

ORDINANCE 2003-59
Passed October 7, 2003

AN ORDINANCE GRANTING AN EASEMENT FOR WATER SERVICE TO DEL-CO WATER CO., INC. AFFECTING A PORTION OF THE POWELL VILLAGE GREEN WITHIN THE MUNICIPALITY OF POWELL AND DECLARING AN EMERGENCY.

WHEREAS, the Del-Co Water Co., Inc. requested a permanent easement from the Municipality of Powell affecting a certain portion of the Powell Village Green located within the Municipality, and

WHEREAS, Council having determined that execution of the foregoing easement is in the best interest of the Municipality of Powell, and

WHEREAS, That it is hereby declared that an emergency exists requiring immediate passage of the ordinance, that emergency consisting of the grantee's necessity to commence construction plans as soon as possible.

NOW THEREFORE BE IT ORDAINED BY THE MUNICIPALITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

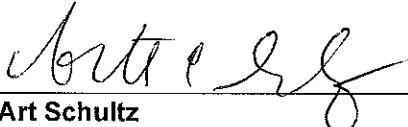
Section 1: That the City Manager is herewith authorized to execute a permanent easement for water service in favor of Del-Co Water Co., Inc. which is attached hereto and incorporated herein by reference.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of the Council and any of the decision making bodies of the Municipality of Powell which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the Municipality of Powell, Delaware County, Ohio.

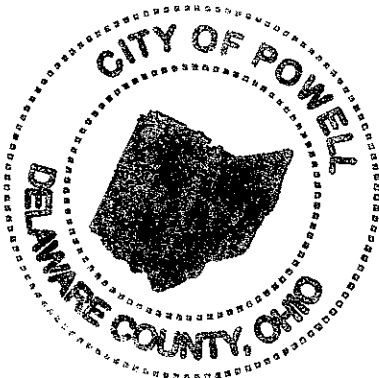
Section 3: That this Ordinance shall take effect immediately upon its adoption.

VOTE ON RULE SUSPENSION: Y 7 N 0

VOTE ON ORDINANCE 2003-59: Y 7 N 0


Art Schultz
Mayor
10/21/03
Date


Sue D. Ross
Deputy Clerk of Council
10/21/03
Date



This ordinance or resolution has been posted in
three (3) public places as defined in ordinance
94-11 dated 4-3-94
on this date 10-21-03


Clerk of Council DEPUTY

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that City of Powell, Ohio, hereinafter called GRANTORS, in consideration of One Dollar (\$1.00) and other good and valuable considerations paid by DEL-
O WATER COMPANY, INC., hereinafter called GRANTEE, the receipt and sufficiency of which is hereby acknowledged, does grant, bargain, sell and convey to said GRANTEE, its successors and assigns, an easement, a portion of which is temporary and a portion of which is perpetual with the right to erect, construct, install, lay and thereafter use, operate, inspect, repair, maintain, replace, and remove water lines, valves, fittings, meters, and accessories over and across the following lands owned by the GRANTORS in the State of Ohio, County of Delaware, City of Powell, and more particularly described as follows, to wit:

Parcel Number	Legal	Acreage
319-432-01-010-000	Lot #149	0.17
319-432-01-011-000	Lot #140	0.17

Volume #635 Page #129

which property is located in on the West side of Hall Street & South of West Olentangy Street, and mailing address of which property is Hall Street, Powell Ohio, together, with the right of ingress and egress over the GRANTORS' adjacent lands, the purpose of which the above-mentioned rights are granted.

The permanent easement hereby granted is limited to the widths as indicated in Exhibit "A" and shall be centered on and parallel with the centerline of the water lines as finally laid and constructed across the lands of the within GRANTORS, said water lines to be constructed as near as possible to the center of the easement as shown in Exhibit "A".

The GRANTEE shall pay any damages which may arise to crops, as well as to repair any damages to fences, drainage or field tile, driveways, or other structures from the laying, maintaining, operating, repairing, replacing, and final removal of said water lines and shall grade, seed, and mulch any ground area disturbed by GRANTEE. Said damages, if not mutually agreed upon, shall be ascertained and determined by three sinterested persons, one thereof to be appointed by the GRANTORS, one to be appointed by the GRANTEE, and the third appointed by the two appointed as aforesaid, and their word shall be final and conclusive.

