

CITY COUNCIL

October 12, 2004

A special meeting of the City of Powell Council was held on October 12, 2004 and called to order at 7:30 p.m. by Vice President Jim Seta. Other Council members present were Art Schultz, Richard Cline, Don Grubbs, and George Kaitsa. Dave Lackey arrived at 8:10 p.m. Mayor Dan Wiencek was absent. Also present were Stephen A. Lutz, City Manager; Ken Molnar, Director of Law; David Betz, Director of Development; Nan Metz, Finance Director; and Dawn Nauman, Clerk of Council.

CITIZEN PARTICIPATION

Jeanne Stoll, 1680 Carriage Road, was present to update Council on the status of the property located on the northwest corner of Rutherford Road that was advertised for sale as a commercial property. She said she contacted the Ohio Department of Licensing and confirmed that was illegal to put a commercial sign on a piece of property that couldn't be zoned commercially. She said she then talked to the realtor associated with the land who said that they had advertised it that way at the request of the client. She indicated her intention to file a grievance on this issue of false advertising, and noticed almost immediately that the sign was down. She said hopefully that is the end of the issue but she asked, if new owners come to Powell and request commercial zoning, that Council not allow it for that particular piece of land. Mr. Seta commended Ms. Stoll for catching that and following up.

SECOND READING: ORDINANCE NO. 2004-51: AN ORDINANCE DECLARING CERTAIN MUNICIPAL PROPERTY TO BE SURPLUS AND AUTHORIZING THE SALE OF SUCH PROPERTY IN ACCORDANCE WITH THE AGREEMENT ATTACHED HERETO AS EXHIBIT A AND DECLARING AN EMERGENCY.

Stephen A. Lutz, City Manager, summarized this proposed ordinance. He said tonight is the third reading. He reviewed the 25 acre parcel located along the railroad track immediately west of the YMCA building. He said the GFS site is immediately north of the YMCA and 25 acres as well. He said the City and Liberty Township developed the Northwest Area Plan (NWAP) several years ago and it calls for the connection of the YMCA property north into Liberty Park. For several years, Liberty Township has been negotiating with the owner of GFS to try to acquire that parcel. The City has entered into negotiations with GFS to conduct a land transfer where the City would transfer 25 acres of land (along the railroad) for the GFS property. This would provide the necessary link between the YMCA and Liberty Park. There will be no money exchanged. As was discussed at the last meeting, Liberty Township currently has an eminent domain proceeding against GFS to purchase that property. He identified the distances from different facilities to the ding lines on the land the City is wanting to trade. The distance from the YMCA is 2,100 feet, from the Middle School is 650 feet, and from the elementary school is 1,400 feet.

Mr. Kaitsa asked, if this deal goes through, will the City control the GFS development. Mr. Lutz said they will, and it will go through the Planning and Zoning Commission and Council. The intent is for an office or office/warehouse use similar to what is at the Wolf Commerce Park. Mr. Kaitsa said that even though it is zoned industrial, it will develop more like offices. Mr. Lutz said that is correct, the proposal is to rezone it office/office warehouse and to maintain the tree buffer along the east side of the property to screen development from the view of Liberty Street or the schools.

Mr. Grubbs asked if the open space property to the south of this parcel that runs to Rutherford Road is a part of this. Mr. Lutz said that it isn't. He said that the parcel that is being traded by the City was acquired as part of the Cameron-Wallingford development. During the development process, there were some concerns issued regarding the property, which was used for steam-engine maintenance, and there are some material deposits that MI Homes will be completing remediation for. He said that there are also several pockets of wetland which tend to hold water and is not considered as desirable as some other parcels.

Mr. Seta asked about the bike paths. David Betz, Director of Development, reviewed the Woods of Powell development on the Cameron/Wallingford parcel. He identified the northern part. He said that it is envisioned that the pathway will start at the southern part of the Woods of Powell Development, move through the northern part along the railroad to Rutherford Road and then connect to the school site and continue on to the Township parkland.

