



City of Powell, Ohio

COUNCIL MINUTES OCTOBER 17, 2006

A regular meeting of the Powell City Council was called to order at 7:36 p.m. by Mayor Don Grubbs. City Council members present included Richard Cline, Tom Counts, Elmer Meider, and Dan Wiencek. Bill Morton was absent. Art Schultz arrived at 7:50. Also present were Steve Lutz, City Manager; David Betz, Director of Development; Ken Molnar, Law Director; Anne Vogel, substitute for the City Clerk; interested parties and members of the press.

PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

There was none.

APPROVAL OF MINUTES

The minutes of October 3, 2006 were approved as submitted.

CONSENT AGENDA

Item	Action Requested
Monthly Community Affairs/Events Report	<i>Receipt of Report</i>
Monthly Financial Report	<i>Receipt of Report</i>
Monthly Planning and Zoning Report	<i>Receipt of Report</i>
Monthly Police Report	<i>Receipt of Report</i>
Annual Parks and Recreation Report	<i>Receipt of Report</i>

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

RESOLUTION 2006-33: A RESOLUTION IN SUPPORT OF THE DELAWARE-MORROW MENTAL HEALTH & RECOVERY SERVICES BOARD LEVY ON THE NOVEMBER 7, 2006 BALLOT.

Steve Hedge, Director of Delaware –Morrow Mental Health and Recovery Services Board was present to answer questions. He said passage of the renewal levy is vital to provide important services to City residents.

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

MOTION: Councilman Cline moved to adopt Resolution 2006-33. Councilman Counts seconded the motion. By unanimous consent, Resolution 2006-33 was adopted.

Councilman Schultz arrived at 7:50 p.m.

RESOLUTION 2006-34: A RESOLUTION IN SUPPORT OF PASSAGE OF ISSUE 5, SMOKEFREEOHIO, AND TO FORCEFULLY OPPOSE THE PASSAGE OF ISSUE 4, SMOKE LESS OHIO ON THE NOVEMBER 7, 2006 BALLOT.

Lori Kannally, Tobacco Program Coordinator, Delaware General Health District, was present to discuss the issues. She said Issue 5 has been endorsed by the Delaware General Health Board, the Grady Hospital Advisory Board, physician offices, as well as many other groups. She said she has spoken with local residents who are not aware that there will be two smoking issues on the ballot. Ms. Kannally discussed the differences between the two issues.

Len Fisher, Delaware County Resident, Delaware County Tobacco Free Tomorrow Chairperson, American Cancer Society Volunteer, was present to support the passage of the resolution. He discussed the sponsors for each issue.

Councilman Weincek asked Ms. Kannally about the effect of second-hand smoke especially for older adults, asthmatics, children, and persons with respiratory problems. Ms. Kannally provided details regarding the severe effect of second-hand smoke on these groups. She said the Surgeon General report stated the dangers for all persons as well as specific at-risk populations.

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

Councilman Meider expressed concerns regarding Issue 5. He stated he will support a "no" vote on Issue 4, but has not made a decision on Issue 5. Councilman Schultz said that one of the benefits of Issue 5 is that it levels the playing field so the townships and the City have the same smoking laws. Mayor Grubbs said he does not support a Constitutional Amendment as the law should change over time. He said he supports the Resolution.

MOTION: Councilman Wiencek moved to adopt Resolution 2006-34. Councilman Cline seconded the motion. Resolution 2006-34 was adopted by a majority vote.

SECOND READING: ORDINANCE 2006-60: AN ORDINANCE ESTABLISHING AND ENACTING CHAPTER 953 OF THE CODIFIED ORDINANCES OF THE CITY OF POWELL, OHIO, ENTITLED "CABLE SERVICE AND COMPETITIVE VIDEO SERVICE" TO FACILITATE A COMPETITIVE MARKETPLACE FOR BROADBAND SERVICES.

Mr. Lutz said this is the second reading of this ordinance, which was discussed in detail at the last meeting.

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

MOTION: Councilman Cline moved to adopt Ordinance 2006-60. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

SECOND READING: ORDINANCE 2006-61: AN ORDINANCE ADOPTING THE AMENDED PERSONNEL MANUAL FOR EMPLOYEES OF THE CITY OF POWELL AND REPEALING ORDINANCE 2005-63.

Mr. Lutz said this is the second reading of this ordinance which updates the Personnel Manual. He said the proposed changes have been reviewed by the Operations Committee and Personnel Board of Review.

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

MOTION: Councilman Cline moved to adopt Ordinance 2006-60. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2006-65: AN ORDINANCE RATIFYING THE MAINTENANCE AGREEMENT BETWEEN THE CITY OF POWELL AND LIBERTY TOWNSHIP REGARDING THE RUTHERFORD ROAD PEDESTRIAN TUNNEL.

David Betz, Director of Development, described the location of the proposed tunnel as it relates to the subdivision.

