

VILLAGE OF POWELL COUNCIL

March 7, 2000

A regular meeting of the Village of Powell Council was held on March 7, 2000, and called to order at 7:35 p.m. by Mayor Mark Klein. Other Council members present were William Nolan, George Kaitsa, Art Schultz, Dave Chambers, Richard Cline, and Peggy Guzzo. Also present were Stephen A. Lutz, Village Manager; Dawn Nauman, Clerk of Council; David Betz, Director of Development, Ken Molnar, Director of Law, Rob Rice, Village Engineer, residents and representatives of the press.

APPROVAL OF MINUTES

The minutes of February 15, 2000 were approved as printed.

OATH OF OFFICE

Mayor Klein swore in Deb Smallwood as a member of the Parks and Recreation Advisory Board for a term ending February 15, 2002.

CITIZEN PARTICIPATION

There was none. Mayor Klein noted that there are two Council members who want to speak at this time.

Rumpke Trash Service

Mr. Nolan said that he was contacted by a resident regarding their concern that Rumpke was going through their trash to obtain to whom the bill was supposed to be sent. He said he contacted the Village Manager about this issue and found that Rumpke has admitted to such. He said he thinks this behavior is out of line, and he would like something in writing from Rumpke to assure him that this will not happen again.

Mr. Cline agreed that this is not a good practice. He recommended that Rumpke's letter be included in their file so it may become a contract term when the contract is renewed. Stephen A. Lutz, Village Manager, said that he is aware of this problem, and he has informed Rumpke that the Village can provide them with the necessary billing information when they need it.

Mr. Kaitsa said he would like to know why Rumpke did what they did. Mr. Lutz said that Rumpke said there are residents receiving the service who are not paying for it. Mr. Schultz asked that Rumpke explain in writing what they really were attempting to do and explain that they aren't going to do it again. He said he would like Rumpke to explain what happens when the trash leaves the curb.

CITIZEN PARTICIPATION

Peggy Guzzo recused herself as a Council member and addressed Council from the audience. She asked that Council insist that the ordinances that will be before them soon regarding the BUS zoning map amendments include language indicating that the issue will go to the electorate after action by Council. She said that this issue was the subject of the referendum, and the voters should have the opportunity to vote on it. Mr. Lutz said that the current draft of the ordinance has wording indicating that Council will be forwarding it to the electorate.

Mr. Cline asked Ken Molnar, Director of Law, if he feels the Planning and Zoning Commission acted on the same subject matter in whole or in part as the original action that was subject of the referendum. Mr. Molnar said he does think the Commission acted on the same subject matter. He said that the Ordinance currently requests that the issue be certified to the Board of Elections.

Mr. Nolan said he feels sending something to the ballot is a decision of Council based on the advice of the Law Director, and he would like a legal opinion from Mr. Molnar indicating that this should go to the electors.

Mr. Kaitsa asked why the issue should go before the voters if the homeowners were in agreement with the application. Ms. Guzzo said that the Powell Place Homeowners' Association Trustees did not get a formal consensus of the homeowners, but said as individuals that they support 3.4 du/acre, although they would prefer single family development. She said that they have sent a letter to Council saying they expect a vote. She said that the homeowners' association has realized of late that the Zoning Code requires a development plan with a zoning map amendment. She said that the Planning and Zoning Commission made their recommendation without such a development plan, so there is no guarantee for road improvements, bikepaths, split rail fences, trees, and architectural standards.

Mr. Kaitsa asked if the opportunity to vote is in the interest of the homeowners. Ms. Guzzo said it is. Mr. Chambers said he would also like to see a legal opinion from Mr. Molnar that voting is a requirement.

THIRD READING: ORDINANCE 2000-03: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 5.121 ACRE TRACT, MORE OR LESS TO THE MUNICIPALITY OF POWELL.

David Betz, Director of Development, gave a brief presentation on this issue. He said there are two properties in this application, the Morgan's and the Britt's. He identified the location of this tract between Powell Place phases 1 and 2 and "catty-corner" to Quail Meadows. He said that to the north is Middlebury Estates. Mr. Betz said that this annexation will be in the western half of the Liberty Street right of way. He said there is no development plan at this time, but the applicant has gone to the Planning and Zoning Commission to present a sketch plan, which the Commission felt comfortable with.