Mr. Cline asked about the property that borders the railroad tracks on Home Road and moving south. Mr. Betz identified the two parcels and said they are owned by GFS. The adjacent parcel is the one being discussed this

evening. Mr. Cline asked how long they have been on those two parcels. Steele Hutchinson, GFS Chemicals, said they have been there since 1978. Mr. Schultz asked how they are those zoned. Mr. Betz said he believes they have an industrial zoning in Liberty Township.

Mr. Seta opened this item to public comment. He asked that people try to limit their comments, and said if comments run too long, he might enforce the three-minute time limit.

Liberty Township Trustee John Werner, gave a brief presentation on Liberty Township's interest in this issue. He reviewed a map from the NWAP that was adopted by both the City of Powell and Liberty Township. He said that the two parcels being discussed are both identified as open space. He reviewed surrounding uses of parks, churches, and schools. He said that the Cameron/Wallingford rezoning designated the 25 acres along the railroad tracks as open space and the acreage was used as calculation for the density for the houses in the entire development. He identified the property owned by GFS chemical which is under litigation with Liberty Township. He said that they have two concerns with this proposal. The first is that this is deviating from the approved plans that both of these parcels would be open space. Secondly, the open space in the Cameron-Wallingford property was included in the density. He said he doesn't think it is right to rezone property as open space and then turn around and use it for another purpose. He said they understand the financial side of it because this will save Liberty Township money. He said they would obviously have to purchase that land and it is a matter of public record that they paid \$27,500/acre for the YMCA land, and that was a few years ago. While it is expensive, they have the money in their budget to buy this property. He said what it boils down to is whether the money is more important than the development.

Mr. Schultz asked about Mr. Werner's comments that the Wallingford property was zoned for residential by Liberty Township. Mr. Werner reviewed that before annexing, there was a residential development plan approved in Liberty Township and this portion was open space. His understanding is that it is also green space in the Powell rezoning.

Mr. Grubbs said that the approved density for Liberty Township's version of the Cameron Wallingford indicates 1.25 d.u./acre. He asked what the density in Powell is. Mr. Betz said it is 1.25 d.u./acre and it includes that open space. Mr. Grubbs asked how that compares to Golf Village. Mr. Werner said it is 1.5 d.u./acre. Mr. Grubbs asked about Scioto Reserve. Mr. Werner said that is in Concord Township. He gave density information for Scioto Cliffs, on Rutherford Road, further west at 1 d.u./acre.

Kim Cellar, Liberty Township Trustee, agreed with his evaluation of where Liberty Township is on this proposal. He said that he appreciates the third reading. He asked where this land will be in ten years. He said he has heard about great savings for the Township, but also that perhaps it will be sold back to them. He asked about developing the land by both the City and the Township. He said this land is very vital to square off the parkland already in Liberty Township. He asked if there is other land that might be handled in a similar matter. Mr. Schultz said he met with the Township before the eminent domain proceedings were begun. He said that this idea was suggested along with many other ideas, such as spending the \$1 million on bikepaths, other property, etc. He said that this land will remain in Liberty Township, even if the City owns it, because, of course, the city is in Liberty Township. Mr. Cellar said that doesn't answer his question about the status of this land in 5 years or 10 years.

Mr. Schultz said that he reviewed a variety of park amenities that could be achieved with the saving of payment for this land when he came to Liberty Township. He sees this as being a park. It is in the intention of both the City and Liberty Township, and honestly, this is just trading open space for open space. Mr. Cellar said that the City also said the Cameron Wallingford open space would be a park during that rezoning process. Mr. Schultz said that the City said it would be open space, but that Mr. Cellar said during the sketch plan process before the Planning and Zoning Commission that this land was virtually worthless. Mr. Cellar disagreed. Mr. Schultz quoted the minutes from Planning and Zoning Commission. He noted that the plan approved by the Planning and Zoning Commission was very similar to that originally approved by Liberty Township. Mr. Cellar said that he didn't say it was worthless, but that he was asking that the developer take care of the problem on that parcel so the City wouldn't have the problem it does today.

