

## **CITY OF POWELL COUNCIL**

**August 5, 2003**

A regular meeting of the City of Powell Council was held on August 5 2003, and called to order at 7:30 p.m. by Art Schultz. Other Council members present were Richard Cline, Tom Counts, and Jim Seta. George Kaitza, Dave Lackey, and Dan Wiencek were absent. Also present were Stephen A. Lutz, City Manager; Shea Crawford, Community Affairs/Special Events Coordinator; David Betz, Director of Development; Rob Rice, City Engineer; Nan Metz, Finance Director; Chief of Police, Gary Vest; Ken Molnar, Director of Law; residents and representatives of the press.

### **POWELL FESTIVAL PRESENTING SPONSOR RECOGNITION**

Mayor Art Schultz thanked the presenting sponsors of the Powell Festival, Delaware County Bank, Kroger, and Pepsi, and bestowed on them a token of appreciation from the City.

### **CITIZEN PARTICIPATION**

Kim Cole, 3752 Stoneway Point, Golf Village, said she is present to express concern and disappointment. She said she moved to Powell from Dublin because she was told the development would be similar to Muirfield, which is almost completely residential. She said she was told by the City's zoning department that office buildings would be located on the northeast corner of Golf Village, but she sees signs now that there will be a commercial and retail development. She said that she called the number of the sign and was told that a bank, family restaurant, retail center and three daycare facilities would be located in this area. She said it is not what she envisioned, and she and many of her neighbors are upset. She said she is unsure whether that area is within the City or Liberty Township, but if it isn't in Powell, it should have been annexed with Golf Village to provide a border around Golf Village so those who live there don't have to see commercial sites. Mayor Schultz suggested that Ms. Cole meet with Staff to review the overall plan for Golf Village so she can understand what is permitted in the areas. He said that the zoning of Golf Village was done in Liberty Township and one condition of the annexation is that the City would not change the zoning. He said there are architectural standards required for commercial development. Mr. Cline asked if the intersection being discussed is Seldom Seen and Sawmill Parkway. Ms. Cole said it is. Mayor Schultz said that area is zoned commercial.

### **CITIZEN PARTICIPATION**

Andy Horn, said he is present with his sister regarding her business, Amy's Designs, which is located on the east side of the four corners intersection. He said that this business has been in this location for approximately 6 years. He said there are street lights north, west, and south of the intersection, and none going east. He said they have been "promised for years" that they were "going to have that type of look and support and resources going down that direction." He said there is a crosswalk down there that is very dangerous and people are afraid to use, and that reduces the foot traffic for that end of town. He said he is afraid someone is going to get seriously hurt. He said the house to the west side of Amy's Design has gone from being somewhat of an eyesore to being cleaned up to being a daycare center, but he is unsure whether that is legal. He said he would like to try to do something about that because it is somewhat of an eyesore and problem. He said it "doesn't seem to fit and it has been kind of a problem for us." Mr. Horn said they have been told that the City would look into putting up signs on the southeast corner of the four corners that direct the foot traffic to additional shops. He said it seems like there is a lot of support for the shops in Powell except for those east of the intersection.

Mr. Cline said that Mr. Horn should be aware that the City has undertaken a Downtown Revitalization Study that will include this area. He said the issue that Mr. Horn is raising is one that the City has struggled with, and that is where the City gets the funding to increase the Villagescape lengthwise to reach those buildings. He said the plan to do that has been around for awhile, but there is no funding at this point to start this project. He said he has been on Council since 1996, and the Council has been working toward that goal since that time. Mr. Horn asked why that wasn't done when the other area was done. Mr. Cline said the funding at that time was not sufficient to do the whole area. Mr. Horn expressed concern that their tax dollars paid into that but they didn't get the benefit. Mr. Cline asked that Mr. Horn please work with Steve Lutz and Dave Betz to continue monitoring the progress of downtown improvements. Mr. Seta said that many Council members are concerned about the downtown businesses, and that is why the plan has been commissioned. He said that through the plan, once the priorities are identified, the City will start identifying how to fund them. Mr. Horn asked that Council communicate with the property owners as to where they are on the priority list, because if it won't be completed in three years, it may be more economical for them to move. Mayor Schultz said that there may be a middle ground between full streetscape and what is already there. He asked that Mr. Horn be involved in the Downtown Revitalization program so that his concerns continue to be heard. Discussion ensued.

