

CITY COUNCIL

February 3, 2004

A regular meeting of the City of Powell Council was held on February 3, 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; 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

Jim Hrivnak, 330 Delaney's Circle, said that he has recently spoken with Mr. Lutz regarding seeking appointment to a Board or Commission for the City of Powell. He reviewed his background and identified his interest in serving his community. He said he has provided Mr. Lutz with his resume.

APPROVAL OF MINUTES

The minutes of January 20, 2004 were amended and approved. The minutes of January 24, 2004 were approved.

FINANCIAL REPORTS

The Accounts Payable report was briefly reviewed by Nan Metz, Finance Director. Mr. Schultz asked about correspondence he received from RITA referring him to the web site to receive forms. Mr. Wiencek, Mr. Kaitsa and Mr. Cline said they received forms in the mail. Ms. Metz said she will contact RITA and ask them what the procedure is this year.

AHLUM & ARBOR TREE PRESENTATION – DAVE AHLUM

John Edsall, park designer, was present to review the process for surveying and evaluating tree conditions within area parks due to concerns raised at the last meeting regarding the recent removals. He reviewed an exhibit outlining the concerns associated with the disease Diplodia, which many of the trees in Library Park had.

Mr. Seta said that there was an attempt to have a great deal of discussion with adjacent residents regarding the Library Park development, including issues of tree and drainage problems associated with the park. He said he thinks Mr. Elwood's concern was based on how stark the park looks. He said he wants to make sure that everyone understands that the trees were removed for a variety of reasons.

Dave Ahlum and Randy Jackson were here to discuss this issue. Mr. Ahlum reviewed the problem of Diplodia and tip-blight that affected many of the pine trees, particularly the Boston and Scotch pines. Mr. Kaitsa asked if there is any intervention appropriate other than removing the trees. Mr. Ahlum said that they spray trees frequently, but would rather not do so in a public park due to the pesticide-sensitive public. He said that sanitation, removing all the dead and diseased limbs is also a solution, but all of the cones need to be removed as well. He said he thinks removal was the appropriate course of action for the pines at Library Park, particularly due to the closeness of all of the trees.

Mr. Kaitsa asked what is the height of the proposed new spruce trees at Library Park. Mr. Edsall said they are 8 feet and will have a basal spread of 50-60% of the height. He said they hated to see those trees go, but the browning that would have happened in the next 1-3 years would have been a visual blight on the whole park, after having spent considerable dollars to upgrade. Mr. Kaitsa asked about the tree that was a memorial tree for a former Council member. Mr. Edsall said that was related to an oak tree that they originally thought was in good condition. However, on closer inspection it was clear that the tree had been severely scarred and would need to be removed. He said they are planning to replace the two memorial trees in the area with sugar maples. Mr. Ahlum provided detailed information on the damage that can be caused when a tree has outer scarring.

Mr. Cline asked if the City needs to educate those who maintain the park on the appropriate practices to keep this type of scarring from occurring. Mr. Ahlum said they do. Mr. Cline asked if there is anything that the City could have done to protect the trees from tip blight and Diplodia. Mr. Ahlum noted that this disease is common

in these types of trees. Mr. Edsall said that some of the park plans have been adjusted to keep from having these types of problems.

Mr. Lackey said that he thinks the lesson learned in this process is that the City needs to try to keep the residents from having unexpected surprises, whether it be related to trees or mosquito fogging. He said he thinks Council needs to let people know the details of the impact of park development in their neighborhoods.

Mr. Kaitsa asked if it is true that the parks will be unusable this summer. Mr. Edsall said that they will largely be because it is hazardous to mix people with construction equipment. He said that if people can weather the storm for one year, he thinks they will be very pleased with the results. Jeff Snyder, Director of Parks, Recreation and Public Service, reviewed that the City has been in contact with OYAA to work with them regarding the lack of practice space this year. He said the City's Parks and Rec. programming will be held in areas other than City parks. Discussion ensued.

Mr. Grubbs agreed with Mr. Lackey that communication is important and it could help the City avoid issues in the future. He asked if any of the pines along the park boundary were removed because of grading. Mr. Edsall said that it was virtually all disease-related and that the grade changes are minor. Mr. Grubbs commended the work being done at Murphy's Park, and said it is being done very professionally. He asked why Library Park wasn't included in the original tree survey. Mr. Edsall said it was because the shade trees were thought to be in good condition and it wasn't until further field checks that they became aware of the condition of the pines.

Mr. Lutz said that a letter will go out to the residents that about the parks where tree removal has yet to occur to let them know in advance.

