

CITY OF POWELL COUNCIL

March 18, 2003

A regular meeting of the City of Powell Council was held on March 18, 2003, and called to order at 7:30 p.m. by Art Schultz. Other Council members present were Jim Seta, Dan Wiencek, Richard Cline, George Kaitsa and Dave Lackey. Mark Klein was absent. Also present were Stephen A. Lutz, City Manager; Dawn Nauman, Clerk of Council, David Betz, Director of Development; Rob Rice, City Engineer; Chief of Police, Gary Vest; Shea Crawford, Community Affairs/Special Events Coordinator; Ken Molnar, Director of Law; residents and representatives of the press.

CITIZEN PARTICIPATION

There was none.

APPROVAL OF MINUTES

The minutes of March 4, 2003 were approved as printed.

FINANCIAL REPORTS

The Monthly Report and Accounts Payable were included in the packet. Mr. Lutz noted that the City is in excellent shape, and the revenues are above that budgeted and the expenditures within that budgeted. There were no questions regarding the financial reports.

OTHER REPORTS

The Monthly Planning and Zoning, Parks and Recreation, and Police Reports were received.

Mr. Seta asked about the progress of the park regulations and park management plans. Jeff Snyder, Parks and Recreation Supervisor, said that those topics are being considered by the Parks and Rec. Advisory Board. Mr. Seta asked if the Board is thinking about the needs three years from now when the parks are completed. Mr. Snyder said they are. He said he received good response from his survey of local municipalities regarding park maintenance. He said he has scheduled times to spend the day with Dublin, Hilliard, Worthington, and Upper Arlington to review how they handle park maintenance.

Chief Vest briefly reviewed the monthly Police Report. He noted that the Police Department received a \$107K grant for a technology project which has been installed and they have begun training with. He said that they are also going to be taking a look at Delaware County's records management program and see if it is something desirable for Powell.

Chief Vest briefly addressed the issues of Homeland Security. He noted that the City is currently at an Orange Alert and the next step up is the highest, or Red. He said that the federal guideline for such a threat level is that public and government buildings close. He said he thinks that is an issue that needs to be considered. He said that he plans to follow the lead of the Governor if such a situation occurs. Mr. Lackey asked if it is anticipated that more officers will be on duty in the event of a Red Alert. Chief Vest said that while he has the resources to have a high presence during sensitive times in the local area, he doesn't feel compelled to run a large overtime budget unless it is determined to be necessary. Mr. Cline asked if Chief has been in contact with the County EMS as to what actions they might take. Chief Vest said that they haven't indicated how they will activate in the event of a Code Red. He said that that agency and the Powell Police Department are both part of the local emergency planning committee for the County.

Mr. Kaitsa asked if the City Manager has the authority to close a public building in the event it is determined necessary. Mr. Lutz said that the employee manual does authorize him to do so.

CLERK OF COUNCIL CORRESPONDENCE

Dawn Nauman, Clerk of Council, noted that before the next meeting (April 8) a photographer will be present to take photos of Council members for use in their newspaper. She asked that anyone who can attend at 7:00 please try to do so. Mr. Kaitsa noted he will be out of town.

Ms. Nauman referred to a memorandum she provided Council regarding time limitations of meeting. Mayor Schultz said in his time on Planning and Zoning Commission, he saw many meetings last until very late, and after discussion with Ms. Nauman on this issue, he suggested that Council look into what communities have limits on their meetings. He referred to the meeting rule in Dublin where meetings may be capped at 11:00 p.m. and said he thinks such a policy would be good for Council and Planning and Zoning Commission. He said that both groups would still have the option of waiving the rules if it is desirable to complete the meeting. He said

such a policy would force the Chairman and the Mayor to be more efficient and keep their eyes on the clock. He said that Planning and Zoning Commission should make their own decision, but asked what Council felt about this issue. Discussion ensued.

