



## City of Powell, Ohio

### COUNCIL MINUTES SEPTEMBER 5, 2006

A regular meeting of the Powell City Council was called to order at 7:39 p.m. by Mayor Don Grubbs. City Council members present included Richard Cline, Tom Counts, Elmer Meider, Bill Morton, Art Schultz, and Dan Wiencek. Also present were Steve Lutz, City Manager; Debra Miller, Finance Director; David Betz, Director of Development; Robert Rice, City Engineer; Ken Molnar, Director of Law; Susie Ross, City Clerk; interested parties and members of the press.

The Pledge of Allegiance was led by Rechelle Frash, September Powell Mayor's Kid Citizen of the Month.

### CITIZEN PARTICIPATION

There was none.

### APPROVAL OF MINUTES

By unanimous consent, the minutes of August 15, 2006 were approved as submitted.

### CONSENT AGENDA

| Item   | Action Requested |
|--|------------------|
| ORDINANCE 2006-54<br>AN ORDINANCE TO GRANT FINAL ACCEPTANCE OF THE PUBLIC IMPROVEMENTS OF GOLF VILLAGE SECTION 1, PHASE C, SUBDIVISION AS THE SAME IS NUMBERED AND DELINEATED UPON THE PLAT THEREOF RECORDED IN CABINET 3, SLIDE 296, DELAWARE COUNTY, OHIO RECORDS. | Adoption         |

**MOTION:** Councilman Cline moved to adopt the Consent Agenda. Councilman Counts seconded the motion. By unanimous consent, the Consent Agenda was adopted as submitted.

### PRESENTATION: SEPTEMBER 2006 MAYOR'S KID CITIZEN OF THE MONTH – RECHELLE FRASH

Mayor Grubbs presented Rechelle Frash with the Powell Mayor's Kid Citizen of the Month award for September 2006. He noted Rechelle's work for the Powell Chamber during the Powell Festival as well as her volunteer efforts for Special Olympics and Race for the Cure.

### LIQUOR LICENSE REQUEST – PARKWAY PUB

Steve Lutz, City Manager, said the City Clerk has contacted the Ohio Department of Liquor Control regarding this request and they suggested Council request a hearing because of questions regarding the licenses currently held as opposed to those on the application.

Susie Ross, City Clerk, stated that according to the Ohio Department of Liquor Control, the D-1, D-2, and D-3 are exactly the same as the D-5 liquor license. She said the applicant may drop the D-5 license and apply for the D-1, D-2, and D-3 licenses or the applicant may withdraw the present applications.

John Ubbing, Parkway Pub, stated the application before Council is for a new location which is currently in lease negotiations. He said at this location, as opposed to the present location, there will be 65-75% food service. He said the advice of his legal counsel is to not disclose the location of the proposed site, as they are in negotiations. He said these licenses are the equivalent of the D-5 license and ODLC has not forwarded the paperwork for the D-2 application even though it is available. Ms. Ross confirmed that she had not received it. Mr. Ubbing said he will receive clarification from the ODLC. Mr. Lutz asked if the proposed site would be located within the City. Mr. Ubbing said it would. He said he has not had any problems at his current business.

Councilman Cline asked the Law Director if it is legal to process a license request for a separate location. Mr. Ubbing stated his attorney has assured him that this is appropriate. Ken Molnar, Director of Law, said Council is being asked to approve a transfer to a location which has not been announced. He said he can



contact Mr. Ubbing's attorney and receive more information. Mr. Lutz suggested this request be reviewed at the September 19<sup>th</sup> Council meeting. Councilman Wiencek said they should not be approving a liquor license at a location to be determined but it may be addressed in Executive Session at the next meeting. Mr. Molnar said it is possible this notice should not have been generated and may be an administrative error. It was the will of Council to address this item at the next Council meeting.

**SECOND READING: ORDINANCE 2006-49: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2006 AND DECLARING AN EMERGENCY.**

Mayor Grubbs said this ordinance should be considered with the following ordinance 2006-50.

