



City of Powell, Ohio

COUNCIL MINUTES

January 17, 2006

A regular meeting of the City of Powell Council was held on January 17, 2006 and called to order at 7:32 p.m. by Mayor Don Grubbs. Other Council members present were Richard Cline, Tom Counts, Bill Morton, Art Schultz and Dan Wiencek. Elmer Meider was absent. Also present were Stephen A. Lutz, City Manager; Robert Rice, City Engineer; Powell Police Chief Gary Vest; Shea Allmont, Community Affairs/Special Events Coordinator; Ken Molnar, Director of Law; Susie Ross, City Clerk; interested parties and members of the press.

CITIZEN PARTICIPATION

There was none.

APPROVAL OF MINUTES

The minutes of January 3, 2006 were amended and approved.

CONSENT AGENDA

Item

Monthly Community Affairs/Events Report

Monthly Financial Report

Monthly Planning and Zoning Report

Monthly Police Report

Action Requested

Receipt of Report

Receipt of Report

Receipt of Report

Receipt of Report

RESOLUTION 2006-03

Adoption of Resolution

A RESOLUTION TO CONDITIONALLY ACCEPT AND BEGIN THE REQUIRED, MINIMUM TWO-YEAR MAINTENANCE PERIOD FOR THE PUBLIC IMPROVEMENTS IN THE GOLF VILLAGE SECTION 5, PHASE B SUBDIVISION AS THE SAME IS NUMBERED AND DELINEATED UPON THE PLAT THEREOF RECORDED IN CABINET 3, SLIDES 597 THRU 597A, DELAWARE COUNTY, OHIO RECORDS.

RESOLUTION 2006-04

Adoption of Resolution

A RESOLUTION TO CONDITIONALLY ACCEPT AND BEGIN THE REQUIRED, MINIMUM TWO-YEAR MAINTENANCE PERIOD FOR THE PUBLIC IMPROVEMENTS IN THE WOODS OF POWELL, NORTH, PHASE 1 SUBDIVISION AS THE SAME IS NUMBERED AND DELINEATED UPON THE PLAT THEREOF RECORDED IN CABINET 3, SLIDES 674 THRU 674B, DELAWARE COUNTY, OHIO RECORDS.

MOTION: Councilman Cline moved to adopt the Consent Agenda. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

LIQUOR LICENSE REQUEST

Hill Oil Company LLC

Susie Ross, City Clerk, confirmed she had not received any communications regarding this request since the last meeting.

Steve Lutz, City Manager, stated this item was discussed at the last Council meeting. He said it is for the Marathon Gas station south of Home Road. He said Council reviewed this application last year and requested a hearing before the State because of the proximity to the High School. He said the State upheld the license because it meets the minimum distance required by law. Mr. Lutz said they have until the end of the day to file an objection. Councilman Cline asked Chief Vest if they had any grounds to object to this permit on anything other than proximity grounds. Chief Vest stated they do not as it is a new business.

Mayor Grubbs stated he received a call from Teri Meider, Olentangy Local Schools Board Member, who said she had found the new middle school and elementary school are each located farther than the minimum distance away from the Marathon station. She also said she had heard no indication that the

school board was going to take action on this request. Mayor Grubbs polled Council regarding the request for a hearing. Council members declined the option to request a hearing on this application.

THE AVIAN FLU AND PANDEMIC PREPARATIONS – PRESENTATION BY THE DELAWARE GENERAL HEALTH DISTRICT

Fran Veverka, Delaware General Health District, presented an overview of the program. She gave information about their preparations for outbreaks, bioterrorism response and spoke about strengthening their capability to address these issues. She encouraged Staff to plan ahead to determine what services will need to be provided and how they may be achieved.

Joan Bowe, specialist in Emergency Preparedness and Communicable Disease, spoke regarding how government entities may rely upon the services of the Health District. She gave specific information regarding the Avian Influenza and Pandemic Flu. She encouraged Council to send a representative to the State Summit to be held in February. She said they are working closely with local, regional and state partners. Ms. Bowe offered the assistance of the Health District as technical experts for the City in dealing with the media. She said they continue to adapt their plans daily and encouraged City Staff to support them in their efforts.

Councilman Cine asked which agency takes the lead when these types of issues arise. Ms. Veverka said in the case of a biological outbreak they will work closely with NIMS.

