

CITY COUNCIL

January 20, 2004

A regular meeting of the City of Powell Council was held on January 20, 2004, and called to order at 7:30 p.m. by Mayor Dan Wiencek. Other Council members present were Jim Seta, Art Schultz, George Kaitsa, Don Grubbs, Richard Cline and Dave Lackey. Also present were Stephen A. Lutz, City Manager; David Betz, Director of Development; Rob Rice, City Engineer; Nan Metz, Finance Director; Chief of Police, Gary Vest; Dawn Nauman, Clerk of Council; Shea Crawford, Community Affairs/Special Events Coordinator; Ken Molnar, Director of Law; residents and representatives of the press.

CITIZEN PARTICIPATION

David Elwood, 161 Whitegate Court, asked why "somewhere between 100 and 130" trees were removed from Library Park last week. David Betz, Director of Development, reviewed that a certified arborist took a look at all existing trees in City parks and made recommendations on which trees needed to be removed due to disease, hazardous conditions, or park plans that necessitated removal. He said that the arborist recommended removal of many of the pine trees in Library because they were diseased. Mr. Elwood said that many of the trees between the homes and the park were a gift to the City by a developer, and he would like to know the cost of removing them. Mr. Betz said that he could look into the cost of removal for each park. Mr. Elwood questioned removing the trees with Diplodia which can be treated chemically. He asked if there was a "second opinion" on the trees that needed removed. Mr. Betz said that the arborist, Dave Ahlum, is much respected in his field. He said the second opinion that was received was by John Edsall, the parks designer, and his partners.

Mr. Elwood asked when the trees will be replanted. Mr. Betz said that he can provide Mr. Elwood with a copy of the landscaping plan. Mr. Elwood questioned the cost to remove and replant versus the cost to treat the trees with Diplodia. He said he would think it was probably \$40-50k to remove and replant at least 85 trees, which would obviously cover a few years of treatment. He said the trees were only 10-11 years old and they protected the families in this area from the park. He said that removing the trees in January that won't be replaced until fall is inconsiderate of the concerns of the 118 residents who said they didn't want a shelter in this park. Now they get to watch the construction because the trees are gone. He said that one of the trees that was removed was a memorial tree to a former City Council member and he would like to know if there are plans to replace it. Mr. Lutz noted that Mr. Elwood just notified Staff about the memorial tree 10 minutes ago and at that time he informed Mr. Elwood that Staff wasn't aware of it and will obviously replace it. Mr. Elwood said the tree was marked and questioned why the City wasn't aware. Mr. Betz said he will look into the specific reason why that tree was removed. Mr. Elwood said that the tree removal map indicated it was removed because of species.

Mr. Elwood said that he has many questions regarding Edsall and Associates' fee for design services. He noted a letter dated January 31, 2003 that identified a total of \$655,350 being paid to Edsall for design of the parks. He asked if that is the total amount, and if there have been additional charges in excess of the contracted amount. He asked if the contracted amount is the total fee or are there additional charges. He noticed on one document where Edsall was paid \$600 for coming to meetings. Mr. Seta said he doesn't have the exact contract in front of him, but he knows the price was a "not to exceed" amount rather than a lump sum. He said the contract was elaborate and included many details. He said that Edsall agreed to come to certain number of meetings and that Edsall has not been paid above and beyond that which he was hired for. He said that Mr. Elwood can be provided an accounting of payments to Edsall. Mr. Grubbs said he has reviewed some figures provided by the Finance Director. He said that there are line items for Edsall in the amount of \$463,503 and purchase orders to be paid in the amount of \$268,683 and \$732,186. Mr. Seta said that there are two separate contracts that Edsall has been hired for. Mr. Kaitsa said that he has asked for a copy of the ordinance as well as the contract to review. He said he remembers an amount just over \$800k.

Mr. Elwood said that the total bond levy is \$7 million and he thought that was to be \$5 million toward park development and \$2 million toward land. He said it appears now that the whole \$7 million is going to development. He understands that the City purchased land adjacent to the Village Green for approximately \$100k. Mr. Seta said that with Golf Village, the City will be getting additional parkland that is slated for ball fields. Mr. Lutz said that will be 25-27 acres. Mr. Seta said the property purchased adjacent to the Village Green will help expand this park as well. He said the bond levy has not been exceeded.

