

CITY OF POWELL COUNCIL

March 4, 2003

A regular meeting of the City of Powell Council was held on March 4, 2003, and called to order at 7:30 p.m. by Art Schultz. Other Council members present were Jim Seta, Dan Wienczek, Mark Klein, George Kaitsa and Dave Lackey. Richard Cline was absent. Also present were Stephen A. Lutz, City Manager; Dawn Nauman, Clerk of Council, David Betz, Director of Development; Rob Rice, City Engineer; Nan Metz, Finance Director, Chief of Police, Gary Vest; Shea Crawford, Community Affairs/Special Events Coordinator; Ken Molnar, Director of Law; residents and representatives of the press.

PROCLAMATION

Mayor Schultz read a proclamation declaring March as Red Cross Month. Chief of Police Gary Vest and Anna Steck, Red Cross of Delaware County were present representing the Red Cross.

APPROVAL OF MINUTES

The minutes of February 15 were approved as printed. The minutes of February 18, 2003 were amended and approved.

FINANCIAL REPORTS

The Accounts Payable was received. Nan Metz, Finance Director, also presented Council with a report outlining the tax income received by the City.

OTHER REPORTS

There were none.

CLERK OF COUNCIL CORRESPONDENCE.

Dawn Nauman, Clerk of Council, reminded the Council that the April meetings will be shifted forward one week to accommodate spring break. The meetings will be held on the 8th and the 22nd.

RESOLUTION 2003-09: A RESOLUTION ACKNOWLEDGING THE HISTORIC, SCENIC, AND NATURAL QUALITIES OF THE OLENTANGY HERITAGE CORRIDOR STATE SCENIC BYWAY AND URGING THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) TO RELOCATE THE HISTORIC HINDERER HOUSE DURING ANY WIDENING PROJECT FOR STATE ROUTE 750 AND TO PRESERVE THE BYWAY BY USING NATURAL APPROPRIATE MATERIALS DURING THE STATE ROUTE 750 IMPROVEMENT PROJECT.

Stephen A. Lutz, City Manager, reviewed that this Resolution is in response to a presentation at the last Council meeting.

Mr. Cline asked if the property owners support moving the house. Mr. Lutz said he read a quote in the newspaper that they hope it will be preserved. Mr. Kaitsa said that is consistent with the presentation given by Judy Brozek at the last meeting, who said they would like it kept on their property but moved farther back.

Mr. Kaitsa said he is very supportive of this, but in light of the letter council received today from Liberty Township, as well as in recognition of the fact that this property is in Liberty Township, he would personally like to see something from the Liberty Township Trustees before Council acts on this Resolution. He expressed concern that this could be framed as if Council is acting within the jurisdiction of another government entity. Mr. Cline said he sees no harm in that and feels it would be in the spirit of cooperation the City has been trying to foster with Liberty Township. He said he'd like to convey to Liberty Township that Council intends to support this, if that is the consensus. No Council members expressed a desire not to pass this Resolution.

Mr. Wienczek suggested that the letter from the Powell-Liberty Historical Society to Ray Lorello at the Ohio Department of Transportation be attached to the Resolution.

Mr. Seta said that it rubs him the wrong way as a Liberty Township resident and as a resident of Powell, that when this Council is trying to take a proactive stance and publicly state their goals, it is interpreted as trying to "back door" something with the Liberty Township Trustees. He said he thinks that David Betz, Development Director, has done an exceptional job with this Resolution and the Resolution at the last meeting. He said that it is important to note that the City has a planner who is taking the initiative and thinking outside the box to try to better Liberty Township as well as Powell.

MOTION: Mr. Cline moved to table Resolution 2003-09 to the next regularly scheduled meeting and to instruct the Clerk of Council to send correspondence to the Liberty Township Trustees indicating that it is the intent of Council to adopt this resolution at their next meeting. He further instructed the Clerk to enclose a copy of the February 19, 2003 letter from the Powell-Liberty Historical Society addressed to Ray Lorello. He asked that the letter invite comment from the Liberty Township Trustees and invite them to join in a similar resolution.

VOTE: Y 7 N 0

Mr. Wienczek asked if there is a Liberty Township meeting scheduled between this meeting and Council's next meeting. Mr. Lutz said they should meet the Monday before.