Mr. Kaitsa spoke in support of this policy. Mr. Cline suggested waiting for the new rules which will probably be brought before Council as a result of the Charter Review. He said he also thinks the problem with late meetings can be addressed with better self-discipline. Mr. Seta said he is in favor of keeping going and allowing the meetings to be finished rather than tabling them until later. Mr. Wiencek said he has no interest in an arbitrary deadline. He said he thinks that items with greater public comment can be addressed sooner so that the Council is deliberating on less complex items later. He said he would rather concentrate on moving the meeting forward.

There being no consensus, no decision was made on this item. Mayor Schultz suggested getting Mr. Klein's opinion on this item when he is here.

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 Council asked Liberty Township for feedback on this issue. Ms. Nauman said that Chief Bernans indicated that the Liberty Township is supportive of this resolution and in fact passed a similar Resolution themselves.

MOTION: Mr. Cline moved to adopt Resolution 2003-09. Mr. Kaitsa seconded the motion.

VOTE: Y 6 N 0

THIRD 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."

Rob Rice, City Engineer, referred to a memo provided to Council regarding their request of a study of sidewalks in the area to determine how many would fall within the guidelines set up by this Ordinance. He also referred to the information regarding the options that can be utilized for repairing such sidewalks. He reviewed that document for Council (Exhibit)

Mayor Schultz noted that the City will contract to complete the work unless the homeowners opt out. He asked if the City will determine the best means of repair, such as pumping, etc. Mr. Rice said that the policy gives Staff the authority to determine the correct repair method. Mr. Lackey noted that the homeowner has an opportunity during the Resolution of Necessity to make their case if they think an alternative method is more appropriate.

Mr. Lackey recommended that this go to one more reading. He said that since the different repair methods have been discussed, a new element of potential costs has been added, and everyone shouldn't share the same burden if they need a lesser repair. He said that he would like to amend the language so that it reflects an actual cost rather than a lineal cost. He said that there is also language that he would like to refine regarding notification and posting and mandatory disclosure.

Mr. Seta commended Mr. Rice and Mr. Huber on this policy. He said he thinks it is important to decide what are acceptable methods for repair. He said it looks like more than half of the areas needing repair in both neighborhoods over ½ inch or greater, and that is substantial. He said that jacking is an easy method and the sidewalk can be used the next day. Mayor Schultz said that jacking and complete replacement are the two that seem to be acceptable. He said he doesn't see a lot of benefit to opening the door for treatments that would be used on such a small percentage, such as grinding. He suggested that the first year of implementation be a "pilot program," so that Staff doesn't take too big of a bite of the apple this year.

Mr. Rice suggested including acceptable methods of repair for those that opt out. Discussion ensued regarding the variety of treatment methods. Mr. Wiencek thanked Mr. Rice for the policy and noted that he was pleased to see that there isn't an over-abundance of ¼ inch variances.

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

MOTION: Mr. Cline moved to table Ordinance 2003-11 until April 8, 2003.
VOTE: Y 6 N 0

THIRD 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, noted that this Ordinance goes with the previous ordinance.

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

MOTION: Mr. Cline moved to table Ordinance 2003-11 until April 8, 2003.
VOTE: Y 6 N 0

SECOND 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 Council asked that Staff contact Edsall and Associates regarding their fees and services for other public projects. He said that Edsall has prepared correspondence reviewing that request (Exhibit 2). Mr. Lutz noted that the construction costs have been amended from those discussed in the last meeting and are outlined on correspondence from Mr. Edsall (Exhibit 3).

Mayor Schultz said he thinks Council at the last meeting wanted additional background information to determine whether the percent of cost is appropriate. He said that as of the latest estimate, the cost is approximately \$6.5 million, and therefore the percentage fee is 8.9%.

Mr. Kaitsa said he continues to have concerns about this issue because he thinks the \$583k is for phase 1 but the total contract is \$697k. He said that the \$692k in this ordinance with the 5% contingency is of concern to him because there will be additional fees for administration of approximately \$2.9 million in additional work. He said this is a public contract but really not a bid, so there is no way of gauging whether it is appropriate. He said that he is concerned with how the selection was done. He said when he asked about the selection, he was told that there was some interpretation that Schmidt Land Design was not interested in the work, and that was reflected in the fee they proposed when asked for a proposal early in the process. He asked if it is correct that Schmidt was not interested in the work, and asked how the fee compared to the work that was done specifically regarding the development of the master plan.

