



**CITY COUNCIL
MEETING MINUTES
TUESDAY, AUGUST 1, 2023**

CALL TO ORDER/ROLL CALL

Mayor Daniel Swartwout called the City Council Meeting of Tuesday, August 1, 2023 to order at 6:30 p.m. Councilmembers present included: Ferzan Ahmed, Jon Bennehoof, Tom Counts, Christina Drummond, Heather Karr and Daniel Swartwout.

City staff in attendance included: Andrew White, City Manager; Yazan Ashrawi, Law Director; Rosa Ocheltree, Finance Director; Aaron Stanford, City Engineer; and Jason Nahvi, HR Manager.

PLEDGE OF ALLEGIANCE

Councilmember Bennehoof led the Pledge of Allegiance.

CITIZEN PARTICIPATION

Mayor Swartwout opened the floor for citizen participation to address City Council regarding matters not on the agenda. Hearing none, Mayor Swartwout closed citizen participation.

APPROVAL OF MINUTES

Approval of City Council Meeting Minutes of July 18, 2023
[07182023_Council Min.pdf](#)

MOTION: Councilmember Bennehoof moved to approve the City Council Minutes of July 18, 2023. Councilmember Counts seconded. Motion passed by consensus.

VOTE: Y – 6 N – 0 AB – 0

CONSENT AGENDA

Notice to Legislative Authority - TREX Transfers

[Notice to Legislative Authority - Anne's Kitchen Memo.pdf](#)

[Notice to Legislative Authority Anne's Kitchen - Exhibit A.pdf](#)

[Notice to Legislative Authority - XGolf Memo.pdf](#)

[Notice to Legislative Authority XGolf - Exhibit A.pdf](#)

MOTION: Councilmember Bennehoof moved to approve the Consent Agenda. Councilmember Drummond seconded. Motion passed by consensus.

VOTE: Y – 6 N – 0 AB – 0

RESOLUTIONS

RESOLUTION 2023-19

A RESOLUTION IN SUPPORT OF THE COMPLETE STREETS INITIATIVE

[Res. 2023-19 - Memo.pdf](#)

[Res. 2023-19_Resolution.pdf](#)

[City of Powell - COMPLETE STREETS Presentation.pdf](#)

[MORPC COMPLETE STREETS UPDATED POLICY -2021_FINAL.pdf](#)

Andrew White, City Manager, introduced Resolution 2023-19 in support of the Complete Streets Initiative. Aaron Stanford, City Engineer, gave a presentation regarding the program and answered questions from Council.

Mayor Swartwout opened public comment for Resolution 2023-19.

Les Wibberley, 5005 Bayhill Drive, Liberty Township, spoke in support of the Complete Streets Initiative.

Mayor Swartwout closed public comment for Resolution 2023-19.

MOTION: Councilmember Bennehoof moved to approve Resolution 2023-19. Councilmember Drummond seconded. Motion passed by consensus.

VOTE: Y – 6 N – 0 AB – 0

RESOLUTION 2023-21

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ADDENDUM AGREEMENT WITH GPD GROUP FOR ENGINEERING SERVICES PERTAINING TO THE PEDESTRIAN TUNNEL REHABILITATION AT CSX CROSSING NEAR ADVENTURE PARK.

[Res. 2023-21_Memo.pdf](#)

[Res. 2023-21_Resolution.pdf](#)

[Powell Tunnel Proposal Addendum 7-21-2023.pdf](#)

City Manager White introduced Resolution 2023-21 and discussed the issues the City has faced in moving the CSX tunnel rehabilitation forward. He talked about the positive momentum this addendum agreement gives the City and answered questions from Council. City Engineer Stanford added this step allows the consultant to move forward with plans. Yazan Ashrawi, Law Director, also talked about the addendum from a legal aspect and answered questions from Council.

Mayor Swartwout opened public comment for Resolution 2023-21. Hearing none, he closed public comment.

MOTION: Councilmember Bennehoof moved to approve Resolution 2023-21. Councilmember Karr seconded. Motion passed by consensus.

VOTE: Y – 6 N – 0 AB – 0

ORDINANCES: SECOND READING(S)

ORDINANCE 2023-18

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ECONOMIC INCENTIVE AGREEMENT FOR THE PROPERTY LOCATED AT 50 E. OLENTANGY STREET AND 44 E. LIBERTY STREET

[Ord. 2023-18_Memo.pdf](#)

[Ord. 2023-18_Ordinance.pdf](#)

[Clean - City of Powell - Economic Incentive Agreement - Cohatch.pdf](#)

[Redline - City of Powell - Economic Incentive Agreement - Cohatch.pdf](#)

City Manager White spoke about Ordinance 2023-18 and the changes made after the first reading with regards to 44 N. Liberty Street. Law Director Ashrawi went over the changes made to the agreement and answered questions from Council.

