

CITY COUNCIL

DECEMBER 21, 2004

A regular meeting of the City of Powell Council was held on December 21, 2004 and called to order at 7:30 p.m. by Mayor Dan Wiencek. Other Council members present were Jim Seta, Dave Lackey, Art Schultz, Richard Cline, Don Grubbs, and George Kaitsa. Also present were Stephen A. Lutz, City Manager; Ken Molnar, Director of Law; David Betz, Director of Development; Nan Metz, Finance Director; Chief of Police Gary Vest, and Dawn Nauman, Clerk of Council.

CITIZEN PARTICIPATION

There was none.

APPROVAL OF MINUTES

The minutes of December 7 were amended and approved.

FINANCIAL REPORTS

Nan Metz, Finance Director, reviewed the Monthly Report and the Accounts Payable Report.

OTHER REPORTS

Chief of Police Gary Vest reviewed his monthly report. He reviewed the current vacancy in the Powell Police Department. He reviewed the re-accreditation process.

The Monthly Planning and Zoning Report was received.

The Monthly Parks and Recreation Report was received. Jeff Snyder, Director of Parks, Recreation, and Public Service, presented a report regarding Ice Skating on public grounds (Exhibit)

Mr. Grubbs asked what is the concern of the City's risk management group regarding skating. Mr. Snyder said that he believes the main concerns are how it will be determined that the ice is thick enough and how Staff will regulate the use with rescue Staff, etc. Mr. Snyder said the biggest difference between ice skating and the skate park is that when you have ice and you post a sign that says ice is safe for skating, people are being told for the most part that there won't be a fatal accident. At the skate parks, the City is telling people it is providing a safe surface for their skateboard activity, but the chance of a fatal accident i.e. drowning, is not very good. Mr. Grubbs asked how deep the pond is. Mr. Snyder estimated it at 8-10 feet.

Mr. Cline said that at one point there was a possibility for skating at the Village Green. He asked if that has been removed from the plan. Mr. Snyder said it has. He said that some municipalities and the insurance company recommended that the City provide temporary skating by flooding a flat surface.

Mr. Kaitsa asked how the ice is tested. Mr. Snyder reviewed the information in the packet by which certain municipalities determine ice thickness.

Mr. Lackey said that this issue is specifically being considered for Meadowview Park, which won't even be open during skating season this year. He said he thinks Council is technically thinking about this for next year. Mr. Snyder said that is correct, and the main reason is because many of the paths are destroyed. Mr. Lackey noted that the deadline for park completion was the 17th and it is now December 21. Mr. Seta asked if it is correct that if this is permitted that Staff is recommending that about \$6,300 per year is budgeted to maintain this. Mr. Snyder said if the City is going to sponsor this, it needs to meet the same guidelines that are expected of all programs including safety and supervision. Mayor Wiencek asked what the estimates for cost are based on. Mr. Snyder said they anticipated skating would occur approximately three times per year (8 hours per day) and the costs are for Staffing, equipment, etc. He noted that the public service department staff is only 5 people and with ice skating also comes snow and ice, and that is their number one priority. He would hate to have to pull a snow plow driver off the road to go and check the ice, but that doesn't mean it can't be done. Mayor Wiencek asked if Mr. Snyder asked the Fire Department if they are willing or able to help with this. Mr. Snyder said he hasn't.

Mr. Cline said that it does look like this is an issue that should be considered after the parks are open, and it also seems like there are other alternatives that would greatly reduce the risks. He suggested that the Parks and

Rec. Advisory Board look at this issue over the next 5 months and report back to Council next fall about the desirability of permitting ice skating and the procedure and location where it is appropriate. He said he is hesitant to have the City indicate it is safe to skate on that pond because there could be liability.

Mayor Wiencek said he would like to see the City's risk management representatives' opinion on how the City can limit its liability by posting "Skate at Your Own Risk" signs, etc. Mayor Wiencek said he would like to keep moving forward with this because freezing weather is coming and they don't want the Police Department to be pulling people off the pond. He said he is supportive of finding a way to allow it without unduly creating additional liability. Mr. Kaitsa said he also supports the option of trying to minimize liability. Mr. Schultz said that seems like it would be one step removed from not permitting skating at all. Mr. Cline asked if there is currently a regulation prohibiting skating. Mr. Snyder said the rules say skating is not allowed unless signed. Mr. Cline said that the default answer today is that you cannot skate. Mr. Kaitsa said he would hate to see Chief Vest arresting people for skating in opposition to that ordinance. Mr. Cline said he has been here since 1995 and the City has gotten along well without expressed signage regarding skating. Mr. Lutz said the biggest difference is that now this is the City's pond rather than the developer's.