Bill Christian, Rare Possessions, Powell Resident, said that they did talk with Dave Betz and Shea Crawford to try to get them to understand that what they are looking for is a consistent look in the City. He said that a lot of money was spent to divert traffic from downtown Powell and to install street lights on Grace Drive where "there are no businesses." He said they would like the lights, flower pots, white mailboxes, etc., so it is clear that the shopping areas continue on the other side. He said that the outside company that has been hired to work on the downtown area didn't even walk east of the four corners. He said there should be some inexpensive investments that would help them. He expressed concern about the upkeep of some of the buildings in the downtown area. He said that the mailboxes haven't been painted since they were installed. He said that there is a lot of parking in the downtown area, but people should be made aware of it. Mr. Cline said that there is also currently a study underway regarding signage in the City that may be able to address some of those concerns. He thanked Mr. Christian for addressing the east side of the street with Kinzelman-Kline.

Morgan Crane, Home and Garden Creations, echoed the concerns about the east side of the downtown and asked that Council keep them all in mind when they make these decisions. She identified her concerns as sidewalks, sufficient crosswalks, and a consistent look for the whole downtown area.

#### **APPROVAL OF MINUTES**

The minutes of July 15, 2003

#### **FINANCIAL REPORTS**

The Accounts Payable Report was received. Mr. Seta asked about a line item for quality control inspections. Ms. Metz said that developers put money on deposit for inspections that the City then contracts out.

#### **OTHER REPORTS**

There were none.

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

There was none.

#### **PROPERTY MAINTENANCE VIOLATION APPEAL – 76 Scioto Street**

Mayor Schultz suggested that the Council defer determination on this item to the next meeting given the low attendance at this time. Mr. Swackhamer said he has people present to discuss this item. Mr. Cline said Council would be happy to hear from them, but he wondered if there is a problem with postponing the decision. Mr. Cline suggested that Mr. Swackhamer provide his anticipated schedule for completion of the work, and that Staff be given the opportunity to respond.

Garry Swackhamer, 76 Scioto Street, said this is the second phase of this project, and it includes his small barn and chicken coop. He identified photographs of his property. He said his deadline on those projects was August 1, and he has asked for an extension based on the extremely wet weather this year. He said that he discovered extensive termite damage and dry rot under the shingles of the chicken coop, and that has delayed the project. He said that working within the historic district guidelines has also made this more difficult, and his father has been ill. He reviewed the status of what has and has not been completed with his project. He said he was prepared to request an extension to the end of the year, but said he is concerned about weather and his father's condition, and asked if he could have an extension to the end of spring. He said that his goal is to open a Bed and Breakfast in his home.

Alan Millington, 50 E. Case Street, said the buildings are in "borderline" condition, but Mr. Swackhamer wants to keep them, and he is very patient and does good work.

Paul Morganski, 325 Stanford Drive, said that he is a resident of Powell and friend of Mr. Swackhamer's. He attested to Mr. Swackhamer's expenditure of a great deal of time and expense rehabilitating his home. He said that the interest of citizens is the improvement of property, and Mr. Swackhamer has shown a great deal of progress, even if not within the original timeline. He asked that Council be flexible and consider the concerns that Mr. Swackhamer is experiencing with his father at this point. He assured Council that when he is done, Mr. Swackhamer's project will be something the whole City can be proud of.

