

## CITY OF POWELL COUNCIL

OCTOBER 16, 2001

A regular meeting of the City of Powell Council was held on October 16, 2001, and called to order at 7:30 p.m. by Mayor Mark Klein. Other Council members present were George Kaitsa, Dave Chambers, Richard Cline, Art Schultz, Peggy Guzzo, and Bill Nolan. Also present were David Betz, Director of Development, Steve Lutz, City Manager, Nan Metz, Finance Director, Dawn Nauman, Clerk of Council, and Rob Rice, City Engineer.

The Mayor presented a proclamation in support of the *Small Steps, Big Strides toward A Healthier Ohio Initiative*.

### CITY STRATEGIC MARKETING COMMUNICATIONS PLAN -- GRIFFIN COMMUNICATIONS

Lisa Griffin, Griffin Communications, presented the City of Powell Strategic Marketing Communications Plan (Exhibit 1).

Mr. Kaitsa said that the plan is well done, and he particularly liked how Powell has been defined.

Mayor Klein said there are many components to this plan that have not been discussed this evening, and the Action Items in the plan are very exciting. He said this Communications Plan is the next step in the Comprehensive Planning process, as it helps define some of the issues in the Comprehensive Plan. Ms. Griffin said that she was most impressed during the planning process that comprehensive service delivery always remained the main objective.

Stephen A. Lutz, City Manager, said that Staff will put together some proposed implementation strategies to be discussed by Council.

Mr. Chambers agreed that the plan development is very impressive, and there are many ideas of how to communicate with residents, the media, etc. He said the next step is to prioritize and determine the "biggest bang for the dollar." He said that one item that was brought up in this plan was the creation of a new logo, and he feels Council needs to determine whether that is desirable. He said there are many ideas in the plan for improving communications.

### CITIZEN PARTICIPATION

Mayor Klein said that the annexation of Golf Village is in the newspapers today, and he would like to discuss some of the communication that has taken place on this project. He said there was meeting last night at Liberty Township regarding who knew what when about this issue. He said that when asked to comment on this issue, he gave some misleading information, for example, he incorrectly indicated that the property owner approached the village regarding annexation, which is typical. He said he would like to clarify this issue.

Mayor Klein said that the development of Golf Village began 1-2 years ago, and at that time, the Village indicated its interest in coordinating this development with the developer, Village, and Township. Liberty Township Trustees were not interested in "that type of a relationship." Six months to a year later, the issue of the bonding authority for this development was discussed, as was the bonding capacity of Powell. The developer still felt it was in the developer's best interest to stay in the Township and move forward. Mayor Klein said that the annexation laws are changing this year, and that many developers and landowners in Central Ohio are trying to file petitions by October 26. Steve Lutz again began discussions with the developers of Golf Village on behalf of Powell. He gained input from Council members throughout the process. He said this type of activity is very much within the position of City Manager. He said that on or about last Thursday, the Liberty Township Trustees became alarmed that they were hearing that Powell was in discussion with Golf Village. They made comments indicating as much at last night's meeting. He said there have been many calls requesting clarification on this issue, and he has referred those calls to Mr. Lutz. He said Mr. Lutz is the main contact on this topic. He said the main question has been "who called who," and the correct answer is that this issue has been discussed for a long time.

### CITIZEN PARTICIPATION

Gina Nicholson, Delaware General Health District, was present to answer any questions Council may have regarding the environmental health division of the health district. She said that since Powell has joined with the health department, they will be sending a representative to each Council meeting.

Tom Hoprich, 101 Tiller Drive, said that Tyler Run elementary has recently opened, and he is concerned with the traffic on Salisbury Drive. He said there is no stop in traffic flow, and the grade of the road and curves makes it difficult to see the crosswalks. He said they would like to propose a four-way stop sign at the intersection of Tiller

Drive and Salisbury Drive. He said that signs were recently placed on Presidential Parkway for the safety of the citizens. Mayor Klein asked that Mr. Hoprich contact Mr. Lutz so that this issue can go through the Development Committee process.

#### **APPROVAL OF MINUTES**

The minutes of October 2, 2001 were approved as printed.