Bill Morgan, property owner, reviewed his sketch plan to develop 8 single-family homes on this property with private streets. He said the pond will be a common recreational area for the houses. He said there will be a Homeowners' Association to maintain the pond and the driveways. He said the development will be single family homes averages 1,800 – 2,800 sq. ft.

Mr. Chambers asked about the Britt parcel. Mr. Morgan said there will be no change to that parcel.

Ms. Guzzo asked if the bikepath and split-rail fence for this property is unrealistic due to the closeness of one house to the road. Mr. Morgan said that he discussed bringing the bikepath onto the property and along the back tree line with the Planning and Zoning Commission. Ms. Guzzo said that either design is fine as long as it is continuous. Mr. Morgan said the developer of Middlebury Estates has put the funds aside to install a fence. Mr. Betz said that Mr. Morgan will reserve an easement to allow that to happen.

A brief discussion was held regarding density. Mr. Betz said that as proposed, the development of this property will be at 1.73 du/acre based on the 4.6 du/acre site. Mr. Morgan said that they plan for 8 units total, with the existing house relocated if not removed and built new. Ms. Guzzo asked if the applicant met with Liberty Township. Mr. Betz said they are waiting to hear from them. Ms. Guzzo said that Liberty Township "probably (doesn't) want you to go past the 1.5 du/acre."

Mr. Chambers asked if the only issue tonight is the annexation, not the density of the project. Mr. Lutz said that is correct. Mr. Kaitsa and Mayor Klein had no questions. Mr. Schultz said that the Planning and Zoning Commission is supportive of this project, but they still hope to meet with the Liberty Township representatives. He said the Commission is comfortable with the 1.73 du/acre verses 1.5 du/acre. He said that the architectural concepts presented by the applicant were impressive.

Mr. Nolan had no questions. Mr. Cline asked if the applicant still has to go through the development plan process. Mr. Betz said he does.

MOTION: Mr. Kaitsa moved to adopt Ordinance 2000-03. Mr. Chambers seconded the motion.

VOTE: Y 7 N 0

SECOND READING: ORDINANCE 2000-02: AN ORDINANCE APPROVING AND ADOPTING THE 2000 REPLACEMENT PAGES TO THE CODIFIED ORDINANCES OF POWELL.

Stephen A. Lutz, Village Manager, said that these updates were circulated before the last meeting, and that the Clerk will update Council's books if they bring them in. He recommended approval tonight to move the item off the docket. Ms. Guzzo said she would like time to review the ordinances. She said the last time they were accepted, some items were missing. Mr. Molnar said that both he and Staff have reviewed the updates and found them acceptable.

MOTION: Mr. Nolan moved to suspend the rules on Ordinance 2000-02. Mr. Kaitsa seconded the motion.

VOTE: Y 6 N 1 (Guzzo)

Mr. Kaitsa asked, if items are found to be incorrect later, can changes be made. Mr. Lutz said they can.

MOTION: Mr. Nolan moved to adopt Ordinance 2000-02. Mr. Cline seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2000-06: AN ORDINANCE AMENDING SECTION 1143.22 OF THE PLANNING AND ZONING CODE OF THE VILLAGE OF POWELL REGARDING THE CERTIFICATE OF APPROPRIATENESS PROCESS IN THE HISTORIC DISTRICT.

Ms. Guzzo said that at Council's request, the Administration Committee studied the process in which the HDC considers Certificates of Appropriateness in the Historic District. She identified the recommendation of the Planning and Zoning Commission and that of the Administration Committees. She said that the Planning and Zoning Commission did not agree with Council's recommendation of oversight.

Mr. Klein said that the public hearings on this issue are scheduled for March 21 and April 4. Ms. Guzzo asked if six votes are needed to override the Planning and Zoning Commission since this is a "legislative procedure." Mr. Molnar said he will look into that and report back at the next meeting.