Tom Swackhamer, Mr. Swackhamer's brother, said this property has been in his family for a number of years and did get into a state of disrepair over a period of time, not just since Mr. Swackhamer took over the property. He said that Mr. Swackhamer has very high standards which take longer to fulfill. He reiterated problems with the

weather and his father's health, and asked that Council consider the mitigating factors. He said if he is given the proper amount of time, the results will be worth it.

David Betz, Director of Development, said that he has made progress on this project, and staff agrees that he did find additional problems on his property once he began the proposed repairs. He said that there may be a justification for an additional extension, but perhaps just how much should be considered further at the next meeting. Mayor Schultz agreed that something more definitive than "end of the year" or "next spring" would make him more comfortable. He said that targeting certain portions of the project to showcase more visible progress may also be a good idea.

Mr. Cline extended his condolences to Mr. Swackhamer during this difficult time with his father. He said he is very pleased with the progress that has been done, as he knows it has not been easy. He said a specific proposal that targets particular structures or particular tasks will be easier for Council to comprehend. He said he would like to work with Mr. Swackhamer so that the progress continues. Mr. Seta agreed with Mr. Cline. He added that the weather has been very difficult to work with this year, and he appreciates the progress Mr. Swackhamer has made. Mr. Counts agreed and said he would like to see a focus on one building to get completed.

There being no further discussion, Mr. Swackhamer was instructed to work with Staff and come back with a proposal for a timeline. Mr. Swackhamer said he is fine for postponing this until the next meeting.

**SECOND READING: ORDINANCE 2003-42: AN ORDINANCE APPROVING THE FINAL DEVELOPMENT PLAN FOR THE WOODS OF POWELL SUBDIVISION, FOR 169 SINGLE FAMILY HOMES ON 134.3 ACRES LOCATED ON THE NORTH AND SOUTH SIDE OF RUTHERFORD ROAD, NORTH OF POWELL PLACE, WEST OF MIDDLEBURY ESTATES, EAST OF THE CSX RAILROAD AND SOUTH OF WYANDOT ELEMENTARY SCHOOL AND AMENDING THE ZONING CLASSIFICATION TO PR, PLANNED RESIDENCE DISTRICT.**

**Public Hearing**

David Betz, Director of Development, reviewed the Planning and Zoning Commission's review and approval of this development. He reviewed the location of the property and adjacent developments. He reviewed the site plan and noticed that most of the development is to the southern two-thirds of the property. He said that the subdivision is laid out in a manner to preserve the maximum amount of green space. He identified the Cameron property to the south and the Wallingford property to the north. He said that the Planning and Zoning Commission has included a condition that a bikepath be included under Rutherford Road and continue further north. He said the path will also be located along Rutherford Road and into the subdivision. Mr. Betz reviewed that the entrances will be off of Rutherford Road, Powell Place, and Carriage Road. He reviewed the minimum lot sizes of 80 and 90 feet. He noted that as the property continues to the north, it includes a large open space area that will be dedicated as a public park and include bikepaths.

Mayor Schultz asked if the developer has committed to build the pathways. Mr. Betz said he has. He continued reviewing the plan and identified the densities of neighboring development. He identified photographs of the open space areas within the development.

Mr. Betz said that there have been discussed with the applicant and the Ohio Environmental Protection Agency (OEPA) regarding what needs to be done to clean up the open space area, which was previously used by the railroad.

Mr. Betz said that the Planning and Zoning Commission review of this original proposal resulted in an increase of lot sizes, expanded tree preservation, and the additional items identified in the body of the ordinance.

Mayor Schultz opened this item to public comment.

Robert Susi, 863 Middlebury Court, said his property abuts the Cameron property. He said he was very vocal during the Planning and Zoning Commission process. He said the plan has come a long way, but he still has concerns. He said that there has been discussion as to whether the connection to Watson Way should be a T intersection or whether Village Park Drive should be a T intersection. He said he thinks there is also an opportunity for both roads coming to a T and including stop signs. He presented a petition regarding this issue. Mr. Betz said the way the roads are planned now address engineering concerns in the area and provide a better, safer design that meets the minimum road standards. He said the Planning and Zoning Commission did discuss that issue and determine that the proposed design is preferred.