#### **RESOLUTION 2001-15: A RESOLUTION APPROVING THE AMENDED DELAWARE COUNTY 9-1-1 PLAN AS RECOMMENDED BY THE APPOINTED 9-1-1 PLANNING COMMITTEE.**

Stephen A. Lutz, City Manager, reviewed that earlier this year, the Delaware County Commissioners formed a 911 Planning Committee to amend the Delaware County 911 plan. This Commissioners recommended unanimous approval of this plan on September 17.

Chief of Police Gary Vest said this plan resulted from a two-year study to review compliance with the Ohio Revised Code under the direction of the county prosecutor. He said the plan had to be revised to coincide with how these funds are spent. He said that everyone in the county pays for the 911 levy through a surcharge on their telephone bill. This Resolution would show Powell's support of the plan. He said he was Powell's representative for this project. He said that this new plan will guarantee the City of Powell at least one position, and possibly two positions on the board. He said this is first of a two-part plan, and the second part will address a countywide dispatching effort.

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

Mr. Kaitsa said that he feels Chief Vest is the appropriate representative of the City on this board. Mayor Klein asked if Powell had representation on this committee in the past. Chief said that he did, as a Police Chief, but the new position is representing the City.

Mayor Cline asked if it is true that the purpose of this committee is to coordinate 911 efforts countywide, including the follow up plan. Chief Vest said that is correct. This plan indicates that when the Sheriff's department ultimately moves to Delaware, the two dispatching areas will be in Delaware City, and at the Highway Patrol station on Route 23.

**MOTION: Mr. Cline moved to adopt Resolution 2001-15. Mr. Kaitsa seconded the motion.**

**VOTE: Y 6 N 0**

#### **THIRD READING: ORDINANCE 2001-56: AN ORDINANCE ADOPTING RULES AND REGULATIONS OF THE PERSONNEL BOARD OF REVIEW ISSUED PURSUANT TO THE POWER AND AUTHORITY GRANTED BY CHAPTER 124 OF THE OHIO REVISED CODE AND THE CITY CHARTER.**

Stephen A. Lutz, City Manager, reviewed that this is the third reading of this Ordinance, and that these rules have been adopted by the Personnel Board of Review and reviewed by legal counsel. He noted that these rules are necessary because of Powell's City Status.

Mr. Nolan said that he has been involved in this process, and he recommends approval. Mr. Cline said that he had requested this item be carried to a third reading at the last meeting, and he is very satisfied with the rules as presented. Mayor Klein said that the Personnel Board of Review is especially qualified, and he is comfortable with the end result of their review.

**MOTION: Mr. Chambers moved to adopt Ordinance 2001-56. Mr. Kaitsa seconded the motion.**

**VOTE: Y 6 N 0**

#### **SECOND READING: ORDINANCE 2001-54: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 3 ACRE TRACT, MORE OR LESS TO THE MUNICIPALITY OF POWELL.**

Stephen A. Lutz, City Manager, reviewed that this Ordinance addresses the proposed annexation of approximately 3 acres known as the Voss Brothers property.

David Betz, Director of Development, reviewed this proposal. He noted that it is located across from Grandshire subdivision, and it is currently a lawn and tractor sales and service company that also sells play equipment. He said there is a rental house on this property. He said that there is no zoning application for this property at this time. He identified the proposed amended corporate boundaries for Powell.

Mayor Klein opened this item to public comment.

Robert Albright, attorney for the applicant, said that this property owner used to lease land in the Village of Powell, but they purchased land in the Township and moved their business out there. He said that his client runs a respectable business, and has for some time. He said they will continue to be a good representative of the City as they were in the past. He said that the Delaware County Commissioners approved this annexation unanimously after much testimony as to the high caliber business it is.

Jeff Voss, property owner, said that they would like to be annexed to the City. He said he experienced another theft at his business over the Labor Day weekend and he lost two tractors in the time it took for the County Sheriff to show up. He said they would like Powell services and to establish a relationship with the City of Powell.

There being no further public comment, the public hearing was closed.