Mr. Elwood questioned a letter from Mr. Edsall identifying previous developments he has worked on and the percentage of his professional services fee. He questioned that the percentage being paid is 9.5%. Mr. Cline

said that the City didn't negotiate a percentage but rather negotiated a contract that was not to exceed a certain amount. The question of percentages arose based on questions that he and Mr. Kaitsa raised regarding the fees and a desire they had to determine that the rate he was charging was within an appropriate range. Mr. Kaitsa said he originally thought the fee was excessive and he pursued that line of questioning to determine the percentage. He agreed that the contract was not negotiated as a percentage but rather a dollar amount. Mr. Elwood questioned Mr. Edsall's relation of this project to a project in which he had a professional service fee of \$404k, or 7.6%. He expressed concern that Mr. Edsall is increasing the percentage due to inflation. Mayor Wiencek asked if there is a specific question Mr. Elwood has. Mr. Elwood said the percentage has been adjusted for inflation, and that is inappropriate. Mr. Wiencek said that was an illustration asked for by Council as a means to measure the accuracy and correctness of the fee it had negotiated. Mr. Cline said these are exactly the questions he asked when this issue was discussed some months ago, and he applauds Mr. Elwood's additional study. He said that he became comfortable with this because he realized that Council wasn't negotiating a percentage contract. He said the scope of this project is unique, and he encouraged Mr. Elwood to read it. He said that Edsall's responsibilities in relation to this contract cannot be compared those to which Mr. Elwood has referred.

Mr. Elwood said he is not comfortable with Edsall and Associates. He said they originally developed Library Park and there were many design flaws, including drainage issues and the location of the basketball courts. He began to review the issue of the basketball court. Mr. Wiencek said that issue has been resolved. Mr. Elwood questioned hiring Edsall to design more parks when there were problems with this park.

Mr. Wiencek said that Mr. Elwood has already exceeded the time that is typically permitted for public participation and he would like to move on. Mr. Elwood expressed displeasure in this. Mr. Wiencek said all of these issues were addressed and determined in public meetings. Mr. Schultz agreed that the debate was held many months ago regarding whether to hire Edsall. He said he thinks Mr. Elwood's original concern was the tree removal. He said that some were removed because of mounding and grading that they wouldn't survive on. Additionally, many of the trees were dying. He agreed about concerns regarding the memorial tree, and said that needs to be addressed. He said he is comfortable with the tree removal plan because Mr. Ahlum was involved. He said it may have been better to wait until construction time to remove the trees, but the City went out for bid to be frugal and combine the whole removal project with a hazard tree removal that was a big priority. Mr. Schultz said he doesn't want to go beyond 35 minutes of discussion when 5 minutes is permitted, but he wanted to offer that. Mr. Elwood asked to respond. Mayor Wiencek suggested that Mr. Elwood contact Staff and Council members who will be happy to respond to his concerns, but this meeting is not a debate forum. Mr. Elwood was displeased.

Leonard D'ooge 404 Charlespring Drive, said that he is a new resident in Powell and he spoke to Council two weeks ago regarding the "screw up" in the placement of the toilet facility in Murphy's Park. He said that Council voted to keep the toilet where it is, in his front yard. He said that currently, they are removing the trees in Murphy's Park and he would like to know who from the City is supervising the work. He said that he talked to the arborist, and he was extremely good at explaining what he was doing. He said he is very impressed with the work, but he is concerned that some of the wood is obviously going to be used, and reclaimed at a later date, and he wants to make sure the right trees are being removed. He also asked if Council can reconsider the placement of the toilet.

Mr. Cline said he isn't going to address the placement of the restroom facility because it has already been addressed and he doesn't want to go into a debate. He said that regarding the trees, they were inventoried and mapped. David Betz, Director of Development, said that he and Mr. Edsall are reviewing the trees as they are removed.

