



City of Powell, Ohio

COUNCIL MINUTES JUNE 6, 2006

A regular meeting of the Powell City Council was called to order at 7:35 p.m. by Mayor Don Grubbs. City Council members present included Richard Cline, Tom Counts, Elmer Meider, and Dan Wiencek. Art Schultz arrived at 7:36 p.m. Bill Morton was absent. Also present were Steve Lutz, City Manager; Debra Miller, Finance Director; David Betz, Director of Development; Robert Rice, City Engineer; Shea Allmont, Community Affairs/Special Events Coordinator; Powell Police Chief Gary Vest; Ken Molnar, Law Director; Susie Ross, City Clerk; interested parties and members of the press.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by June Powell Mayor's Kid Citizen of the Month, Colt McNichols.

CITIZEN PARTICIPATION

There was none.

APPROVAL OF MINUTES

The minutes of May 16, 2006 were approved as submitted.

CONSENT AGENDA

Item

Action Requested

RESOLUTION 2006-22

Adoption of Resolution

A RESOLUTION TO CONDITIONALLY ACCEPT AND BEGIN THE REQUIRED, MINIMUM ONE-YEAR MAINTENANCE PERIOD FOR THE PUBLIC IMPROVEMENTS IN THE GOLF VILLAGE SECTION 6, PHASE B, PART II, SUBDIVISION AS THE SAME IS NUMBERED AND DELINEATED UPON THE PLAT THEREOF RECORDED IN CABINET 3, SLIDES 397 THRU 397A, DELAWARE COUNTY, OHIO RECORDS.

RESOLUTION 2006-23

Adoption of Resolution

A RESOLUTION TO CONDITIONALLY ACCEPT AND BEGIN THE REQUIRED, MINIMUM ONE-YEAR MAINTENANCE PERIOD FOR THE PUBLIC IMPROVEMENTS IN THE WOODS OF POWELL SOUTH SUBDIVISION AS THE SAME IS NUMBERED AND DELINEATED UPON THE PLAT THEREOF RECORDED IN CABINET 3, SLIDES 454 THRU 454B, DELAWARE COUNTY, OHIO RECORDS.

Steve Lutz, City Manager recommended that Resolution 2006-23 be removed from the Consent Agenda as the work has not been completed.

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

VOTE: Y 6 N 0

Resolution 2006-22 was adopted. Councilman Cline asked if Resolution 2006-23 should be tabled or allowed to die. Mr. Lutz said it would be best to let it die and Staff will bring it back at another time.

PRESENTATION: JUNE 2006 MAYOR'S KID CITIZEN OF THE MONTH – COLT McNICHOLS

Mayor Grubbs presented the Kid Citizen of the Month award to Colt McNichols. The nomination cited his heart for others evidenced by his efforts to earn his own money to travel with a group to Costa Rica to assist in building a project which serves families.

LIQUOR LICENSE REQUEST: MICHAEL COSTANZO dba YOUR PLACE

Mike Costanzo, applicant, 157 Woodland Drive, said the Turkish restaurant on Grace Drive has had a liquor license for a while now. He said the health and liquor inspectors have both visited the site. He said there is a unit upstairs from the doctor's office which has been difficult to rent because of the noise effect on the office below. He said they would like to rent the upper unit for birthday parties and rehearsal dinners which would take place after office hours and he is requesting the D1, D2, D3 licenses to move

from the Turkish restaurant to this unit. He said the new D5 license would then be an all encompassing license for the Turkish restaurant.

Councilman Cline asked Chief Vest if there are any law enforcement issues with this. Gary Vest, Powell Police Chief, stated there have not been problems in the past. He said because the upstairs will not be a continuous operation with a liquor license, they may want to provide prior notification of events to the department.

It was the consensus of City Council that there was no reason to request a hearing on the application.

LIQUOR LICENSE REQUEST: CITY BBQ

Mr. Lutz said a representative of City BBQ is not present on this application and it is a duplication of a permit which they currently have. He said the request has the incorrect spelling of the company name, an incorrect address and is in the incorrect jurisdiction. He said the City Clerk has been in contact with the Ohio Division of Liquor Control and they recommend that Council request a hearing for this permit as a way to try to resolve the differences between the two permits.