FIRST READING: ORDINANCE 2000-07: AN ORDINANCE APPROVING THE SUBDIVISION PLAT FOR LAKES OF POWELL SECTION 5 SUBDIVISION.

Stephen A. Lutz, Village Manager, said that the applicant has requested adoption of this Ordinance tonight, but that he told them that this is just the first reading, and he didn't believe that was possible. David Betz, Director of Development, reviewed that the approval of the plat will put the approved development plan in place for the Lakes of Powell Section 5. He said this section does not address the Murphy Parkway alignment, which is still being considered.

Mr. Cline asked if there was any debate on Section 5. Mr. Betz said the only issue was curb cuts on Salisbury Drive, but that the development plan was approved with those curb cuts. Mr. Cline asked if this is an administrative process that puts in place that which has already been approved. Mr. Betz said that is correct. Mr. Cline asked if it meets all requirements for approval. Mr. Betz said it does.

Mr. Nolan said he sees no reason not to do this tonight. Mr. Betz said it doesn't require a public hearing. Mayor Klein said he would like to study the issue longer. Mr. Schultz asked what is the concern. Mr. Klein said there are concerns about the curb cuts, the configuration of Murphy Parkway, and how traffic is going to flow. He said he realizes that all of this has been covered, but there has been resident input after the plan was approved, and he would like additional time to study the issue. Mr. Nolan asked, if someone changed his or her mind, what can be done. Mr. Klein said he doesn't know.

MOTION: Mr. Cline moved to suspend the rules on Ordinance 2000-07. Mr. Nolan seconded the motion.
VOTE: Y 3 (Cline, Schultz, Nolan) N 4

Mr. Schultz suggested asking the developer to have something in the deed or a note on the plat to serve as notice that Salisbury Drive may see greater than the typical residential traffic. Mr. Kaitsa said he thinks disclosure is very important. Mr. Cline said that he feels that would have been acceptable during the development plan process, but that he doubts Council has the power to do anything at this point but carry out the administrative duties related to what has already been approved.

Mr. Chambers said he understands the development plan was approved, but he wants to reiterate that he is steadfastly against any curb cuts on Salisbury Drive. He said he feels a great mistake was made by allowing them.

After further discussion, Mr. Molnar said his initial reaction is that nothing can be done to affect the curb cuts at Salisbury Drive, but that he will look into the original approvals. The Ordinance was taken to a second reading.

REVIEW COUNCIL 2000-01 GOALS

Mr. Klein reviewed an updated list of Council goals. He reviewed that everything that received 4 votes or higher is considered a priority, and that Staff and the Finance Committee are working on developing the items on the list.

Mr. Cline, Mr. Nolan, Mr. Schultz, Mr. Klein, and Mr. Kaitsa expressed satisfaction with the list. Discussion was held on the following specific items:

- **Liberty Hills Berm Improvements**

Mr. Chambers said that the Development Committee meeting met this evening and discussed this project. The consensus of the committee was that the cost of improvement is not worth the benefit, and that it can

either be stricken from the list or reworded to re-grade and seed rather than improve the berm. Mr. Lutz said that the operating budget can handle this maintenance item. Mr. Nolan asked if the problem is cars parking in the area. Mr. Lutz said it is, and that additional signage was discussed to discourage this. Mr. Cline said that at Powell Road/Bennett Parkway, there is a similar problem due to cars waiting for school busses. Mr. Chambers said the Committee recommends that it be added to the budget as an annual maintenance item to grade and re-seed ruts on Bennett and Presidential.

- **Turn Lanes at the Four Corners**

Ms. Guzzo said that with the system of 4 or more votes becoming a priority, the addition of her vote will only impact one item, and that is investigating turn lanes at the four corners. She asked that her vote be added to that. Mayor Klein instructed that the list be amended as such. Ms. Guzzo said that she wants to make sure that developers who have previously agreed to be responsible to handle certain capital improvements still do so. Mr. Lutz said that information will be included in the funding list.

- **North Park Bike Tunnel Drainage**

Council reviewed the alternatives for re-decking the North Park bikepath. Rob Rice, Village Engineer reviewed the issue and discussed his recommendations (Exhibit). Mr. Chambers asked if Durawood is used on Village Park Drive. Mr. Rice said it is.