Mr. Kaitsa said that when this ordinance came before Council, the discussion was focused on Oak Park, and he doesn't think everyone truly understood the number of trees that would be removed from Library Park. He said he thinks the arborist should come to the next meeting to explain his recommendation. Mr. Grubbs concurred. He asked if the contract includes wood that is recovered. Mr. Lutz said the contractor is responsible for disposing of the wood. That can be viewed as an expense or a profit. Mayor Wiencek asked if there is any issue with asking the arborist to come and explain these decisions. Mr. Cline said that a written report could suffice. Mr. Schultz asked if the tree removal plan might not address those issues. Mr. Kaitsa said he doesn't think that

explains the rationale. Discussion ensued. Mr. Seta said that there were a variety of concerns regarding the trees, and one of them was relating to irrigation and mounding issues at Library Park. It was the opinion of the arborist that remedying those drainage concerns could kill the trees over a period of time because there will be mounding and a buffer along the homes.

Julie DeNunzio, 165 Whitegate Court, asked if the maps in the lobby or in the Council Chambers accurately reflect the screening that will be between the homes and the park. Mr. Seta said that the plans on display are the master plans, and the ones in the lobby are at the 40% level. Mr. Lutz said the final plans should be received in a week to 10 days and will be available for review at that time. Dawn Nauman, Clerk of Council, said that those plans can be put on the internet.

APPROVAL OF MINUTES

The minutes of January 6, 2004 were amended and approved.

FINANCIAL REPORTS

The Monthly Financial Report was received. Nan Metz, Finance Director, noted that this is also the end of the year report. She said the year ended well, and revenues exceeded the budgeted projections. She said the expenditures were 87% of the revised projections. She said that income tax revenues were higher than budgeted, with a 5% increase. She said a lot of the increase in revenue projections is due to development fees and not including Golf Village in the projections.

Mayor Wiencek thanked Staff and the Finance Committee. He said it is impressive to note that the City was under budget in every department. He said that is a significant accomplishment for any City in these economic times.

OTHER REPORTS

The Monthly Planning and Zoning Report was received. Mr. Betz noted that the Downtown Revitalization plan will be reviewed at the February 3 meeting.

The Monthly Police Report was received.

CLERK OF COUNCIL CORRESPONDENCE

There was none.

RESOLUTION 2004-03: A RESOLUTION RECOGNIZING ART SCHULTZ'S TENURE AS MAYOR OF THE CITY OF POWELL 2002-2003.

Mayor Wiencek read the Resolution and presented Mr. Schultz with a token of appreciation.

MOTION: Mr. Cline moved to adopt Resolution 2004-03. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

Mr. Schultz said that it goes without saying that the accomplishments made during his tenure are accomplishments of the Council as a whole as well as the families that support them. He said that he is going to look back at the last two years with enjoyment, because in the 12 years he has been involved with the City, he feels this group stood out because it worked diligently to try to accomplish things. He thanked Council and Staff for the support he received. Mayor Wiencek noted that Mrs. Kathy Schultz is in the audience.

THIRD READING: ORDINANCE 2003-71: AN ORDINANCE APPROVING THE FINAL DEVELOPMENT PLAN FOR POWELL UNITED METHODIST CHURCH FOR A SANCTUARY, NARTHEX, AND ADMINISTRATIVE OFFICE ADDITION AND PARKING LOT, LOCATED ON 7.6 ACRES AT 850 EAST OLENTANGY STREET AND AMENDING THE ZONING MAP FROM FR, LIBERTY TOWNSHIP FARM RESIDENTIAL TO PR, PLANNED RESIDENCE DISTRICT, FOR 2.07 ACRES.

David Betz, Director of Development, gave a brief review of the plan. He noted that there was lengthy discussion at the last meeting.

Mr. Kaitsa asked about the height of the mounding on the east side of the new parking lot. Mr. Betz said it will

vary 5-7 feet tall. Mr. Kaitsa asked if vehicles will be screened. Mr. Betz said the mounding plus the landscaping will provide a wonderful buffer.

Mr. Seta asked if there has been any further discussion on the bell tower design. Russ Blackstone, chairman, PUMC building committee, said he met with the Deer Run Homeowners' Association to review the design and come up with some minor revisions. He said they will continue to work with them before anything is submitted to Staff. He said they agree to all the conditions in the Ordinance. Mr. Seta asked if the church and the Homeowners' Association are on the opposite ends of scale regarding this design. Mr. Blackstone said that the homeowners have requested a very minor revision.