Mr. Grubbs said he would also like to know what is done to the City's liability if a "skate-at-your-own-risk" sign is posted. Mr. Seta agreed. Mr. Lackey said that there is a recreational user statute that offers some protection for the City. Mr. Seta said he would like to also know that information. Mr. Cline said he is not comfortable in general saying that the park is closed but people can skate at their own risk. He said he thinks Council should send the message that the park is closed and it will stay closed until it is opened. Discussion ensued regarding the closed status of the park. Mr. Schultz asked if people are prohibited from walking through the park. Chief of Police Gary Vest reviewed that as long as the park is closed, any activity in the pond is currently prohibited. Mr. Schultz asked about people using the paths and walking through. Mr. Lackey noted that the police aren't in the bushes waiting to see who is in the park but rather waiting until there is a complaint. Discussion ensued.

Mayor Wiencek opened this item to public comment.

Michelle Peyton, 437 Hopewell Drive, said that her property goes right into the pond and there are only about 2-3 weeks of skating in Meadowview Park annually and people are going to be out there and she will accommodate them by providing skates, a fire pit, snacks, etc. She described the thickness of the ice when they skate and the practice of staying out of the middle where the water is deeper. Ms. Peyton said that everyone in the neighborhood that skates on the pond prepares it for skating and keeps it safe and she doesn't see why the City would need to go to that expense. She said that Council isn't going to be able to stop them from skating. She said she understands the parking impact. She said that the City will spend more money on the Police Department getting people off the ice than in the parks and rec. budget to allow it. She said that of the communities Mr. Snyder surveyed, 2 didn't even have ponds, so actually, it looks like 50% of the communities with ponds that were surveyed provide this service. She said she hopes the City can find a way to have this activity and limit the liability; after all, it is a sport that is hundreds of years old.

CLERK OF COUNCIL CORRESPONDENCE

There was none.

THIRD READING: ORDINANCE 2004-57: AN ORDINANCE APPROVING A COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR 3 PILLAR HOMES FOR A MIXED-USE DEVELOPMENT CONSISTING OF APPROXIMATELY 4,555 SQ. FT. RESTAURANT, 14,040 SQ. FT. RETAIL, AND 17,905 SQ. FT. OFFICE ON THE SECOND STORY IN THE FIRST PHASE FOR A PROPERTY LOCATED AT 50 S. LIBERTY STREET.

Stephen A. Lutz, City Manager, said that this Ordinance has been tabled a number of times in order for an agreement to be reached by which the developer will agree to pay their fair share in the improvements that will be needed at the four corners within the next five years. The current proposal is for a \$300k improvement that the developer will be responsible for 7.6% 5 years commencing when the developer is issued a building permit for this project.

David Betz, Director of Development, gave a brief review of this development plan. He reviewed adjacent uses, the layout, and parking.

Mr. Cline asked if to the left of this development is Saturday's parking lot. Mr. Betz said it is. Mr. Cline asked what is immediately to the east. Mr. Betz said it is vacant land, and beyond that is Bartholomew Run. He identified adjacent property that is owned by Mr. Margello.

Mr. Betz continued to review the landscaping plan which he described as extensive. He reviewed the proposed floor plans.

Mr. Seta asked what is the distance between the corner of this property and the four corners. Mr. Betz said it is just over 100 feet. Mr. Seta asked about the distance to the driveway to the south of that. Mr. Betz said it is around 250 feet.

Mr. Betz reviewed the architecture, signage, and other details of this plan.

Mr. Kaitsa asked to compare this development to the barn addition at the Village Academy. Mr. Betz said the barn is larger, at about 11,000 sq. ft. He said the roof eave line would be higher than the eave line between the first and second level of this building.