Forrest Gibson, Schmidt Land Design, said that they were asked after the end of the summary of the costs that were developed over a year ago to provide a proposal for design development and construction documents. He said that they did provide that, it was reviewed at the time, and it was their understanding that Council determined that fee was in excess of what the Edsalls had prepared specifically for what was considered to be the next phase of work. He said he is here to clarify that they were interested in this work. He said that the proposal provided to Council was of similar scope and character to that currently being reviewed, but it is significantly lower in cost. Mayor Schultz asked if it is correct that Schmidt's original proposal was for the work to begin now rather than what Council was looking for back in June. Mr. Gibson said it is. Mayor Schultz asked if Mr. Gibson is saying that this proposal is the same as that provided by Edsall. Mr. Gibson said he hasn't seen that proposal so he can't comment on specific details, but they did plan on beginning at the end of the master plan process with the assumption that the Master Plans had already been updated. He said there was some misunderstanding as to what the next step of the process would be. He said it was not their intent to provide a proposal six times the cost for the same work.

Mr. Lackey said he is glad that Mr. Gibson cleared up the misunderstanding. He asked whether Council should take the cost of Schmidt's original proposal and compare it to what is being considered tonight. Mr. Gibson said that isn't appropriate because there are obviously things taken into consideration that their proposal doesn't contemplate. He said Schmidt would like to be given the opportunity to address those.

Mr. Kaitsa asked if Mr. Gibson understood that his proposal would receive consideration at the time that design development would be considered. Mr. Gibson said they were under the impression that they would be able to

submit their proposal when the time came. Mr. Kaitsa asked if that representation came from the City. Mr. Gibson said it did. Mr. Cline asked if the June 12, 2002 proposal included contract administration responsibilities. Mr. Gibson said it did, however, he understands the scope of work has changed and they can't be easily compared.

Mayor Schultz said he is confused, because he thought a majority of Council decided several months ago that they are comfortable continuing to proceed with using Edsall for this process. Mr. Kaitsa said that he doesn't think council was advised that someone else was interested. Mr. Cline agreed with Mayor Schultz that Council determined that they were comfortable with a sole-source contract, and noted at the time that Mr. Kaitsa expressed concern about the financial impact of such a decision. He said he believes Mr. Edsall's proposal is accurate but he has a difficult time understanding the benchmarks by which Council can independently judge that proposal. He said he thinks Mr. Kaitsa feels a competitive bid based on the same specifications would provide that information. He said at the time, he was not in favor of that because he was comfortable with Edsall. But he said this is over ½ million dollars, and it makes one pause.

Mr. Seta said that there was no intention to cut anyone out of this process, but no one was comfortable with the original master plans, so Council decided to have those redeveloped. He said that the Schmidt proposal has no merit with the current discussion. If Council went out to bid, it would be a "whole different ball game." He said that Edsall's proposal is not based on a percentage but the complete pricing is broken down. He said he is concerned that he thought this was originally an \$8 million design, but now he is hearing \$6.5 million. Mayor Schultz said that the \$6.5 million is phase one plus anything else Council determines to get bids for.

Mr. Cline said that he thought Council determined that this proposal would design everything, even if it is not build in phase 1, so that later there would be no additional design expense to continue park development. Mr. Lutz said the main thing that is not included in this proposal is the southern third of the Village Green property which is lacking some geotechnical study. Mr. Cline asked if a proposal was requested that is 100% of the master plans than can logically be developed, would Mr. Edsall's proposal qualify. Mayor Schultz said that in addition to the southern portion of the Village Green, Powell Place isn't part of it, nor is part of Black Oak Park. Mr. Seta said that 98% of all the other parks are included. Council discussed what items were not included in the design request due to lack of information, impracticality, etc. Mr. Wiencek questioned whether designing beyond the capacity to build was planned so that there could be options to add if the cost permits when it comes time to develop. Mr. Cline asked if the southern part of Village Green is not being included because the City is lacking the data or because it won't be developed in the next 5 years. Mayor Schultz said it is the latter. Mr. Cline said he is opposed to that. He said that he would like the design for everything to be "on the shelf" and when the funding becomes available, it can be built. Mayor Schultz expressed frustration that he thought there was a great attempt to communicate to Council what Edsall was asking to design.