DOWNTOWN REVITALIZATION REPORT – KINZELMAN KLINE

David Betz, Director of Development, reviewed that Kinzelman Kline had reported to Council on some basic land use recommendations earlier and is present this evening to discuss implementation of the plan.

Brian Kinzelman and Aaron Whitaker were present to discuss this proposal. Mr. Kinzelman reviewed the process they used to develop the plan, including much discussion with residents, developers, and business owners. He reviewed the market conditions study and the design and planning process. He reviewed the plan as presented.

Mr. Grubbs asked about a high-density housing development recommended for the southeast quadrant of the City. Mr. Kinzelman said that the document addresses the issue of alternatives to single-family homes quite a bit. He said the goal is to attract and keep people across the full socio-economic range. He said that the parcels that front South Liberty Street are strange shapes, as they are very deep. He said that their suggestions introduces a different housing type within downtown, creates residents within walking distance of downtown merchants, and creates a buffer between commercial and single-family residential development. Mr. Grubbs asked how such town homes or condominiums will impact traffic downtown. Mr. Kinzelman said that the intersection of Liberty and Olentangy is problematic in its left turn motions. Mr. Kinzelman said that there is a real need for work force housing in Powell. The City's firefighters and teachers cannot afford to live here. He said there is immediate developer interest in downtown Powell.

Mr. Schultz asked about the implementation suggestion that developers work together toward a common plan downtown. Mr. Kinzelman said he has seen first hand how Staff works with various parties, and that good work should continue. He said that the developers have been frustrated that the downtown area is a collection of small parcels. He said assembling those parcels to redevelop a critical mass of real estate isn't worth their effort. He said that may be addressed by forming a development corporation or an economic development "arm" of City government.

Mr. Kaitsa asked about financing this plan. Mr. Kinzelman noted a variety of opportunities for funding, including tax-increment financing, user fees, and impact fees.

Mr. Seta said that this is overwhelming but it is a good starting point. He asked what would be the first step the City should take. Mr. Kinzelman said Powell isn't as behind as it thinks, and that the Village Green development is key and a good asset for the downtown. He said that the streetscape is very important. He said the main

street organization needs to be put in place and be one step removed from City government. He said it will be a mechanism by which the very active merchants organization can be engaged.

Mr. Cline agreed that this is overwhelming but feels it is also heartening because it identifies that many good things have been done and can be done. He said that he had the "privilege" of being on Council through many debates of the turn signals at the four corners, and they were rancorous, contentious, and difficult. He asked why improving the intersection is so central. Mr. Kinzelman said it may very well be as much perception as it is reality but the congestion that happens at that intersection is a turn off to potential customers of the downtown district. He said he understands the four corner bypass system that has been designed, and he said it works fine for those traveling from Worthington to Dublin. However, the four corners intersection doesn't do anything for the merchant community at the crossroads. He said he doesn't see a problem with mixing automobiles and pedestrians, and making that intersection a friendlier place to drive will help the merchants.

Mayor Wiencek thanked Mr. Kinzelman for a fine job on this plan. He recommended referring this proposal to the Downtown Committee for additional review and creation of an implementation strategy.

FIRST READING: ORDINANCE 2004-07: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2004.

Stephen A. Lutz, City Manager, reviewed that this Ordinance is an appropriation to hire Kinzelman and Kline to provide study services for the Sawmill Parkway corridor. He said that one of the goals of Council identified this year was to look at planning within the City's boundaries as well as adjacent to them. He said the expectation is that this will provide a comprehensive look at completed and approved development plans and approved zoning and make recommendations for appropriate uses and guidelines. He said it is important to look at how future development will impact the downtown area. This plan will provide parameters for site design, architectural design criteria, roadway and access management, and public facility needs such as open space, parks and bikepath connections. He said that Kinzelman and Kline feel they can provide this report by early-mid March.

Mr. Kinzelman said they are pleased to be called upon to give additional assistance. He said the timing is wonderful because all of the work that has just been completed. He said that they will be able to let Council know what ramifications can be expected downtown as a result of various scenarios on the parkway. Mayor Wiencek thanked Mr. Kinzelman for their quick response in Council's request for a proposal.

Mr. Grubbs said that he thinks it is important that the City know what pressures along Sawmill Parkway could effect what has been recommended for the downtown. He asked if some of those pressures were already considered. Aaron Whitaker said that some of those issues were clearly considered, and one thing that came out of that is that Powell is experiencing some of the problems associated with larger metropolitan areas, that the development is occurring outward. Mr. Kinzelman said that consideration was given to that which exists on Sawmill Parkway and the impact of it on the downtown development. Mr. Grubbs said that much of this study is going to be related to the Township plans for the area.