Councilman Wiencek said this seems to be an issue between the applicant and the liquor board and the City may incur costs if they need to have representation. Mr. Lutz said they would not have to have legal representation there and a staff member could go and explain the problem. Councilman Cline said it is his understanding they should object so a forum is created and at the forum the regulating agency would be asked to make the corrections. Ken Molnar, Law Director, said that assumption is correct and it may be able to be corrected by mail correspondence before the hearing.

MOTION: Councilman Cline moved that the City Clerk be directed to file an objection to the request. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

RESOLUTION 2006-21: A RESOLUTION AUTHORIZING THE DISTRIBUTION OF INTEREST EARNINGS TO THE POLICE FACILITY CONSTRUCTION FUND.

Mr. Lutz said the bond for the construction was recently issued and this resolution earmarks the interest from that bond back into the Police Facility Construction Fund. He said the interest earned will be utilized for the project as opposed to going into the General Fund.

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

Councilman Cline said the Finance Committee has long pursued a policy of recommending, where possible, the allocation of interest back to project funds. He said this is consistent with the State Auditor recommendations.

MOTION: Councilman Cline moved to adopt Resolution 2006-21. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

RESOLUTION 2006-24: A RESOLUTION DETERMINING THE NECESSITY TO REPAIR OR REPLACE SIDEWALKS IN THE CITY OF POWELL.

Mr. Lutz said this resolution is in conjunction with the City's mandatory Sidewalk Repair Program, which is in its third year. He said sidewalk maintenance is the responsibility of the property owner and this program assists residents in repairing their sidewalk. Mr. Lutz described the process of the program.

Councilman Meider asked if there is a typical amount of financial burden upon the residents in the program. Robert Rice, City Engineer said the costs range between \$100 and \$2000. He said it is their experience that when the project goes out to bid, the estimated costs per repair are higher than the actual costs.

Mayor Grubbs opened this item for public comment.

Mark Wood, 166 Beech Ridge Drive, asked for clarification on how the estimates are determined. Mr. Rice said they must determine a construction cost estimate, so they may go out to bid. He said they are not allowed to accept any bids that are over 10% of the amount of the cost estimate so when they estimate

the amount included in the notice to residents, they use the higher amount. He said it is their experience that the estimates come in lower than that amount. Mr. Wood asked how much lower they are typically. Mr. Rice said they are typically 10-15% lower.

Councilman Schultz asked if that was below the maximum or the engineer's estimate. Mr. Rice said that is below the maximum.

Mr. Wood asked if that means a \$2000 estimate might be anticipated to come in at \$1700. Mr. Rice said it is possible. Mr. Wood said as this is the third year of the program what would be the typical costs on a per block basis. Mr. Rice said on a per block basis it typically runs \$10 per square foot and blocks are 25 square feet, so it would be about \$250 per block. He said for leveling it ranges from \$60-\$80 per block.

Mayor Grubbs closed the public comment session.

Mayor Grubbs said the first reading of Ordinance 2006-38 is the specifics of properties within this year's coverage area for the program. He asked if it is not the public hearing. Mr. Molnar said that is correct. Mayor Grubbs asked if notices had been sent to the residents listed within that ordinance. Mr. Rice said notices were sent prior to Memorial Day weekend. He said this resolution of necessity also allows any resident who has received a notice to appear before Council and demonstrate that it is not necessary for their property to be a part of the mandatory program.

MOTION: Councilman Cline moved to adopt Resolution 2006-24. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

Mayor Grubbs moved item 15 forward on the agenda.

