

## **CITY OF POWELL COUNCIL**

**April 8, 2003**

A regular meeting of the City of Powell Council was held on April 8, 2003, and called to order at 7:30 p.m. by Art Schultz. Other Council members present were Jim Seta, Dan Wiencek, Richard Cline and Dave Lackey. George Kaitza was absent. Mark Klein submitted his resignation effective April 7, 2003. 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.

### **CITIZEN PARTICIPATION**

Nancy Shapiro, Delaware General Health District, gave Council an update on the County's activity related to bio-terrorism preparedness and SARS. Dr. Carol Kennedy, the City's representative to the Board was also present. Mayor Schultz thanked Ms. Shapiro for the summary and said he is pleased with the Health District's proactive response to these issues.

### **APPROVAL OF MINUTES**

The minutes of March 18, 2003 were amended and approved.

### **FINANCIAL REPORTS**

The Accounts Payable was received. Mr. Wiencek thanked Nan Metz, Finance Director, for the additional information she provided regarding income tax.

### **OTHER REPORTS**

Chief Vest reviewed the recent incident of an intruder in Ashmoore who gained access to a home via an unlocked back door. He reviewed the current status of the investigation, and encouraged residents to secure their homes.

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

There was none.

### **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."**

Stephen A. Lutz, City Manager, reviewed that this is legislation that will require mandatory repair of sidewalks that meet the City's minimum standards. He reviewed a summary of the key points of this Ordinance (Exhibit). Mr. Lackey said that since Council has spent time considering the options of alternative repairs to complete replacement, the ordinance has been changed to base charges to the resident on actual cost rather than lineal feet. He said that residents will also have the ability to pay the bill for sidewalk repair or be assessed for that cost.

Mr. Wiencek asked that inquires be made as to whether the assessment would be considered a tax and therefore deductible for residents. He asked, procedurally, if it is the City's intention to withhold start of construction to allow the residents the necessary time to opt out and complete the work themselves. He said he is more interested in repairing the sidewalks than charging the fine for those who opt out. Mr. Lutz expressed a desire for Staff to work with a committee to begin implementation and rolling out of this program on a smaller scale. He said rather than a full quadrant of the City, a couple of test areas would be better. After further discussion, it was decided that the Development Committee will be working on the procedure, and Shea Crawford, Community Events/Special Affairs Coordinator can do some work educating the residents on this new program.

Mayor Schultz opened this item to public comment.

Ronnie Elkins, 291 Glen Village Court, Olentangy Ridge, said that in previous meetings, the Council has discussed the sidewalk problems in his area, but he feels they are the City's problem because the street trees have caused the cracking. Mr. Lackey said that those trees were actually put in by the developer of the subdivision prior to the City adopting standards regarding such trees. He said the Development Committee doesn't feel the City bears the responsibility. He said that this ordinance does put people who need tree replacement as a part of this sidewalk repair program first priority in the City's Share the Cost Tree Planting, where the City pays for half the cost of replacing the street trees.

Mr. Elkins asked about the liability if someone is injured on one of these sidewalks before they are repaired. He referred to a case in Westerville that sets precedence for the City having some liability. Mr. Lackey said that the

sidewalks are the responsibility of the residents and the purpose of this ordinance is to make them safer. He said that even if the developers did install the trees, it was condoned by the City. Mr. Lackey asked what Mr. Elkins suggests. Mr. Elkins said he wouldn't be averse to repairing his sidewalk if the damage was from natural causes. He said that this problem was caused by shallow-rooted trees and the City should share the burden. Mr. Lackey said that this ordinance allows property owners to request a hearing either about the necessity of the sidewalk repairs or the assessment, and at that time, they can argue their case for these types of issues.

Mr. Cline said he recalls meeting with Mr. Elkins on this issue in the past, and he said at that time, Council was unable to reach a consensus of how to deal with this issue. He said that he believes at this point, this ordinance allows those issues Mr. Elkins raised to be addressed on a case-by-case basis.