Mr. Schultz asked what is the planning area. Mr. Betz identified the plan area, and noted plans inside and outside of the City limits. Mr. Schultz said that the plan includes two public meetings, and he would hope they will be in the evening so residents can attend. Mr. Kinzelman said that is the plan.

Mr. Seta said he thinks this is a great idea, but he is concerned about planning for areas outside the jurisdiction of Powell. He asked how much Liberty Township has been brought into the concept. He expressed concern for how this will be perceived by them. Mr. Lackey said that many times, the City is asked to respond to developments in a reactive manner, and this provides the opportunity for the Council to be proactive and tell the developers what they think is appropriate. If developers want to annex, then Council has something to refer to make a decision other than building design.

Mr. Schultz added that several of these development areas about City residents, and anything Council can do to encourage and motivate good development is money well spent. He said there are many City residents who are very concerned about what is going on on Sawmill Parkway.

Mr. Kaitsa said it will be helpful to know what Council's position should be based on this information. Mayor Wiencek said it also provides for citizen input and the ability to have more of a consensus. Mr. Lackey said that residents of the City are residents of the Township as well and the Trustees are the elected officials for the City as well. He said that if development is occurring that impacts the area negatively, the Township should be asked to take stock in this process and react appropriately.

Mr. Cline asked that the results of this study be provided in an electronic format that can be shared with the public. He asked if Mr. Kinzelman can be clearer of what he will deliver. Mr. Kinzelman said he can't, as these things evolve through the study process. Mr. Cline asked if he could anticipate appropriate zoning recommendations for certain areas. Mr. Kinzelman said he can expect that as well as some development criteria. Mr. Schultz said he thinks what is desired is ideas for how to reduce the impact of development.

Mr. Cline asked if this will compliment or conflict with current planning processes in Liberty Township. Mr. Betz said he understands that Liberty Township is in the process of updating their Comprehensive Plan, and Staff will certainly work with them in this process.

MOTION: Mr. Cline moved to suspend the rules on Ordinance 2004-07. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adopt Ordinance 2004-07. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

Mr. Lutz noted that this ordinance, because it has no emergency clause, will not go into effect for 30 days. Mr. Cline asked if the contract can be approved without the funding. Ken Molnar, Director of Law, said it cannot, as the Finance Director needs to be able to certify that the funds are available.

MOTION: Mr. Cline moved to reconsider Ordinance 2004-07. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to amend Ordinance 2004-07 as follows:
To add the words "and declaring an emergency" to the title and further add to Section 1 "that Council hereby determines an emergency exists in order to take advantage of advantageous timing and therefore reduce the cost by immediate contract."
Mr. Lackey seconded the motion.

Mr. Seta asked if that meets the requirement for emergency language. Mr. Cline said he thinks it is in the best interest of the general welfare of the residents because it is saving the taxpayers money.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adopt Ordinance 2004-07. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

CLERK OF COUNCIL CORRESPONDENCE

There was none.

RESOLUTION 2004-02: A RESOLUTION AMENDING AND RESTATING RESOLUTION 91-04: A RESOLUTION AUTHORIZING THE VILLAGE OF POWELL TO PICK UP THE STATUTORILY REQUIRED CONTRIBUTION TO THE PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO OR POLICE AND FIREMAN'S DISABILITY AND PENSION FUND FOR THE EMPLOYEES OF THE VILLAGE PURSUANT TO IRC SECTION 414 (H) (2).

Stephen A. Lutz, City Manager, reviewed that the Police Department employees are covered under the Ohio Police and Fireman's pension fund. The City contributes 19 1/2% of their salary into the pension and the employees contribute 10%. He said the City deducts the employees percentage on a pre-tax basis. 13 years ago, the Village filed a resolution with the fund informing them that the City would be using a pre-tax basis. He said that the City has recently received correspondence from the fund asking the members to reaffirm that decision or

notify them of any changes.

Mr. Kaitsa asked if the title shouldn't be changed to City. Mr. Lutz said that the title in this resolution is amending a resolution that was passed when the City was a Village, and that is why it is listed as such in the title.

MOTION: Mr. Cline moved to adopt Resolution 2004-02. Mr. Kaitsa seconded the motion.

VOTE: Y 6 N 0 (Abstain: Kaitsa)

RESOLUTION 2004-04: A RESOLUTION AUTHORIZING PARTICIPATION IN ODOT COOPERATIVE PURCHASING PROGRAM.