Matt Davis, 4620 Hickory Rock Drive, Powell, owner of COhatch, addressed Council and answered questions regarding the project.

Mayor Swartwout opened public comment for Ordinance 2023-18. Hearing none, he closed public comment.

MOTION: Councilmember Bennehoof moved to approve Ordinance 2023-18. Councilmember Counts seconded.

Mayor Swartwout requested a roll call for passage: Daniel Swartwout, yes; Ferzan Ahmed, yes; Jon Bennehoof, yes; Tom Counts, yes; Christina Drummond, yes; and Heather Karr, yes. Motion passed.

VOTE: Y – 6 N – 0 AB – 0

ORDINANCE 2023-19

AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A LAND LEASE AGREEMENT WITH CSX TRANSPORTATION, INC.

[Ord. 2023_19_Memo.pdf](#)

[Ord. 2023-19_Ordinance .pdf](#)

[City of Powell Land Lease.pdf](#)

City Manager White spoke about Ordinance 2023-19 regarding the property owned by CSX along Depot Street, which many utilize for parking. Law Director Ashrawi discussed the lease agreement. Staff answered question from Council regarding the ordinance.

Mayor Swartwout opened public comment for Ordinance 2023-19. Hearing none, he closed public comment.

MOTION: Councilmember Bennehoof moved to approve Ordinance 2023-19. Councilmember Counts seconded.

Mayor Swartwout requested a roll call for passage: Daniel Swartwout, yes; Ferzan Ahmed, yes; Jon Bennehoof, yes; Tom Counts, yes; Christina Drummond, yes; and Heather Karr, yes. Motion passed.

VOTE: Y – 6 N – 0 AB – 0

ORDINANCES: FIRST READING(S)

ORDINANCE 2023-20

AN ORDINANCE DECLARING THE NECESSITY OF, DETERMINING TO PROCEED WITH, AN LEVYING ASSESSMENTS FOR THE PURPOSE OF IMPROVEMENT, CONSTRUCTION, AND RECONSTRUCTION OF THE PUBLIC SEWER MAIN INFRASTRUCTURE ON THE NORTH SIDE OF POWELL ROAD AND ON PROPERTY OWNED BY VERONA LLC AND KNOWN AS THE VERONA SUBDIVISION.

[Ord. 2023_20 - 21_Memo.pdf](#)

[Ord. 2023-20_Ordinance.pdf](#)

[Ord. 2023-20 Exhibit A.pdf](#)

City Manager White introduced Ordinance 2023-20 and gave background on the public sewer main infrastructure it references in the Verona subdivision, which spans multiple City Councils, City Managers and Finance Directors. There was a discussion between Council and staff regarding the ordinance.

Mayor Swartwout opened public comment for Ordinance 2023-20. Hearing none, he closed public comment and announced Ordinance 2023-20 will go to a second reading at the next meeting of City Council on Tuesday, August 15, 2023.

ORDINANCE 2023-21

AN ORDINANCE DECLARING THE NECESSITY OF, DETERMINING TO PROCEED WITH, AND LEVYING ASSESSMENTS FOR THE PURPOSE OF IMPROVEMENT, CONSTRUCTION, AND RECONSTRUCTION OF THE PUBLIC SEWER MAIN INFRASTRUCTURE ON THE NORTH SIDE OF POWELL ROAD AND PROPERTY OWNED BY VERONA LLC AND KNOWN AS THE VERONA SUBDIVISION, AND PROVIDING A REVISED ASSESSMENT SCHEDULE.

[Ord. 2023_20 - 21_Memo.pdf](#)

[Ord. 2023-21_Ordinance.pdf](#)

[Ord. 2023-21 Exhibit A.pdf](#)

City Manager White introduced Ordinance 2023-21 and talked about the exhibit provided with the ordinance, which lays out those properties effectively changed for 2024 for the reduced amount. There was a discussion between Council and staff regarding the ordinance.

Mayor Swartwout opened public comment for Ordinance 2023-21.

Daniel W. Harmon, 9565 Fair Oaks Drive, Powell, a resident of the Verona subdivision, thanked Council and staff for their effort to address some of the issues raised. In addition, he pointed out items he feels still need addressed or corrected. Mr. Harmon read a statement into the record which is attached as Exhibit A.