THIRD READING: ORDINANCE 2003-10: AN ORDINANCE APPROVING AND ADOPTING THE 2003 REPLACEMENT PAGES TO THE CODIFIED ORDINANCES OF THE MUNICIPALITY OF POWELL.

Stephen A. Lutz, City Manager, said that Ken Molnar, Law Director, has reviewed these replacement pages and feels they can be approved. He recommended adoption.

Mayor Schultz opened to public comment. Hearing none, he closed the public comment session.

MOTION: Mr. Kaitsa moved to adopt Ordinance 2003-10. Mr. Cline seconded the motion.

VOTE: Y 7 N 0

SECOND READING: ORDINANCE 2003:11: AN ORDINANCE ESTABLISHING CHAPTER 905 OF THE CODIFIED ORDINANCES OF THE CITY OF POWELL ENTITLED "CONSTRUCTION, REPAIR AND REPLACEMENT OF SIDEWALKS, INTEGRAL APPROACHES/APRONS AND RELATED AREAS."

Stephen A. Lutz, City Manager, said that during the first reading of this ordinance, there was much discussion on the criteria for repairing or replacing sidewalks. He noted that Mr. Lackey has put together an exhibit to visualize the ¼" measurement that was a topic of discussion. He said at the last meeting, Staff was requested to conduct a survey to see what percentage would need to be repaired under the current criteria, but because of the weather, Staff was not able to complete that survey. He said if better weather continues that survey could be completed before the third reading of this ordinance.

Mr. Lackey said that he has some recommended changes for the language in Section 905.071 to help make sure that the city can enforce the repair policy in the circumstance of a property transfer on a house that needs repair. He recommended also changing the requirements regarding service and requiring express or certified mail. He said he would recommend an ordinary mailing in conjunction with posting the information regarding the program on the web so that people can easily access the information. He said that will be easier for the City to administer.

Mr. Lackey said that his drawing identifies the difference in the ¼" gap. He said that it is the ADA guideline and he is unsure whether the City can or even wants to vary from those guidelines, because it will be roughly 5 years between reviews of various parts of town.

Mr. Lutz said that Rob Rice, City Engineer, is going to survey various subdivisions. He said he wants to look at a subdivision that is five years old to see what kind of condition it is in, because once the regular schedule is started, sidewalks will be inspected about every five years. He said that obviously, the oldest subdivisions are in the greatest needs for repair, and they will be reviewed.

Discussion ensued regarding the various types of repair options for damaged sidewalks. Mayor Schultz expressed an interest in seeing some cost estimates for such options so that he can determine the cost impact for the average resident.

Mr. Kaitsa noted that Olentangy Ridge is an older subdivision that should be looked at in addition to Bartholomew Run. Mayor Schultz noted that Mr. Rice is planning to survey a variety of subdivisions, including one that is 5 years old.

Mr. Wienczek asked if it is correct that the type of repair will be at the City Engineer's discretion. Mr. Lackey said it is. Mr. Wienczek expressed a desire to consider the aesthetic results of various repair procedures.

Mr. Kaitsa asked if it is correct that the City will contract for the repair and then the homeowner has the option of opting in to the city's program. Mr. Rice said that the homeowner must opt out if they do not wish to participate. Mayor Schultz opened this item to public comment. Hearing none, he closed the public comment session.

Mr. Lackey said that he will revise the language in the ordinance regarding notice prior to the next meeting. There being no further discussion, this item was taken to a second reading.

SECOND READING: ORDINANCE 2003-13: AN ORDINANCE REPEALING ORDINANCE NO. 19 ENACTED ON AUGUST 8, 1949 ENTITLED "AN ORDINANCE GOVERNING THE CONSTRUCTION OF STREET SIDEWALKS IN THE VILLAGE OF POWELL, DELAWARE COUNTY, OHIO."

Stephen A. Lutz, City Manager, said that it is necessary to repeal Ordinance 19 if the previous ordinance is adopted. It should be taken to a third reading.

FIRST READING: ORDINANCE 2003-14: AN ORDINANCE AUTHORIZING THE PURCHASE OF A 2.140 ACRE TRACT, MORE OR LESS FOR THE PURPOSE OF RIGHT OF WAY AND DECLARING AN EMERGENCY.

Stephen A. Lutz, City Manager, said that at the last council meeting in executive session, Council talked about purchasing the land, which is the second to last track of land necessary to complete the final extension of Murphy Parkway south. He said the land will be purchased for \$100,000, and the ordinance has an emergency clause so that the terms of the contract can be concluded no later than March 10. He presented Council with a new contract.

