

VILLAGE OF POWELL COUNCIL

APRIL 4, 2000

A regular meeting of the Village of Powell Council was held on April 4, 2000, and called to order at 7:33 p.m. by Mayor Mark Klein. Other Council members present were William Nolan, George Kaitsa, Richard Cline, and Peggy Guzzo. Art Schultz and Dave Chambers were absent. 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 March 21, 2000 were approved as printed.

CITIZEN PARTICIPATION

There was none.

RESOLUTION 2000-06: A RESOLUTION OF INTENT TO APPROPRIATE PERMANENT EASEMENTS IN CERTAIN REAL PROPERTY OF YOUR FINANCIAL COMMUNITY FOR THE PURPOSE OF CONSTRUCTING AN EXTENSION AND UPGRADE OF GRACE DRIVE, A PUBLIC STREET IN THE MUNICIPALITY OF POWELL.

Stephen A. Lutz, Village Manager, reviewed that Staff will go out for bid on the Grace Drive extension project on April 20. Staff has been working to acquire easements from properties along this project. He said Staff has yet to reach an agreement with Your Financial Community, the owners of Liberty Plaza, and that the property owner is present this evening to discuss that issue. He said that this resolution would permit the Village to begin eminent domain procedures to acquire the necessary easements and begin the project.

David Betz, Director of Development, identified Grace Drive and the location of Liberty Plaza. He identified the two lots in question, 530 and 528, and reviewed the need for two 10-foot easements for such items as utilities, streetlights, and sidewalks. He noted that they have proposed deeding to the owner additional right of way that is not needed for the extension.

Mike Costanzo, Your Financial Community, said they had planned to donate land to the Village in exchange for greater visibility for Liberty Plaza. However, he was told a month ago that it is impossible to get a sign downtown. He said that in addition, the appraiser hired by the Village grossly underestimated the value of his property, and if the Village wants to buy the property, the county's estimate should be used. He said they are opposed to accepting any land from the Village for which they will have to pay additional taxes. He said they would rather give the land to the Village than sell it, but that he needs signs at the four corners.

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

Ken Molnar, Director of Law, recommended an amendment to the Resolution that also identifies Your Financial Community as "Your Financial Community of Ohio, Inc."

Mr. Lutz said that Staff felt signage downtown is an unrelated issue.

Mr. Molnar said that adoption of this Resolution doesn't foreclose the possibility of reaching a resolution of this issue without using eminent domain.

Mr. Costanzo said that they went before the BZA to get signs at the four corners, and they were told they needed to come to Council. Mr. Betz said that is correct. He said they were before the BZA to get a variance on a sign for the center itself. The sign was approved after being reduced in size, but signs at the four corners would require Council approval because they are proposed for placement in the right of way.

Mr. Cline asked if the size and location of the proposed sign would meet code. Mr. Betz said this type of sign is not recognized. Mr. Cline asked if it would require Council to grant a variance. Mr. Betz said it would. Mr. Cline asked about the appraisal information. Mr. Costanzo provided Council with Delaware County's appraisal.

Mr. Kaitsa said he agrees with Staff that signage is a separate issue. He asked if the proposed signage would meet code requirements. Mr. Betz reiterated that this type of sign is not recognized in the code. Mr. Costanzo

said they used the same company who designed the signs identifying the Country Carryout and Depot Street Antiques so that they will be uniform.

Ms. Guzzo said she thought no signs were permitted in the right of way. Mr. Betz said the only one that he knows of is the sign for the carryout and the antique store that was erected when Council limited left turns onto Depot Street. Ms. Guzzo said that she is opposed to signs in the right of way. She expressed concern that many businesses might want the same signage in the small amount of right of way available. She said the code says that signs need to be on private property. She suggested that the applicant find someone to allow their signs on private property, for which she would support a variance. Ms. Guzzo asked if there isn't unneeded right of way that the Village could provide for Liberty Plaza's signage in exchange for the easement that is needed for Grace Drive. Mr. Betz said there is some land near where Grace Drive intersects with Olentangy Street. Ms. Guzzo suggested that be considered.

Mayor Klein questioned the request to put signs at Liberty and Powell Roads pointing toward the plaza when one of the options is to prohibit left turns at Liberty Road. He said he generally supports signs for businesses, and would consider a formal submission, but he is not in favor of attaching this request to this project. He said that the Grace Drive extension and upgrade has been planned for 2 years, and they would like to move-forward. Mr. Cline concurred with concerns about turn movements. Mr. Betz noted that the prohibition of left turns at the four corners has been discussed but never finalized.