RESOLUTION 2006-02: A RESOLUTION RECOGNIZING DAN WIENCEK’S TENURE AS MAYOR OF THE CITY OF POWELL 2004-2005.

Mayor Grubbs stated this resolution is an indication of the significant things that were accomplished when Mr. Wiencek was Mayor. He cited the Clean Indoor Air Ordinance, the Downtown Revitalization Study and creation of the Downtown Committee, and the advocacy work on the Liberty Township Land Swap. He presented the resolution for adoption.

Councilman Cline said every mayor brings their own stamp to the position but he had not met anyone who worked as tirelessly as Dan Wiencek. He said Dan was always looking out for the best interests of the citizens of Powell.

Councilman Schultz echoed the previous comments. He said it takes a lot of work to lead Council and he appreciated Mr. Wiencek’s diligent effort.

MOTION: Councilman Cline moved to adopt Resolution 2006-02. Councilman Counts seconded the motion.

VOTE: Y 6 N 0 (Abstain – Wiencek)

Mayor Grubbs presented a plaque to Dan Wiencek in honor and celebration of his two productive years as mayor.

RESOLUTION 2006-05: A RESOLUTION AUTHORIZING THE STUDY OF PUBLICLY OWNED PROPERTIES WHICH MAY BE AVAILABLE FOR WIRELESS TELECOMMUNICATIONS FACILITIES.

Mr. Lutz said this matter was briefly discussed by the Development Committee last month. He said Cingular Cellular has approached the City regarding the installation of a cell tower in order to improve their service in the area around South Liberty Street. He said people are starting to eliminate their hard line phones and use strictly cellular service and there is a dead spot in this area.

Mr. Lutz said in 1998 the City worked with MORPC to develop a Model Telecommunications Ordinance which was adopted by the City and many other municipalities in central Ohio. He said that allows the City to regulate the construction of cell towers in order to protect residential areas, minimize the visual impact and encourage co-use of the towers. He said the first step in considering the request is for Staff to put together a fairly simple study using a matrix identifying City properties and criteria for their use as a tower site. Mr. Lutz said after that, Cingular will have to go through the process with the Planning and Zoning Commission.

Councilman Wiencek asked if this study will also look at privately owned properties. Mr. Lutz said it will only look at City owned properties. Mr. Wiencek asked if City ordinance prevents a cell tower from being located on privately owned land. Ken Molnar, Director of Law, stated it does not, but this legislation creates a preference for placement of these facilities on publicly owned land whenever possible.

Mr. Lutz said according to ordinance, the City must perform the initial study. Mr. Schultz asked about the advantage of the City over Cingular paying to perform the study. Mr. Lutz said a consultant will not be hired so the only expense incurred will be the time spent by Staff. Mr. Molnar said Cingular has already identified preferred sites.

Councilman Morton asked if there are cell towers currently located within the City. Mr. Lutz said there are two near the Wolfe Commerce Park. Mr. Lutz said by having it on City property they have much more control and the towers are also a very good ongoing revenue source.

Mayor Grubbs opened this item for public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Cline moved to adopt Resolution 2006-05. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

SECOND READING: ORDINANCE 2005-66: AN ORDINANCE APPROVING THE PLAT FOR THE GOLF VILLAGE COMMERCIAL, SUB AREA E.

Mr. Lutz said this plat is for the section of Golf Village located on the southwest corner of Sawmill Parkway and Home Road. He said the applicant has requested this item be tabled indefinitely as they are still working with the County and the schools regarding ingress/egress issues on Home Road.

Mayor Grubbs opened this item for public comment. Hearing none, he closed the public comment session.

Councilman Schultz asked if they are reconsidering the drive on Home Road. Mr. Lutz said when Golf Village was originally platted there were standards established. He said now with the school and other issues the County has realized that may not be the best plan.

MOTION: Councilman Cline moved to table Ordinance 2005-66 indefinitely. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2006-05: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2006 AND DECLARING AN EMERGENCY.