Mr. Kaitsa said he did discuss this with Mr. Cellar in an effort to find a compromise. He said that the Kinzelman Kline study identified the fire house land owned by Liberty Township but currently in the City as a desirable location for downtown development. He asked, if an exchange of that property could be considered. He said that would save the Township the money in purchasing the GFS site and make those funds available to purchase the pool and make it part of the YMCA. He said that in terms of the density issue, the density is preserved, because they are factoring in 25 acres of excellent parkland that joins the YMCA to Liberty Park for land that is along the railroad tracks which isn't as attractive except perhaps for office or warehouse development. He said being able to save Liberty Township anywhere from \$¾ - \$1 million that could be used for other infrastructure improvements, including running the bikepath from Powell to the zoo. He said he would support another swap of the GFS land for property the City would be interested in. Mr. Cellar thanked Mr. Kaitsa. He said that the firehouse property will be for sale at some point in order to purchase another firehouse site, but that may be 5-7 years out. He said they would get the most interest working from a private party than public one.

Mr. Cline said he thinks the sense of everyone on Council is that in five years, this will be public land, in a seamless connection between the YMCA site and the Liberty Park site, and the public will not care one wit who owns the land. Mr. Cellar said he hopes that commitment will be shared by everyone. Mr. Kaitsa and Mr. Seta both concurred. Mr. Seta said there has been no discussion for this land for anything but parkland. Mr. Cellar asked what it might look like. Mr. Cline said that there haven't been a great deal of discussion, but there is a desire for connectivity, and Liberty Township will have a lot of say in that issue because this land will connect two sites in the unincorporated areas. He said bikepath connections would be in everyone's best interest, as it is a beautiful site, and people walking through there should be encouraged.

Jeanne Stoll, 1680 Carriage Road, said that during the process of zoning the Wallingford Tract, many residents commented that the property along the railroad wasn't suitable for green space and shouldn't be considered toward the density for the development. She said residents in that area requested a density of less than 1.25 because the area developments are 2-5 acres per home. She said that Deseret is a compound with a lot of land, as is Woodland Hall, and a lower density would be a better transition to the development on the east side of Liberty. She said it is disheartening that the 25 acres was counted as green space, and now, even though it looks like a promising plan and a benefit to the Township, it seems as 25 acres of green space have been lost because it will be developed by GFS and she is not sure how they will do that.

George Hager, Carriage Road, said that maintaining the area as a park is very important. He spoke in support of having all three park parcels have the same ownership for better development. He said the Township will own the land to the north and the south. He said he would support trading that land to the Township for something else should be looked at.

Sheila Hoaks, Ireland Court, Liberty Township, echoed comments already made. She asked how the Olentangy School District about the piece of property that is being traded right behind the school. She said that the school is 1400-1500 feet from the property, but she said that people play in the field about 200 feet from that land. She noted there are softball fields close by. She said that most people don't realize that GFS is a chemical company and she expressed concern that they might be storing chemicals there.

Mr. Schultz said that the schools have been talked to regarding these issues, specifically regarding the bikepath locations. Mr. Lutz clarified that these are GFS chemical's administrative headquarters. They do have a manufacturing site, but that is south of Columbus. He said the future plans for this site aren't necessarily to expand GFS's headquarters but to develop it as an office or office/warehouse site. He said any development there will have to go through the normal planning process with public hearings included. Ms. Hoaks said she'd rather see if be open space, but for the sake of area children, the play area is much closer than that which is being stated. Mr. Kaitsa concurred that anything that goes in there would have to have the approval of both the Planning and Zoning Commission and Council, and those are very hard standards.