Mr. Susi said that he is also concerned that he thought a condition of the Planning and Zoning Commission was that the no-build zone be 70 feet, but he heard that it is 50 feet on the east side of the plan. He said that is not part of the petition. He said that he knows that the plan includes Hardiplank, but while he personally doesn't have anything against it, he is concerned about how Powell is accepting the use of Hardiplank even though it is not an approved material. He said the City of Powell needs to determine whether it is or is not an approved material for the whole community.

Kim Cellar, 4635 Millwater Drive, agreed the plan has evolved, and the public had a lot to do with that. He said this is "almost there." He asked what the density north of Rutherford Road is. Jack Reynolds, attorney for the applicant, said it is 1.16 d.u./acre, and 1.46 to the south side. Mr. Cellar said that he would praise the plan if the northern section would get down to 1 d.u./acre, and this is almost there. He said that none of the properties to the north of this development go above .5 d.u./acre, and he questions the need for going over 1.0 d.u./acre. He said he questions the density adjustments given for the bikepaths, tunnels, and road improvements. He said his main concern in this transition area is allowing the Heritage Line of homes in this development. He said that Showcase homes is M/I's highest line of homes, and since residents surveyed in this area indicate an interest in high quality homes, he would ask that Council require Showcase Homes, which are almost entirely side-load and require larger lots, resulting in a decrease in density.

Sharon Jurawitz, 125 Watson Way, said she is speaking on behalf of the residents in Middlebury Estates. She said that she is here to support the petition. She said a lot of residents came to every meeting, which is "quite difficult" because they have kids, jobs, and the weather is beautiful, and that is why they came up with the petition. She said that it seems that the ideas brought up at the meetings were not incorporated and that residents don't know that unless they set up a time to meet with Staff to see what has changed. She said that at one time, Watson Way was a T intersection, and that is what they want. She said that Village Park Drive was always supposed to be the through-road, and although it probably will never connect, it was always intended to be more of a major road than Watson Way was ever intended.

Ms. Jurawitz said they are concerned about the price-range of the homes, the size of the lots, and the look of the neighborhood. She said that there has been talk that there is a transition, but it seems that it is very dense. She expressed concern that 3 lots about the elementary school. She asked what will happen when residents along Rutherford Road want to develop and it can't connect into this development because there are cul-de-sacs.

Kim Moeslein, 116 Watson Way, said she is a new resident of Powell. She said a week after she moved in, she attended the last Planning and Zoning Commission meeting on this issue. She concurred with Ms. Jurawitz comments regarding Village Park Drive, which she said already meets Seldom Seen Road and has "tributary streets." She expressed concern that a Planning and Zoning Commission member did not address their concerns about the Watson Way connection. She said that there are a lot of children on Watson way, and they would like to keep it as quiet as possible.

Steve Cruise, who did not give his address, said he lives on the south side of Powell but is building a home at 86 Watson Way. He said that he has small children and he would support any T-intersection or any way to design the road to slow traffic down. He said that is a mutual benefit to the City and the people who live in it.

Bob Woodling, 2840 Rutherford Road, said he has two concerns. The first is regarding increased traffic. He asked if there will be a right turn lane at the corner of Rutherford and Liberty Roads. His second concern is the creek that runs near his property, and whether the retention pond for this development will feed more water into his property. Mr. Betz said that the details of stormwater drainage haven't been fully worked out, but the regulations would prevent anything from negatively impacting adjoining property. That will be reviewed by the City Engineer during the final engineering plan. Mr. Betz said the turn lane Mr. Woodling asked about will be installed by the county, with contributions from this developer. He said a signal is not currently warranted. Mr. Woodling said he would also rather see the Showcase Homes built in this development.