Craig Wilkins, 9547 Fair Oaks Drive, Powell, a resident of the Verona subdivision, thanked Council and staff for the steps taken to address some of the issues with the Verona sewer assessment. He also informed Council of an additional outstanding issue with the developer Romanelli & Hughes. Mr. Wilkins read a statement into the record which is attached as Exhibit B.

Mayor Swartwout closed public comment and announced Ordinance 2023-21 will go to a second reading at the next meeting of City Council on Tuesday, August 15, 2023.

COMMITTEE REPORTS

Development Committee: Next Meeting, Wednesday, September 5, 2023 at 6:30 p.m.

Finance Committee: Next Meeting, Tuesday, August, 29, 2023 at 7:00 p.m.

Operations Committee: Next Meeting, Tuesday, August 15, 2023 at 6:30 p.m.

Community Diversity Advisory Committee: Next Meeting, August 16, 2023 at 6:00 p.m.

Planning & Zoning Commission: Next Meeting, August 9, 2023 at 6:30 p.m.

Powell Development Corporation: Next Meeting, August 22, 2023 at 7:00 p.m.

CITY MANAGER'S REPORT/CITY CALENDAR

City Manager White updated Council on the items staff is working on and announced Chief Steve Hrytzik will be leaving the City of Powell Police Department at the end of the month. Further, he reviewed the process the City will need to take in finding his replacement. In addition, he thanked Finance Director Ocheltree and staff for their work on the Council Chambers refresh.

OTHER COUNCIL MATTERS

Mayor Swartwout offered his thanks to Chief Hrytzik for his many years of service to the City of Powell. Further, he discussed the vacant seat on City Council and the process for filling the vacancy. He anticipated he will make a selection soon and the new Councilmember will be sworn in at the next City Council meeting on August 15, 2023.


ADJOURNMENT

MOTION: Councilmember Bennehoof moved to adjourn the meeting. Councilmember Counts seconded. Motion passed by consensus.

VOTE: Y – 6 N – 0 AB – 0

Meeting adjourned at 10:01 p.m.

MINUTES APPROVED: Tuesday, August 15, 2023


Daniel Swartwout,
Mayor

8-15-23
Date

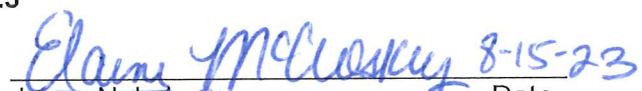

Jason Nahvi, Elaine McCloskey
Acting City Clerk Date

Exhibit A

My name is Dan Harmon. I reside at 9565 Fair Oaks Drive in the Verona development. I would like to thank the Council and the City for the steps taken to address some of the issues that have been raised in the past regarding the Verona Sewer Assessment. However, as a resident of Verona and the City, I believe it is my responsibility to inform the Council of several outstanding issues on Ordinances 2023-20 and -21.

Prior to that effort, I would like to personally thank Council member Counts and City Manager White for recognizing that it was in neither the City or the Citizens of Verona's best interest to overcollect assessment dollars. Without their engagement, we would not have been where we are today.

Now I would like to address specifically Ordinance 2023-20 and 2023-21. Some of the issues I will identify are minor and some are significant from the perspective of the Verona citizens.

First the Minor issues:

For Ordinance, 2023-21, Section 4, the Ordinance is declared an Emergency, I do not think that is accurate.

In the Memo for Ordinance 2023-21, the Exhibit is identified as Exhibit B and marked online as Exhibit A. On that same Exhibit, the document is not identified as supporting Ordinance 2023-21 that is usually the case.

In the memo near the end of the document under "Financial Review" that "The City is working with an accounting firm to evaluate the file and calculations". I think this review should be complete and the results known prior to the final Council's decision.

Now of the more substantial issues.

I would like the Council to Reference Ordinance 2023-20, specifically note the 6th "Whereas" "WHEREAS, PURSUANT TO ORDINANCE 2016-36, AND THE PETITION, THE COST OF THE PROJECT, IN THE AMOUNT OF \$1;208,793.63, SHALL BE ASSESSED..."

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NOW PLEASE REFERENCE ORDINANCE 2023-21, the 7th "Whereas": Whereas pursuant to 2016-36 (THE PRIOR ORDINANCE) AND THE PETITION, THE COST OF THE PROJECT IN THE AMOUNT OF \$1,280,359.94, SHALL BE ASSESSED..."