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

Mr. Molnar reviewed the terms of the contract and the process for entering into contract. He said that it is important to the owner to close on this transaction this week.

Mr. Lackey asked if there is any problem with the Delco water easement on this property. Mr. Molnar said the City can work around the utility easements.

Mr. Seta asked if this property will provide an at-grade property that can be traded for a new one with CSX Railroad. Mr. Lutz said that the rail crossing is on another parcel that has been previously acquired. He said that He would have to review whether that was even registered with the Railroad. Mayor Schultz suggested that Mr. Seta review some of the correspondence the City has had with the railroad regarding abandoning crossings in order to provide the Village Green crossing. He said there has been some discussion about what conditions would allow a crossing.

Mr. Wiencek asked if the City is confident that there aren't abandoned autos, mines, etc on this property. Mr. Molnar said there is a vehicle, which the city will remove.

Mr. Kaitsa asked why the ordinance indicates that the City is acquiring this land under the threat of eminent domain. Mr. Molnar said there is a tax advantage to the seller.

MOTION: Mr. Cline moved to amend Ordinance 2003-14 Section 1: so that it reads "...the sale or purchase of vacant land..." Mr. Wiencek seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to suspend the rules on Ordinance 2003-13. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adopt Ordinance 2003-13. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2003-15: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH EDSALL & ASSOCIATES LLC FOR CONSULTING SERVICES FOR THE PREPARATION OF DESIGN DEVELOPMENT, AND CONSTRUCTION DOCUMENTS AS WELL AS CONTRACT ADMINISTRATION, FIELD SELECTION AND CONSTRUCTION OBSERVATION SERVICES FOR THE CITY OF POWELL PARK MASTER PLANS AND DECLARING AN EMERGENCY.

Stephen A. Lutz, City Manager, said that attached is the proposal from Edsall and Associates to complete the design phase for the park master plans. He said it is about a 6 month process. He said this proposal calls for 9 public meetings (3 design charettes and 6 presentations) to allow more public input and participation. He said this proposal does include designing and engineering all of the parks and permits Council to review the document preparation at various stages. Mr. Lutz said that Mayor Schultz and Mr. Seta have thoroughly reviewed this contract. Mayor Schultz said that it is expected that a schedule of public meetings will be published. He said that the timing of those meetings will most likely take place in the early part of six months. Mr. Seta said with three readings of the ordinance, a construction contract probably won't be awarded until around the 20th of October. He said that doesn't leave much time for construction. Mayor Schultz said that this schedule is a little different from Council's hope for spring implementation.

Mr. Wiencek questioned why all along breaking ground in the spring has been discussed, and now it's well beyond that into fall. Mayor Schultz said the early estimates had the public input completed by Christmas. Mr. Seta added that the scope of work increased dramatically. There is geotechnical and hydrological work, stream evaluation, many things that weren't contemplated in the original process.

Mr. Wiencek said he thinks the extra time was well spent, and he supports taking the time to do this right. He said, however, Council has an obligation to get the residents something for their levy money as soon as possible. He suggesting moving some bikepath implementation connections up so that they can be used this summer. Mr. Cline agreed and said he would rather go through a sound process and begin in October rather than a hurried process to begin in May. He said he would support looking for bikepath connections that can be funded and implemented this summer.

Mr. Kaitsa agreed with the idea of moving forward on the bikepath connections but said he has major reservations with the fee that Edsall and Associates has proposed. He said that his calculations identify a 15% fee of fixed construction cost plus a 5 % contingency. He said that is an almost 20% fee for work that isn't complicated because there is no building work, no electrical, no HVAC, no renovation. He said that he just completed a project with a fee of 7 ½%. He said while he recognizes Edsall's expertise, there should be some negotiations for the fee. He said that another proposal was received with much the same work for a significantly lower cost, at \$179,000 versus \$692,000. Mr. Lutz clarified that this proposal includes much more than the work on the parks that previous proposal was for. The policy decision by Council for this proposal was to design and engineer the majority of the parks and then Council would decide what components to implement. Mr. Kaitsa said he thinks the cost should be tied back to the fixed construction costs. He questioned the contingency. Mr. Seta said that the 5% contingency was recommended by Staff in case additional design work or other issues came up. It was more to cover any appropriations issues than Edsall's fee. He said that Edsall's fee percentage should be based on the \$8.5 million proposed to complete all parks, not \$5 million.