Mr. Betz reviewed the Downtown Revitalization Plan process in relation to this development. He said that the Planning and Zoning Commission reviewed this in July and recommended approval with the conditions in the ordinance. He said the proposal by the applicant for improvements is based on a design from a several-year old traffic study that was put together by Traffic Engineering Services regarding installing turn lanes on Olentangy Street east and west. Rob Rice, City Engineer, said that it is based on a sketch and no engineering has been started yet.

Steve Martin, Attorney for the Applicant, said that it has taken considerable work and a significant amount of time on behalf of the applicant, Staff, and engineers to come up with the \$300k estimate for improvements at this corner.

Mayor Wiencek opened this item to public comment.

Vince Margello, 1900 West Powell Road, said that he would like to challenge that \$300k figure, which he doesn't think would be adequate for improvements at the four corners. He said that he doesn't have a problem with this building. He said he looked at it as a member of the Historic District Commission (HDC), and it is a great looking building, but he has problems with the location. He said the infrastructure is not there, and as a developer, that is the first thing that should be considered. He said this project is 43k sq. ft., and Saturday's Sports Club is about 8k sq. ft. He said the parking proposed is inadequate. He said this intersection is already stressful, and this will create more problems. He said that this would put more stress on the intersection rather than alleviate it. He said this is a "big box" in the downtown area, and this project comes under a special Committee now because it is over 35k sq. ft., and one criteria of those regulations is that it empty out into a major artery, which Liberty Road is not. He said Powell Road is a 2-lane road. He said you might as well put Wendy's and McDonald's downtown to see if the intersection can be gridlocked more. He expressed concern about the construction traffic this will generate. He said this will compete with existing traffic. He said the downtown needs rejuvenated, not gridlocked. He said what is needed downtown is foot traffic provided by empty-nester housing. He said there are already commercial developments downtown. Mr. Margello repeated his points several times and discussed the need to correct the intersection before approving developments such as this. He identified himself as a resident, concerned citizen and business owner.

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

Mr. Lackey said he has been teetering on this project himself. He said it is in line with what Kinzelman Kline discussed in their presentation, and it is very attractive but it is much larger than anything he will generally approve. However, he said he sees this as a square peg in a round hole. He said it is a beautiful project in the wrong location, and if he could move it, he would be all for it, but in its current location, he has a hard time supporting it, but he is still undecided.

Mr. Kaitsa asked what is the foot print of each north and south wing. Mr. Martin said they are 8,995 sq. ft. per floor per building. Mr. Kaitsa said he likes the project and the appearance. He said he thinks it fits with what Kinzelman Kline recommended in terms of trying to revitalize the downtown. He agreed that traffic is a concern, but said unfortunately, Council can't tell the developer where they should develop, and it needs to decide whether this fits. He said he is leaning toward supporting the project because he would like to see something happen in the downtown area. He agreed with Mr. Margello about doing something about the four corners sooner rather than later, but he thinks it is unfair to the developer to say they can't develop until the City takes a couple of years to stop and study rebuilding the intersection.

Mr. Seta asked about the difference between net and gross square footage. Mr. Betz said there are unusable areas, stairwells, lobbies, etc., that aren't counted in net square footage. Mr. Seta agrees with Mr. Lackey that he likes the layout and the look, and he feels the architect has done a beautiful job on it, but it is in the wrong place. He said that he has heard statements that the City has to be fair to the developer, but he doesn't think it does. He said that this goes back to the big box ordinance, and if he thinks something is wrong, he should say so. If this doesn't fit with the community, he has no problem saying no. He said that he is bothered that this is so close to the four corners and he feels the traffic impact will be a nightmare. He said he thinks the \$300k figure is ridiculous. He said he can't support it as designed.

Mayor Wiencek asked if there are any variances associated with this project. Mr. Betz said the only variance is having the building setback 3 feet rather than 20 feet within the district and the purpose for that request is to accommodate some of the recommendations in downtown study to bring forward commercial uses and provide larger commercial spaces than currently exist. He said the other variance is related to a slight decrease in the size of parking spaces; however, the parking amount meets code. Mayor Wiencek said his recollection is that there was a study completed that identified how much square footage that would be allowed on this parcel if it were split into the average size downtown parcel and each lot developed individually. Mr. Betz said if this were divided into typical 50 x 150 foot lots with individual commercial buildings, the lots would in total provide the same amount of square footage but would require another public street for them to face.

