

## **CITY OF POWELL COUNCIL**

**December 2, 2003**

A regular meeting of the City of Powell Council was held on December 2, 2003, and called to order at 7:34 p.m. by Richard Cline. Other Council members present were Jim Seta, Tom Counts, Dave Lackey, and Dan Wiencek. George Kaitsa and Art Schultz arrived late. Also present were Stephen A. Lutz, City Manager; Nan Metz, Finance Director; Rob Rice, City Engineer; Dave Betz, Development Director; 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 November 18 were deferred until the next meeting.

### **FINANCIAL REPORTS**

The Accounts Payable Report was received. Nan Metz, Finance Director, noted payments associated with outstanding bonds.

### **CLERK OF COUNCIL CORRESPONDENCE**

There was none.

### **FIRST READING: ORDINANCE 2003-70: AN ORDINANCE APPROVING AN AMENDMENT TO THE FINAL DEVELOPMENT PLAN FOR DUBLIN MANOR LLC, NORTH POWELL OFFICE CONDOMINIUMS, LOCATED AT THE SOUTHWEST CORNER OF N. LIBERTY STREET AND CLAIRE DAN DRIVE.**

Steve Lutz, City Manager, reviewed that the in 2001, a development plan was approved allowing 5 offices ranging in size from 7,000 sq. ft. to 9,216 sq. ft. Currently, two buildings have been built. The applicants are asking to split the square footage of the remaining buildings across 7 future buildings rather than 3. He said that people are requesting smaller spaces.

David Betz, Director of Development, reviewed the location of this property (Exhibit). He reviewed the parking that has been constructed. He noted that the Planning and Zoning Commission identified a desire to allow the applicant to build the old design or the new design. He reviewed the proposed elevation for a smaller building and identified a mixture of brick and cement-fiber siding. He noted the building separation variance included with this request.

Mr. Kaitsa asked about the brick knee wall. Mr. Betz said that the knee wall will be extended, with an iron gate to separate the walls. Mr. Kaitsa said he thought the smaller building might be good.

Mr. Lackey said that if the buildings are smaller, the architecture should be different for each building. Mr. Betz explained the differences and said that he will note that desire to the applicant.

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

This item was taken to a second reading and public hearing at the next meeting.

### **FIRST READING: ORDINANCE 2003-72: AN ORDINANCE APPROVING AN AMENDMENT TO THE PRE-ANNEXATION AGREEMENT AMONG THE CITY OF POWELL, TRIANGLE PROPERTIES, INC. AND THE LIBERTY COMMUNITY INFRASTRUCTURE FINANCING AUTHORITY.**

Stephen A. Lutz, City Manager, reviewed that this has been discussed by the Finance Committee. He said that the financing authority would like to expand their area to provide additional financing for improvements and infrastructure for future developments. He said this would require an amendment to the pre-annexation agreement between the Financing Authority, Golf Village Developer, Liberty Township and the City of Powell.

Charlie Vince, Developer, Golf Village, gave a presentation on this request. He identified five developments that they would like to include in the authority, and he noted that they will benefit from the development of Sawmill Parkway. He said that they anticipate \$9 million of bonds being issued related to this issue.

Brad Sprague, Liberty Community Infrastructure Financing Authority, reviewed the proposal. He said that after a great deal of consideration, they realized that if they are going to add new debt or land to the authority, they need to insulate the City from further debt and risk. He identified a flow chart that shows how the authority currently

works. He said a levy is imposed on each property at a rate of 10.25 mills, and those monies go to the community authority. The interest on the bonds the developers issued is paid from those funds, and leftover monies are paid to the City of Powell to pay the debt the City incurred when it annexed Golf Village. He reviewed the plan to add the new groups to the authority. He said that they have created a plan in which the developer is the holder of the new bonds. If the revenue isn't there to support them, they don't get paid, and therefore there is "no downside" to Powell. He said the expectation is that there will be extra revenue in each of these instances, resulting in \$4-8 million being forwarded to Powell. He said that at a minimum, Powell will only directly benefit from the Rutherford Estates development. Mr. Sprague noted that it makes sense to expand the authority with these 5 projects all at once because any expansion requires approval of the developer, the authority, Delaware City, the City of Columbus, and Powell. They would rather go through this one time.

