

VILLAGE OF POWELL COUNCIL

January 4, 2000

A regular meeting of the Village of Powell Council was held on January 4, 2000, and called to order at 7:30 p.m. by Mayor Richard Cline. Other Council members present were Mark Klein, William Nolan, Dave Chambers, George Kaitsa, Art Schultz, and Peggy Guzzo. Also present were Stephen A. Lutz, Village Manager; Dawn Nauman, Clerk of Council; Ken Molnar, Director of Law; residents and representatives of the press.

CERTIFICATE OF APPRECIATION PRESENTATION

Richard Cline and Peggy Guzzo presented Whitney Fenstermaker with a certificate of appreciation for helping with the Village of Powell holiday open house on December 1, 1999. Julie Brehm and Ashley Vogt, who also assisted, will receive the same certificates.

OATH OF OFFICE OF COUNCIL MEMBERS (Cline, Klein, Schultz)

Delaware County Commissioner Deborah Martin swore in Richard Klein, Mark Klein, and Art Schultz to their terms of Council to end on December 31, 2003.

ELECTION OF MAYOR: RESOLUTION 2000-01: A RESOLUTION RATIFYING THE ELECTION OF MARK KLEIN AS MAYOR OF THE VILLAGE OF POWELL FOR A TERM ENDING DECEMBER 31, 2001.

Mr. Nolan said that this is a special occasion. First, there is the swearing in of three dedicated public servants that the Village is fortunate to have for four years to the Village. He said it secondly marks the completion of two successful years of leadership from Mayor Richard Cline. He said that third, it is time that a new mayor be selected for the Village. He said that the person that will take this position has brought vision to the Village in his years he has been involved, and a commitment to excellence in the Village in everything that is done. He said that the raising of the standards and increasing the demands on Council members and Staff has resulted in the many things accomplished at this time. He said no one has been a bigger part in increasing the standards than this individual. Mayor Cline concurred, and asked for any other names to be placed in nomination.

MOTION: Mr. Kaitsa moved that the nomination be closed. Ms. Guzzo seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Nolan moved to amend Resolution 2000-01 to insert the name Mark Klein as the next Mayor of the Village of Powell for a term ending December 31, 2001 and to further adopt the resolution as amended. Mr. Cline seconded the motion.

VOTE: Y 7 N 0

OATH OF OFFICE MAYOR

Delaware County Commissioner Deborah Martin swore in Mark Klein as Mayor of the Village of Powell Council, with a term to end on December 31, 2001.

Mayor Klein said that he is excited to be in the position of Mayor, and he is looking forward to the next two years and all of the things that will be accomplished.

APPROVAL OF MINUTES

The minutes of December 21, 1999, were amended and approved.

CITIZEN PARTICIPATION

There was none.

THIRD READING: ORDINANCE 99-64: AN ORDINANCE AMENDING SECTION 1329.07 OF THE CODIFIED ORDINANCES OF THE MUNICIPALITY OF POWELL ENTITLED "PERMIT ISSUANCE."

Stephen A. Lutz, Village Manager, said that this is the third and final reading of this Ordinance. He said this Ordinance was sent to various architectural review boards and Homeowners Associations in the Village for their review but there has been no response. He said that this Ordinance provides that an applicant must show proof that they have submitted a proposal to Homeowner's Association in conjunction with submitting plans for review.

Mayor Klein opened the hearing to public comment. Hearing none, he closed the public hearing.

Mayor Klein opened the hearing to Council discussion. Mr. Cline said that he is still concerned with provisions in subparagraph 3 C because in his view, they place staff in the position of judging either the homeowner or homeowner's association's compliance with deed restriction requirements, which he thinks is inappropriate. He said he feels the appropriate course of action is to have notice occur and if the Homeowners' Association feels the applicant hasn't satisfied the Deed Restrictions, they can take action to protect their private property rights.

MOTION: Mr. Cline moved to amend Ordinance 99-64 so that Section 1 (a) (3) (C) reads: "The Homeowners Association has acted in denying such application and listed the reasons behind such denial." Mr. Chambers seconded the motion.

Mr. Kaitsa asked about response from various Homeowners' Association. Mr. Lutz said he spoke to Mark Hampshire of Falcon Ridge subdivision, but he isn't present this evening to discuss it.

Mr. Chambers said he agrees with Mr. Cline. He said that the intent is to make sure the Homeowners' Association has been provided notice of what is planned. He said he is unsure if he wants to get the Village involved in deciding what is reasonable and what is not.

Ms. Guzzo said she respects Mr. Cline and Mr. Chambers opinion, but that the Homeowners' Association depends on Village government to uphold the Deed Restrictions. She said this is a way to prevent neighbors from fighting amongst themselves. She said there was a problem before, and the residents came to Council, and it was clear that there is nothing in the codified ordinances to uphold the Deed Restrictions. She said she thinks this is a good compromise because it says that residents need to get approval, or submit their plans to an Architectural Review Board if it is part of their deed restrictions. She said that if the application is denied, and the reasons are specified, this still allows the Building Inspector to see if the applicant made every reasonable attempt to comply. She said that amending this ordinance as suggested would be the same as doing nothing.