Mr. Cline said that the mayor covered many questions that he has. He said that he shares many of Mr. Margello's concerns regarding infrastructure and size. He said that Mr. Betz's comments responded to his concerns about size, because it can be made really ugly with the same amount of square footage or very attractive and in keeping with the Kinzelman Kline study. He said he thinks everyone can agree that the \$300k is an estimate, and probably a low one, but by the same token, the City hasn't decided what to do at the four corners and that means there are two choices, either that developers all must wait until the City decides, or the City can determine that this is a reasonable estimate, and even recognizing it is probably low, make the best decision it can make with the current information. He said that based on that thought process, he is able to support this ordinance, although he is very concerned about the impact on the four corners.

Mr. Schultz said that he is in support of this development because it is very much reflective of Kinzelman Kline's recommendation to redevelop the downtown. He said if the City thought it was going to build out this beautiful downtown and get lots of people to come there and have no traffic, it shouldn't have even started the process. He agreed it is a little intense and it would be preferable to accomplish it with a smaller building, but what is really being down here is the City is trying something downtown in a design that is a compromise between what the developer and what the City wants. He said that Mr. Margello talked about lots of other buildings, Village Academy, Village Pointe Shopping Center, and all of those are creating traffic, even though they are not as close. He said that it is a very stressful situation, and everyone agrees that something needs to be done about that intersection. He said he agrees with Mr. Cline. He said he is okay with the project and he thinks the City will learn what is good and bad about this when it goes forward. He said he thinks it would provide locations for things that are desirable downtown, which is needed. He said he doesn't go downtown because there is not much that he finds desirable. He agreed that the cost for improvements seems low. He agreed the applicant should make a contribution to the infrastructure. He suggested that the cost be amended. He expressed concern that allowing this amount to be collected over a period of 5 years might be eaten up in inflation alone.

Mr. Grubbs agreed with Mr. Schultz in terms of how the Council can ensure that this developer pays its fair share. He said he is somewhat concerned about some of the details of the agreement. He addressed Mr. Margello's comments. He said this is not a big box development under any scenario he can conceive of. He said it is

inappropriate to color this conversation with the term big box. He said that first of all, this is two structures and neither of them is over the threshold to require additional regulations. Additionally, there is an explicit exemption to downtown development to the recently-passed big box legislation. Finally, big box developments are defined in the City as buildings over 65k sq. ft.

Mr. Grubbs said that with the changes made to these structures and the comments of the HDC, he thinks this is the right development for this size of parcel and the design is attractive and will be a value in Powell. He said he thinks these structures are in the right place, although not the perfect place, but Council doesn't get to choose that. A developer has come and made an effort to come up with a very good project. He said he thinks this is in the right location because it is downtown. He said that he thinks there is going to be gridlock downtown doing nothing, but that is something that this Council has to deal with outside of individual developers. Council can only require developers to try to fit into the puzzle. If nothing else, this project may urge on this Council a little faster. He described a similar development in Williamsburg that was a very desirable development and very busy. He said that proved to him why it is desirable to have this kind of development downtown. He said he thinks Council is coming up with the best solution for the developer paying its fair share. He said he thinks there are other mechanisms available to the City that will pay for improvements to the downtown that will also require additional contributions from this developer and other landowners in the downtown area in the form of assessment. He said that the City hasn't made the attempt to determine what is appropriate or necessary by way of improvement to the four corners, and he is not willing to make this or any other developer wait.

Mr. Margello questioned the fact that the big box regulations don't apply to downtown. Mr. Grubbs referred Mr. Margello to the ordinance.

Mr. Grubbs addressed the agreement regarding the developer's fair share. He said that the City has 5 years to figure out the cost of improvement at the four corners. He said he is concerned that the cost is being estimated in 2004 but the project wouldn't be completed until later. He said he is concerned about inflation.

Mr. Kaitsa asked if the developer would consider paying for their percentage up front so that the City can invest the funds and allow for inflationary growth. He said he disagreed with Mr. Seta's comment that this development is not in the best interest of Powell, because if that were the case, Planning and Zoning Commission and the HDC shouldn't have approved it. He said it is troubling that he would make such a suggestion. He said he plans to support this ordinance.