Mr. Lutz said this was discussed at the last Council meeting regarding a proposed traffic study analysis for the four-corners. He said Council requested additional information as to whether the dates and times proposed are sufficient for such a study. He said within the revised proposal, EMH&T stated that historically data shows that traffic counts from one mid-week workday and one Saturday provide sufficient data for planning purposes. He said they can provide additional days of data at a cost of \$1100 per weekday or \$1700 per weekend day.

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

Councilman Morton stated it would be advantageous to have a traffic study to at least have baseline data. Councilman Wiencek asked if the turn restriction would impact the results of the study. Rob Rice, City Engineer, stated the weekend data would be unaffected as the restrictions are weekday only. He said it would be difficult to determine where to set up to capture a count of cars that turn elsewhere. Mr. Rice said there should be sufficient data regardless. Councilman Counts noted that the traffic survey will not be collecting data during the restricted hours. He said he is comfortable with the recommendation of the consultant. Councilman Cline concurred. Councilman Meider asked about the impact of more restrictive "no turn" hours. Discussion continued. Mayor Grubbs said the consultant could advise whether they can draw more conclusions taking the turn restrictions into account. Mr. Lutz said Staff could ask and have a response before the next Council meeting.

**MOTION: Councilman Cline moved to adopt Ordinance 2006-49. Councilman Counts seconded the motion.**

**VOTE: Y 7 N 0 Ordinance 2006-49 was adopted.**

**SECOND READING: ORDINANCE 2006-50: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2006 AND DECLARING AN EMERGENCY.**

Mr. Lutz said this was discussed at the last Council meeting regarding streetscape renderings so it would be possible to visually depict the different turn lane configurations. He said based on that discussion, Staff had a proposal drafted for a total of 10 renderings which would include: 4 streetscape renderings (1 each direction) showing turn lanes on each leg of the intersection, 4 streetscape renderings with no turn lanes, and 2 streetscape renderings (1 each direction) with the option of just east and west turn lanes. Mr. Lutz said the cost would be \$4800.

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

**MOTION: Councilman Cline moved to adopt Ordinance 2006-50. Councilman Counts seconded the motion.**

**VOTE: Y 7 N 0 Ordinance 2006-50 was adopted.**

**SECOND READING: ORDINANCE 2006-51: AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$11,000,000 OF PUBLIC INFRASTRUCTURE REVENUE BONDS, SERIES 2006, OF THE CITY OF POWELL, OHIO, UNDER ARTICLE XVIII, SECTION 3 OF THE OHIO CONSTITUTION, FOR THE PURPOSE OF ADVANCE REFUNDING A CERTAIN PORTION OF ITS \$10,915,000 VARIOUS PURPOSE BONDS, SERIES 2002, DATED OCTOBER 15, 2002, AND PREVIOUSLY ISSUED FOR THE PURPOSE OF ACQUIRING STREETS, UTILITY LINES, DRAINAGE FACILITIES AND OTHER PUBLIC INFRASTRUCTURE IMPROVEMENTS FROM THE LIBERTY COMMUNITY INFRASTRUCTURE FINANCING AUTHORITY; AUTHORIZING A TRUST INDENTURE TO SECURE SUCH BONDS AND ADDITIONAL PARITY BONDS HEREAFTER AUTHORIZED, WHICH**



INDENTURE SHALL PLEDGE THE COMMUNITY DEVELOPMENT CHARGES PAID BY CERTAIN PROPERTY OWNERS RESIDING WITHIN THE TERRITORY OF THE LIBERTY COMMUNITY INFRASTRUCTURE AUTHORITY; AUTHORIZING THE PURCHASE OF MUNICIPAL BOND INSURANCE, IF NECESSARY, IN CONNECTION THEREWITH; AND AUTHORIZING A BOND PURCHASE AGREEMENT, A FEDERAL INCOME TAX COMPLIANCE AGREEMENT, AN ESCROW AGREEMENT, AND AN OFFICIAL STATEMENT APPROPRIATE FOR THE OFFERING AND SALE OF SUCH BONDS.

