development. I think that would be very appropriate if we can get some of those low hanging fruit things going. Wayfinding signage, for example, would be something within that plan that would pass and commit it to achieving that which we could do very easily with a minimal amount of money. Some of the streetscape updates and areas where we need better pedestrian footing would be something I would support. We would be willing to hold a special meeting if that would be helpful.

Councilmember Bennehoof: I would be concerned about meeting timelines and losing this money if we linger too long.

Mr. White: We have to be very careful to have the funds, if not expended, appropriated and directed going into 2021. There is an opportunity that actions taken in 2020, but not spent until the second half of 2021, are eligible for reimbursement. However, I think it puts the strain on concepts that would have to be funded in the next three months, essentially, to get those identified. In twenty minutes, Staff can sit around and we can spend \$15 million of the \$600,000 dollars. It is not a lot of money, but it is significant and I think we really need to articulate an assassin's bullet to what we want to achieve. I think we can do that, but I think it is a very good point to call out that expedience could be the challenge here in getting those dollars appropriated for the right things.

Councilmember Counts: I do not know what else is out there that we might do, and so I would be interested in knowing some options. I do not know how much of the items you have identified equates to the money we have. My thought is there needs to be some tangible attachment to the purpose for these funds. Some of these things I can easily say that. There are some others I would be a little concerned about their nexus to the funds and yet I do not know what else we might have a need for that we might say that this thing is more important than that thing. I do not want a huge list or recreate a list, but to have a few options would help me.

Mr. White: Fair point. If something occurs to anyone on Council through conversation at Committee level, any one of these can be knocked out and replaced with a priority item. It is a guidepost to get the conversation going. I really like the concept Gene and I had talked about with regard to a small business program and utilization of the Community Improvement Corporation because I think that does two things: (1) it identifies a clear objective in the downtown business community; and (2) it provides you with a little bit more flexibility in terms of how those funds are used without the sole

regard to the timeframe we are in right now. Delaware did one; I believe Westerville has done one. The dollars are provided from the City to the CIC and then you work through the program, so it is a separation. If we came out of the conversation with no other option, I think you could consume all of those dollars with that and we could work with the CIC to invest in transportation initiatives and business development alike.

Mayor Bertone: We understand that time is of the essence on this conversation. Do you feel it is appropriate and adequate time for us to use the next two upcoming committees to frame how we would execute this? [Mr. White: I do.] Okay, then at the end of that conversation on the 20<sup>th</sup>, we would have something before us that we could vote on.

Mr. White: The Finance Director mentioned labor contracts that are coming up. We are going to do things a little differently this year. We have access to outside counsel, but I am familiar with contract negotiations from the outset. The administration would like to feel out the other side, get an idea of what the process is, and try to save on some of the dollars that may have been spent moving forward. As it relates to the appropriations adjustment that we went through tonight, I look to eliminate that in the future to the extent I can. The 2021 Budget will include an estimate on what we think will happen in the year. What was budgeted for this year clearly missed the mark and I do not think it is fair for the current Finance Director to take that one on the chin.

I did want to express my gratitude for our employees and community partners. This past Saturday was our Community Bonfire. It may or may not have happened without the work of a lot of different people, the Liberty Township Fire Department, our Police Department, Parks & Recreations, Public Services, Communications – everybody came together and I thought it was a very nice event. Since I have been here, I have not had the ability to attend one of your events due to the pandemic, so I was very excited to be part of that and see what the stage looks like when it is occupied.

The traffic poles at Liberty and Seldom Seen Roads are to be delivered tomorrow, so that should be about a two-week process to get those erected.

We will be talking about the Budget. We will be looking at some things differently. If you have questions, please reach out to Karen Sybert or me. We are still trying to get our arms wrapped around how things will go and we want to put our stamp on it to look at things differently to try to achieve the priority objectives that you have laid out in the strategic plan.

If you recall, we recently submitted requests for qualifications for engineering firms to help us with our Capital Improvement Program. Several have come in. We will sit down, evaluate that moving forward, and hopefully have something back to you yet this year.

Finally, I have some bad news. We picked up a little bit of momentum on Seldom Seen Park. I have been alerted to the fact that the contractor was pulled offsite today to handle a job at Ohio State University. I am sure you will have inquires about that. I don't have more information on the details of when they will finish and return, but there was significant work being done and we were starting to have conversations at the Staff level of a communications plan to the public that we were bring that back online.

#### **OTHER COUNCIL MATTERS**

There was none.

**EXECUTIVE SESSION:** Ohio Rev. Code §121.22(G)(1) Personnel – to discuss the hiring and compensation of public employee(s).

**MOTION:** Councilman Bennehoof moved at 8:08 p.m. to adjourn into Executive Session pursuant to Ohio Rev. Code §121.22(G)(1) Personnel Matters. Councilman Counts seconded the motion.

**VOTE:** Y 7 N 0


**MOTION:** Councilman Bennehoof moved at 8:34 p.m. to adjourn from Executive Session into Open Session. Councilman Counts seconded the motion.

**VOTE:** Y 7 N 0

#### **ADJOURNMENT**

**MOTION:** Councilman Counts moved to adjourn the meeting at 8:35 p.m. Councilman Lorenz seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned.

MINUTES APPROVED: October 20, 2020

 11/4/2020  
\_\_\_\_\_  
Date  
Frank Bertone  
Mayor

 11/5/2020  
\_\_\_\_\_  
Date  
Karen J. Mitchell  
City Clerk



Jon C. Bennehoof

Tom Counts

Heather Karr

City Council  
Frank Bertone, Mayor  
Brian Lorenz

Melissa Riggins

Daniel Swartwout