Mr. Nolan said that he originally suggested that the applicant make a good faith effort. He said he agrees with the concern about the Village being involved in subjective judgments, but he agrees with Ms. Guzzo's concern. He said he thinks the idea is to have some standard beyond mere notice to get as close to the objective as possible. He said that it is necessary to distinguish between disagreements of what the architectural guidelines say, which in his opinion would include the dispute in the Retreat, and also apply to homeowners that simply don't care what the architectural guidelines say, and don't even try to conform to them. He said this is a somewhat subjective judgement, but he doesn't think it will come up all that often.

Mr. Kaitsa said he supports both Ms. Guzzo and Mr. Nolan. He said he thinks there should be some effort made to accommodate the residents concerns. Mayor Klein agreed.

VOTE ON AMENDMENT: Y 2 (Chambers, Cline) N 5

MOTION: Mr. Kaitsa moved to adopt Ordinance 99-64. Ms. Guzzo seconded the motion.

Mayor Cline noted that he generally approves of this ordinance and the concept behind it, but he will not support it due to the failure of his amendment.

VOTE: Y 5 N 2 (Chambers, Cline)

COMMITTEE REPORTS

Development Committee No report.

Finance Committee Mr. Kaitsa reported that the next meeting will be held on January 13 at 8:00 p.m.

Administration Committee Ms. Guzzo reported that the next meeting will be held on January 18 when the Committee will be meeting with representatives of the Health Department.

COMMITTEE ASSIGNMENT

The following committee assignments were made:

Ms. Guzzo: Administration, Development, and Finance.

Mr. Kaitsa: Finance and Development.

Mr. Klein: Administration Committee.

Mr. Chambers: Development.

Mr. Cline: Finance and Administration

Mr. Nolan: undecided

Mr. Schultz: Council liaison to the Planning and Zoning Commission.

OTHER COUNCIL MATTERS

A lengthy discussion was held regarding the Council goal-setting session for this year. It was determined that the session will be held at the February 1 meeting after the regularly scheduled meeting. The session will be among Council only. If it is possible to get a professional facilitator, one will be contacted. Mr. Lutz indicated that he will provide Council with information about this issue before the next meeting.

MUNICIPAL MANAGERS REPORT

Stephen A. Lutz, Village Manager, noted the press release passed out this evening which includes a commendation by State Auditor Jim Petro for the most recent Village audit. He recognized Cheryl Bucy, the Finance Committee and Council, for this accomplishment.

Mayor Klein asked about the police report being released to the press. Mr. Lutz said there hasn't been a report since the last, but that it has been distributed to them in the past. He said he will follow up with representatives of the press.

FINANCIAL REPORTS

The Accounts Payable report was marked received.

OTHER REPORTS

There were none.

OTHER COUNCIL MATTERS

Ms. Guzzo asked about the status of the review of HDC. Mr. Lutz said that a public hearing was held on this issue at the last Planning and Zoning Commission meeting. Mr. Schultz noted that members of the HDC were not enthusiastic about the concept. Mr. Lutz said the issue will be on the next Planning and Zoning Commission agenda.

CLERK OF COUNCIL CORRESPONDENCE

There was none.

OTHER COUNCIL MATTERS

99-19 Grace Drive property acquisition: Mr. Lutz noted that a report was included in the last packet providing an update on the process for acquiring property for the Grace Drive extension. Mr. Schultz asked if it is necessary to complete this before going out to bid. Mr. Lutz said it is, as once the bid is awarded, the contractor can begin work.

99-20 Appointments: Mr. Lutz said that all expired board or commission members have expressed a desire to continue on their position with the exception of Jane Van Fossen on Parks and Recreation.

A brief discussion was held regarding appointments. Ms. Guzzo suggested that this issue be discussed in executive session.

99-18: Relocation of Downtown Poles:

Mr. Molnar said that Council has a copy of a letter sent to the property owner. He said he will file an administrative proceeding if there is no response to Council's request for cooperation in this matter.

OTHER COUNCIL MATTERS

Mr. Chambers asked if it is necessary to elect a Vice President of Council. Mr. Lutz said that it is.

MOTION: Mr. Chambers moved to nominate Mr. Kaitsa to continue his tenure as Vice President of Council. Mr. Cline seconded the motion.

VOTE: Y 6 N 0 (Abstain: Kaitsa)

EXECUTIVE SESSION

MOTION: Mr. Kaitsa moved to adjourn to Executive Session in accordance with ORC Section 121.22 (G) (1) to discuss personnel matters; boards and commission appointments and Section 121.22 (G) (2) to discuss pending litigation.

VOTE: Y 7 N 0

MOTION: Mr. Klein moved to adjourn from Executive Session at 9:20 p.m. Mr. Nolan seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Klein moved to reconvene in regular open session at 9:20 p.m. Mr. Nolan seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to reappoint Kelly Coville and Karen Slavik to 2 year terms on the Parks and Recreation Advisory Board. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Kaitsa moved to reappoint Karen Woods, Elmer Meider, and Art Schultz to the Planning and Zoning Commission for 3 year terms. Mr. Cline seconded the motion.

VOTE: Y 6 N 1 (Guzzo)

Ms. Guzzo said that she voted against these reappointments because she believes the Village should consider appointing an architect to the Planning and Zoning Commission.

MOTION: Mr. Cline moved to adjourn at 9:25 p.m. Mr. Nolan seconded the motion.

VOTE: Y 7 N 0

DATE MINUTES APPROVED: January 18, 2000

Mark Klein 2/1/2000
Mark Klein Date
Mayor

Dawn Nauman 2/1/2000
Dawn Nauman Date
Clerk of Council