**SECOND READING: ORDINANCE 2006-52: AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$7,500,000 OF PUBLIC INFRASTRUCTURE REVENUE BONDS, SERIES 2006, OF THE CITY OF POWELL, OHIO, UNDER ARTICLE XVIII, SECTION 3 OF THE OHIO CONSTITUTION, FOR THE PURPOSE OF CURRENTLY REFUNDING ITS \$6,900,000 VARIOUS PURPOSE NOTES, SERIES 2005, DATED NOVEMBER 2, 2005, AND PREVIOUSLY ISSUED FOR THE PURPOSE OF ACQUIRING STREETS, UTILITY LINES, DRAINAGE FACILITIES AND OTHER PUBLIC INFRASTRUCTURE IMPROVEMENTS FROM THE LIBERTY COMMUNITY INFRASTRUCTURE FINANCING AUTHORITY; AUTHORIZING A TRUST INDENTURE TO SECURE SUCH BONDS AND ADDITIONAL PARITY BONDS HEREAFTER AUTHORIZED, WHICH INDENTURE SHALL PLEDGE THE COMMUNITY DEVELOPMENT CHARGES PAID BY CERTAIN PROPERTY OWNERS RESIDING WITHIN THE TERRITORY OF THE LIBERTY COMMUNITY INFRASTRUCTURE AUTHORITY; AUTHORIZING THE PURCHASE OF MUNICIPAL BOND INSURANCE, IF NECESSARY, IN CONNECTION THEREWITH; AND AUTHORIZING A BOND PURCHASE AGREEMENT, A FEDERAL INCOME TAX COMPLIANCE AGREEMENT, AND AN OFFICIAL STATEMENT APPROPRIATE FOR THE OFFERING AND SALE OF SUCH BONDS.**

**SECOND READING: ORDINANCE 2006-53: AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOTES IN THE AMOUNT OF NOT TO EXCEED \$6,900,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF ACQUIRING STREETS, UTILITY LINES, DRAINAGE FACILITIES AND OTHER PUBLIC INFRASTRUCTURE IMPROVEMENTS FROM THE LIBERTY COMMUNITY INFRASTRUCTURE FINANCING AUTHORITY, RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE, AND APPROVING A NOTE PURCHASE AGREEMENT APPROPRIATE FOR THE SALE OF THE NOTES.**

Mr. Lutz said this is the second reading of these ordinances and Staff recommends Council adopt all three ordinances. He said it will be to the City's advantage to move the debt to Revenue Bonds. He said Staff recommends they refinance the debt into six-month notes which would be transferred to Revenue Bonds in January or February 2007. Mr. Lutz said Staff should know the current revenue from the authority within the next 6-8 weeks.

Matt Stout, Brickler and Eckler (Bond Counsel), was present to discuss this matter. He said in 2002 the City issued \$17 million of general obligation debt to acquire the infrastructure. He said Staff would like to move the General Obligation debt to Revenue debt. Mr. Stout said Ordinance 2006-53 authorizes the City to issue General Obligation notes to pay off the notes that are coming due. He said they are anticipating these notes will be issued for a six-month period to allow the City time to receive information from the Auditor's Department determining the revenues. He said bond holders would purchase that debt, removing the debt from the City.

Mr. Stout said Ordinances 2006-51 and -52 are before Council for the reason of timing. He said they anticipate the development charges will be provided in January or February and this would allow them to be ready to proceed once the numbers are there. He said the ordinances require two readings and a thirty day referendum period.

Mr. Stout said Ordinance 2006-51 refers to refunding the \$11 million of General Obligation Bonds issued in 2002. He said Staff would like to move those to Revenue Bonds once revenue information has been received. He said with economy of scale it may be possible to refund some of the bonds and save the City even more money.

Councilman Counts asked, if all three ordinances are passed, what is the assurance they are not authorizing City officers to proceed with all three ordinances. Mr. Stout said there is a good faith pledge. He said if the notes are refunded the bonds may not be refunded at the same time as the revenues will not be in place. He said no one would buy that debt because revenues would not be in place.