Mr. Nolan said while these signs sounds like a reasonable request, the question is how many signs are desirable. He said if left turns are prohibited at the four corners, he could envision signs directing traffic onto Grace Drive that identify "Liberty Street North & Grace Drive Businesses." He said he thinks Mr. Costanzo will benefit from the extension of Grace Drive. Mr. Costanzo agreed.

Mr. Nolan asked if there is a miscommunication about the appraisal. Mr. Betz said the Village used the same appraiser for all properties on Grace Drive. Mr. Costanzo reviewed for Council his problems with the appraisal of his property. He said that his property was compared with an industrial property. In addition, some land that is part of Liberty Plaza was not included in the appraisal. Mr. Nolan asked if Mr. Costanzo had a counter offer in mind. Mr. Costanzo said he did not. Discussion ensued.

Mr. Kaitsa asked why there is such a disparity between Mr. Costanzo's appraisal and the one that was completed by the Village. Mr. Costanzo said that the appraiser was hired by Village, so it is in their best interest to appraise his property in favor of the Village. He said that the appraiser did not study comparable properties. Mr. Molnar took issue with Mr. Costanzo's comment and said the Village requested the fair market value of this property. He said, however, that there is certainly a discrepancy in the tax bill and the appraisal.

Ms. Guzzo questioned the cost of land identified by Mr. Costanzo. She questioned less than 1/10 of an acre of land being worth \$23,000. Mr. Cline said that he reads the offer from the Village as being \$7,000 if the unusable land is not given to Your Financial Community. Ms. Guzzo added that whatever landscaping is removed will be replaced as part of the improvement. Mr. Costanzo questioned whether the landscaping would be the same size. Mr. Betz reviewed the proposed landscaping plan.

MOTION: Mr. Kaitsa moved to amend Resolution 2000-06 so that "and Your Financial Community of Ohio, Inc." is placed after the words "Your Financial Community" in the Ordinance. Mr. Cline seconded the motion.

VOTE: Y 5 N 0

MOTION: Mr. Kaitsa moved to amend Section 4 of Resolution 2000-06 so that it reads: "*Council herewith authorizes the Municipal Manager to cause notice of Council's intention to appropriate said property for the cost of \$7,000 to be transmitted to and served upon Your Financial Community and Your Financial Community of Ohio, Inc.*" Ms. Guzzo seconded the motion.

Mayor Klein asked, if this isn't resolved, and this issues goes to court, whether the amount identified in Section 4 can be changed. Mr. Molnar said that this Resolution allows up to \$7,000, and if it is determined it will cost more,

that can be decided later. Mr. Lutz said he will contact Your Financial Community to continue to work with them on this issue.

VOTE: Y 5 N 0

MOTION: Ms. Guzzo moved to adopt Resolution 2000-06. Mr. Kaitsa seconded the motion.

VOTE: Y 5 N 0

THIRD 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.

PUBLIC HEARING

Stephen A. Lutz, Village Manager, noted that a new amendment has been provided to Council as was discussed at the last meeting. He identified the proposed changes that would allow Council a "pocket veto" of decisions of the Historic District Commission (HDC). He said that this has not been reviewed by the HDC.

Mr. Cline recommended deferring action until the HDC can review and comment appropriately on this Ordinance. Mr. Nolan said that this amendment represents what Council would do, and he questioned what is left for discussion.

Mr. Lutz said that with the newest amendment, once the HDC acts, then Council is made aware of such action at their next meeting. If they choose not to review the application, the ruling by the HDC would stand. If the majority of Council would like to review the issue, then at the following meeting, Council would review and approve or deny the application.

Mr. Cline questions the provisions in section h that indicate that Council will review every HDC application. Mr. Betz said that section is to provide for circumstances when the HDC takes no action on an application. He said that currently, the code says that applications are automatically approved if the HDC does not act on them.

Mayor Klein opened the hearing to public comment.

Jerry Keyser, Chairman, HDC, said that the HDC has called a special meeting to discuss this issue, and they request that this be tabled until that meeting can be held.