Mr. Elkins said that it will be very difficult to reach a consensus as to how to replace the damaging trees in his neighborhood. He said no one wants to replace the trees because they are mature. Mr. Seta said he hopes that everyone understands that taking away the problem is part of the program. Mayor Schultz noted that there are neighborhoods that aren't very old and don't have inappropriate trees that have sidewalk problems. He said many discussions have been held addressing many of these scenarios, but that degradation of sidewalks is going to happen for a variety of reasons.

Mr. Elkins asked what happens if repairing the sidewalk ends up killing a tree. Mayor Schultz said the homeowners with that problem will have priority in participation in the Share the Cost Tree program.

Mr. Cline asked if the homeowner could plant a greater than average size tree through this program. David Betz, Director of Development said that typically, those programs permit a 2" caliper tree, and there has been no policy for what happens if an owner requests a larger size. He said in some instances, it may be desirable to address where the street trees are planted and consider moving their location to help with some of these problems. He noted that street trees typically have a 20-30 year lifespan. He said they don't live as long as trees located in a lawn.

Laurie Woodard, 435 Woodard Place, asked if residents are required to attend the hearing if they are notified that the sidewalk has been deemed in need of repair. Mr. Lackey said they are not. Ms. Woodard asked if the resident can receive the notice, finish the repairs, and then move on. Mayor Schultz said they can, or they can allow the City to finish the repairs.

Mr. Cline thanked Mr. Lackey and Mr. Seta for their work on this policy. He said he struggled with this item himself years ago, and this represents a wonderful job in getting a consensus and providing an excellent policy.

**MOTION: Mr. Cline moved to adopt Ordinance 2003-11. Mr. Lackey seconded the motion.**  
**VOTE: Y 5 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, said that because the last Ordinance was passed, Staff the 1949 standards should be repealed.

**MOTION: Mr. Cline moved to adopt Ordinance 2003-13. Mr. Lackey seconded the motion.**  
**VOTE: Y 5 N 0**

**THIRD 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 this Ordinance is related to the park bond issue approved by Powell voters. He referred to a memo he provided to Council regarding their experience with Edsall and Associates, who has submitted a proposal to complete the design development and construction documents for these parks.

Mr. Cline thanked Mr. Lutz for the additional information provided in the memo and for Mr. Seta's spreadsheet. He said that he had some reservations about this contract, but he no longer does. He said his concern was never

with the quality of Edsall's work, but that Council have an appropriate benchmark against which to measure the cost of this proposal. He said he is satisfied now that the benchmark has been identified, and he fully supports the ordinance.

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

**MOTION:** Mr. Cline moved to adopt Ordinance 2003015. Mr. Wiencek seconded the motion.

**VOTE:** Y 5 N 0

**THIRD 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 that this Ordinance funds the contract identified in the previous ordinance. He said that Mr. Edsall did think that there could be some time savings in some of the areas in the proposal, and some activity could occur in late fall. Mayor Schultz suggested that the Development Committee work with Staff and Mr. Edsall on that schedule and that the schedule be provided for the Parks and Rec. Board and the Council. He said that specific concerns previously were playground equipment, structures, and the skate park.

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

**MOTION:** Mr. Cline moved to adopt Ordinance 2003-16. Mr. Wiencek seconded the motion.

**VOTE:** Y 5 N 0

**FIRST READING: ORDINANCE 2003-18: AN ORDINANCE APPROVING THE PLAT FOR MURPHY'S PARK SECTION 4.**

Stephen A. Lutz, City Manager, reviewed that this is an administrative matter for Council to consider, as it is the legal document which creates the lots and streets for this proposed subdivision. He said it does meet the development plans approved for this property. David Betz, Development Director, reviewed the plat and corresponding development plan.

Mr. Wiencek asked about the bikepath connection. Mr. Betz said that it will connect along the parkway. Mr. Wiencek asked about tree preservation. Mr. Betz reviewed the proposal for such preservation.