Mayor Grubbs asked if there is a time limit in regards to Ordinance 2006-51. Mr. Stout said there is no rule of provisions under Ohio Law but they do not like to proceed beyond a year. Mayor Grubbs said it is his understanding that 2006-52 and -53 are alternate ordinances. He asked if it is necessary to approve both. Mr. Stout said 2006-53 authorizes general obligation notes as they have done in the past and 2006-52 allows the City to refund those notes with Revenue Debt. Mayor Grubbs confirmed the notes mature November 7.

Mr. Lutz said once the revenues are known in January or February this matter will be discussed with the Finance Committee. He said once the Committee reaches a consensus, Council will be informed. Councilman Cline said he understands the logic behind it but he questioned why Council would not reissue the notes and table the other two ordinances until the revenues are known. Mr. Stout said Counsel felt if the ordinances were passed and referendum period run, they would be set to go when the revenues are provided. He said they do not want to miss interest rates. Mr. Lutz said this would be opposed to waiting 45 days as required under the Charter. Councilman Cline said they would have had the two readings so they would just need to call a meeting for the vote and the referendum period would start at that time. Discussion continued. Councilman Counts said they should just back up the referendum period from the anticipated date of receipt of revenues.

Tom Hanks, Delaware County Auditor, said the numbers will not be certified until February 2007.

Councilman Cline asked if there is any reason they cannot wait until then or will there be a time in December or January when they have a 90% confidence of the revenue range. Mr. Hanks said the market does not want to see fictitious numbers but they should have a range by then.

Mayor Grubbs opened the above three items for public comment. Hearing none, he closed the public comment session.

Councilman Morton said his concern is that Council is doing something that is at most inappropriate or at least odd. He asked if this is going beyond the regulations within the Charter. Councilman Wiencek said this is a routine matter done at the recommendation of the Bond Counsel who was hired to advise the City on such matters. Councilman Counts said if this were crunch time he would be willing to rely on the good faith of the officers. He said he does not see the need to adopt ordinances which are terribly inconsistent. He said Ordinance 2006-53 should be done now. Councilman Schultz said he believes Council will do what Counsel recommends anyway but there will be ample time to pass the ordinance once the amounts are known. Discussion continued regarding the time period and risks involved. Councilman Cline said it should not be the policy of Council to adopt inconsistent ordinances.

Mr. Stout said if Council has consternation about the two ordinances they may table them now and pass them at a later date. Mayor Grubbs said he has no problem justifying the passage of the three ordinances. He said he does not see it as establishing a precedent but instead giving Staff discretion to take advantage of the market. Councilman Cline said the ordinance does not say there is an option to issue the paper, but instead say they "shall" issue the paper. Councilman Wiencek said it authorizes the issuance but does not say to issue it. Mr. Stout said the City does not have to issue anything if the market changes and it is not advantageous or the revenues are not adequate. Discussion continued regarding the wording within the ordinance and the risks of passing the two ordinances at this time.

Councilman Wiencek called for an end to the debate. Councilman Schultz agreed.

**MOTION: Councilman Wiencek moved to adopt Ordinance 2006-51. Councilman Schultz seconded the motion.**

**VOTE: Y 4 N 3 (Cline, Counts, Morton) Ordinance 2006-51 was adopted.**

**MOTION: Councilman Wiencek moved to adopt Ordinance 2006-52. Councilman Schultz seconded the motion.**

**VOTE: Y 4 N 3 (Cline, Counts, Morton) Ordinance 2006-52 was adopted.**

**MOTION: Councilman Cline moved to adopt Ordinance 2006-53. Councilman Counts seconded the motion.**

**VOTE: Y 7 N 0 Ordinance 2006-53 was adopted.**



**COMMITTEE REPORTS**

**Development Committee:** No report. (Next Meeting: September 19<sup>th</sup>, 6:30 p.m.)

**Finance Committee:** Ms. Miller said the appeal to be heard by the Board of Tax Appeals has been dropped. Councilman Wiencek said a group will go to Cleveland on Friday, September 8 to speak with RITA representatives about the availability of data and reports. (Next Meeting: September 12<sup>th</sup>, 7:30 p.m.)