Mr. Kaitsa said that the finance committee agreed that it makes sense to do this all at once.

Mr. Cline asked if the Rutherford Estates (Stone property) is already included in the authority. Mr. Lutz said that it is not, but the development plan was approved with the requirement that it become part of the authority. Mr. Cline summarized that approving that particular addition to the authority is equal to following through on a requirement that the City imposed on the developer, and that is why Powell shall receive the entire benefit from that development. He said the flow chart identifies that this proposal is intended to fund infrastructure development throughout the entire region. Mr. Sprague said that the benefit will be within each parcel. Mr. Cline clarified that the money will be used within Golf Village East and West, Scioto Reserve, and Rutherford Estates. Mr. Sprague said that is correct. Mr. Cline asked if the full faith and credit of the City is any way affected by the developer bonds. Mr. Sprague said it is not. He said that this will not adversely affect the City's debt capacity. Mr. Cline summarized that there is nothing bad that can happen to the City's finances with this, and there is the potential of up to an additional \$8 million to the City's benefit. Mr. Sprague said the benefit will be definitely more than zero dollars. Mr. Cline said whatever that amount is; it will be used solely to reduce the general obligation guarantee of the City. He said it is important to identify that there is no way this can turn into "found money," as this money will be used to reduce the debt, and that is a very significant benefit to the residents of the City of Powell.

Mr. Kaitsa noted that the Finance Committee wants to ensure that no community is "surprised" by this inclusion, particularly the Scioto Reserve area, which resides in Concord Township. Mr. Vince described an attempt at providing communication to the township trustees, but he has had no response.

Mr. Counts asked if there is any requirement that these parcels not within the City be annexed. Mr. Vince said there is not. Mr. Counts asked why the excess for the new debt would come to Powell, and said he is surprised there is no risk. Mr. Sprague identified negotiations with the City resulting in the lack of risk. Mayor Schultz said that the concept of the original agreement was to add properties to help reduce the burden on the original Golf Village development. Mr. Sprague said he doesn't think that is at all unfair. Mr. Lackey noted that it will help the existing Golf Village property owners.

Mr. Wiencek said that when Rutherford Estates and the M/I development were asked to join the authority, the intent was to assist the residents of Golf Village in paying down that debt. In this scenario, Rutherford Estates is doing that, but the M/I development is not. He questioned why they aren't also a direct line to Powell, particularly given that they aren't tying into the sewer. Mr. Lutz said there wasn't a requirement placed on M/I to enter the financing authority like there was with Rutherford Estates. Mr. Vince said they approached M/I and asked them to join.

Mr. Wiencek asked a variety of questions regarding concerns about if there is a shortfall. Emmet Kelley, Attorney for the Authority, described the various scenarios, none of which identified a particular risk for the City. Mr. Wiencek asked how he can be sure that the developer isn't overpaying the improvements and therefore paying themselves back for their own debt. Mr. Vince said that he looks at this as a method of financing this development. He said he doesn't know how he would overpay it. Mr. Lutz noted that the authority is governed by state statutes and audited on a regular basis. Discussion ensued regarding the composition and oversight ability of the authority.

Discussion was held regarding what happens if the bonds are all paid back before collection on the 10.25 millage ends. Mr. Kelly said he will review that issue and report back, but he thinks the scenario is unlikely. Ms. Metz said that she thinks section 5 governs how the millage will be calculated. The requirement for the financing authority's board is to establish the millage on the parcels. Mr. Sprague noted that at a certain point, the

residents of the community authority will have power over it. Mayor Schultz expressed concern that there is no way for the residents of the authority to pay off the debt early. He said he thinks that is desirable.

Mayor Schultz asked if there is any location in the Olentangy Schools section of Scioto Reserve development that could be used as a middle school. Mr. Vince described a location that is available in the Buckeye Valley section. He said he will talk to the Olentangy Local School Board about that possibility.

Mr. Cline asked if a suspension of rules is requested on this item at the next meeting. Mr. Kelly said it is. Mr. Cline asked that the City's bond counsel provide an opinion on this legislation.