Mr. Schultz said that Mr. Seta had a ballpark of \$1 million to improve this intersection. He said his concern is that if the concern is about the impact, then the City should come up with a decent amount. That isn't a huge impact fee on a big project like this and other developers have been asked for more. He said he thinks Council needs to err on the side of being careful. He agreed with Mr. Kaitsa that no one is in doubt that something needs to be done with the intersection, even if this project doesn't happen. Putting a 5-year time limit on this is simply an escape clause, but an attempt to project that nothing will ever have to be done. Mayor Wiencek said that this cost estimate is based on the best available sketch plan provided the City. Both the applicant and Staff were looking for guidance from Council when they started this process, looking for a commitment for what type of improvement is anticipated. Council was unable to come to a consensus, and that is why this process is in its current state.

Mr. Margello asked to speak, and Mayor Wiencek noted that the public comment session is closed.

A lengthy discussion ensued regarding the cost estimate of \$350k for improvements at the four corners. Mr. Schultz made a suggestion to raise the cost to \$500k. Mr. Martin noted that he is a property owner downtown and is very familiar with discussions over the years for easements, etc., for downtown improvements. He reminded Council that several months ago, the applicant was before Council with an agreement that said 'when you complete the project, we will pay our fair share,' and Council didn't like that, so the applicant said "name a figure," and Council said they couldn't. Then the applicant said "tell us what you want to do and we'll cost it." He said that they took the drawings at the four corners that were given to them by the City to an engineer and spent about 6 weeks negotiating with City Staff on the price of such an improvement. He said this is based on a \$300k cost with a 10% contingency. He said they don't control when the project will be completed but they are willing to contribute to it. He said that it is frustrating that over the years, Council has indicated a desire to do

something but they still have yet to do anything. Mr. Schultz said that he still feels that the applicant's contribution is small compared to what Council agrees will be a major impact on that intersection. Mr. Martin said the traffic study identifies a 7.6% impact on that intersection. Mr. Kaitsa said he can live with this proposal; however, there have been instances in the past where developers have made a contribution up front for a specific purpose to be completed later. Mayor Wiencek suggested taking a 3% inflation rate into consideration.

Mr. Margello said it is unfair to allow Mr. Martin, an adjacent landowner to speak because he is a landowner and has been told he cannot speak. Mr. Wiencek said that Mr. Martin is here representing the applicant.

Mr. Lackey said that Mr. Kaitsa makes a good point that the Council doesn't have to account for inflation if it gets a donation in advance. Mr. Schultz said he thinks making the applicant responsible for their share of \$500k would be fair because the project could be a multi-million dollar project. He said everyone agrees this is going to be a huge impact on the four corners and he would like a higher number. Mayor Wiencek said that a \$500k project would equal a \$38k donation by the applicant.

Mr. Martin said they would agree to take it to \$350k to cover inflation and pay for it now.

Mr. Cline said his concerns about the \$300k price tag were related to a gut instinct and no actual data and he questioned whether it is fair or appropriate to say to an applicant that they have to regulate their development based on his gut feeling. He said the best number is \$300k and the applicant has agreed to raise it to \$350k, but he thinks Mr. Kaitsa's suggestion for an up-front payment is a much better solution. He said he would support 7.6% of \$350k at the time they pull the permit. Mr. Grubbs restated that the applicant originally agreed to pay for their 7.6% impact on whatever dollar amount is determined appropriate. Discussion ensued.

Mr. Seta said he is fearful of basing an overall estimate on a foot note of a traffic study. He said the cost will not be \$300k, and the actual cost won't be known until a study is finished. He expressed concerns about the proximity of this development's driveway to the four corners, and said it will cause back ups at that intersections. He said that he thinks the traffic problems need to be addressed now.

Mr. Grubbs suggested requiring the applicant to pay 7.6% of \$350k today and leaving a certain amount open for consideration later. Mr. Cline said he is opposed to making the cost unclear to the developer up front. Mr. Lackey suggested that the cost be determined tonight or the City commission a study and that more time not be wasted discussing this issue.