Councilman Schultz asked for clarification on the connection. Mr. Betz said they will discuss funding the small connection and pedestrian gates where Centex Homes and Golf Village meet. Councilman Schultz asked about the area on the north side and if that is the end point of the City's responsibility. Mr. Betz said it will go the culvert which goes under Rutherford for the golf course cart path. He said when that was designed the tunnel was not designed long enough to make the pathway able to go alongside the road. He said they will have discussion with the owners of Kinsale to determine how that can be extended west to Sawmill Parkway.

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

Councilman Counts stated his concerns regarding replacement or the issue of what happens if one party fails to maintain. He questioned who is obligated to replace the culvert and/or the asphalt above the culvert. He said if the Township fails to maintain the asphalt above and it damages the culvert such that it decays because of water, are they responsible for its replacement. He said they may want to consider these issues.

Councilman Mr. Lutz stated he will speak with a representative of the Township after they meet to discuss this issue. He said he will have the information before the second reading.

Councilman Cline questioned an area on page 2, paragraph 6, where it indicates the agreement may be terminated by mutual agreement between parties. He asked if there had been discussion regarding unilateral withdrawal from either party. Ken Molnar, Director of Law, said this terminology allows that some point in time the City may want to withdraw because it may be advantageous to have the other party take over the responsibility. He said he had not considered unilateral withdrawal. Councilman Cline said allowing that may not be a smart move. Councilman Counts said it is typical in this type of agreement to not have a unilateral withdrawal. Councilman Wiencek stated that M/I will willingly spend a large amount of money to complete the tunnel and that is money that the City and Township will not have to spend to provide a safe passage way for pedestrians. He said he would not want to include items in this agreement that might impair the City's ability to get the tunnel built.

This item was taken to a second reading.

COMMITTEE REPORTS

Development Committee: No Report. Next Meeting: TBD

Finance Committee: Councilman Cline said the survey email will be distributed soon. Mr. Lutz said the Committee will be reviewing the proposed Budget. Next Meeting: October 24th, 7:30 p.m.

Operations Committee: Councilman Counts said they will be discussing the Building Permit process. Next Meeting: November 6, 7:30 a.m.

Downtown Committee: Mayor Grubbs said the Committee met last week and they are very pleased with the selection of Anna Steck as the Downtown Coordinator. Next Meeting: November 8th, 6:30 p.m.

CITY MANAGER'S REPORT

Mr. Lutz said the next Council meeting falls on Election Day and the Council Chambers will be in use. He said the Council Chambers is available on November 9th. The meeting was rescheduled to that date.

OTHER COUNCIL MATTERS

Councilman Counts said the Sawmill Parkway Beautification Task Force will meet on October 18th. He said they met two weeks ago and discussed how to implement the results of the Kinzelman Kline study for Sawmill Parkway on a short-term basis. He said they will review those recommendations at the meeting.

Councilman Wiencek said the Bike Path Committee also met that evening. He said the basic premise for the committee is to get a generally described bike path plan which is mutually agreed to by the City and Township. He said they hope to have at least a guideline to let the developers know they are moving down this path and they will be expected to follow it. He said the next meeting is on October 18th.

Mayor Grubbs said the Delaware County Transit Board has requested that the City provide funding for at least the local portion of their services. Mr. Lutz said they receive funding through the County Commissioners as well as the Board of Development Disabilities. Councilman Counts asked if all of the other jurisdictions have received this request for funding. Mr. Lutz said he does not have that information but he will look into it and report back to Council.

Mayor Grubbs said on November 2nd there will be a joint meeting of all subdivision and condo Homeowners' Association representatives. He said they will discuss items from the Council Goal Setting Session which was held in January.

Mayor Grubbs informed Council of the passing of Barbara Cape. He said he spoke with her husband, Bob (Liberty Township Trustee) this evening to express condolences.

MOTION: Councilman Cline moved to adjourn into Executive Session in accordance with ORC Section 121.22(G)(3), Pending Litigation, at 8:26 p.m. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adjourn from Executive Session at 9:42 p.m. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

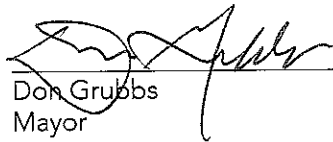
MOTION: Councilman Cline moved to reconvene in Regular Open Session at 9:42 p.m. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adjourn from Regular Open Session 9:43 p.m. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

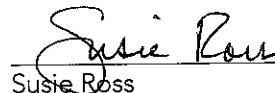
DATE MINUTES APPROVED: November 9, 2006



Don Grubbs
Mayor

11-20-06

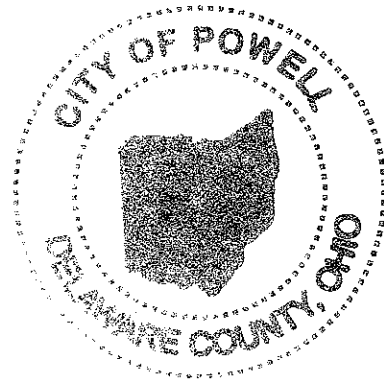
Date



Susie Ross
City Clerk

11/21/06

Date



City Council

Don Grubbs, Mayor

Richard Cline

Tom Counts

Elmer Meider

Bill Morton

Art Schultz

Dan Wiencek