Mr. Kaitsa said that this property is very well maintained, but he questioned why the owner is interested in annexing. He asked if there is a dispute between Mr. Voss and the Liberty Township Trustees. Mr. Albright said that there has been a long-standing dispute between the Township and Mr. Voss that has resulted in litigation that is now before the Court of Appeals. He said that those proceedings will not effect this annexation or the City in any way. Mr. Albright said that the Township Trustees insisted the applicant tear down a building worth approximately \$150,000. He and his client felt that was an illegal condition, and that is why they went to court. Mr. Kaitsa asked who prevailed. Mr. Albright said the Township did in the Court of Common Pleas, but he believes his client will prevail on appeal. Mr. Kaitsa asked what were the conclusions of the court ruling. Mr. Albright said that in a hearing before the Liberty Township Trustees, Mr. Voss made a statement that "if that house became an eyesore, he would tear it down." The tape record of that meeting was destroyed and the minutes of July 1993 quoted Mr. Voss as saying he would tear down the building. Mr. Voss expressed regret that he did not attend the Liberty Township meeting that approved the minutes, and said he feels his statement was incorrectly recorded. He said that he feels one trustee took this as a personal issue to tear the building down, and everyone else followed suit. Mr. Voss said he thinks the house is presentable, and said he has a nice family renting it. He said that when this issue went before Judge Krueger, there were 24 Zoning Code violations identified by the Liberty Township Trustees, and the Judge threw 20 of them out. Mr. Voss said he would rather be proactive and establish a good relationship between his business and the community, but he can't do that in Liberty Township. He said that Council is welcome to visit his property and comment on their concerns. Mr. Kaitsa asked what is the basis of the appeal. Mr. Albright said that the law is very clear that the Township has no authority to require that a non-conforming use be torn down if it is sound in structure.

Mr. Chambers asked what is the current zoning on this property. Mr. Voss said it is Planned Unit Development. Mr. Betz said that is similar to Planned Commercial. Mr. Chambers asked if the zoning would remain. Mr. Betz said it would, until such time the zoning is established in Powell, which anticipated to be PC, Planned Commercial.

Mr. Nolan said that he thinks the inquiry here is the same as with any of the few annexations that Powell had done, and that is whether this is something that is good for the municipality or surrounding area. He said he feels in this case it is. He said this business has had a fine reputation for the 11 years he has lived in Powell. And as is with any annexation, there is no loss to the Township, because Powell is part of the Township. He said that the Township will still receive their property taxes, and the City benefits from the income tax this business provides.

There being no further discussion, this item was taken to a third reading.

**SECOND READING: ORDINANCE 2001-57: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF POWELL, ADDING SECTION 1147.15: RECREATIONAL STRUCTURES.**

David Betz, Director of Development, reviewed that this Ordinance establishes standards the City currently does not have. At last meeting there was discussion regarding how recreational structures are defined, and that paragraph was rewritten. He said the purpose of this ordinance is to create standards so that Staff can review where structures are placed on residential lots. He said there are complaints from time to time, and there are concerns about portable basketball goals in streets and on sidewalks that could be a safety hazard. He said that language has also been added to this Ordinance to identify that there may be some private deed restrictions and covenants that may impact where residents can place these structures.

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

Mr. Chambers asked, if this is approved, will Staff go through and inspect and identify areas in the City that have playground equipment. Mr. Betz said they will not, but they will have answers for persons inquiring about locating such structures. He said that if there are non-conforming structures in existence, Staff can talk to residents and let them know what the current regulations are. If the resident chooses to move it, they can. He said if such structures are creating a safety hazard, they will try to talk them into moving them. He said that any type of safety issue, such as basketball goals in right of way, Staff will ask them, when they are done using them, if they can move them back into the driveway.

Mr. Kaitsa said he appreciates the additions of language regarding pools and deed restrictions.

Mr. Nolan said that the non-conforming uses in this ordinance are portable and can be moved. He asked if Mr. Betz sees a lot of these structures around town that are incorrectly located. Mr. Betz said that he does not. He said that because most lots are large, there is usually no problem with the location of such structures. He said that these issues are addressed on a case by case basis, and if there is a complaint, Staff can work with a resident to relocate their structure. Mr. Nolan asked, if there is a trampoline that doesn't comply with the guidelines, could Staff make the property owner move it. Mr. Betz said Staff could. Mr. Nolan asked about Section C where it prohibits location in a "sideyard setback in the rear yard." Mr. Betz said that if a 10-foot side yard setback is required, that setback would apply from the rear property line as well. Mr. Nolan said that language could be clearer.