FIRST READING: ORDINANCE 2006-38: AN ORDINANCE AUTHORIZING COMPLETION OF THE 2006 SIDEWALK PROGRAM, FURTHER AUTHORIZING THE CITY MANAGER TO SOLICIT BIDS, ACCEPT THE LOWEST RESPONSIBLE, RESPONSIVE AND BEST BID FOR THE ABOVE-REFERENCED PROJECT, AND CONTRACT THE PROJECT IN AN AMOUNT NOT TO EXCEED THE ESTIMATES, IN ACCORDANCE WITH APPROPRIATIONS FOR THE CALENDAR YEAR 2006 AND DECLARING AN EMERGENCY.

Mr. Lutz said this is the ordinance authorizing the City to go out to bid for the Sidewalk Program. He recommended removing the emergency language and taking this item to a second reading to allow additional public comment.

Mayor Grubbs opened this item for public comment.

Mr. Wood said the estimate received from City staff was to repair or replace a block at the cost of \$380. He asked that the engineering department be prudent in staying closer to a cost of \$250 than \$380. Mr. Lutz said the engineering department determines cost estimates as close as they can but the cost is dictated by the contractors that bid on the project. Mr. Wood said his neighbor had received a quote of \$150 to do the repair. Councilman Schultz said the residents have the option of hiring a contractor to make the repairs. Mr. Woods said he thinks it is a good program but he would like Staff to be prudent. Councilman Cline said the City tries to be informative to the contracting community so they get good, reliable bids. Mr. Woods said he supposed the majority of the people living in Olentangy Ridge would prefer to have a City run program at a prudent price. Councilman Wiencek said in last year's program there were several residents who opted out of the program, thought they found a great bid, and when the contractor actually investigated the City's requirements, their bid rose to an amount close to the City's program estimate.

Mr. Woods asked if the permit and inspection are included in the per block cost. Mr. Rice said it is included in the City run program.

Mayor Grubbs closed the public comment session.

Councilman Counts asked how many contractors have bid on the project in the past few years. Mr. Rice said there have been four to five. Councilman Counts asked how the bids compared to the engineer's cost estimate. Mr. Rice said they varied by as much as 30 - 40%. Mr. Rice said with the passage of the Resolution of Necessity, it is not longer possible for a resident to come before Council and ask to be

removed from the program but it is still possible for them to opt out until June 20, 2006. It was determined to leave the emergency clause in the ordinance.

This item was taken to a second reading.

FIRST READING: ORDINANCE 2006-34: AN ORDINANCE ACCEPTING THE ANNEXATION OF 9.341 ACRES TO THE MUNICIPALITY OF POWELL.

Public Hearing

David Betz, Director of Development, presented information regarding Ordinances 2006-34, 2006-35, and 2006-36. He indicated the location of the property and surrounding uses. Mr. Betz said the site plan consists of five buildings which will be developed in phases. He said the overall site will have a shopping center to the west, proposed retail or office use in building 2, a possible private recreation facility for athletic enhancement/training in building 3, and two office/warehouse uses in buildings 4 & 5. He indicated the access points to the site and said the traffic study within the development plan has been approved by the County Engineer. He said a right turn lane is required from Sawmill Parkway onto the site.

Mr. Betz said the site plan shows the possibility of two drive up windows, one a proposed coffee shop and another a use such as a pharmacy or camera shop. He said access and signage will be reviewed by Staff at the time the uses are identified. He identified the three variances which will be required for this site:

1. Landscaped Parking Spaces every 8-10 spaces with shrub plantings rather than trees. Trees added to perimeter of site in excess of the requirements by 75%.
2. Parking Spaces required reduced from 423 spaces to 304.
3. Perimeter landscaping (70% required) moved to the front, outside of the parking lot.

Mr. Betz identified the mixture of building materials on the elevations. He identified the use of roofing materials. He said the rear of the center buildings will be stucco and all utilities will be located there. He said Staff will review any venting necessary once a restaurant user is identified. He said the proposed outdoor patio will also be reviewed by Staff.

Mayor Grubbs said the applicant has requested that Council suspend the rules on all three ordinances regarding this site. He said he prefers the annexation ordinance be addressed first.