Mr. Cline asked if the catch basin will be worthwhile for heavy rains. Mr. Rice said it is more for low-flow situations. Mr. Cline asked if decking will create a greater breeding ground for mosquitoes. Mr. Rice said he does not think so. Mr. Nolan said that he will support the Durawood decking and the catch basin. Mr. Cline, Mr. Kaitsa, Ms. Guzzo and Mr. Chambers agreed. Mr. Schultz agreed and said it will be a longer life and a savings in labor costs.

Mr. Chambers asked about an area of the North Park bikepath that is under water. Mr. Rice made said he has made note of that issue, and will investigate if a developer is responsible for that portion.

Mr. Lutz said he will come back with a reappropriation ordinance for the Durawood decking and catch basin.

- **Glen Village Court**

Council reviewed the alternatives for repair of sidewalks provided by the Village Engineer (Exhibit). Mr. Chambers said that Staff will be looking into how neighboring communities address such an issue. Mr. Nolan recommended that it be made an Action Item. Mr. Klein directed Mr. Lutz to add the Action Item for the May 2 meeting.

MEETING RULES

Mayor Klein reviewed the proposed rules for conducting a Council meeting. He said such rules will allow for a more balanced participation from members, and keep Council from going back and forth in conversation with members of the audience during their period. He said it will be more organized and a more effective use of time, but will require that Council members be prepared to use their time wisely.

Ms. Guzzo said she thinks it will work and help the meeting go smoothly. She noted that the rules indicate that public comment is usually at the second reading, but she would like to make sure that Council always allows public input at all three meetings.

Mr. Chambers said he agrees with the context, but he would like the applicant's role to be a little clearer. Mr. Kaitsa agreed, but said that consideration should be given to allowing the public to speak longer than 3 minutes when needed.

Mr. Schultz said the rules are well written, and he strongly supports them. Mr. Nolan said he is very much in favor, and he doesn't disagree with Mr. Kaitsa's comments. He said he feels it is important to differentiate between Council and public comment. He said it is not effective currently, and that Council needs to have the discipline to let the public speak, then speak after. Mr. Cline said that he supports the rules.

A discussion was held regarding public comment at the first reading. Mr. Klein said that Staff suggested that significant discussion and debate is held at the first reading, the applicant may be unhappy he was not present. Mr. Molnar questioned Council's preparedness at the first reading to hold an additional public hearing. Mr. Cline

said that this is confusing a formal public hearing with public comment section. He questioned what harm is done if someone is at a meeting and they want to make a comment. Mr. Klein said that is a good point. Mr. Lutz said that if discussion crosses the line, then the chair can recommend holding discussion over to the next reading.

COMMITTEE REPORTS

Development Committee: Mr. Chambers reported that the next meeting will include discussion about Powell's Road Map Plan. The meeting date has yet to be determined.

Finance Committee: Mr. Cline reported that the next Meeting would be held on March 16 at 8:00 p.m. He said at the last meeting, they discussed budgetary software.

Administration Committee Mr. Klein reported that the next Meeting will be held on March 21 at 6:30 p.m.

MUNICIPAL MANAGERS REPORT

Stephen A. Lutz, Village Manager, reviewed the following items:

- **Engineering Assistant Position:**

Mr. Lutz reviewed the job description proposed for an assistant to the Village Engineer. Mr. Rice said that he is also requesting consideration for a workstation for the engineering department for the engineer and assistant engineer.

Ms. Guzzo said she is supportive of the workstation, and of the staff position if the Finance Committee determines there are funds available. Mr. Chambers agreed.

Mr. Schultz said that his only thought is whether help is needed at the lower end of staff duties, or for additional support on particular projects. He suggested that some engineering duties could be completed by a consultant rather than spending \$45,000 annually on an assistant. Mr. Rice said that hiring additional consultants could be more costly than a full-time assistant. He said he is confident that with a capable assistant, he will be able to handle certain projects to the level of detail required. He expressed an interest in handling some design and plan review in house rather than hiring it out. Mr. Nolan said he agrees with Mr. Schultz's concerns that the best Staff position be created. He said that a "project manager" position could cost less and be more cost effective.