Mr. Wiencek said that he initially had reservations of a bid representing a percentage of the cost of construction and said he thought Council specifically asked an item by item bid so it would be clear where the money is going. He said that now that Council has that number, they are calling it a percentage. He expressed concern that Council is now trying to determine whether 8.9% is appropriate. He said that the information regarding what Mr. Edsall charges doesn't help as much as knowing what other people would charge.

Mr. Kaitsa said that applying a percentage figure against the fixed cost of construction is the industry standard for architectural fees. He said against a \$5.1 cost, that would be 13%, which was his original concern. He said he is still concerned because the allocation for construction administration in phase 2 isn't in the proposal. He said he is now unclear as to what exactly is the fixed cost of construction, and what is the fee.

Mr. Seta noted the 5% contingency was his and Mr. Rice's idea, and can be removed if it is not desirable. Mr. Kaitsa said there are no economies of scale with this plan. He said this is "basic stuff," moving dirt around and planting trees. Mr. Seta said he thinks it is important that everyone read the proposal. He said it is not that simple, and it includes things above and beyond the norm.

Mr. Wiencek said if he understands Mr. Kaitsa correctly, he feels that putting up a building is more complex than building a park, so the percentage fees for a building should be higher. He asked if Mr. Gibson can provide any information on that concern. Mr. Gibson said he first would like to say that it is unfair to compare proposal to proposal at this point. He said that there are fixed industry standards for percentages of construction depending on the type of work being completed. He said 9% may not be unreasonable if this includes all of the parts of each project start to finish, because it is a different complexity. He said he can't speak about architecture and the

complexity of a building compared to park development. He said that the percentage figures don't have much to do with the complexity of the project but rather with industry percentages.

Mr. Cline summarized the concerns he heard. He said the first is that there is a philosophical question as to whether the City should have done competitive bidding for this project. He said that he thinks Council is past that point because they already decided to do sole-source bid. He said the second is that there is a question how to evaluate whether this proposal is appropriate. He said that the concerns about the benchmarks are the most troubling. He said he doesn't have enough data to evaluate the proposal because there aren't any standards to compare it against. He said the percentage is standard, and the dollar figures are a standard, but he would like to have seen data from other companies in comparison. He said a list of companies identifying projects within an 8-10% range would help.

Mayor Schultz said it is not Staff's fault if it is not clear what the proposal includes, and it is important that everyone read the proposal. He said that he disagrees that Council can say "give me a master plan and it ought to be a certain percent." He said that the master plans needed to be redone because some weren't worth the paper they were written on. The lowest bid sometimes equaled a poor design, and there were other details and amenities for parks that Council wanted to be considered. He said at the last meeting, he heard Mr. Lutz say "I'm going to go ask Edsall to give us a few more examples of his work....." He said that people are now saying that's not what they want. He asked that those who are still concerned please ask Staff for the information they need to make a decision.

Mr. Lackey said he doesn't want to rush this project, but he is comfortable with this proposal and would support voting on this tonight. He said he is relying on the City engineer, City manager, and engineer on Council to determine that this is an appropriate proposal. He said it is important to rely on the strengths of others on certain issues.

Mr. Kaitsa said he doesn't think there was a consensus opinion that the previous master plans were of no value. Mayor Schultz said he thinks at least several members of Council felt there was a range of quality levels in the master plans that existed prior to Mr. Edsall's work on this process.

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

Mr. Cline asked to see benchmarks from other companies regarding the costs for such proposals. He said he would like information from Mr. Edsall's competitors rather than more information from Edsall.