Mr. Cline said that the "notes" section talks about lot numbers, and he asked if those have been added to the plat. Mr. Betz said those will be done administratively when the numbers are assigned by the County.

Mr. Lackey noted his need to abstain on this Ordinance, and that may require that it go to a third reading if the 5 remaining members aren't available or don't vote for a rules suspension. This item was taken to a second reading.

**COMMITTEE REPORTS**

**Development Committee:** No report.

**Finance Committee:** The next meeting will be held April 17.

**Service Committee:** No report

**Charter Review Task Force:** Mr. Cline reported that the Charter Review Task Force will schedule a meeting based on study currently being undertaken, and hopefully have a recommendation based on that meeting.

**CITY MANAGERS REPORT**

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

Downtown Development Request for Proposal Mr. Lutz said 13 consulting firms have responded to this request and the subcommittee created to review those met. He said they will meet again on April 24, and interviewing of the finalists should begin in early May. He said the costs of this project associated with these proposals range from \$35,000-\$50,000. He said Staff will keep Council posted. Mayor Schultz noted that Council is invited to participate in any of these meetings they chose. He said the sub-committee expects to bring a single recommendation to Council once they make a decision. Mr. Cline asked if the committee will provide a report indicating why the group made their decision. Mayor Schultz said the committee can provide information about how the recommendation was selected. Mr. Wiencek suggested that if there are negotiations, they are done prior to announcing who is the top choice.

Mr. Lutz reported that Council's 2002 financial disclosure statement is due on or before April 15.

Mr. Lutz reported that Mark Klein did send a letter indicating that the new position he has taken with his company requires a great deal of travel and he is unable to attend Council meetings on a regular basis. Therefore, he has decided to resign his position, effective April 7, 2003. He reviewed the procedure for making an appointment to this vacancy.

Mayor Schultz said he expects Mr. Klein will be invited to come at some time in the future when Council can recognize his commitment and service in a more formal fashion. He said that Mr. Klein has donated nearly 8 years of his life to serving this community, and is owed a debt of gratitude. He said no one has had a greater impact on so many of the positive changes to the community, and everyone will very much miss his involvement.

#### OTHER COUNCIL MATTERS

There were none.

#### EXECUTIVE SESSION: IN ACCORDANCE WITH ORC SECTION 121.22 (2) LAND ACQUISITION AND 121.22 (G) (1) PERSONNEL: EMPLOYMENT OF A PUBLIC EMPLOYEE, & COUNCIL, BOARD AND COMMISSION APPOINTMENTS.

**MOTION:** Mr. Cline moved to adjourn to Executive Session to discuss Land Acquisition in accordance with ORC Section 121.22 (g) (2) and (g) (1) Personnel: Employment of a Public Employee and Council, Board, and Commission Appointments. Mr. Wiencek seconded the motion.

**VOTE:** Y 5 N 0

**MOTION:** Mr. Seta moved to adjourn from Executive Session at 10:10 p.m. Mr. Lackey seconded the motion.

**VOTE:** Y 5 N 0

**MOTION:** Mr. Cline moved to reconvene in Regular Open Session. Mr. Wiencek seconded the motion.

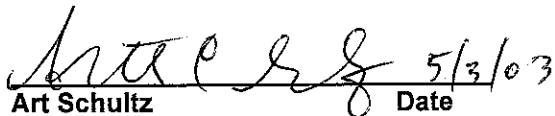
**VOTE:** Y 5 N 0

#### COUNCIL APPOINTMENT

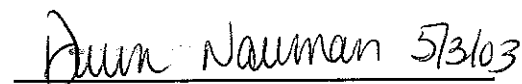
Council directed Staff to send out a press release indicating that residents are being sought for a seat on the City Council due of Mark Klein's resignation.

**MOTION:** Mr. Wiencek moved to adjourn from regular open session at 10:15 p.m. Mr. Lackey seconded the motion.

**DATE MINUTES APPROVED:** April 22, 2003

 5/3/03  
Art Schultz Date

Mayor

 5/3/03  
Dawn Nauman Date  
Clerk of Council