Ms. Guzzo said that at the last meeting, someone brought up that there are other Historic District groups that have final say on development. She said German Village was identified as an example of such a group. Ms. Guzzo said she has researched this issue and found that while the German Village Commission does serve as the architectural review board for the area, anything legislative (change in zoning, change of use, demolition, or new construction) goes before the Columbus City Council. She said that the items listed in section (i) of the proposed amendment seem to her to be legislative, and she questioned the ability for Council to address anything that affects zoning without an ordinance being approved by the majority of Council.

Mr. Kaitsa asked if an ordinance as described by Ms. Guzzo would require three readings. Ken Molnar, Director of Law, said he thinks it would need to be read more than once. Mr. Nolan asked if Council doesn't have the ability to amend their own Zoning Code to allow for a "pocket veto" procedure. Ms. Guzzo said it is a charter issue. Mr. Kaitsa said he would like to find a compromise that addresses the time three readings of an Ordinance would add to the development process, and Ms. Guzzo's concerns about whether such a procedure is compliant with the charter. He said he would prefer to shorten the time span, have a single reading, and act on that Certificate of Appropriateness after the first reading unless there are questions. He said he would not object to tabling this until the next meeting.

Mayor Klein spoke in favor of tabling the issue and keeping the procedure "as simple as possible." He said the pocket veto amendment would allow Council only to act if they seek it out. He said he agrees with Ms. Guzzo and Mr. Kaitsa's concern that whatever is adopted should pass the test of the Village Charter.

Mr. Cline said he is also inclined to table the ordinance for the HDC to review it. He said he also feels Section 1 (1) is unduly restrictive, and he has technical concerns about additional language in the Ordinance.

Mr. Nolan asked if members of the HDC would support the "pocket veto." Mr. Keyser said the HDC is unanimously opposed to Council review. However, they would like to reach a compromise. Mr. Nolan suggested that he and Mr. Cline work on the language of this Ordinance before the HDC has a chance to review it.

MOTION: Mr. Kaitsa moved to table Ordinance 2000-06 until the April 18 meeting. Ms. Guzzo seconded the motion.

VOTE: Y 5 N 0

Mr. Keyser noted that one of the HDC's major concerns is the adverse affect on an applicant created by a longer process.

Mayor Klein left the meeting at 8:35 p.m.

FIRST READING: ORDINANCE 2000-11: AN ORDINANCE ADOPTING THE ASHMOORE PARK SITE MASTER PLAN.

Stephen A. Lutz, Village Manager, said that the Village Parks and Recreation Advisory Board has put together a master plan for the development of the Ashmoore Park. No cost estimates have been prepared for construction.

David Betz, Director of Development said the Board would like to get approval of the plan and then solicit cost estimates. He said that the park is proposed as a passive park, and the most expensive items would be probably the fountain and fishing deck.

Ms. Guzzo asked if the Board has come up with names for the parks. Mr. Betz said they are still working on that. Ms. Guzzo asked that a member of the Board attend the next meeting on this issue.

Mr. Kaitsa asked if the fountain is for aeration. Mr. Betz said it is.

The ordinance was taken to a second reading and public hearing.

FIRST READING: ORDINANCE 2000-14: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2000.

Stephen A. Lutz, Village Manager, reviewed that the quotes for this year's street cleaning in the Village have increased, mostly due to the increase in the cost of gas this year. This Ordinance will provide funding for that increase.

The Ordinance was taken to a second reading.

COMMITTEE REPORTS

Development Committee: Mr. Kaitsa reported that the next meeting will be held on April 11 at 7:30 p.m.

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

Administration Committee Mr. Kaitsa reported that the next Meeting will be held on April 18 at 6:30 p.m.

MUNICIPAL MANAGERS REPORT

Stephen A. Lutz, Village Manager, reported on the following items:

- Jeff Snyder has been hired as a Parks and Rec. supervisor. He will attend the next Council meeting.
- The necessary electric work at Saturday's Sports Club has been completed. AEP believes that the removal of the electric poles will begin this week or next.
- OYAA has asked to use the back portion of the Village Green for soccer. Staff recommends waiting until fall to use the field so that the grass can be more firmly established. Mr. Nolan said that he would defer to Staff's opinion on when the grass is ready. He said while he is not opposed to the request, he suggested that guidelines be created to address use of the space. Ms. Guzzo, Mr. Kaitsa and Mr. Cline agreed.