Ann Bently, 3016 Rutherford Road, expressed concern that the speed limit on Rutherford Road is 45 mph. She said she has 4 small children, and her neighbors have small children, and they are only 50 feet away from the road. She said she is concerned about the increased traffic this neighborhood will create, particularly when school is in session. Mr. Betz said that as he has said at all the previous meetings that the county engineer controls that roadway and they need to complete a speed study to consider lowering the speed limit.

Karen Sewalk, 135 Watson Way, echoed comments about Watson Way, which they would like to be a T-intersection. She said that M/I has been very good about working with the residents, and they would like that to continue.

Jean Shodolsky, 922 Bovee Lane, said they just moved here three weeks ago, but they are located only 2 houses away from Village Park Drive, and she is concerned about it becoming more of a main thoroughfare. She said that stop signs and speed bumps will need to be considered if that happens. She said she is completely in favor of increasing the tree line to 70 feet.

Lindi Cole, 106 Watson Way, echoed comments about Watson Way and said she concurs with the requests included in the petition.

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

Jack Reynolds, attorney for the applicant, said that Ben Hale has typically represented M/I in the 5 meetings before the Planning and Zoning Commission for this development. He said he previously worked on the annexation of this parcel. He said this has been a long process that began in September of last year with a submittal including 231 lots and a density of 1.74 d.u./acre. He said as they have gone through the process of listening to the neighbors and the Planning and Zoning Commission, the density has continued to drop. In November, they submitted a plan for a development of 1.5 d.u./acre. He said that the City and Liberty Township passed the Northwest Area Plan in 1999 that calls for a density of 1.5 d.u./acre in this area. He said that Mr. Betz has reviewed surrounding developments, with Golf Village at 1.5 d.u./acre, and others ranging from 2.1-2.4 d.u./acre. He said that additional comments from the Planning and Zoning Commission and area residents have resulted in a plan at this point with 169 units and 1.26 d.u./acre. Mr. Reynolds pointed out the 20 conditions the Planning and Zoning Commission required with their approval that M/I has agreed to. He said that he believes the Planning and Zoning Commission requested that the intersection discussed tonight be built as designed. He said that they did agree to increase the setback on two lots at the end of the cul-de-sac to a 50-foot preservation zone and the two side-lots would have a 40-foot preservation area. He said he doesn't see in the minutes a condition to increase it to 70 feet. He said that they have gone out of their way to preserve the trees on the south side of this development. He pointed out the underground bikepath and connection through the park site. He said this will be a nice green, wooded area, and M/I has agreed to do the voluntary clean up plan for the pond that was identified as a clean-out area. He said that the Lakes of Powell was an M/I development that was very successful, and they would like to mimic and improve on the last sections of that development in this location.

Mr. Reynolds said that there have been discussions about the types of houses that would be in this development, and there is not much of a difference between what they are proposing and the Showcase homes being requested by some of the residents. He said the lot sizes will not be dissimilar, but that the differences will be the accoutrements that go into the Showcase Homes that make them more expensive. He said the estimation is that these homes will be in the \$275-350k price range. He said that they have included upgrades since the beginning of the plan, with 50% natural materials on the fronts of all of the units within the subdivision. All of the homes will have brick plinths, chimneys and stoops. The widths have been increased on all of the properties. He asked that Council recognize that this has been a long process and consider this ordinance this evening. He said that Steve Kaplinger, M/I Homes, is also present this evening to discuss this plan.

Mr. Seta asked about the issue of T-ing Watson Way. Mr. Counts said that that issue was discussed from the very beginning, and the road design did change several times, and that is probably the result of the Planning and Zoning Commission rather than the developer. He said that there isn't a good answer. There will be a T-intersection somewhere, and a length of road somewhere that allows the possibility of speeding. He said the Planning and Zoning Commission was concerned that Village Park Drive had the potential for becoming a thoroughfare with a long stretch of road without any stopping, which would create the potential for speeding. He said that the Commission felt this design created the least burden to the residents. Mr. Betz identified a possible connection that may be a solution to address everyone's concerns on how these intersections connect, but it may be difficult to do so with the proper separation between intersections. Mr. Reynolds said they can look into this.

