

## CITY COUNCIL

March 1, 2005

A regular meeting of the City of Powell Council was held on March 1, 2005 and called to order at 7:30 p.m. by Mayor Dan Wiencek. Other Council members present were Dave Lackey, Art Schultz, Richard Cline, George Kaitza, and Jim Seta. Don Grubbs was absent. Also present were Stephen A. Lutz, City Manager; Ken Molnar, Director of Law; David Betz, Director of Development; Chief of Police Gary Vest, Nan Metz, Finance Director, and Dawn Nauman, Clerk of Council.

### **EXECUTIVE SESSION IN ACCORDANCE WITH ORC SECTION 121.22 (G) (1): PERSONNEL: BOARD AND COMMISSION INTERVIEWS & SECTION 121.22 (G) (3) PENDING LITIGATION.**

**MOTION:** Mr. Cline moved to adjourn into Executive Session at 7:35 p.m in accordance with ORC Section 121.22. (G) (1) Personnel: Employee Compensation & 121.22 (G) (3) Pending Litigation. Mr. Seta seconded the motion.

**VOTE:** Y 6 N 0

**MOTION:** Mr. Cline moved to adjourn from Executive Session at 8:12 p.m. Mr. Seta seconded the motion.

**VOTE:** Y 6 N 0

**MOTION:** Mr. Cline moved to readjourn into regular open session at 8:12 p.m. Mr. Seta seconded the motion.

**VOTE:** Y 6 N 0

### **CITIZEN PARTICIPATION**

There was none.

### **APPROVAL OF MINUTES**

The minutes of February 15, 2005 were moved to the end of the agenda.

### **CLERK OF COUNCIL CORRESPONDENCE**

Dawn Nauman, Clerk of Council, noted that Council has been provided information regarding board and commission appointments.

### **CONSENT AGENDA**

- Receipt of Accounts Payable Report
- Proclamation of March as Red Cross Month
- RESOLUTION 2005-10: A RESOLUTION TO CONDITIONALLY ACCEPT AND BEGIN THE REQUIRED, MINIMUM ONE-YEAR MAINTENANCE PERIOD FOR THE PUBLIC IMPROVEMENTS IN THE MURPHY PARK, SECTION 4 SUBDIVISION AS THE SAME IS NUMBERED AND DELINEATED UPON THE PLAT THEREOF RECORDED IN CABINET 3, SLIDES 226-226A, DELAWARE COUNTY, OHIO RECORDS.

**MOTION:** Mr. Cline moved to approve the Consent Agenda. Mr. Seta seconded the motion.

**VOTE:** Y 6 N 0

### **RESOLUTION 2005-11: A RESOLUTION SPECIFYING THE MUNICIPAL SERVICES TO BE FURNISHED TO 3.552 ACRES WHICH IS PENDING ANNEXATION TO THE MUNICIPALITY OF POWELL**

Stephen A. Lutz, City Manager, said the City has received an annexation request for the property located immediately north of Graeter's Ice Cream and City BBQ. It is the commercial space off Sawmill Parkway, and Dairy Queen is planning to develop the parcel. He said the preliminary review of this plan will be before the Planning and Zoning Commission next Wednesday. David Betz, Director of Development, gave a brief review of the proposal for this property. He said this proposal was before the CEDA review committee this evening which has provided some comments to the developers.

Charles Bluestone, attorney for the petitioner, was present to discuss this item. He said he also represents Turk Enterprises, which is the entity that will be doing the development of the 4300 sq. ft. Dairy Queen Grill and Chill Restaurant, a concept that is new to Central Ohio. He said this is a more upscale type of menu with a quasi waiter-waitress type service, 112 seats inside and 48 patio seats. He said they believe this will be a nice addition

to the neighborhood and to the City of Powell. He said that they have worked with the Villages of Clermont condominium development which is adjacent to this property and they have indicated their support of this plan. He said they plan to keep the condo association informed.

Christopher Turk, Dairy Queen/Turk Development, said this is a new type of restaurant for Central Ohio, there are about 31 currently developed in the United States. He said this will be quite different than what is normally seen and an excellent addition to the Community. He asked for Council's support of this development.

Mayor Wiencek asked if the intention for this property is to develop Dairy Queen and something else on that parcel. Mr. Turk said that they will share the parcel with a future development but they don't have any concrete information on the other use. Mr. Cline asked if the intention is for a shared access. Mr. Betz reviewed the proposed layout. Mr. Turk said the whole area would be combined and the traffic patterns worked out. Mayor Wiencek asked how this site would compare square-footage wise to City BBQ/Graeters. Mr. Betz said the parking meets code and the building would be slightly less square footage than City BBQ and Graeters because there is just one user. Mayor Wiencek asked if the applicant will have any problems meeting the open space requirements. Mr. Betz said they will not.