Stephen A. Lutz, City Manager, reviewed that the City has money appropriated for a dump truck. The City can go out to bid on its own or "piggy back" on the bid of larger agencies, as it has done in previous years. He said that ODOT does that, and they receive very competitive prices, and it saves the City the effort of going out to bid.

Mr. Seta expressed concern that the limit on funds that can be spent is not identified in this legislation. He asked if something can be inserted that indicates these are budgeted items. Ken Molnar, Director of Law, said language could be added authorizing the manager to participate in this program in accordance with the City's purchasing procedures, which set forth the limitations Mr. Seta is asking for.

Mr. Grubbs asked if an ordinance wouldn't have to be passed to authorize the purchase. Mr. Lutz said the budget ordinance, which was approved by Council, has a line item appropriated for this truck. Mr. Grubbs asked about the hold-harmless agreement that is part of the resolution that could obligate the funds of the City thereby requiring an Ordinance rather than Resolution. Mr. Molnar said that he feels this Resolution can be adopted as-is because of the purchasing procedure that the City has. He said this gives the City Manager the authority to contract on behalf of the City. Mr. Kaitsa said he believes this just allows the City to participate in the program. Discussion ensued. Mr. Seta said he is concerned this is too broad.

Mr. Lutz said this is the model Resolution recommended by the state. Dawn Nauman, Clerk of Council, said that this Resolution is on the books currently and ODOT asked that it be updated for this year. Mr. Cline said he thinks the resolution is fine as it is, although it could be amended to reflect Mr. Seta's concerns. He said that he thinks the hold harmless clause is only related to claims that result of participation in this purchasing contract. It is not a hold-harmless for the purchase itself. The City isn't waiving its warranty rights against a vendor, but rather stating they won't sue the state because it didn't administer the program the way that was expected. Discussion ensued.

Mr. Seta said that this seems like a "blank check." Mr. Lutz noted that the purchasing procedures do not allow him to spend more than \$15,000 without getting Council approval. He said that Council did approve the truck purchase. Mr. Lackey said this governs a way to purchase but has nothing to do with the City Manager's discretion, which is outlined.

Mayor Wiencek asked if there is any support for Mr. Seta's amendment. There was none.

MOTION: Mr. Cline moved to adopt Resolution 2004-04. Mr. Kaitsa seconded the motion.

VOTE: Y 5 N 2 (Grubbs, Seta)

SECOND 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 HEARING)

David Betz, Director of Development, reviewed the location of the property and adjacent uses. He reviewed the entry into the site, the elevations and materials as proposed. He thoroughly reviewed the plan, including access, layout, tree preservation, and water detention. He reviewed the divergences to the Zoning Code (Exhibit).

Mr. Cline asked if it is correct that if the variance regarding the recreational structures were not approved, the applicant would have to put the display adjacent to the condominiums. Mr. Betz said that is correct, and that could raise other issues. Mr. Cline said that would directly contravene the concept of not having such structures adjacent to the neighborhoods. Mr. Betz said that the building is set very far back, so this will have less of an impact from Powell Road. Mr. Grubbs added that the applicant intends to discourage passive use, so it really

won't be used as a recreational structure.

Mr. Wiencek said that there was significant debate about the size of this building. He said they were asked to split the building and create space in between the two facilities and that drove the development into the residences and trees. He said that the building orientation lessens the impact. He said that the cement fiber product proposed for this development is a simulated shake rather than lap siding, so the installation concerns usually considered aren't going to be an issue. He said that the flags on this development were approved with no logos or insignias, just colors.

Kerry Ryan, Architect, reviewed that through a lot of effort from Staff and the Planning and Zoning Commission, this development has gone through a lot of iterations. He said they feel this is a development worthy of Powell's interest. He said this is an upgraded look of an English riding stable. He said it is a nice development, and they are proposing low profile signage. He said they worked hard to minimize the parking and paved areas. He said they minimized the maximum building dimension, and the geometry minimizes the perspective and impact. He said that breaking it up into two major masses so that it appears to be two buildings is also an asset.

Mr. Cline asked if it is Mr. Delois intent to occupy the larger structure while other tenants use the other retail uses. Mr. Ryan said that is correct. He said the geometry of the site makes it a challenge to lease, so the owner is taking the rear portion thereby giving more marketable area up front.

Mr. Cline asked what types of uses are expected in the front area. Mr. Ryan said they are looking for tenants that compliment Mr. Delois use, such as recreational furniture, yard equipment, toy store, ice cream parlor, etc. He said that Invisible Fence is already on board.