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

Mr. Kelly said they hope that council votes favorably at the next meeting. After that point, the petition must go to Columbus and Delaware. Once they approve it, they can go to Delaware County for the required public hearing. He reviewed that they are doing all these properties at once because of the lengthy process. He noted that the duration of the authority is 31 years, and that after that point, the board of trustees will be citizens of the authority who can determine whether to keep it or dissolve it. He said they have provided notice to Concord Township about this issue and intend to notify future homebuyers within the purchase contract so that they will be well-informed of this issue.

**THIRD READING: ORDINANCE 2003-61: AN ORDINANCE ADOPTING THE PROPOSED BUDGET FOR THE FISCAL YEAR ENDING DECEMBER 31, 2004 AND DECLARING AN EMERGENCY. PUBLIC HEARING**

Stephen A. Lutz, City Manager, said that Council has received presentations on this budget during the last two meetings. He said that this budget is balanced and provides equal or greater services than done in the past. He said unlike many communities, the budget remains very healthy.

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

**MOTION: Mr. Kaitsa moved to adopt Ordinance 2003-61. Mr. Cline seconded the motion.**

**VOTE: Y 7 N 0**

**THIRD READING: ORDINANCE 2003-62: AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE MUNICIPALITY OF POWELL, DELAWARE COUNTY, OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2004.**

Stephen A. Lutz, City Manager, said that this ordinance accompanies the proposed budget ordinance and actually makes the appropriations for the expenditures.

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

**MOTION: Mr. Cline moved to adopt Ordinance 2003-62. Mr. Kaitsa seconded the motion.**

**VOTE: Y 7 N 0**

**EDSALL & ASSOCIATES - PARK DEVELOPMENT COST ESTIMATES**

Council had a lengthy review and discussion of the Park Development Cost Estimates in preparation for determining design elements to be included in the parks improved through the 7 mil bond levy. They asked that Edsall and Associates provide a summary of the estimates prior to the next meeting for easier discussion and review.

**COMMITTEE REPORTS**

**Development Committee:** Mr. Seta reported that the next meeting is December 17<sup>th</sup>, and that is to talk about Grandshire Road Extension

**Finance Committee:** Mr. Kaitsa reported that the next meeting will be held on December 11<sup>th</sup>.

**Service Committee:** There was no report.

**CITY MANAGERS REPORT**

Stephen A. Lutz, City Manager, said that at a November meeting, Capital City Builders requested waiving a \$4,527 recreation fee assessed to their project, but there were only 6 Council members present and the result was a 3-3 tie. He asked for Council's decision on this issue.

**MOTION:** Mr. Seta moved to waive the \$4526 fee from Capital City Builders in return for construction of soccer fields at Scioto Elementary School. Mr. Lackey seconded the motion.

**VOTE:** Y 4 N 3 (Cline, Counts, Kaitsa).

Mr. Lutz reminded Council of the Holiday Activities proposed for December 4.

**OTHER COUNCIL MATTERS**

Mr. Seta asked for an update on the properties along South Liberty Road. David Betz, Director of Development, said there has been no change. The intention is to submit plans for the property, and he will provide Council with a timeline.

Mayor Schultz asked about the vacant home in his neighborhood that has fire damage but remains unrepaired. Mr. Betz said Staff has sent correspondence to the property owner, but he will look into it. Mayor Schultz asked to determine whether there is a point at which such a house becomes a nuisance. Mr. Lutz said there seems to be a conflict with the property owner and their insurance company. He suggested that the law director look into this issue.

Mayor Schultz asked if anyone is interested in working on an anti-smoking committee.

**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 9:50 p.m. Mr. Kaitsa seconded the motion.

**VOTE:** Y 7 N 0

**MOTION:** Mr. Wiencek moved to adjourn from Executive Session at 10:00 p.m. Mr. Seta seconded the motion.

**VOTE:** Y 7 N 0

**MOTION:** Mr. Cline moved to reconvene in Regular Open Session in at 10:00 p.m. Mr. Kaitsa seconded the motion.

**VOTE:** Y 7 N 0

**ADJOURNMENT**

Council adjourned at 10:00 p.m.

**DATE MINUTES APPROVED:** December 16, 2003

Art Schultz 12/6/04  
Art Schultz Date  
Mayor

Dawn Nauman 1/6/04  
Dawn Nauman Date  
Clerk of Council