Mr. Cline said that it appears Staff has reviewed this issue and concluded that they are better off with an Assistant Engineer, and he supports the proposal. Mr. Klein agreed. He said that the engineering department has been "lean" for the last couple of years and farming out more work than they should. He said he supports the position and the workstation. Mr. Lutz said that he hears a consensus that the Finance Committee should review the issue and that they should begin advertising the position. Mr. Cline said that the 2000 budget anticipated that this position might be needed.

- **Parks and Recreation Supervisor**

Mr. Lutz reviewed that the search and interview process for this position has resulted in a short list of three finalists. A brief discussion was held regarding holding second interviews for these applicants with Mr. Lutz, Mr. Nolan, a member of Parks and Recreation Advisory Board, and Mr. Chambers participating.

- **Activities Document**

Mr. Lutz said that this document was discussed during the Goal Setting Session, and that it is a work in progress. Ms. Guzzo said she likes it. Mr. Klein said that he thinks it is an excellent document, as it gives Council a lot of information about many projects in progress. Mr. Nolan and Mr. Cline agreed.

FINANCIAL REPORTS

There were no financial reports.

OTHER REPORTS

Scanner Article: Delaware County Railroad Tax Force: Ms. Guzzo asked if there is anything Council should send to the Delaware County Commissioners encouraging them to approve the improvement to the Seldom Seen and Liberty Road Railroad Crossings. Mr. Lutz said the Commissioners are very supportive of this project.

Scanner Article: Target Traffic Enforcement: Mr. Klein noted that the summary indicates that such enforcement is determined primarily by citizen complaints. He said that in the past, areas have been identified as

appropriate for target enforcement, such through-streets, cut-through traffic, and areas with high rates of speed. He said that he would like to see a plan instated so that target enforcement includes follow-up, so residents aren't coming back to Council and saying that the police were in their neighborhood but they haven't come back.

Mr. Nolan said that neighborhoods express disapproval in different ways, and some don't call the Village, so it is incumbent on the Village to identify problem areas and address them proactively. He said that the residents of Bartholomew Run identify in their newsletter that there is a problem with traffic in certain areas, but they don't call the police. Mr. Lutz said that the Police Department is working on a traffic enforcement policy at this time that doesn't depend solely on complaints but still encourages people to let the Village know if they have a complaint. He said that certain areas will be on the list due to complaints and other due to certain criteria.

Mr. Cline said that if Council wants an effective target enforcement, they couldn't set a specific schedule. He said he thinks Council needs to tell the Chief to be proactive in certain areas and then let the police work on it. He expressed the desire for Council to decide a policy, and then for Staff to implement it in the least intrusive way. Mr. Nolan said he doesn't disagree, but he thinks there is a great deal of policy to be considered in this issue.

Mr. Klein said he wants the assurance that residents are not going to say the police "never came back" after their target enforcement or that they didn't come back soon enough.

CLERK OF COUNCIL CORRESPONDENCE

Dawn Nauman, Clerk of Council, noted that she will be on vacation at the next meeting and David Betz, Director of Development, will be at the meeting in her place.

OTHER COUNCIL MATTERS

Action Item 99-19: Grace Drive Property Acquisition: Mr. Lutz recommended that this issue be discussed in Executive Session under Land Acquisition.

Action Item 99-18: Relocation of Electric Poles. Ken Molnar, Director of Law, suggested that if documents are not executed to make the necessary connection, he would ask AEP to file an administrative proceeding against the property owner associated with this issue. He said he has been working with AEP on a regular basis, and this issue has gone no further. After a lengthy discussion, it was decided that the property owner will be given until March 17 to make the necessary connection. If not, a complaint can be filed on the following Monday.

Action Item 99-15 Powell Quarterly Newsletter: Mr. Lutz thanked the Department Heads and Clerk of Council Dawn Nauman for putting together this year's Comprehensive Annual Report. A brief discussion was held regarding the report, which is planned to go to print the next day.