Mr. Xenios, applicant, said that he is hearing two things. The first is that Council would like the money up front, and the second is that they would like some flexibility with the ambiguous nature of the improvement. He said he is willing to provide his percentage of \$350k up front and the difference between \$350k and \$500k should the improvement cost more than \$350k to complete. Mr. Schultz asked if there could be no cap on the time limit. Mr. Martin said that they would like to maintain the 5-year, \$500k cap. After further discussion, they agreed to a 7-year cap.

MOTION: Mr. Schultz moved to modify the agreement associated with Ordinance 2004-57 to require that the developer enter into a Roadway agreement which requires the developer's fair share of 7.6% based on a \$350,000 improvement to the Olentangy/Liberty Street intersection, that amount to be paid up front at the time the building permit is issued. Additionally, the developer will agree to pay the difference between the \$350,000 amount and a \$500,000 amount should the City, within a period of 7 years, proceed with the construction and it exceed \$350,000 with a limit on the developer's contribution of 7.6% of \$500,000.

VOTE: Y 6 N 1 (Seta)

MOTION: Mr. Cline moved to adopt Ordinance 2004-57. Mr. Kaitsa seconded the motion.

VOTE: Y 5 N 2 (Lackey, Seta)

THIRD READING: ORDINANCE 2004-79: AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR VILLAGE COMMUNITIES FOR THE COMMERCIAL PORTION OF THE TRADITIONS OF POWELL, CONSISTING OF A 6,500 SQUARE FEET, TWO-STORY OFFICE ON 0.503 ACRES LOCATED ON THE

NORTH SIDE OF WEST OLENTANGY STREET ADJACENT TO THE EAST OF VILLAGE POINTE SHOPPING CENTER.

Stephen A. Lutz, City Manager, said that at the last meeting, Council was inclined to approve this ordinance, but this is the advertised public hearing for this Ordinance, so it had to wait until now.

David Betz, Director of Development, gave a brief review of this ordinance.

Mayor Wiencek opened this item to public comment.

Vince Margello, Historic District Commission, said that this applicant worked with the Historic District Commission to make this development architecturally pleasing. He said he hopes Council approves it. He said he has concerns about the restaurant site associated with this development that will be considered at a later date, as it will have an impact on Powell Road. He suggested that rather than a restaurant, that consideration be given to another office instead.

MOTION: Mr. Cline moved to adopt Ordinance 2004-79. Mr. Seta seconded the motion.
VOTE: Y 7 N 0

THIRD READING: ORDINANCE NO. 2004-73: AN ORDINANCE APPROVING THE SECOND 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, said that currently under consideration is possibly separating the accounting duties for the authority from the parties of the authority. He said that all three parties are required to change the ordinance. He said a scope of services is being circulated to some accounting firms to try to get a proposal which will be reviewed by the Finance Committee, the Authority, and the Developer by January 11. He recommended tabling this until January 18, 2004 to accommodate that process. A brief discussion was held. Mr. Lutz noted that there has to be a unanimous agreement by all three parties for any change to the agreement.

MOTION: Mr. Cline moved to table Ordinance 2004-73 until January 18, 2005. Mr. Seta seconded the motion.
VOTE: Y 7 N 0

THIRD READING: ORDINANCE 2004-74: AN ORDINANCE ADOPTING THE PROPOSED BUDGET FOR THE FISCAL YEAR ENDING DECEMBER 31, 2005 AND DECLARING AN EMERGENCY.

Stephen A. Lutz, City Manager, said that this is the final discussion of the proposed 2005 budget. Revised budget pages have been prepared that reflect all the final amendments made to the budget. He said the proposed budget will continue to provide the current level of services to residents and businesses of the community. He said the Finance Committee met last night, and in upcoming months, they will be reviewing the operating and capital budget and coming back to Council with possible recommendations for changes that can be done in the future to keep Powell the viable community it currently is.

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

MOTION: Mr. Cline moved to adopt Ordinance 2004-74. Mr. Seta seconded the motion.
VOTE: Y 7 N 0

THIRD READING: ORDINANCE 2004-75: 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, 2005.

Mr. Lutz said the final changes have been incorporated into this document.

MOTION: Mr. Cline moved to adopt Ordinance 2004-75. Mr. Seta seconded the motion.
VOTE: Y 7 N 0

FIRST READING: ORDINANCE 2004-82: AN ORDINANCE AUTHORIZING AMENDMENT TO THE FEE SCHEDULE OF THE MUNICIPALITY OF POWELL.