Mr. Wiencek opened this item to public comment. Hearing none, he closed the public comment session.

Mr. Lackey said that when he sees buildings larger than traditionally located in Powell, he feels a duty to examine them very critically. He said that people that moved into Powell bought a type of community scale. He said that based on location, orientation, distance from the road and design, he can't find anything wrong with this plan.

Mr. Kaitsa said that breaking it into two masses almost makes it look like two buildings and lessens the impact.

Mr. Cline said that his only concern was the east elevation and not having any break up in the long design. However, having seen how the building was oriented, he understands the design. Mr. Betz said that the tree planting plan and preservation will help screen it as well. Mr. Cline said he likes the architectural design.

Mr. Grubbs said that this is a very good addition to the City, and he is anxious to see it developed.

Mr. Schultz had no comments. Mr. Seta said he likes the plan with the exception of the pennants. Mr. Grubbs said he shared that concern initially, but it was explained to him that the tree preservation around the perimeter will screen the building elevation a great deal. He said the flags will actually attract people to the development, and with that and all the other changes, he came around on that issue. Mr. Seta expressed concern that they would be like a large spotlight. Mr. Ryan said that architects generally think that such flags are unnecessary attention getters for poor architecture. However, he thinks in this case they are a solution to the problem of marketable space and the problems with orientation and geometry. Mr. Seta asked about the height. Mr. Ryan said the tallest will be 38 feet. Mr. Cline said he had similar concerns but he decided to consider them "flexible weather vanes." Mr. Kaitsa said that he thinks they are the symbol of pageantry that goes along with English riding stables.

Mr. Cline asked if there is a reason to let this go to three readings. Dawn Nauman, Clerk of Council, said an additional public hearing is necessary to meet the advertised notice requirement. There being no further comment, this item was taken to a third reading.

FIRST READING: ORDINANCE NO. 2004-04: AN ORDINANCE TO APPROVE THE 2004 REPLACEMENT PAGES TO THE POWELL CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.
Stephen A. Lutz, City Manager, said that these updates to the codified ordinances reflect the legislation passed by

Council last year as well as changes made to the Ohio Revised Code. Mr. Cline asked if this can be provided on CD as alternative to paper.

Dawn Nauman, Clerk of Council, said that if any members of Council would like to turn in their book because they use the electronic version, she will take them back. She said that she will also update the books of those Council members who would like to keep the paper version.

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

FIRST READING: ORDINANCE 2004-06: AN ORDINANCE AMENDING THE BUILDING CODE OF THE CITY OF POWELL, ADDING SECTION 1337.19: EXTERIOR SIDING STORAGE AND INSTALLATION.

Stephen A. Lutz, City Manager, said that this ordinance addresses how exterior siding should be stored and installed, and it primarily addresses cement fiber products. He said this doesn't permit such material in neighborhoods where it is currently prohibited. The purpose of this ordinance is to regulate the storage and installation in those subdivisions where it is approved, such as Golf Village, Woods of Powell, Rutherford Estates, and commercial areas.

Mr. Lackey said he has been one of the biggest cement fiber critics, but this is a building code rather than zoning code amendment, so it identifies the standards by which the material need to be applied. He said it is long overdue.

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

COMMITTEE REPORTS

Development Committee: Mr. Betz said that a CEDA committee meeting will likely be scheduled soon.
 Finance Committee: Mr. Cline reported that the next meeting is scheduled for Feb. 12.
 Operations Committee: Mr. Lackey said that he and Mr. Schultz will be scheduling a meeting soon.
 Downtown Committee: Mr. Wiencek suggested getting together in the near future.

CITY MANAGER'S REPORT

- Mr. Lutz noted a summary report of the December Web Site activity.
- Any changes or recommendations regarding the Powell Quarterly need turned in to Shea this evening.
- Mr. Lutz suggested that Council continue to review the committee assignments that have been identified based on the goal setting session in relation to the Committee which will address each item.
- Mr. Lutz said that it is likely that the March 11 extra meeting will not need to be held, but the March 23 meeting will be.

OTHER COUNCIL MATTERS

Mr. Cline said that he has been asked to serve on the Delaware County Court Building Advisory Committee. He said they are reviewing a needs assessment and site plan for a court building in downtown Delaware. He asked that Council members with opinions on this issue let him know.

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) at 10:18 p.m. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adjourn from Executive Session at 11:05 p.m. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to readjourn into regular Open Session at 11:05. Mr. Kaitsa seconded the motion.

VOTE: Y 7 N 0