Peggy Guzzo, 4800 Aberdeen Avenue, said she is concerned that this proposal deviates from the NWAP which identifies a shortage of open space. She said that all residents could concur that more open space, parkland and bikepaths are desirable and they don't mind spending their tax dollars for that. She said that is evident in the Powell bond issue that purchased the Village Green. She said her concerns for this proposal are:

- 1.) That it would be eliminating open space. This parcel is not appropriate for an active park but could be a place for wildlife, as many people are driving along "and don't want to hit the deers."
- 2.) It is too close to the schools.
- 3.) She is afraid this is overdeveloping the community.
- 4.) The Cameron-Wallingford parcel shouldn't be rezoned to industrial office to compete against current land in the City that is zoned the same way and that is vacant.
- 5.) The Liberty Township Trustees and City of Powell need to work in the spirit of collaboration, and the NWAP plan was part of that, and it identified both areas as park.

Ms. Guzzo said that when she hears people in the Township say that "Council and Powell is out to destroy our community," that she defends them. She said that she knows she is present at the last minute but she has "been busy trying to stop big box." She disagreed that part of this deal is getting bikepaths. She said that MI Homes has committed to providing such bikepaths already. She said she thinks it is money well spent to have two parcels remain open space. She asked if this agreement includes rezoning. Mr. Cline said it does not. Ms. Guzzo said she would prefer that Council not enter into this agreement tonight.

Curt Daner, 3562 Manchester Drive, Powell, said his interest in this issue was peaked last week when he was here for another matter. He listed to Mr. Werner indicate his desire to have a public meeting because he felt the public had not participated nor did they know. He said he is not an overly informed Citizen, but he can't imagine anyone not being aware of this, as it has been reported on in the paper, and discussed at rotary and elsewhere. He said there is an issue that hasn't been addressed that he would like to discuss. He said he is glad that everyone is in agreement that this is going to be parkland, and he agrees as well that a single owner may be easier to administrate, and provided that is in the best interest of the community, then it makes sense to have it either in Liberty Township or the City, but that doesn't mean the two bodies can't work together despite the last year or so which seems to have had a lot of confrontation. Mr. Daner said that he didn't think anyone has spoke up for the owners of GFS chemical. He said he is a believer in property rights. He said the Trustees, as well as other property owners, like to think in terms of their ability to own a piece of the earth and to have some say over what goes on there. And that is why most people want to own a home or their own business and the property in which they reside. He said GFS has had this property since 1978 and he supposes if they wanted to sell to Liberty Township, they would. But they don't, and so the Township brought suit against the owners to force them to sell their land at a price that will get established by appraisal. He said GFS has brought suit to try to stop the action. He said he can't imagine a community that says they are in favor of their constituents bringing suit against one of its citizens, and he is appalled by the Township having done so. The end result of this solution is that the community at large, both Township and City, will get their parkland. GFS will get rid of the Township and if he were Steele Hutchinson, that is what he would want as well. He said Mr. Hutchinson gets no more land, but the ability to develop his property as he would like as long as it is consistent with the standards of the community in which it resides. He suggested that Council move on and trade the land, and that consideration be given to sharing later land with Liberty Township.

Russ Armstrong, 2002 Lane, Powell, echoed Mr. Daner's comments. He concurred that eminent domain is something that takes away the individuals' rights and it is not right for the government to do it, especially when a swap makes sense. He said he is familiar with this land, and it is beautiful, and making it a park forever is a wonderful decision. He said the land to the south is terrible, and while Mr. Hutchinson will get his land, it will cost him much more to develop it than the land he currently owns. He supports this proposal.

Burt Crimmel, Prudential Real Estate, said that he thought he was in a room with a lot of people that had no sense until he heard the last two people. Years ago, people bled for land. And everyone stated that this is beautiful land that Powell can acquire by trading land that isn't as beautiful and harder to develop. He said that the City should also look at tax abatements, paying for water and sewer taps and whatever the gentleman needs to develop that land.