Mr. Bluestone clarified that this property is 3.552 acres and that the Mayor indicated it is 3.553. Dawn Nauman, Clerk of Council, said that is her mistake. She listed the title incorrectly on the agenda but it is correctly identified in the Resolution.

Mr. Seta said that the CEDA group met this evening on this topic, and it was favorably received. He said remaining issues include the landscape plan and increasing the landscape along the drive. He said there was also discussion about possibly changing the outdoor planting. He said the group also discussed the outdoor furniture. Mr. Schultz said that there is a bikepath that will come up along Sawmill Parkway to access this development. He said that all in all, it was viewed favorably. Mr. Seta said the elevations are nice.

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

**MOTION:** Mr. Cline moved to adopt Resolution 2005-11. Mr. Seta seconded the motion.  
**VOTE:** Y 6 N 0

**SECOND READING & PUBLIC HEARING: ORDINANCE 2005-10: AN ORDINANCE APPROVING AN AMENDMENT TO AN APPROVED FINAL DEVELOPMENT PLAN FOR VICTORY HEALTHCARE, ALLOWING A 2,464 SQ. FT. ADDITION TO AN EXISTING 4,000 SQ. FT. BUILDING FOR USE AS BUS STORAGE AND OFFICE.**

David Betz, Director of Development, said he does not know why the applicant isn't present. He reviewed the plan as proposed. Mr. Kaitsa asked where the entrance is. Mr. Betz identified the access.

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

Mr. Betz reviewed that the proposed color scheme is tan rather than blue. He said the Planning and Zoning Commission reviewed and approved the color scheme.

**MOTION:** Mr. Cline moved to adopt Ordinance 2005-10. Mr. Seta seconded the motion.  
**VOTE:** Y 6 N 0

**FIRST READING: ORDINANCE 2005-11: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF POWELL, REVISING SECTIONS 1129.06, 1129.07, 1127.09, 1127.10, 1131.09 1131.11, AND 1143.11 REGARDING PUBLICATION AND SENDING OF NOTICES FOR PUBLIC HEARINGS.**

Stephen A. Lutz, City Manager, said that this item has been reviewed by the Planning and Zoning Commission, and he recommended taking this to a second reading so that the Law Director can review the state code. He said the purpose of this Ordinance is to provide uniformity in public notices. David Betz, Director of Development, reviewed the changes proposed. He said in addition to uniformity, it makes it easier for Staff to get advertisements in the newspaper in a timely manner. Dawn Nauman, Clerk of Council, said that the requirements of the code and the deadlines of the newspaper often made it necessary to postpone zoning

ordinance public hearings to the third reading which is problematic since the Charter changes only require 2 readings. In many circumstances, applicants are delayed an extra month.

Mayor Wiencek opened this item to public comment. Hearing none, he closed the public comment session. There being no further comment, this item was taken to a second reading.

**FIRST READING: ORDINANCE 2005-12: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF POWELL, REVISING SECTION 1133.06 AND 1133.10 REGARDING ESTABLISHMENT OF THE PLANNING AND ZONING COMMISSION AND BOARD OF ZONING APPEALS.**

David Betz, Director of Development, said that the Clerk found some questions in consistency with the code and the Charter, and therefore Staff is recommending that the code be amended to refer to the Charter sections regulating the Planning and Zoning Commission and Board of Zoning Appeals and that the Zoning Code sections regarding the establishment of those bodies be deleted.

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

Mr. Cline asked if this needs a public hearing. Dawn Nauman, Clerk of Council, said it does. There being no further comment, this item was taken to a second reading.

**FIRST READING: ORDINANCE 2005-13: ORDINANCE AUTHORIZING THE CREATION OF THE DOWNTOWN POWELL INCENTIVE DISTRICT WITHIN THE CITY OF POWELL; DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN SUCH INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE; DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE TO BENEFIT OR SERVE THE REAL PROPERTY WITHIN SUCH INCENTIVE DISTRICT; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; AUTHORIZING THE USE OF SUCH SERVICE PAYMENTS IN LIEU OF TAXES TO COMPENSATE THE OLENTANGY LOCAL SCHOOL DISTRICT; CREATING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THE BALANCE OF SUCH SERVICE PAYMENTS AND AUTHORIZING CERTAIN ACCOUNTS WITHIN SUCH FUND; AUTHORIZING THE EXECUTION OF A SERVICE PAYMENT AGREEMENT WITH THE PROPERTY OWNERS IN SUCH INCENTIVE DISTRICT; AND DECLARING AN EMERGENCY.**

Stephen A. Lutz, City Manager, said that this Ordinance is related to creating a Tax Increment Finance (TIF) District downtown. After tonight's meeting, a notice will be sent to all property owners regarding a public hearing which will be scheduled for April 19.