Mr. Seta commended the applicant for the nearly 30% reduction in number of homes, but said he is concerned about the petition, and he feels the residents need to be given a good answer as to how the intersection will be designed.

Mayor Schultz said that the applicant asked for a suspension of rules, but that would require 5 council members, and there are only 4 present this evening.

Mr. Cline said that he thinks the residents have pointed to the critical question, and that is how to deal with those roads. He said he is intrigued with Dave's suggestion and the applicant's willingness to consider it. He said if Mr. Betz's proposed modification meets engineering requirements, he would support it, but if it doesn't work, it would be more important for the City to maintain the safe turning radius and separation of intersections than being concerned about T-ing the intersections.

Mayor Schultz said that the petition discusses a 50-foot tree preservation along the west side of the development. Mr. Counts said that would impact lots 3 and 4. Mr. Betz said that could be achieved with a revised layout and the tree preservation zone could be increased to 70-feet in the southeast corner. He said that condition 17 of the ordinance is the one that addresses scenic preservation, but it doesn't specifically require 70-feet.

Mayor Schultz said that the City has installed stop signs in to address concerns similar to those expressed this evening, even if it breaks the rules of the Uniform Traffic Manual. He said he would support a 3-way stop in this area, and that is something that can even be done later if problems are identified. He said that he thinks the best solution is if the applicant could look at redesigning the intersection.

Mr. Counts said that regarding the scenic easement, he doesn't remember there ever being any discussion about lots 3 and 4 being 40 feet rather than 50 feet. He said if it could be made to work, that would be better. He said that regarding the "Showcase" vs. "Heritage" type homes, there were long discussions about this issue and a lot of time was spent with the Planning and Zoning Commission trying to understand the difference between the two divisions. He said that for the most part, Showcase homes represent interior upgrades that would not impact the entire community. He said the Commission was looking more for exterior standard improvements, and they accomplished that by requiring the 50% front façade of brick or stone and eliminated homes smaller than 1900 sq. ft. on any lots under 90 feet and under 2100 square feet on lots over 90 feet wide. Mr. Counts said the Commission felt they were achieving a Showcase-quality home, even though they don't carry the same name.

There being no further discussion, this item was taken to a third reading. Mr. Reynolds said they will begin working on Mr. Betz's suggested road design.

**RESOLUTION 2003-15: A RESOLUTION TO ESTABLISH THE ESTIMATED REVENUES FOR THE CITY OF POWELL FOR THE FISCAL YEAR ENDING DECEMBER 31, 2004.**

Stephen A. Lutz, City Manager, reviewed that state law requires that the City submit a tax budget by July 15, but the county has waived that requirement and requires the City to file estimated revenues by August 15. The estimated revenues are based on last year's budget. A tax resolution will be sent to the City by the County that will need to be filed by October 1. Once that is done, the City will go through the regular budgeting process in November and December.

Mr. Cline said that this is a routine part of the budgeting process. Ms. Metz agreed that this Resolution is a formality.