Mr. Lutz said this is legislation regarding the construction of the Police Station/Village Green Façade/Public Restrooms. He said \$2.5 million will be borrowed to finance the project. He said the bid opening was today and there were five bidders on the project. Mr. Lutz said the bids were much higher than the Architect's estimate. He said the estimated base bid was \$1.8 million and they can accept any bid up to 10% over that amount. He said the low bid came in at \$2,435,000, well exceeding the 10% limit. He said they will have to reject the bids and reconsider how this project should be approached. Mr. Lutz said the Architect will contact the contractors to see why the bids were so much higher than estimated and then Staff and Council can take a look at the scope of the project. He said Council may reduce the scope or add more money to the project. Mr. Lutz recommended Council meet January 31 in Special Session to determine any changes to be made before it is re-bid. He said this will give the new Council members an opportunity to become familiar with the plans.

Mr. Lutz said all of the bids ran about 30-35% higher than the Architect estimates. He said they estimated \$163 per square foot and the bids came in at \$220 per square foot. Mayor Grubbs asked how much time would be lost assuming Council reaches a consensus this month.

Mr. Lutz said bids would be opened in mid-March and the construction estimate is 9 months. He said he recommends Council table this ordinance to the next regular Council meeting on February 7.

Mayor Grubbs opened this item for public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Cline moved to table Ordinance 2006-05 until the next regularly scheduled Council meeting on February 7, 2006. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to have Council schedule a special Council meeting on January 31, 2006 at 7:30 until the meeting is ended for the purpose of discussing the Police Renovation. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

COMMITTEE REPORTS

Development Committee:	(Next Meeting: TBD)
Finance Committee:	(Next Meeting: TBD)
Operations Committee:	(Next Meeting: TBD)
Downtown Committee	(Next Meeting: February 15 th)

CITY MANAGER'S REPORT

Mr. Lutz reminded Council about the Goal Setting Session at 9:30 a.m. on Saturday. He described the process for the session.

Mr. Lutz said in regard to the City's budget, it was determined in December 2004 the City had a \$3.7 million general fund balance. He said Staff anticipated that fund balance would drop \$500-700k in 2005. He said he was pleased to announce that Staff did not have to go into the fund balance and revenues exceeded expenditures, primarily because of an increase in income tax and development fees and reduced expenditures by Department Heads. He said the fund balance increased to \$4.1 million at the end of December 2005. He said this trend will not continue as revenues level off quickly and expenditures increase.

OTHER COUNCIL MATTERS

Mayor Grubbs stated Chief Vest and his Committee have been working hard to plan the Powell 2006 Safety Conference. He asked Chief Vest to make a presentation to Council regarding this event. Mayor Grubbs said it will be a significant conference which hopefully will be an annual event in the future.

Mayor Grubbs said he attended the first Liberty Township Trustees meeting last week and was very well received. He said he expected and received a very positive response. He said the Trustees appointed Curt Sybert to be a liaison to City Council.

Mayor Grubbs asked Staff if there had been any response regarding the Home Road overpass bike path. Mr. Lutz said the letter was mailed around the first of the year and they will follow up next week. Mr. Grubbs reminded Council members to complete and mail their Ohio Ethics forms by April 15.

Mayor Grubbs discussed a meeting which he attended with Barbara Cape and Rita Au from Preservation Parks. He said Mrs. Cape invited him to meet with them and they had a frank and productive conversation. He summarized the meeting and clarified some possible misunderstandings. He said Preservation Parks is the parks system in Delaware County and their mission is to develop a system of parks within the county. He said they currently have 602 acres under their management and are a political subdivision of the state, created by statute. Mr. Grubbs said they have a three member board which was appointed by the probate judge of Delaware County. He said the board is the legislative body of the park district and Preservation Parks is not a county agency. He said they have extensive powers as a political subdivision.

Mayor Grubbs said no municipality may become a member of the park system. He said the system exists and collects taxes from everywhere in the county with more than 90% of their funding comes from voted levy on real and personal property and the balance from specific grants. He said in 2004 Preservation Parks received \$1.1 million in real property tax revenue and of that amount, \$101k was collected from property located in the City of Powell and \$5,500 from properties located in the City's TIF area.

Mayor Grubbs said Preservation Parks is not obligated by law or any other way to share any of their cash revenue with any municipality in the county. He said their only obligation is to use their revenue to acquire, develop and maintain parks. He said several years ago their board voted to set aside funds for a program for communities to apply for grants for park development. He said they have the authority to administer the funds as they determine. He said they have set aside 10% or \$100k in 2005 for this purpose and any specific grant cannot exceed \$20k.