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

Councilman Cline said it makes sense to adopt all three of the ordinances in one setting or not act on them until they are ready to act on all three items. He said he would not want to see the members make a decision on just a part of the three as they are being presented as a "package deal". Mr. Margello said that has been the way it has been presented all along.

Mayor Grubbs asked if Council has any concerns on the annexation. Councilman Wiencek asked if the annexation was reviewed by the CEDA Committee. Mr. Betz said the CEDA Committee's main concern was how this could affect the Wedgewood Commerce Center and the overall development plan in regards to their actions with WalMart. He said it has no legal affect as this is in the City and it has no affect on Township zoning.

FIRST READING: ORDINANCE 2006-35: AN ORDINANCE APPROVING THE ZONING MAP AMENDMENT FOR 9.341 ACRES OF LAND AT THE SOUTHEAST CORNER OF SAWMILL PARKWAY AND PRESIDENTIAL PARKWAY, 10379 PRESIDENTIAL PARKWAY, WHICH WAS RECENTLY ANNEXED INTO THE CITY OF POWELL; FROM LIBERTY TOWNSHIP PC, PLANNED COMMERCIAL DISTRICT TO CITY OF POWELL PC, PLANNED COMMERCIAL DISTRICT.

Public Hearing

FIRST READING: ORDINANCE 2006-36: AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR MARGELLO DEVELOPMENT COMPANY, FOR PHASE 1 OF A COMMERCIAL RETAIL CENTER AT 10379 PRESIDENTIAL PARKWAY.

Public Hearing

Councilman Wiencek said as a part of the Planning and Zoning Commission review process, Mr. Margello worked very closely with Staff and was responsive to every request of the Commission, so there were no objections to this plan moving forward.

Vince Margello, applicant, 1900 W. Powell Road, described the proposed development. He said on subsequent phases they are required to go before the Planning and Zoning Commission again for approval. Mr. Margello said there has been quite a bit of interest in the center and they have created bike paths to connect into the City bike paths and surrounding neighborhoods. He said bike racks have been added as they are trying to be pedestrian friendly.

Mr. Margello said the center is approximately 27k sq. ft. and they have created a center space which would be ideal for a restaurant. He said the patio of the restaurant will be shifted to the north side. He said The Mean Bean coffee shop is interested in the drive thru unit. He said he will work with Staff to create a safe environment and will use signage and striping. He said he does not anticipate a conflict because the other businesses will not be open during their busiest hours.

Mr. Margello said they have moved a lot of the parking to the rear of the center to force the owners to put the employee parking in the back. He said the parking will be limited in the front and he will be selective about the type of businesses in the center. He said the parking lot will contain down lighting and the signage will be per code with individual letters. He said any other branding will have to be approved by Staff.

Councilman Meider asked if the landscaping plan will be consistent with what is presently in the area. Mr. Margello said they have tried to set a precedence of something much better than the existing. Councilman Meider said he is looking for consistency. He said the materials samples have convinced him that the façade will not appear flat. Councilman Cline asked if the interior of the L-shaped building is the back of the other two buildings. He asked if it is the intent of the building to the south to block that view. Mr. Margello said it is. Councilman Cline asked if there would still be room for employee parking in the rear. Mr. Margello said there would.

Councilman Cline said he initially had a concern with the parking variance but he now sees why it is appropriate. Mr. Margello said Village Pointe Center is an example of a center with too much parking. He said Mr. Betz convinced him this is enough parking. Councilman Counts asked if the numbers in the parking variance are for the entire project and are those numbers consistent across the phases so each phase gets the same amount of reduction. Mr. Betz said it may be a little disproportionate in Phase 2. Councilman Counts asked if they have a sense of the parking coverage which will be needed for the large restaurant as he has a concern for the other tenants having sufficient parking. Mr. Margello said the other businesses will be closed when the restaurant is busiest. He said there should not be a problem but if it was, it would chase other tenants away and he would not want that as the owner.