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

**MOTION: Mr. Cline moved to adopt Resolution 2003-15. Mr. Counts seconded the motion.**

**VOTE: Y 4 N 0**

**THIRD READING: ORDINANCE 2003-38: AN ORDINANCE PROVIDING FOR THE SUBMISSION OF A CHARTER AMENDMENT TO THE QUALIFIED ELECTORS OF THE MUNICIPALITY OF POWELL INCLUDING ADMINISTRATIVE CHANGES IN THE CHARTER CHANGING THE IDENTITY OF THE MUNICIPALITY FROM VILLAGE TO CITY; DEFINING THE PERSONAL INTEREST OF AN OFFICER OR EMPLOYEE OF THE CITY IN ANY CITY CONTRACTS; PROVIDING FOR THE DESIGNATION OF AN ACTING MUNICIPAL MANAGER; MODIFYING THE DUTIES OF THE MUNICIPAL MANAGER; DELINEATING THE CONTINUING QUALIFICATIONS OF THE DIRECTOR OF LAW; ELIMINATING THE DEPARTMENT OF PUBLIC SERVICE; ELIMINATING THE DEPARTMENT OF DEVELOPMENT; CREATING THE DEPARTMENT OF POLICE; AMENDING THE QUALIFICATION OF COUNCIL CANDIDATES; CLARIFYING INCOMPATIBILITY OF OFFICES; AMENDING THE PROCEDURE FOR FILLING OF VACANCIES ON COUNCIL; MODIFYING THE DUTIES OF COUNCIL; PROVIDING FOR MEETINGS OF COUNCIL; AMENDING THE PROCEDURE FOR**

**CONSIDERATION OF ORDINANCES; PROVIDING FOR A CONSENT AGENDA; AMENDING EMERGENCY ORDINANCE PROCEDURES; PROVIDING FOR COUNCIL RESOLUTIONS; AMENDING RECALL, INITIATIVE AND REFERENDUM PROCEDURES; MODIFYING THE TIME FRAME FOR ENACTMENT OF VOTER APPROVED OR REJECTED LEGISLATION; MODIFYING PROCEDURE FOR BUDGET ESTIMATES; MODIFYING THE MEETING SCHEDULE OF THE PLANNING AND ZONING COMMISSION; PROVIDING FOR THE REMOVAL OF BOARD OR COMMISSION MEMBERS CREATED BY THE CHARTER; AND PROVIDING FOR THE EFFECTIVE DATE OF ENACTMENT OF THIS CHARTER AMENDMENT AND DECLARING AN EMERGENCY.**

Stephen A. Lutz, City Manager, said that a revised mark-up has been provided to Council and if passed, the proposed amendments will go before the voters in November. He said that these changes were started by the Charter Review Task Force and reviewed further by Rich Cline and Tom Counts.

Mr. Cline said that Dawn Nauman, Clerk of Council, has done a good job reorganizing the changes so that they are clear and understandable.

Mayor Schultz asked how many votes would be required to reenact any decision made by the voters. Mr. Cline said after a 4-year waiting period, a vote of 5 members would be required. He said that the thought process was that while Council should be given the flexibility to respond to changed circumstances, they should only do that after careful consideration and respect for the election. The four year cooling off period prohibits hasty decisions and actually allows election of new council members, if that is the desire of the citizens. Mr. Molnar said that he examined the charters of several other communities and found no such restriction. Most Council's have the ability to overturn the vote of the people immediately. Mr. Lutz said that Mr. Wiencek asked to convey that he feels the four year time period is appropriate when considering exactly what the voters may have voted against, but he would like the Council to have the opportunity to discuss an entirely new proposal for a property. Mr. Cline said that he feels the removal of the original language regarding "in whole or in part" addresses that concern. Mayor Schultz said he thinks that as a practical matter, this issue hasn't arisen very often and may not be as big of a deal as it is being made. Mr. Molnar said he can only think of once that it was a concern.

Mayor Schultz said this is the second third reading. Mr. Molnar said that this ordinance would require a 2-3 vote to proceed because of the emergency language. The ordinance needs submitted the 21<sup>st</sup> of August, and the next meeting is the 19<sup>th</sup>, so the item can be tabled again until the next scheduled meeting.

**MOTION: Mr. Cline moved to table Ordinance 2003-38 until the next regular scheduled or specially called Council meeting. Mayor Schultz seconded the motion.**

**VOTE: Y 4 N 0**

**FIRST READING: ORDINANCE 2003-45: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2003.**

Stephen A. Lutz, City Manager, said that Nan Metz, Finance Director, has applied for and received a FEMA grant in the amount of \$5,951 to offset some of the costs incurred during the February snow storm. This is the necessary legislation to transfer them back to the Street Maintenance and Repair fund.