Rob Rice, City Engineer, added that this contract includes construction observation. Mr. Kaitsa said that is an architect's responsibility and should be part of the basic contract.

Mayor Schultz asked to calculate the construction cost percentage based on the \$8.5 million figure. Mr. Lackey said it is around 7% for the total basic services. Mr. Kaitsa said that is an awfully high percentage for the scope of work. He reviewed that he worked on a project with a 7 ½ % cost but it was a much more complex project. Mr. Cline said setting aside the kind of work being discussed, it seems that the percentages are similar, but there are still concerns whether the scope of work would be similar. A lengthy discussion ensued.

Mr. Wiencek asked if there is more involved in park construction management than large building management. Rob Rice, City Engineer, said he has little experience in building structures, although he can appreciate that different facilities are more complex than others. He said that in his experience with site work, a 6-7% construction cost percentage is not unusual. He said that on top of the design work, this proposal includes construction observation work, which he has never had experience with being included in the design fee, and can cost approximately 5-8% of construction costs. Discussion ensued regarding the fees and services detailed in the proposal.

Mr. Klein said it is his understanding that there are 6 parks in this plan that will have some portion completed in phase 1 and 3 that will be reserved for future dates. He said that four of the six parks have a lot of components, including the Village Green, Meadowview, Library Park and Memorial Park. He asked if it is possible to move up the time table on Arbor Ridge and Murphy's Park to develop them this year. He said there has been very little discussion on these plans, and this could allow the study of bathrooms in the park, as they are proposed for one

of them. Mr. Seta said that Council considered three options: designing it all, designing in pieces, or designing phase 1 only. He said that the decision was to design it all. Mayor Schultz said that he remembers discussion regarding the economic benefits that can be gained by doing it all at once. Mr. Klein said he is prepared to move forward with this plan, but he would like to investigate the possibility of getting two parks on line earlier. Mr. Cline said he would have concerns that fast-tracking the development of two might put the remaining park development on hold. He suggested doing it all at once.

Mr. Seta suggested asking Edsall if they can shorten this process by a whole month so that the City can go out to bid in late summer. Commissioner Wiencek said he would have concerns about "ham-stringing" Edsall's ability. He said in the fifty year life of these parks, an additional month isn't very long. Mr. Seta said he is just concerned about the construction season.

Mr. Cline said that he thinks there is some benefit to going to bid when "the crews are hungry," and that is typically November through February. He concurred with Mr. Wiencek regarding the life span of the park and the current timing.

Mr. Kaitsa asked if he is the only one who is concerned with the fees. Mr. Cline said he was very intrigued by Mr. Kaitsa's question because of his experience in public contracting. He said that when the numbers were run with the understanding that the design is for all \$8 million worth of parks, the percentages were more in line and he feels comfortable. Mayor Schultz noted that Mr. Edsall has said he doesn't charge a flat percentage but his numbers are based on the actual work he is proposing. Mr. Kaitsa said he would feel more comfortable if Staff could do some research on the fee Edsall has charged on other projects.

Mayor Schultz opened this item to public comment.

Karen Slavik, Parks and Recreation Advisory Board, said she shares Mr. Kaitsa's concerns about the cost, but she hasn't had a chance to look at the proposal. She suggested that the itemized cost be scrutinized. She said that she would worry that fast-tracking any part would impact the economy of scale. She said maybe some components of the parks could be done more quickly.

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

Mr. Seta said he thinks it is important for Council members to thoroughly review this proposal because there are a lot of "special needs" that one won't see in a typical site construction project. Mr. Lackey said that he appreciates that Mr. Kaitsa is on Council and can look very carefully at protecting tax dollars, and he is thankful for Mr. Seta, Mayor Schultz, and Mr. Rice for painstakingly reviewing the contract. He said that Edsall's projections are lower than what Mr. Kaitsa felt was reasonable, so he is comfortable with the proposal. He said he doesn't want to delay this any further. Mr. Cline said he is also comfortable acting tonight but has no problem accommodating Mr. Kaitsa's request for more information.