Councilman Counts asked if there is sufficient lighting in the rear of the building for employees going to their cars after dark. Mr. Margello said there is and he is confident in the City of Powell Police Department. Councilman Counts said he has heard that the County Engineer does not like landscaping along the Parkway. Mr. Betz said all of the landscaping is on private property outside of the right of way and the County Engineer does not want it within the right of way. Councilman Counts said he sees this as the beginning of something good. He said one of the goals discussed by Council was the possibility of developing a joint landscaping plan along Sawmill Parkway between the City and the Township.

Mayor Grubbs asked if the sit down restaurant for the corner will have valet parking. Mr. Margello said it was mentioned in one of the meetings but he is not a fan of valet parking. Mayor Grubbs asked if there will be a restriction on parking in the Phase 1 area and parking will overflow into the Phase 2 & 3 areas. Mr. Margello said he does not anticipate problems. Mayor Grubbs asked if the type of lighting will have fixtures similar to those at the Tria Center. Mr. Betz said they are similar but less in height than those in Golf Village.

Mayor Grubbs said his only concern with the project is the flat appearance of the building as you travel along Sawmill Parkway. Mr. Margello said this will be similar to other buildings in the area of Hard Road. Mayor Grubbs asked about the use of awnings on the building. Mr. Margello said he would have to return to the Planning and Zoning Commission if he wants to use awnings. Mayor Grubbs said if awnings were even used on the one corner it would help the visual effect. Mr. Margello said they are researching low maintenance awnings at this time.

Mayor Grubbs opened the annexation, zoning map amendment, and final development plan for public comment. Hearing none, he closed the public comment session.

Councilman Meider said he approves of the concept of awnings as it softens the look of the building. Councilman Cline said he likes the plan and his concerns are not specific to this development. He said he questions whether there is the demand for continued development of strip centers. He said he believes they have made the correct decision on approving this landscape plan but he would not necessarily think this will be the plan for the future. He said the trees over asphalt create environmental damages.

Councilman Schultz said he supports moving forward as the applicant requests so he may move forward with construction. Councilmen Counts and Wiencek did not comment. Mayor Grubbs welcomed this development into the City and said he is hopeful this first phase will be the standard for development along the parkway.

Mr. Margello thanked Mr. Betz for his assistance in the process. He said his experience with the Planning and Zoning Commission was pleasant as well.

MOTION: Councilman Cline moved to suspend the rules in regards to Ordinance 2006-34. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2006-34. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to suspend the rules in regards to Ordinance 2006-35. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2006-35. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to suspend the rules in regards to Ordinance 2006-36. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2006-36. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2006-37: AN ORDINANCE TO GRANT FINAL ACCEPTANCE OF THE PUBLIC IMPROVEMENTS OF MURPHY PARK, SECTION 4 SUBDIVISION AS THE SAME IS NUMBERED AND DELINEATED UPON THE PLAT THEREOF RECORDED IN CABINET 3, SLIDES 226 THRU 226A DELAWARE COUNTY, OHIO RECORDS.

Mr. Lutz described the location of the area. He said the developer's one year maintenance period has been met and this ordinance grants final acceptance.

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

Councilman Cline asked if this is the kind of thing which could be included on the Consent Agenda. Mr. Lutz said it cannot. Councilman Wiencek said Council may want to consider changing the rules so this type of ordinance may be included on the Consent Agenda. Mr. Lutz said Staff will look into it.

MOTION: Councilman Cline moved to suspend the rules in regards to Ordinance 2006-37. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2006-37. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

SECOND READING: ORDINANCE 2006-32: AN ORDINANCE ESTABLISHING A PROCEDURE FOR RECEIVING PROPOSALS FOR CONTRACTED LAW DIRECTOR SERVICES.

Mr. Lutz said the City has been updating procedures for hiring practices for professional services. He said at the last Council meeting it was recommended that the profile for the preferred qualifications be amended slightly so that the Law Director does not necessarily have to come from a large law firm so long as they have relationships with outside counsel. Mayor Grubbs said the ordinance is simply the policy for Council but is not tied to a specific RFP.