Mr. Seta reiterated how impressed he is with the proposal from Edsall. He questioned what decision will be made if the percentage figures gathered are lower from other companies. He questioned the ability to make an apples to apples comparison. Mr. Cline questioned how he can discharge his responsibilities to the City without getting the information he needs to determine whether this proposal is a good one. Mr. Seta questioned whether competitive bidding is the only way to make that determination. Mr. Wiencek said he thinks Council made the decision not to do that because they are comfortable with the quality of Mr. Edsall's work and the City's ability to work with Mr. Edsall.

MOTION: Mr. Wiencek moved to suspend the rules on Ordinance 2003-15. Mayor Schultz seconded the motion.

VOTE: Y 4 N 2 (Cline, Kaitsa)

Mr. Lutz said he will contact Schmidt Land Design and NBBJ to address the concerns expressed by Mr. Kaitsa and Mr. Cline. He suggested contacting the owners of the projects Mr. Edsall referred to. Mr. Gibson suggested contacting other municipalities to get more information. He said he will work with Mr. Cline and Mr. Kaitsa to try to address their questions and concerns.

Council held a discussion regarding removing the 5% contingency on this item. There was not a consensus to make this change.

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

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

FIRST READING: ORDINANCE 2003-17: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2003.

Stephen A. Lutz, City Manager, said this Ordinance establishes a fund for bond millage collection fees and appropriates money to that fund.

Mr. Cline asked if a separate ordinance is needed to create the fund. Mr. Kaitsa pointed out that Section 1 creates it. Mr. Lutz said that the auditors recommended this format.

MOTION: Mr. Kaitsa moved to suspend the rules on Ordinance 2003-17. Mr. Cline seconded the motion.

VOTE: Y 6 N 0

MOTION: Mr. Kaitsa moved to adopt Ordinance 2003-17. Mr. Cline seconded the motion.

VOTE: Y 6 N 0

COMMITTEE REPORTS

Development Committee: Mr. Lackey reviewed that the Committee met as part of the CEDA review of the Powell United Methodist Church property last Wednesday. He said that the recommendation is that the property owner come up with some alternative designs to address the legitimate concerns of the neighbors. He said the CEDA committee is advisory and will provide their opinion to the Planning and Zoning Commission.

Finance Committee: Mr. Kaitsa said the Committee had a quick meeting before Council this evening but he had nothing new to report.

Service Committee: Mayor Schultz said that the Committee has been working with Mr. Lutz and Ms. Crawford regarding the web page and other items.

Charter Review Task Force: Mr. Cline said that the Committee met last week and discussed several possible changes to the charter. Once those are determined, they will bring them before Council for further input.

CITY MANAGERS REPORT

Stephen A. Lutz, City Manager, expressed a desire to form a committee to review the proposals received for the Downtown Revitalization plan. Mr. Wiencek said he would like to be involved and suggested that members of the Comprehensive Plan steering committee be contacted to see if they have any interest in reviewing these items. Mayor Schultz suggested a member of the Historic District Commission that Mr. Betz previously recommended be contacted. He noted that it would be helpful to prepare a checklist and matrix to assist in reviewing the proposals.

Mr. Lutz said that Ken Molnar, Director of Law, has prepared a draft of the Meadowview Park pond easement to be distributed to Council, Parks and Rec., and the residents that abut the pond.

OTHER COUNCIL MATTERS

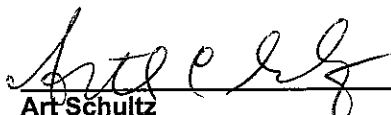
Mayor Schultz asked if any Council members are interested in attending the Regional Council of Governments meeting being sponsored by the local school district. Mr. Kaitsa said he will attend.

Mr. Seta asked about the City helping the zoo with snow and ice removal. Mr. Lutz said they did have difficulty with one of their trucks one day and the City did help them and will invoice them for the services.

ADJOURNMENT

Council adjourned at 9:30 p.m.

DATE MINUTES APPROVED: April 8, 2003



 Art Schultz Date 4/22/03
 Mayor



 Dawn Nauman Date 4/24/03
 Clerk of Council