**Operations Committee:** Councilman Counts said the Committee met earlier in the evening. He said they have received the Law Director proposals which will be reviewed. He said they also heard a presentation from AT&T regarding providing multi-package video/internet/telephone services to the City of Powell. Mr. Lutz said they would pay a franchise fee as does Time Warner. (Next Meeting: September 5<sup>th</sup>, 6:30 p.m.)

**Downtown Committee:** Mayor Grubbs said they are awaiting initial reaction to the advertisement for the Downtown Coordinator position. (Next Meeting: September 13<sup>th</sup>, 6:30 p.m.)

**CITY MANAGER’S REPORT**

Mr. Lutz said sixteen different individuals and firms submitted Law Director Proposals. He said they will be reviewed in the upcoming month.

Mr. Lutz said the traffic signal at State Route 750/Bennett Parkway/Cressingham has been installed and will be activated next Monday. He said it will flash for a week and then become operational.

Mr. Lutz said a memorandum is included in Council Packets regarding the requests from Tyler Run Elementary school. He said all but two of the items requested have been completed by the City. He said the school has decided they do not want the elevated speed tables along Salisbury Drive as it will damage the school buses. He said the flashing light requested falls within an area which is split between the City and Liberty Township. Mr. Lutz said Council had asked previously where these types of lights are located within the school district and there are currently flashing lights at Orange Middle School. He said those were funded by Orange Township because the speed limit on Orange Road is 45 mph and they thought it was appropriate. He said Orange Township has been requested to install lights at other school locations and they have not done so. City Council directed Mr. Lutz to not take any further action.

**OTHER COUNCIL MATTERS**

Councilman Cline asked if there was a response from the Mayor’s letter to the Olentangy Commerce. Mayor Grubbs said he and Mr. Lutz met with three of the board members and had a good discussion. He said it was concluded from the meeting that the merger is an ongoing process and there will be another vote at the board level. He said they were told that if it is appropriate, the members in good standing would meet and a vote may be taken.

**EXECUTIVE SESSION**

**MOTION:** Councilman Cline moved to adjourn into Executive Session in accordance with ORC Section 121.22 (G)(2) Land Acquisition, Section 121.22 (G)(1) at 8:37 p.m. Councilman Counts seconded the motion.

By unanimous consent, City Council adjourned into Executive Session.

**MOTION:** Councilman Cline moved to adjourn from Executive Session at 9:12 p.m. Councilman Counts seconded the motion.

**VOTE:** Y 7 N 0

**MOTION:** Councilman Cline moved to reconvene in Regular Open Session at 9:12 p.m. Councilman Counts seconded the motion.

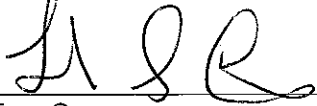
**VOTE:** Y 7 N 0

**MOTION:** Councilman Counts moved to adjourn from Regular Open Session at 9:12 p.m. Councilman Wiencek seconded the motion.

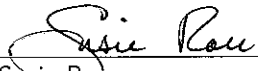
**VOTE:** Y 7 N 0



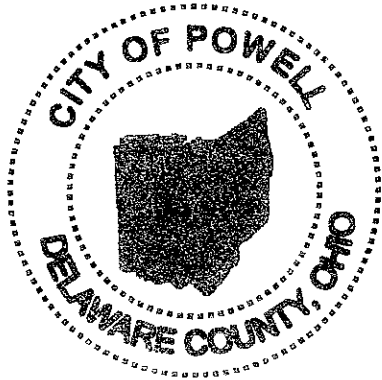
DATE MINUTES APPROVED: September 19, 2006

  
Tom Counts  
Vice President of Council

10/2/06  
Date

  
Susie Ross  
City Clerk

10/4/06  
Date



**City Council**

Don Grubbs, Mayor

Richard Cline

Tom Counts

Elmer Meider

Bill Morton

Art Schultz

Dan Wiencek