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

MOTION: Councilman Cline moved to adopt Ordinance 2006-32. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

COMMITTEE REPORTS

Development Committee: No report. Next Meeting: June 20th

Finance Committee: No report. Councilman Counts said there will be a conference call with RITA on Thursday to discuss reports. Next Meeting: June 13th

Operations Committee: Councilman Counts said they met Monday and discussed the revisions to Council rules. Next Meeting: July 6th

Downtown Committee: No report. Next Meeting: June 28th

CITY MANAGER'S REPORT

Mr. Lutz recommended the Council meeting scheduled for July 4th be rescheduled to Wednesday, July 5th. The recommendation was approved. Mr. Lutz encouraged the local press to print the press release encouraging residents to apply for the vacant Board and Commission positions. He said the seven Capital Improvement Projects currently underway by the City are listed in the Scanner and that is by far more than they have had in the past.

OTHER COUNCIL MATTERS

Councilman Cline said he has become disenchanted with the effectiveness of the City sign ordinance. He said there is a proliferation of temporary signs, A-frame and handmade signs that change the look of the community. He asked that the appropriate committee review the sign ordinance and see if it is effective. Councilman Wiencek said it is hard for Staff to enforce the ordinance as quickly as the signs go up but it would be appropriate for the Planning and Zoning Commission to look at the policy. Mayor Grubbs said he would also like to see someone address the enforcement side. He said there may be a more effective way to enforce it within the code.

Councilman Counts asked if the Commission had addressed that within the past few years. Mr. Betz said the penalties have been increased. He said a lot of communities take offenders to Mayor's Court and that is more effective. He said Staff addresses issues with informal discussion with property owners followed by a formal letter and follow up from there. Councilman Wiencek said it may be possible to escalate the fines on repeat offenders rather than start over with each offense. Councilman Cline said another problem is that signs go out on Friday afternoon and are then removed Monday morning. He said he does not think this is accidental that the violations occur during the times when it is most difficult for Staff to police the area. He said it is intentional and somehow it should be addressed. Mayor Grubbs asked if there is a fine involved. Mr. Betz said there is one only if it goes to court. Ken Molnar, Law Director, said in communities with a Mayor's Court it is much easier. He said currently the City must take offenses to the Delaware City Prosecutor. Mr. Lutz said Staff will bring forth legislation to recommend this item to the Planning and Zoning Commission for review.

MOTION: Councilman Cline moved to adjourn to Executive Session in accordance with ORC Section 121.22(G)(3) to discuss pending litigation at 9:10 p.m. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adjourn from Executive Session at 9:40 p.m. Councilman Schultz seconded the motion.

VOTE: Y 6 N 0

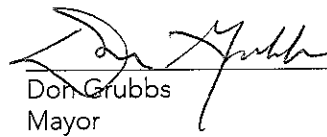
MOTION: Councilman Cline moved to reconvene in Regular Open Session at 9:40 p.m. Councilman Schultz seconded the motion.

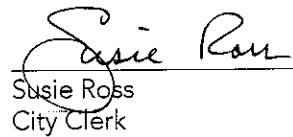
VOTE: Y 6 N 0

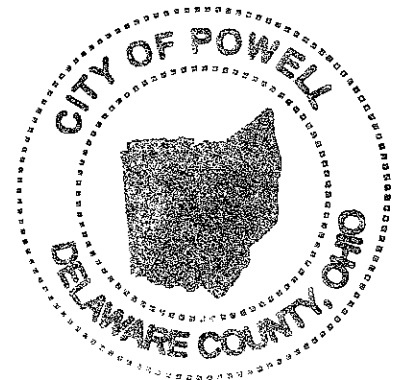
MOTION: Councilman Cline moved to adjourn from Regular Open Session 9:40 p.m. Councilman Schultz seconded the motion.

VOTE: Y 6 N 0

DATE MINUTES APPROVED: June 20, 2006

 7-3-06
Don Grubbs
Mayor Date

 7-5-06
Susie Ross
City Clerk Date



City Council

Don Grubbs, Mayor

Richard Cline

Tom Counts

Elmer Meider

Bill Morton

Art Schultz

Dan Wienczek