David Betz, Director of Development, gave a summary of the timeline for this program (Exhibit A) and background information that has been provided to Council (Exhibit B). A brief discussion was held regarding the details of the ordinance. Mr. Lutz noted that Bond Counsel will be present at the next reading and public hearing and they can address some issues in greater detail. Mr. Betz suggested that Council provide their questions prior to the next meeting so that they can be answered at that time. Mr. Betz continued to review the details of the assumptions that generated this legislation.

Mr. Seta asked if the Olentangy School District has any comments on this program. Mr. Lutz said they haven't had many comments because they are being "made whole." Mr. Betz said they will have opportunity to discuss this at the public hearing.

Mr. Betz continued reviewing the assumptions of the amount of money this type of program is anticipated to generate. Mr. Kaitsa asked if the 6% increase in value is a result of 2% per year for 3 years. Mr. Betz said the City is seeing 10-12% per year, but these assumptions are conservative.

Mr. Schultz noted that investing TIF dollars into items that improve property values is a good idea. Mr. Betz said it can be done. He said that once things start improving in a positive manner, development will continue and that will create more development.

Mr. Seta said a lot of good work was done on this. Mr. Betz thanked Shawn Leininger, Development Planner, and Nan Metz, Finance Director, for their work on this project. Mr. Betz reviewed the graphics of the properties included in the Ordinance.

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

Mr. Kaitsa asked if this kind of financing district would in anyway effect the City's debt capacity. Mr. Betz said he doesn't know, but that can be addressed at the next meeting.

**FIRST READING: ORDINANCE 2005-14: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2005 AND DECLARING AN EMERGENCY.**

Stephen A. Lutz, City Manager, reviewed that this Ordinance would modify appropriations for the annual licensing agreement associated with the RecWare software used to manage our recreation programs. He said it was on oversight that it was left out of the budget.

Mr. Cline said this is a good program and it is needed.

**MOTION: Mr. Cline moved to suspend the rules on Ordinance 2005-14. Mr. Seta seconded the motion.**

**VOTE: Y 6 N 0**

**MOTION: Mr. Cline moved adopt Ordinance 2005-14. Mr. Seta seconded the motion.**

**VOTE: Y 6 N 0**

**APPROVAL OF MINUTES**

The minutes of February 15 were amended and approved.

**COMMITTEE REPORTS**

Development Committee: Mr. Seta said the group met this evening and primarily completed the CEDA review of the Dairy Queen. He said the Committee is also preparing to discuss bikepaths but it is not possible to make decisions until it is clear how much will be available from the contingency balance.

Finance Committee: Mr. Cline said the next meeting is March 8 at which time the budget will be discussed again in detail. Mayor Wiencek indicated that should be a long meeting.

Operations Committee: Mr. Lackey said he is still working on the Mobile Food Vendors legislation. Mayor Wiencek said he would like the Committee to address snow removal procedures.

Downtown Committee: The next meeting will be March 15.

**CITY MANAGERS REPORT**

- Stephen A. Lutz, City Manager, noted that the draft of the Annual Report has been provided to Council and he asked that comments on the report be provided as soon as possible so that suggestions can be incorporated before it goes to print at the end of the week.
- Mr. Lutz reviewed additional information which has been provided to Council related to the Home Road railroad grade separation project. David Betz, Director of Development, reviewed his concerns regarding the proposed plan. He said that Staff will be meeting with the County Engineer's office on this issue to discuss Staff's concern and the timeline for review of this proposal by the Planning and Zoning Commission.

Mayor Wiencek expressed concern regarding the frontage roads which were proposed. Mr. Betz said that he thinks those roads could be moved to the back. Mayor Wiencek said Liberty Township should be part of any of these meetings. Mr. Schultz and Mayor Wiencek questioned the plan as proposed.

**OTHER COUNCIL MATTERS**

**MOTION: Mr. Cline moved to appoint Gary Bell to fill vacancies in both the Arbor Advisory Subcommittee and the Parks and Recreation Advisory Board. Mr. Seta seconded the motion.**

**VOTE: Y 6 N 0**

**OTHER COUNCIL MATTERS**

- Mayor Wiencek noted that the City of Delaware is providing its minutes via audio-recording. He asked if that is something the City has considered. Dawn Nauman, Clerk of Council, said the problem is that