Mr. Schultz expressed concern that the side yard setback requirement may make it difficult for residents to have basketball hoops because their driveways run right along the setback. It could require that the hoop be placed in the front yard. Mr. Betz agreed that there could be cases where that would be a problem. Mr. Schultz asked if the Planning and Zoning Commission discussed that. Dan Wiencek, Planning and Zoning Commission, said that he thinks the intent was to keep playground equipment out of the side yard setback in the rear of the yard, not in the front. Mr. Betz said that if that was the case, it should be made clear. He said there are often complaints that basketball hoops are right next to the neighbor's yard, which requires going into that yard to get the ball.

Mr. Nolan asked if that means that a resident could park a trampoline in their front yard. Mr. Betz said they could. He said there were originally requirements for the front yard setback to prohibit that, but there was the concern that that would prohibit a basketball hoop in the driveway. Mr. Nolan asked if restrictions on what can be placed in the front yard area already addressed in the Zoning Code. Mr. Betz said that it would not, but some deed restrictions and covenants would prohibit such an object in the front yard.

Mr. Schultz asked if the language as it is written would prohibit a basketball court in the side yard setback in the front of the house. Mr. Betz said it would. Mr. Schultz said that he is concerned of the impact on residents with driveways in front of their house. Mr. Chambers said that as written, "no recreational structure shall be located in any public right of way, easement, or side yard setback in the rear yard at any time." Later on, the text talks about a surface, such as a basketball court, or tennis court. He said that he is unsure whether those restrictions would apply to a pole and the basket. Mr. Schultz asked that that be clarified.

Mr. Nolan asked that Council consider whether a trampoline is appropriate in the front yard. He indicated that he feels it is not. Mr. Kaitsa agreed that that should be considered. Mr. Nolan agreed that basketball courts should be permitted. Mr. Betz said that Staff will come back with some revisions.

**SECOND READING: ORDINANCE 2001-58: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF POWELL, REVISING SECTION 1145.06: PARKING AND STORAGE OF VEHICLES, MOTOR HOMES, CAMPERS, BOATS, RECREATIONAL VEHICLES, AND TRAILERS.**

David Betz, Director of Development, reviewed the proposed amendment. He said it revises the current requirements in removing a loophole that allows residents to park trailers and recreational vehicles. It also adds a provision to limit the amount of "For Sale" vehicles that can be on a residential lot at any given time.

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

Mr. Nolan said that he is the source for the provision regarding vehicles for sale. He said that there is a property in the City that seems to have been identified as a useful location for cars for sale. He said that one car is enough at any given time. He said that he would be persuaded to go shorter than 7 days for inoperable or disabled vehicles. He said one pays a lot to live in Powell, and they don't want to see a "junk heap."

Mr. Chambers said he thinks 7 days is restrictive enough, as it keeps cars from being put up on blocks.

Mayor Klein asked what is the difference between the 24-hour requirement in C - 1 and the 48-hour requirement in Section D. Mr. Betz said that one is in front of the building line, and one is anywhere. He said this allows someone to bring their vehicle home, clean it or load it up, and either take it on a trip or to a storage facility. The goal is to prevent long-term storage in one's driveway. Mayor Klein asked if it is correct that from Friday night to Sunday night would be too long. Mr. Betz said it would. Mayor Klein said that he would support 48 hours for both, and he questioned why there is the difference. Mr. Betz said he is unsure, as it was written that way when he got here. Mayor Klein said he would be willing to extend to 48 hours to give people with weekend plans more flexibility of using the entire weekend for storing their boat. Mr. Kaitsa said he would also support that, particularly to keep the requirements consistent. Mr. Chambers agreed.

**MOTION: Mayor Klein moved to amend Section C 1.) to read that "...for more than 48 hours in any 10-day period."**

Mr. Nolan said he is opposed to this, because there is a facility within Powell where such vehicles can be parked. It only takes 5 minutes to get there. He said the bottom line is that it looks like crap to have boats parked on the street, and it should be minimized as much as possible.