Stephen A. Lutz, City Manager, said that every two years, the fee schedule is reviewed and amended as necessary. He noted additional changes provided to Council this evening that were not incorporated into the proposal.

Mayor Wiencek opened this item to public comment. Hearing none, he closed the public comment session. This item was taken to a second reading.

FIRST READING: ORDINANCE 2004-83: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2004 AND DECLARING AN EMERGENCY.

Nan Metz, Finance Director, reviewed the attachment which identifies the end of year adjustments that need to be made to the budget.

Mr. Seta asked if the sidewalk repair program dollars identified will impact the program next year. Ms. Metz said they will not.

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

MOTION: Mr. Cline moved to suspend the rules on Ordinance 2004-83. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adopt Ordinance 2004-83. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

Mayor Wiencek commended Staff and Ms. Metz in particular for the preliminary results of the annual audit, which shows the City has passed with flying colors with only one minor infraction which the auditor said more than 90% of all cities in Ohio have. He thanked Ms. Metz for the fine job she has done.

COMMITTEE REPORTS

Development Committee: Mr. Seta reported that the next meeting is January 4.

Finance Committee: Mr. Cline reported that the Committee will meet January 11 and a portion of it will be a joint meeting with the Liberty Community Infrastructure Financing Authority. He said the Committee met last night and discussed some community impact financing possibilities. He said the audit report was reviewed and as the mayor indicated, it was a favorable report. The Committee reviewed the fee schedule and had no objections. He said that they discussed an Administration needs assessment proposal and the Committee has recommended that be brought forward to Council. He said the Committee also discussed ongoing issues such as income tax on lottery winning and changes that the City needs to make in other areas based on state law. He said the review of budget reduction proposals is going to consume a lot of time by the Finance Committee in January and February and it may necessitate two meetings per month. He invited Council members with an interest in these issues to either attend a meeting or provide comments or thoughts in writing. He said that they are also considering architectural report for HDC and the Planning and Zoning Commission.

Operations Committee: There was no report.

Downtown Committee: Mr. Grubbs reported that the Committee will meet in January.

CITY MANAGERS REPORT

Mr. Lutz reported that there will be a joint meeting with Liberty Township, the City of Powell, and Olentangy Local Schools to talk about development impacts. The agenda for this meeting will be created by the schools and circulated prior to the meeting.

Mr. Lutz reported that he and Ken Molnar, Law Director, talked to the bank that holds the outstanding loan for Olentangy Swim Association (OSA). He said that the bank informed them that the loan is a good loan and any discussions or negotiations would have to be with the OSA. He recommended that a group of Council Members meet with representatives of the OSA and Mr. Lutz and Mr. Molnar to continue discussions about this issue and

what might be in the best interest of the City. A brief discussion was held regarding the City's remaining interest in this issue. Mr. Cline, Mayor Wiencek, and Mr. Schultz expressed a desire to meet with members of the OSA to discuss this issue further.

OTHER COUNCIL MATTERS

Mayor Wiencek reminded Council to fill out the evaluation form that was included in their packet.

EXECUTIVE SESSION

MOTION: Mr. Cline moved to adjourn into Executive Session at 10:10 p.m in accordance with ORC Section 121.22. (G) (2) Land Acquisition and Section 121.22 (G) (3): Pending Litigation. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adjourn from Executive Session at 10:30 p.m. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to readjourn into regular open session at 10:30 p.m. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

FIRST READING: ORDINANCE NO. 2004-84: AN ORDINANCE REAFFIRMING AND AMENDING ORDINANCE NUMBER 2004-51 ENTITLED 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.

MOTION: Mr. Cline moved to suspend the rules on Ordinance 2004-84. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adopt Ordinance 2004-84. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

MOTION: Mr. Cline moved to adjourn from regular open session at 10:32 p.m. Mr. Seta seconded the motion.

VOTE: Y 7 N 0

DATE MINUTES APPROVED: January 4, 2005

Dan Wiencek *1/18/05*
Dan Wiencek Date
Mayor

Dawn Nauman *1/28/05*
Dawn Nauman Date
Clerk of Council