Mr. Cline said that there are not enough votes to suspend the rules this evening, and he suggested that this item be taken to a second reading and the other Council members informed of an intention to suspend the rules at that time.

**FIRST READING: ORDINANCE 2003-46: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2003.**

Stephen A. Lutz, City Manager, said that last year the Police Department received a grant for a technology project. This is a reimbursement grant, and this ordinance reflects one of those reimbursements.

Ms. Metz noted that the auditors have asked that the legislation for grants and reimbursements such as these be handled in the manner used for this ordinance.

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

**COMMITTEE REPORTS**

**Development Committee:** Mr. Seta noted that color renderings of the park structures that have been provided to Council, and he said he is very pleased with the progress made so far. He said the last meeting

was very good and a lot of the previous concerns about structures have been resolved. He said the next meeting on structures will address a lot of the engineering details, lighting, etc.

Mr. Lutz said the next park development meeting will be held in 2 weeks and it will consider playground facilities. He said that Edsall & Associates was supposed to be at the next meeting to discuss the 60% cost estimates, but at this point, Staff is recommending that be delayed to September 16. He said the rest of the timeline will not change. Mr. Seta spoke very favorably about Mr. Edsall's work.

**Finance Committee:** Mr. Cline had no new report. The next meeting is scheduled for September 11.

**Service Committee:** No report.

**CITY MANAGERS REPORT**

Mr. Lutz reported that the next concert in the park will be held on Sunday. He said the first concert was very well-attended, at about 175 - 200 people.

**OTHER COUNCIL MATTERS**

Mr. Cline asked what the status of the pedestrian railroad crossing installation is. Mr. Lutz said that they currently in progress. Mr. Betz said there will be a ceremony celebrating the completion next week.

Mr. Cline asked if there was any feedback on the mosquito fogging signs. Mr. Lutz said there were many calls from residents with questions, and he thinks it was a good system to let residents know that fogging would occur. Shea Crawford, Community Affairs Coordinator, said that the calls ranged from when fogging will occur to what are in the chemicals. Mr. Lutz noted that there was also a call from a resident who felt fogging made their dog sick but actually, the fogging was cancelled due to weather. Ms. Crawford said that residents' questions were answered directly, directed to the web site, or directed to the Health Department. Mr. Cline said it sounds like the goal was reached, as residents were notified of when to expect fogging. Mr. Seta reported that he has received positive feedback on this improved notification.

**EXECUTIVE SESSION IN ACCORDANCE WITH ORC SECTION 121.22 (G) (2) LAND ACQUISITION.**

**MOTION:** Mr. Cline moved to adjourn into Executive Session in accordance with ORC Section 121.22 (G) (2): Land Acquisition at 9:40 p.m.. Mr. Counts seconded the motion.

**VOTE:** Y 4 N 0

**MOTION:** Mr. Cline moved to adjourn from Executive Session at 10:05 p.m. Mr. Counts seconded the motion.

**VOTE:** Y 4 N 0

**MOTION:** Mr. Cline moved to reconvene in Regular Open Session in at 10:06 p.m. Mr. Counts seconded the motion.

**VOTE:** Y 4 N 0

**ADJOURNMENT**

Council adjourned at 10:07 p.m.

**DATE MINUTES APPROVED:** August 19, 2003

Art Schultz 8/12/03  
Art Schultz Date  
Mayor Schultz

Dawn Nauman 9/5/03  
Dawn Nauman Date  
Clerk of Council

This ordinance or resolution has been posted in three (3) public places as defined in ordinance 74-11 dated 8-3-03 on this date 9-5-03  
Dawn Nauman  
Clerk of Council