Mr. Klein questioned what the rush is if these parks aren't going to be developed this year. Mr. Wiencek agreed and said he would like to study the proposal sufficiently. Mayor Schultz said he is fine with waiting but he thinks it is difficult to pinpoint a percentage because this proposal isn't just for overseeing construction. It includes designing skate parks, geotechnical work, and more. He said that he doesn't think this can be reviewed based on a certain percentage.

Mr. Cline asked if Council is interested in voting on this at the next meeting if the questions Council has asked are answered. There was no objection to such a vote.

MOTION: Mr. Klein moved to suspend the rules on ordinance 2003-15. Mr. Lackey seconded the motion.

VOTE: Y 4 N 3 (Wiencek, Cline, Kaitsa)

The motion failed, and this item was taken to a second reading.

FIRST READING: ORDINANCE 2003-16: ORDINANCE 2003-16: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2003 AND DECLARING AN EMERGENCY.

Stephen A. Lutz, City Manager, said this Ordinance would provide the funding for the previous ordinance. There was no comment, and this item was taken to a second reading.

COMMITTEE REPORTS

- Development Committee:** Mr. Lackey said that the Development Committee will meet during the park development process. He asked that Council provide clear definition on what they will do as opposed to all of Council. Mr. Seta said the Committee would also like to ensure that the public meetings are all advertised well in advance.
- Finance Committee:** Mr. Kaitsa said the next meeting is scheduled for March 13.
- Service Committee:** There was no report.
- Charter Review Task Force:** Mr. Lutz reported the Committee will meet on March 14 to review possible charter amendments.

CITY MANAGERS REPORT**Stephen A. Lutz, City Manager, reported the following items:**

- There are gates going up at the South Liberty Railroad crossing, and that such gates will also be installed at West Olentangy Street and Seldom Seen. Pedestrian gates will be added later.
- Residents will be receiving a reminder card to remember to file their city income tax.
- The Law Director, City Engineer, residents abutting Meadowview Pond met with a surveyor to begin talking about the easement.
- He suggested that the Parks and Rec. Advisory Board make desirable bikepath connections one of their top authorities.
- The Liberty Township Trustees did pass a resolution regarding their desire to try to preserve the Hinderer House. Council made no changes to their previous motion.

Discussion ensued regarding a Request for proposal for a downtown revitalization plan that has been created as a result of the Comprehensive Plan update committee. Mr. Lutz presented the plan to the Council for review. Mr. Klein said that he thinks such a plan development is very desirable because it becomes a framework for the downtown development. He said this is a start of what may be a real boost to the downtown. Mayor Schultz thanked Mr. Betz for taking the initiative to lead the effort for this program. He said this focuses on the economic benefits so that what is developed will be more viable.

Mr. Wiencek said that it was interesting to him to note in the results of the Comprehensive Plan survey that half of the people who responded said that the area they were least likely to show visitors is the downtown area. By the same token, the other half was most likely to show the downtown area. Mr. Wiencek said he hears frequently that the City needs an ice cream establishment and he'd like to point out that there is one, Pop's Ice Cream, on Grace Drive.

Mr. Lackey said he also appreciates Mr. Betz's efforts, and said that he shows Council on a daily and weekly basis that he deserves confidence and trust.

Mr. Kaitsa asked if the Powell United Methodist Church property has been annexed to the City. Dawn Nauman, Clerk of Council, said that the City has said it will provide services and the County has approved the annexation, and it will come back to Council next. Mr. Wiencek reviewed that the Preliminary development Plan did receive approval with conditions at the last meeting, with 4 favorable votes, 2 votes against, and 1 abstention. Mr. Kaitsa asked if there are significant variances. Mr. Wiencek reviewed that there are 2 variances being proposed, one regarding the building, which encroaches into the setback by 5 ½ feet. The other variance is the parking lot, which does encroach into the setback. He said that the Commission actually moved the parking away from adjacent residents as a compromise to making the parking fit within the setback along Powell Road. He said there may be an additional variance to the roof pitch, but that is part of final design.

OTHER COUNCIL MATTERS

Shea Crawford, Community Affairs/Special Events Coordinator, said that the annual report has been distributed.

ADJOURNMENT

Council adjourned at 9:25 p.m.

DATE MINUTES APPROVED: March 18, 2003

Art Schultz 4/22/03
Art Schultz Date
Mayor

Dawn Nauman 4/24/03
Dawn Nauman Date
Clerk of Council