Mayor Grubbs said on October 6, 2005 the Parks Preservation board adopted a resolution to declare that any political subdivision which enacts or has enacted a TIF is ineligible to receive their grants for as long

as the TIF is in place. He said the Preservation Parks Board took this action to safeguard the revenues they receive. He said they determined a municipality or township can choose the manner in which they access their tax dollars from the park board, either through the grant program or through the TIF. He said they believe it is not fair to allow a municipality to do both. Mr. Grubbs said Ms. Cape and Ms. Au assured him the resolution was not intended to be punitive and they did not provide prior notice of this intent. He said they also indicated there was no intent to apply the resolution selectively or inconsistently. Mr. Grubbs said he mentioned the parks grant to Grief Brothers that appeared to be in violation of the resolution and the board members responded that the County Commissioners, not the Township Trustees, approved the TIF for that area. He said as the township did not choose to access the funds, they would not be penalized. He said Dave Cannon with the County Commissioners' office will investigate how the TIFs in surrounding areas have been established, as under Ohio law they may be established by the commissioners or by the township trustees. Mayor Grubbs said Ms. Au agreed to investigate the matter as well.

Mayor Grubbs said Ms. Cape stated the board members were equally offended by the threat set forth in the City's letter stating they may consider changing their long-standing tradition of supporting ballot initiatives of fellow government organizations. He said Ms. Cape stated if a Preservation Parks replacement levy was defeated it would have a negative effect on the Powell TIF. Mr. Grubbs said it was a very good discussion and it is important that Council move along. He said he recommends they retract the comment about not supporting ballot initiatives. He asked if Council has supported other ballot initiatives in the past and Councilman Cline said Council has voted to support the MRDD county-wide levy. Mr. Grubbs suggested Council view all subsequent ballot issues solely on their merit.

Councilman Cline endorsed that suggestion. He said he found it interesting how their board can deem the action of Council offensive and failed to see their own actions deemed offensive by Council. He said he is happy to move on. Councilman Schultz said Council needs to follow through with their investigation in an impartial way. He said the City still contributes a very large amount of tax dollars to their cause and they are choosing to divert a very small portion.

Councilman Wiencek stated as the author of the initial letter he would be willing to rescind the particular statement. He said he will draft a note to that effect.

Councilman Morton said the City would be best to have good relationships within the county.

Mayor Grubbs reviewed the vacancies on the various Boards and Commissions. Mr. Lutz said Staff currently does not have any resumes on file other than that provided to Council.

Councilman Cline suggested a policy be set to determine when to discard applications. Councilman Schultz asked that Staff contact existing board members with appointments due to expire to see if they would like to continue or serve on another board. Councilman Counts said Council should also determine if there is anyone currently serving who should not be reappointed. Councilman Cline said this type of discussion should be held in Executive Session.

MOTION: Councilman Cline moved at 8:55 p.m. to adjourn to Executive Session to discuss Personnel Matters under ORC Section 121.22 and all of the appropriate sub-sections. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Schultz moved to adjourn from Executive Session at 9:24 p.m. Councilman Cline seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Schultz moved to reconvene in Regular Open Session at 9:24 p.m. Councilman Cline seconded the motion.

VOTE: Y 6 N 0

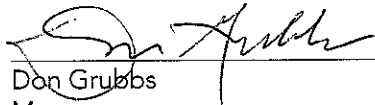
MOTION: Councilman Cline moved to appoint Dan Wiencek to the Planning and Zoning seat vacated by the resignation of Don Grubbs. Councilman Schultz seconded the motion.

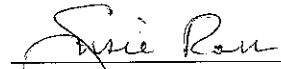
VOTE: Y 6 N 0

MOTION: Councilman Schultz moved to adjourn from Regular Open Session at 9:25 p.m.
Councilman Cline seconded the motion.

VOTE: Y 6 N 0

DATE MINUTES APPROVED: February 7, 2006

 3-4-06
Don Grubbs
Mayor Date

 3-4-06
Susie Ross
City Clerk Date

City Council

Don Grubbs, Mayor

Richard Cline

Tom Counts

Elmer Meider

Bill Morton

Art Schultz

Dan Wiencek