Mayor Wiencek opened this item to public comment. Hearing none, he closed the public comment section.

MOTION: Mr. Cline moved to adopt Ordinance 2003-71. Mr. Kaitsa seconded the motion.

VOTE: Y 6 N 0 (Abstain: Grubbs)

FIRST READING: ORDINANCE 2004-02: AN ORDINANCE APPROVING THE FINAL DEVELOPMENT PLAN FOR PETE DELOIS RECREATION OUTLET FOR A 35,800 SQ. FT. RETAIL CENTER LOCATED ON 4.1 ACRES AT 470 WEST OLENTANGY STREET. (Public hearings scheduled for 2/3 & 2/17)

David Betz, Director of Development, reviewed the plan. He reviewed adjacent developments. He briefly reviewed the elevations and proposed materials. He said that public hearings will be held on this plan on the 3rd and 17th of February in order to meet notification requirements.

Mr. Lackey asked about the size of the facility, and whether it will be built in phases. Mr. Betz said it is 35,800 sq. ft., will be built at once, and meets the Planned Commercial standards. Mr. Lackey said it will be the third largest building in the City and located behind a school and a church. Mr. Betz said it was originally larger, and there was a lot of debate at the Planning and Zoning Commission level regarding size.

Mr. Schultz asked about the playground equipment in the front. Mr. Betz said that Staff can provide details for the next packet. There are specific types of equipment allowed, only one of which will have primary colors. The others will be natural. They are also identifying a storage building and/or playhouse type building as part of their line. Mr. Cline asked that Staff provide a list of variances this project has. Mr. Betz said that he believes the only variance is in relation to the exact location of parking islands along the west property line, and that is required to try to preserve more trees. He said that the Planning and Zoning Commission also allowed the use of several ground signs versus wall signs, which is a better design in his opinion.

Mr. Cline asked about the traffic pattern. Mr. Betz identified a signal that is warranted at Old Sawmill and Powell roads. He said that they have worked with ODOT and the County Engineer to align this access with that signal. Mayor Wiencek said that it was Staff's idea to flip the building and align the driveway with the road rather than aligning it with UDF. He said that the Planning and Zoning Commission supported that change and that all represents an advantage to having professional planners on staff. He said a small change became a significant improvement.

Mr. Seta asked if there is room for a left turn lane onto Old Sawmill. Mr. Betz said that there are already such turn lanes east and west on Powell Road, but it isn't clear whether they will be sufficient once the signal is in. He said the design of this is going to have to be determined through ODOT.

Mr. Seta asked about the requirement that the storm water retention pond become a wet pond with a water feature. Mr. Betz said the Planning and Zoning Commission wanted the pond to be as nice looking as possible. They preferred this to a dry basin.

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

FIRST READING: ORDINANCE 2004-03: AN ORDINANCE TO APPROVE AN AMENDMENT TO AN APPROVED DEVELOPMENT PLAN FOR RUTHERFORD ESTATES, FOR 59 SINGLE FAMILY HOMES ON 43.47 ACRES LOCATED ON THE SOUTH SIDE OF RUTHERFORD ROAD WEST OF THE CSX RAILROAD AND AMENDING THE ZONING CLASSIFICATION TO PR, PLANNED RESIDENCE DISTRICT.

Stephen A. Lutz, City Manager, reviewed that this subdivision was approved last year and is adjacent to Golf Village. When it was approved, one of the requirements was that the applicant of the property join the Liberty Community Infrastructure Financing Authority (the authority) and the stipulation was that it be done prior to the engineering plans being signed. In November, Council began consideration of expansion of the authority and it was discussed that such expansion can be quite a lengthy process. He said that this applicant has submitted the necessary paperwork to be reviewed by the City of Columbus, the City of Delaware, and the Delaware County Commissioners, which could take 3-4 months.

Paul Phillips, applicant, asked if this can be adopted as an emergency. He said they are ready to move ahead, and he is concerned with having to go through three more readings on this item.

Mr. Cline asked how to require joining the authority without including some sort of triggering event. He said he is concerned that the lots could be sold and that a homeowner might say they don't want to be part of the infrastructure authority. Ken Molnar, Director of Law, said there are two questions, the first being when it must occur. The second is relative to sale of these lots. He recommended a private property restriction including the obligation that the property owners join the authority. Mr. Wiencek asked, if the addition to the authority isn't approved by the necessary bodies, how can the applicant be held responsible.