Ordinance 2023-21 identifies a project cost that is \$71,566.31 dollars higher than ordinance 2023-20. Ordinance 2023-20, the lower amount, is correct and Ordinance 2023-21 is incorrect.

Before anyone thinks this is just a typo, let me be clear that the current administration believes the original Project cost is the higher number, \$1,280,359.94. They just did not, unfortunately, highlight this change for Council, and Council did not note the discrepancy.

Now, let me briefly go back in history, because I know that Council only visits this issue once a year and it has to be difficult to remember prior years Ordinances and outcomes.

Referencing Ordinance 2016-36, "An Ordinance Declaring the Necessity of determining to proceed with and levying assessments for the purpose of improving, construction and reconstruction of the public sewer main infrastructure on the north side of Powell road and on the property owned by Verona LLC and known as the Verona Subdivision", Section 2: "Pursuant to the petition, the cost of the Project, in the amount of \$1,208,793.63...

It should also be noted that Exhibit A, the petition that the lot owners signed to authorize the assessment, referenced the \$1,208,793 figure.

Referencing Ordinance 2016-30, "An ordinance authorizing the city manager to enter into a sewer assessment and financing agreement with Verona LLC", that was a companion ordinance to Ordinance 2016-36 at the September 6, 2016 Council meeting, I would like to read an excerpt from the minutes attributed to Mr Lutz (City Manager):

Mr Lutz: ... "This is the ordinance authorizing us to enter into a special assessment at Verona, which is the old Shamrock property that is being developed with 166 units" (please remember that number 166) The sewer cost there is \$1.208 million"...

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Both Ordinance 2016-30 and 2016-36 passed unanimously following no comment from the public.

Then for the next 5 years with Ordinances 2017-41, 2018-35, 2019-32, 2021-25 and 2022 -25 each referenced the project costs at \$1,208,793. All these Ordinances were unanimously passed by Council following no comment from the public

So to summarize, City Manager Lutz who was involved in the Verona sewer project financing and indicated the project cost was the lower dollar amount consistent with the current Ordinance 2023-20. This lower project cost was then repeated in 5 additional approved annual ordinances.

The Current administration was not involved in the original agreement and would like Council and the citizens of Verona to pay based on an original project cost that they believe is \$71, 586 higher.

As we told Council last year, Mr Wilkins who will comment soon, and I and no doubt the other residents of Verona are willing to pay what we owe, but not more than we owe. In previous discussions the City did not identify the discrepancy between what Council was told and the annual comprehensive financial reports, we did. We asked which number was correct. If not the

\$1,208,793 amount Council and the residents have been told for the last 6 years, the City owes it to Council and the citizens to substantiate the higher number.

It is very simple to substantiate the original project cost, just produce the checks Powell wrote to the developer/contractor for the project.

For anyone that thinks it is unreasonable to request documentation for what the city paid in 2016, I want Council to know that we requested documentation from the County on a related issue that happened in 2016 and the County produced copies of endorsed checks within 24 hours.

Our request is simple: We would like Council to compel the current Administration to produce the 2016 checks to the developers to support their higher initial project cost. Consider this freedom of information request. If the checks cannot be produced, then it is our humble opinion that Council should not approve the recommendation of the current administration that was not involved

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in the original agreement. It is our humble opinion that Council should not reverse 7 years where Council affirmed the \$1,208,793 amount.

Now to some additional issues with Ordinance 2023-21:

The ordinance identifies a 7th year payment of \$200.

We think the spirit of this ordinance is great and again we thank Council member Counts and City Manger White.

Council should know that this \$200 payment is based on the City's detailed spreadsheet that records the actual and projected cash flow for the sewer assessment. This is a sound spreadsheet except for some input errors.

I would like to correct some items in that spreadsheet.

The spreadsheet only accounts for 164 homes. There are 166 homes in Verona. There are currently and have always been 166 lots/homes as Mr Lutz indicated in 2016. We indicated as such to the Administration, but our input was rejected.

I have several pieces of data for Council to consider.

- 1) In my hand I have printouts from the County Auditors's site of every address in Verona.

Street by street there are the following number of houses:

Baytree	16 homes
Wilbrook	32 homes
Waterford	35 homes
Advocet	29 homes
Cordona Loop	25 homes
Fair Oaks	29 homes
Total	166 homes

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2} I examined the spreadsheet and identified its flaws... 4 addresses are missing and 2 addresses are duplicated, hence the model is 2 short of the 166 existing homes, validated through the County Auditor data.