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

Mr. Grubbs agreed with the rest of his colleagues here that his intent is to keep this as parkland. Overall, he views this as a win-win situation. He said he agrees that it is a good use of tax dollars to purchase parkland, but not if you don't have to spend the money, that is a poor use. He said forcibly acquiring land for parks is not necessary. He said he understands there were efforts made before the lawsuit to work things out in a positive

way with Liberty Township. He said since he has come to Council, he has tried to work with them. He said they have an honest difference of opinion but he believes that the best thing for all taxpayers is the process being undertaken tonight. He said, if Liberty Township had set aside tax dollars specifically for the acquisition of this land, he would think they could find better ways to spend it, for example, as helping the City develop this property as parkland through the addition of bikepaths, or for putting bikepaths in other areas of the community. He said he has given proposed options for swapping out parkland so that the property could be under one owner from the YMCA to Liberty Park. The firehouse land in the middle of the City is a likely candidate. He questioned, if \$1 million is set aside, and the plan is to sell the firehouse downtown to buy additional plan to the north part of the township later, can't the same be accomplished with the least amount of money, least amount of speculation and sooner rather than later. He said if the firehouse land is swapped for parkland, the township still has money to purchase land for a firehouse later in the northern part of Liberty Township. He would like to work with the Township to help accomplish that.

Mr. Grubbs added that this evening, the City is approving a contract with a number of contingencies, and it still may not work out. But one of those contingencies is approval of a development plan for the acquired property and Council will be sensitive to the location, but he thinks this is the highest and best use for this landlocked piece of ground. He said that it could be additional tax revenue.

Mr. Schultz thanked the trustees for coming out this evening to provide their input. He said he appreciates the words of others regarding property rights. He said that the law gives governments, in the most extreme instances, the ability to use eminent domain, only in the last resort. This is a win-win-win situation, where the landowner can get what he wants and the general public is left with that which everyone agrees is appropriate. He said Mr. Hutchinson has been a good tax-paying resident of the community and Council needs to try to work with him. This allows everyone to come out with what is needed.

Mr. Cline thanked everyone for coming this evening. He said he is very encouraged by the common ground heard tonight and not at all discouraged by some minor differences of opinion. He said he doesn't think this in any way inhibits the ability of the Township and the City to continue to work together for the greater good of the entire community. As a Liberty Township resident, Mr. Cline said he wants to do everything he can to make that Township budget go as far as it possibly can to accomplish the goals we all agree in, and that is one of the driving forces for his vote in favor of this process. He said it will save the Township somewhere between \$750k or more in money, and having sat on this body, he knows that no government agency has more money than it needs. He said he is hopeful that this is a cooperative effort that will move everyone toward the goal of joining these two parks and park-like land with an excellent 25-acre park.

Mr. Kaitza echoed the comments of his colleagues, and reiterated his position in favor of trading the land and considering ownership under one entities control. He said he thinks everyone's interest is to preserve the land as park land, and as a taxpayer of Liberty Township and Powell, saving the funds to be used for other public purposes is a good thing. He thanked everyone for coming this evening and said he is appreciative of the opinions expressed by everyone, and the Townships.

Mr. Lackey said he supports this as a resident of Powell as providing land and revenue to the City. As a resident of Liberty Township, he supports this deal as a saving of tax dollars and/or maximizing the benefit of those dollars, as resident of the school district, he welcomes the opportunity to add tax dollars to the school district without adding students, and any time that can be done, it's a benefit.

Mr. Seta agreed with his colleagues. It is a win-win, and there are many benefits, including a common thread that Liberty Township and the City now have to collaborate on.

MOTION: Mr. Schultz moved to adopt Ordinance 2004-51. Mr. Kaitza seconded the motion.

VOTE: Y 6 N 0

Mr. Werner said he wishes there could have been more input tonight, but he thinks he heard some things from the community that he needs to consider. He said he appreciates the public hearing. He said the township and City have a very honest difference of opinion in this property, and he wants to thank Council and consider what has been heard this evening.

ADJOURNMENT

Council adjourned at 8:35 p.m.

DATE MINUTES APPROVED: October 19, 2004

Dan Wiencek *11/03/04*
~~Jim Seta~~ Date
Mayor Wiencek
DAN WIENCEK

Dawn Nauman *11/3/04*
Dawn Nauman Date
Clerk of Council