OTHER COUNCIL MATTERS

- Ms. Guzzo said that the Village has always considered the cost of a bikepath under the railroad to cost around \$750,000. She said she has talked to a company who does many projects like that, and that they question that cost. Mr. Lutz said that the Village Engineer has sent out *Request for Proposals (RFP)* for this project, and that once received, they will help identify the cost. Ms. Guzzo asked if the *RFP* includes different locations for the underpass. Mr. Rice said it does.
- Ms. Guzzo questioned the Planning and Zoning Commission voting on zoning map amendments without development plans when Council intended such plans to be mandatory when they amended the Zoning Code. Mr. Cline asked what parcel the Commission has considered since the enactment of that ordinance. Mr. Betz said that the Planning and Zoning Commission has reviewed two zoning map amendments lately, one for BUS General Partnership, and one for Judge Hill. He said that the BUS application included a concept plan, sketch plan, and site plan, and that Judge Hill's zoning map amendment is for a small parcel to be attached to a larger parcel that already had a plan.

Mr. Cline said that when he voted on this ordinance, he felt that the zoning map amendment process and development plan process should no longer be bifurcated. He said he views the Hill property as incorporating by reference, so it does have development plan. He said with the BUS property, because of the litigation, he is not sure whether such a plan is necessary or appropriate, but he would have expected one. He said that he feels Council determined the policy of a zoning map amendment without a development plan as problematic, and made a decision to have a development plan be mandatory.

Mr. Chambers had no comment. Mr. Klein said he feels that if something comes to the Council without a development plan, Council will question it, and ask if there is a reasonable explanation.

Ms. Guzzo said she feel it is important to have a development plan, because it is the only way improvements can be guaranteed. She said that a member of the Planning and Zoning Commission asked if they were required to have a development plan, and Staff responded that one could be required. She said she would like Staff to say that such plans are mandated. Mr. Klein said he agrees with that, but in the instances pointed out tonight, there were good reasons why there were not. After further discussion, Mr. Klein said he hears from Staff that they intend to require one and follow the proper procedure.

- Ms. Guzzo said that it has been brought to her attention that there is a lack of light on various corners in the Powell Place subdivision. She asked if the Village provides street lamps when needed. Mr. Lutz said that typically, either the developer or homeowners' association have been responsible for streetlights within the subdivision. Mr. Schultz agreed. He asked if this is a personal concern or a concern of the Homeowners' Association. Ms. Guzzo said that "a couple of trustees" asked if the Village could install them. Mr. Lutz said the policy in the past has been not to do so. However, once lights are installed, the Village maintains them. Mr. Lutz said that Staff can look into the cost of such a light and identify the style usually used in the Village. He asked that the Homeowners' Association write him a letter indicating their concern and perhaps including a map.
- Mr. Schultz asked if the RFP for the tunnel under the railroad will identify the anticipated cost of such a project. Mr. Rice said that the preliminary engineering is estimated at \$20,000 - \$25,000, and that there will be a better feel for the cost as part of the scope.

Mr. Kaitsa left prior to the Executive Session.

MOTION: Mr. Cline moved to adjourn to Executive Session in accordance with ORC Section 121.22 (G) (1) Personnel Matters; Boards And Commission Appointments, and with Section 121.22 (G) (2), Land Acquisition. Mr. Nolan seconded the motion.

VOTE: Y 6 N 0

MOTION: Mr. Cline moved to adjourn from Executive Session at 10:05. Mr. Nolan seconded the motion.

VOTE: Y 6 N 0

MOTION: Mr. Cline moved to reconvene in regular open session at 10:05. Mr. Nolan seconded the motion.

VOTE: Y 6 N 0

ADJOURNMENT

MOTION: Mr. Cline moved to adjourn at 10:05 p.m. Mr. Nolan seconded the motion.

VOTE: Y 6 N 0

DATE MINUTES APPROVED: March 21, 2000

Mark F. Klein 4/4/00

 Mark F. Klein Date
 Mayor

Dawn Nauman 4/4/2000

 Dawn Nauman Date
 Clerk of Council