MOTION: Mr. Cline moved to amend Section 1 item 14 of the ordinance in the following way: "That the applicant add this property to the Liberty Community Infrastructure Financing Authority and any conveyance of real property shall contain a restrictive covenant that requires all owners to approve this land being added to the Liberty Community Infrastructure Financing Authority at the first legal opportunity."

Mr. Cline said this would require the purchaser to take whatever steps are necessary to meet the obligations. They will have to recognize that this is going to happen at the closing and also be contractually bound to provide their signature at a later date if it is needed.

Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

Mr. Seta asked what is the intent of getting this approved early. Mr. Phillips said they want to begin construction as soon as there are sign plans, hopefully within the next 30 days. Rob Rice, City Engineer said that the sanitary and road widening portions of the property probably could begin soon.

Mr. Molnar said that as a zoning ordinance, this cannot be passed as an emergency. Mr. Cline said that the best Council can do is suspend the rules and pass it tonight so that it will be in effect in 30 days.

Mr. Kaitsa asked if the applicant can proceed with their own risk. Mr. Rice said it would be violating City ordinances to begin without signed plans. Mr. Molnar added that there is a direct prohibition in the Charter from enacting zoning ordinances as emergencies. Mr. Phillips asked if Council can direct the engineering department to sign the plans before the 30 days. Mr. Cline said they really can't.

Mr. Kaitsa asked if there is any downside to Council acting this evening. Mr. Molnar said he can't think of any. Mr. Grubb said this has been through the Planning and Zoning Commission already. Mr. Seta noted that the Council reviewed this request previously also.

MOTION: Mr. Cline moved to suspend the rules on Ordinance 2004-03. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adopt Ordinance 2004-03. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

COMMITTEE REPORTS

Development Committee: Mr. Seta reviewed that there was a meeting this evening and they may be ready to have something before Council at the next meeting regarding cement fiber siding.

Finance Committee: Mr. Kaitsa reported that the Committee met on January 15 and discussed funding for curb ramp repairs. He said the recommendation is to reallocate \$100-125k for curb ramp repairs in conjunction with sidewalk repairs. He said they reviewed the park improvement bond issue, the bonds which have been scheduled for sale in February. He said they reviewed the financial reports. The committee requested more information from the Delaware County Traffic Board regarding their request for financial support. He said that the Lechler property purchase has been completed to facilitate the extension of Murphy Parkway. He said that Mr. Cline will be serving as chair.

Service Committee: No report.

Mr. Seta suggested looking into the City ordinances to determine whether the City can collect taxes on lottery winnings.

Mayor Wiencek noted that committee appointments and duties will be discussed at Saturday's Goal Setting Session on Saturday.

CITY MANAGERS REPORT

Mr. Lutz reviewed the agenda for Saturday's goal setting session.

Mr. Lutz identified a need for additional meetings in March. After a brief discussion, Council decided to have a meeting on Thursday, March 11 at 7:30 p.m. meeting for park development, and another meeting on Tuesday, March 23, to address the annexation for the Graeter's/City BBQ development.

OTHER COUNCIL MATTERS

Committee Report & Department Document

EXECUTIVE SESSION:

MOTION: Mr. Cline moved to adjourn into Executive Session to discuss land acquisition in accordance with ORC Section 121.22 (g) (2) and personnel (board and commission appointments) in accordance with ORC Section 121.22 (g) (1).

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adjourn from Executive Session. Mr. Lackey seconded the motion.

VOTE: Y 7 N 0

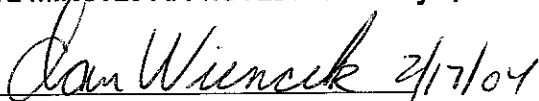
MOTION: Mr. Cline moved to readjourn into regular Open Session. Mr. Lackey seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adjourn from regular Open Session at 9:20 p.m. Mr. Lackey seconded the motion.

VOTE: Y 7 N 0

DATE MINUTES APPROVED: February 3, 2004


 Dan Wiencek
 Mayor

Date


 Dawn Nauman
 Clerk of Council

Date