The permanent easement provided herein shall be non-exclusive and allow other easements to overlap the easement provided herein for the benefit of the GRANTOR. The permanent easement provided herein shall restrict the placement of other buried utilities to a minimum distance of five (5) feet from the centerline of water lines as finally laid and constructed.

This agreement, together with other provisions of this grant, shall constitute a covenant, running with the land for the benefit of the GRANTEE, its heirs, successors, and assigns. The below-signed covenants that they are the owners of the above-described lands, or have authority to act on the owner's behalf, and said lands are free and clear of all encumbrances, except mortgages, leases, easements, and restrictions of record.

IN WITNESS WHEREOF, the said Grantor who hereby release their respective right and expectancy of dower in said premises, have hereunto set their hands this 8th day of Oct. 2003.

City of Powell Ohio

BY: Stephen A. Lutz

Stephen A. Lutz
Printed

City Manager
Title

BY:

Witness:

Robert E. Riley Jr.

Robert E. Riley Jr.
Printed

City Engineer
Title

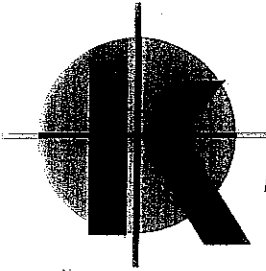
STATE OF Ohio

COUNTY OF Delaware

On this 8 day of October, 2003, before me, a Notary Public in and for said county, personally came Stephen A. Lutz, the grantors in the foregoing easement, who acknowledge that the signing thereof to be their voluntary act and deed.

Witness my official signature and seal on the day last aforesaid.

1/2



KLEINGERS
& ASSOCIATES
ENGINEERS AND SURVEYORS

September 16, 2003
Revised September 29, 2003

EXHIBIT "A"

**12' WIDE WATERLINE EASEMENT
WITHIN LANDS OF NOW OR FORMERLY THE VILLAGE OF POWELL**

Situated in the City of Powell, County of Delaware, State of Ohio; being part of those land of now or formerly the Village of Powell as described in Deed Volume 635 Page 129, and being more particularly described as follows:

Commencing at the intersection of the southerly line of Olentangy Street (60' wide right-of-way) and the westerly line of Hall Street (40' wide right-of-way); thence, along the westerly line of said Hall Street, South 02° 30' 00" West, one hundred fifty and zero one-hundredths feet (150.00') to a point along the southerly line of a 15' wide alley, said point being the northeasterly corner of lands of now or formerly the Village of Powell as described in Deed Volume 635 Page 129; thence, along the southerly line of said alley and the northerly line of said lands of Village of Powell, North 87° 30' 00" West, one hundred twenty-one and zero one-hundredths feet (121.00') to the True Point of Beginning; thence the following three courses through the said lands of Village of Powell,

1. South 02° 30' 00" West, eighty-one and fifty one-hundredths feet (81.50') to a point; thence,
2. North 87° 30' 00" West twelve and zero one-hundredths feet (12.00') to a point; thence,
3. Along a line parallel and 12' distant to the first-described course, North 02° 30' 00" East, eighty-one and fifty one-hundredths feet (81.50') to a point along the southerly line of said 15' wide alley; thence,
4. Along the southerly line of said 15' wide alley, South 87° 30' 00" East, twelve and zero one-hundredths feet (12.00') to the point of beginning containing 0.022 +/- acres (978 square feet) as calculated by Michael L. Keller, Professional Surveyor, Ohio License No. 7978, Kleingers and Associates in September, 2003.