Mr. Cline asked if it is correct that Section C is not addressing boats parked on the street. Mr. Betz said that is correct, and that is actually a police matter. Mr. Nolan corrected himself that such boats "look like crap in the driveway."

**VOTE: Y 4 N 2 (Nolan, Cline)**

**SECOND READING: ORDINANCE 2001-59: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF POWELL, ADDING SECTION 1147.13: SEASONAL SALES.**

David Betz, Director of Development, said that there are currently no standards in the City to regulate Christmas Tree Lots, pumpkin lots, etc. He said these regulations would apply to a for-profit company renting part of a lot to sell Christmas Trees. This streamlines the process and sets standards for such use. One item discussed at the last meeting was to make sure that this section does not regulate the outdoor display of merchandise by local businesses.

Mayor Klein opened this item to public comment. Hearing none, he closed the public comment session. There being no discussion, item taken to a third reading.

**SECOND READING: ORDINANCE 2001-60: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF POWELL, REPEALING SECTION 1147.13 (B): ROADSIDE SALE OF AGRICULTURAL PRODUCTS ZONING CERTIFICATE REQUIREMENTS.**

David Betz, Director of Development, said that there are no agricultural product sales within Powell that necessitate this section of the code. In addition, Ordinance 2001-59 would address some of the issues that could occur.

Mayor Klein opened this item to public comment. Hearing none, he closed the public comment session. There being no discussion, item taken to a third reading.

**FIRST READING: ORDINANCE 2001-64: AN ORDINANCE MODIFYING APPROPRIATIONS FOR CALENDAR YEAR 2001.**

Stephen A. Lutz, City Manager, said that this appropriation would pay for relocation of electrical service for this building, which was on a previous appropriation that expired. It will also light the flag pole in the parking lot, recognize income due to building permit activities, and appropriate \$15,000 so that the City Engineer can look into areas in the City that have drainage problems. He said that last year, areas in Olentangy Ridge, Powell Place, and Woods of Sawmill were repaired. This year, Staff has identified a fairly large area in the Retreat.

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

Mr. Chambers asked if the sewer services will be contracted or handled by Staff. Mr. Rice said they will be contracted. He asked for approval this evening to get these projects moving.

**MOTION: Mr. Nolan moved to suspend the rules on ordinance 2001-64. Mr. Kaitsa seconded the motion.**

VOTE: Y 6 N 0

MOTION: Mr. Kaitsa moved to adopt ordinance 2001-64. Mr. Chambers seconded the motion.

VOTE: Y 6 N 0

**EXECUTIVE SESSION: FOR LAND ACQUISITION UNDER ORC SECTION 121.22 (G) (2).**

MOTION: Mr. Chambers moved to adjourn to Executive Session for Personnel Matters under ORC Section 121.22 (G) (2): Land Acquisition at 8:50 p.m. Mr. Kaitsa seconded the motion.

VOTE: Y 6 N 0

MOTION: Mr. Cline moved to adjourn from Executive Session at 9:04 p.m. Mr. Schultz seconded the motion.

VOTE: Y 6 N 0

MOTION: Mr. Cline moved to reconvene in regular open session at 9:04 p.m. Mr. Schultz seconded the motion.

VOTE: Y 6 N 0

**FIRST READING: ORDINANCE 2001-65: AN ORDINANCE MODIFYING APPROPRIATIONS FOR CALENDAR YEAR 2001 AND DECLARING AN EMERGENCY**

Stephen A. Lutz, City Manager reviewed that this Ordinance provides the necessary funding for Right of Way acquisition for future road connections. Mayor Klein asked if it should be made clear where it is. Mr. Lutz said that Staff would prefer not, as it could drive up the cost of the property.

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

Mr. Cline asked if Staff would this adopted now so they can move forward. Mr. Lutz said they would.

MOTION: Mr. Cline moved to suspend the rules on Ordinance 2001-65. Mr. Kaitsa seconded the motion.

VOTE: Y 6 N 0

MOTION: Mr. Chambers moved to adopt Ordinance 2001-65. Mr. Kaitsa seconded the motion.