Specifically the following addresses are missing from the City's "Verona Payment Schedule" spreadsheet:

9463 Wilbrook

9471 Wilbrook

9275 Baytree and

9331 Baytree

9398 Baytree and 9290 Baytree are in the spreadsheet twice.

It should be noted that the 4 missing addresses in the City's "Verona Payment Schedule" spreadsheet are all identified in Ordinance 2023-20, Exhibit A so their existence should not be an issue.

These errors should be fixed and the result of that is that \$22,000 additional assessment dollars will be collected over the life of the assessment. That \$22,000 when divided equally over 166 addresses is \$132. The proposal for ordinance should not be to collect \$200 in the 7th year, it should be \$68 (\$200 less \$132).

We would request Council to direct the administration to evaluate the specific address flaws in their "Verona Payment Schedule" spreadsheet and the impact on the total assessments collected and reduce the 7th year payment dollar for dollar.

Now referencing Exhibit B supporting Ordinance 2023-21, 17 properties are identified as starting their 7th year. Those 17 properties are correct, but 17 properties to be assessed in their 7th year in 20245, are missing. The following properties should be added to the exhibit:

9359 Baytree

9440 Baytree

9393 Wilbrook

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9541 Fair Oaks

9547 Fair Oaks

9553 Fair Oaks

9558 Fair Oaks

9559 Fair Oaks

9565 Fair Oaks

9580 Fair Oaks

9583 Fair Oaks

9586 Fair Oaks

9595 Fair Oaks

9600 Fair Oaks

9596 Fair Oaks

9612 Fair Oaks

9661 Fair Oaks

To substantiate these addresses, the City can reference their own spreadsheet since none of these addresses were the 4 missing addresses. Additional, they could reference Ordinance 2017-41 Exhibit A which added all these addresses to the assessment list starting in 2018.

We would request Council to ask the Administration to fix Exhibit based on the addresses we just provided.

Are there any questions? Thank you for your time.

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Exhibit B

Powell City Council, 08/01/2023

My name is Craig Wilkins. I reside at 9547 Fair Oaks Drive in the Verona development. I too would like to thank the Council and the City for the steps taken to address some of the issues that have been raised in the past regarding the Verona Sewer Assessment. However, as a resident of Verona and the City, I believe it is my duty and responsibility to inform the Council of one more outstanding issue.

First, some background. All of this is based on available records from the County and the City. In April 2016, Romanelli & Hughes (acting as Verona LLC, the developer) paid Delaware County \$59,850.00 in advance as estimated fees for county Verona Sewer inspection fees. In November 2016, Romanelli & Hughes submitted an invoice to the City, and we believe received payment, for \$250,875.10 representing their portion of the project's total costs, which included the estimated inspection fees. One month later, in December 2016, Delaware County paid Romanelli & Hughes \$36,193.50 as a refund of unused estimated inspection fees.

Based on our discussions with the City, it appears that refund was never paid back by Romanelli & Hughes to the City to be credited to the Sewer Loan Assessment Fund, even though Romanelli & Hughes was reimbursed for the original higher amount directly from the Sewer Loan Fund.

In the past month, we have sent six emails, including complete documentation, to the leadership of Romanelli & Hughes regarding this matter, requesting that they either produce a copy of a reimbursement check sent to the City, or what action will they take to correct this oversight. To date, while there has been some exchange of emails, they have not taken any action. And, they have not responded to our two most recent emails. We have discussed this matter with the City and Finance Committee in the past, and have informed them of the recent status.

We inform Council today regarding this outstanding issue, as it is our current view on this matter that ultimately the Sewer Loan Assessment Fund should be further reduced by a payment from Romanelli & Hughes of \$36,193.50. When that happens, a 7th year of assessment to Verona residents will not be needed at all to fully satisfy the Sewer Loan Fund debt.

To facilitate resolution of this matter, we request that when Council has the City produce all the payment checks drawn from the Sewer Loan Fund, they provide a copy of the cancelled Romanelli & Hughes check to both Romanelli & Hughes leadership and us, as their claim thus far is they have no access to records providing proof of such payment, even though we have provided them the invoice they sent to the City and the City's typed line-item details comprising the payment.

The window of time remaining to resolve all the issues raised tonight, prior to the County's deadline for receiving assessment instructions from the City, is very narrow. However, the City

Manager told me last week he believes there is enough time for a first reading of revised ordinances, and a second reading for Council action.

Thank you. Are there any questions?