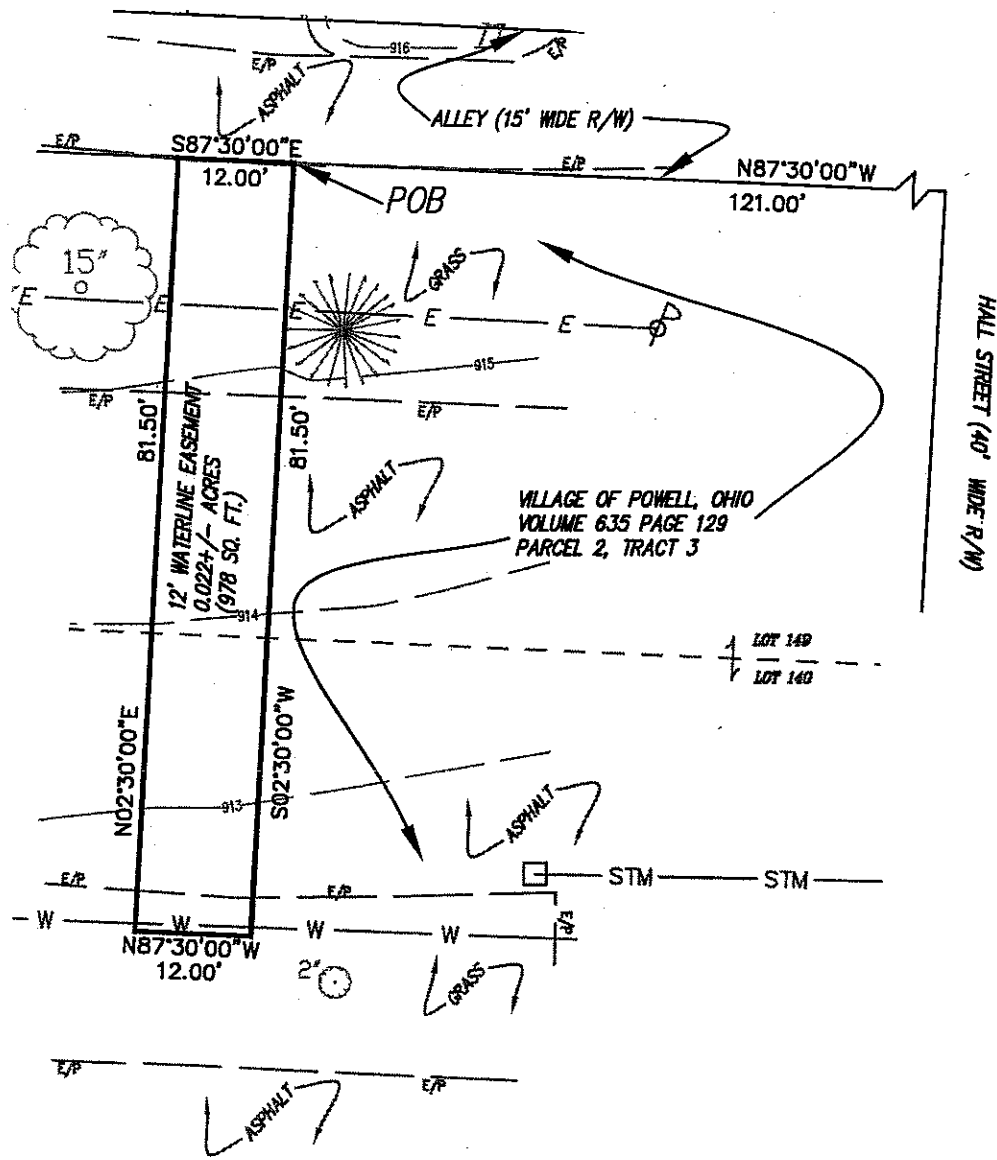
The Basis of Bearings for the above-described courses is a plat entitled "Plat of Powell, A. G. Hall Proprietor" as recorded in Plat Book 2 Page 268.

Subject to any easements, restrictions, covenants, ordinances, or agreements of record.

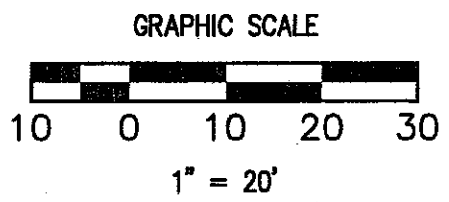
Michael L. Keller 9/29/03
Michael L. Keller Date
Ohio License No. 7978



2/2



I HEREBY CERTIFY THAT THIS PLAT IS BASED UPON A FIELD SURVEY MADE UNDER MY DIRECTION.
Michael L. Keller 9/29/03
 MICHAEL L. KELLER DATE
 OHIO PROFESSIONAL SURVEYOR NO. 7978



WATERLINE EASEMENT

EXHIBIT "A"

WATER LINE EASEMENT
 CITY OF POWELL
 DELAWARE COUNTY, OHIO

SCALE: 1"=20'
 DATE: 09/29/03
 DRAWN: MLK
 CHECKED: MLK
 JOB No. 030883.000

KLEINGERS & ASSOCIATES
 Engineers and Surveyors
 670 L Lakeview Plaza Blvd Columbus, OH 43085
 (614) 885-5970 Fax: (614) 885-5971