VOTE: Y 6 N 0

**FIRST READING: ORDINANCE 2001-66: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO PURCHASE CONTRACTS TO ACQUIRE PROPERTIES FOR RIGHT OF WAY PURPOSES AND DECLARING AN EMERGENCY.**

Stephen A. Lutz, City Manager, said this Ordinance would allow the City to enter into the necessary contacts for right of way acquisition. They will be brought before Council for consideration and adoption.

MOTION: Mr. Kaitsa moved to suspend the rules on Ordinance 2001-66. Mr. Chambers seconded the motion.

VOTE: Y 6 N 0

MOTION: Mr. Cline moved to adopt Ordinance 2001-66. Mr. Kaitsa seconded the motion.

VOTE: Y 6 N 0

**COMMITTEE REPORTS**

There were no committee reports.

**MUNICIPAL MANAGERS REPORT**

Stephen A. Lutz, City Manager, noted that the annual bonfire will be held Saturday at the Memorial Park from 7 – 9:00 p.m.

Council reviewed a request from the Powell Chamber to serve wine at the Village Green on November 8 and February 8. Mr. Lutz said that both of these events were conducted in previous years. Mr. Cline asked if there

have been any problems with such events in the past. Chief of Police Gary Vest said there has not, and the Chamber is required to hire a special duty police officer.

**MOTION:** Mr. Kaitsa moved to allow the Chamber to serve alcohol at their November 8, 2001 and February 8, 2002 wine tasting events. Mr. Cline seconded the motion.

**VOTE:** Y 6 N 0

Mr. Lutz reviewed that NBBJ has provided a cost estimate for developing the Village Green. The difference in cost between the two estimates is that the least expensive estimate is for the use of concrete walks, and the more expensive is for brick paver sidewalks. He said that the City now has cost estimates for all future park developments.

Mr. Lutz announced that David Betz, Director of Development, is to be married this weekend.

#### **OTHER REPORTS**

The Monthly Parks and Rec., Planning and Zoning, and Web Site Activity Reports were received.

Chief of Police Gary Vest reviewed the Police Report. Mayor Klein noted a spreadsheet miscalculation.

Mr. Schultz asked about the crosswalk at Tyler Run Elementary School. Chief Vest said there is a strong commitment between the police and the school to help kids on and off busses, and enforce traffic regulations in that area. Mr. Schultz asked for the Chief's thoughts on the request this evening for Salisbury and Tiller Drive. He asked if there is a crossing guard in that area. Chief Vest says there is not at this time. He said that because the school sits right at the corporation line, half of the speeding problem is actually occurring in the Township. He said that the police are watching traffic in the area.

#### **FINANCIAL REPORTS**

The Accounts Payable and Monthly Financial Report were received.

Nan Metz, Finance Director, reviewed that the preliminary report from the Regional Income Tax Agency (RITA) on the October 4 tax subpoena program is that they were able to collect on that day \$53,200. She said that there are others that contacted RITA directly before and after the program, so there should be more to come in. She said that once all the checks have cleared, there will be a follow up to determine remaining taxpayers that have not paid. She said that she will provide that information to Council. Mr. Chambers asked if this will be an ongoing process. Ms. Metz said it will.

Mayor Klein reviewed the process of collecting these delinquent taxes and said that this has been a process of exhaustive research by City Staff. He commended Staff on a job well done.

#### **CLERK OF COUNCIL CORRESPONDENCE**

Dawn Nauman, Clerk of Council, reported that the Powell Quarterly was mailed on Friday and it is apparent it has already been received by residents, because a police survey has already been received back.


#### **OTHER COUNCIL MATTERS**

There were no Action Item Reports or other Council Matters. Council decided to address upcoming board and commission appointments at the next meeting.


#### **ADJOURNMENT**

The Council adjourned at 9:25 p.m.

**DATE MINUTES APPROVED: November 6, 2001**

  
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 Mark Klein  
 Mayor

11/20/01  
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 Date

  
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 Dawn Nauman  
 Clerk of Council  
 INTERIM CLERK of COUNCIL

11/20/01  
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 Date

