



City of Powell, Ohio

COUNCIL MINUTES

MAY 1, 2007

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, Bill Morton, Art Schultz and Dan Wiencek. Also present were Steve Lutz, City Manager; Debra Miller, Finance Director; David Betz, Director of Development; Rob Rice, City Engineer; Chris Huber, Assistant City Engineer; Shea Allmont, Community Affairs/Special Events Coordinator; Gene Hollins, Law Director; Susie Ross, City Clerk; interested parties and members of the Press.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by May Kid Citizen Max Kaufman.

CITIZEN PARTICIPATION

Mayor Grubbs opened the Citizen Participation session for items not listed on the agenda. Hearing none, Mayor Grubbs closed the session.

MAYOR'S KID CITIZEN OF THE MONTH FOR MAY - MAX KAUFMAN

Mayor Grubbs presented Max Kaufman with the Powell Mayor's Kid Citizen of the Month Award for May, 2007. Max is a fourth grade student at Scioto Ridge Elementary School and was nominated by Jim Meta, his teacher from last year. He was recognized for his teamwork with other students and good sportsmanship.

Mayor Grubbs encouraged all present to nominate kids who display good citizenship qualities to receive this award.

APPROVAL OF MINUTES

The minutes of April 17, 2007 were approved as submitted.

Mayor Grubbs moved item 9 forward on the agenda.

DISCUSSION: POWELL VETERANS MEMORIAL UPDATE

Mayor Grubbs said the Greater Powell Veterans Memorial Foundation has been fundraising this past year and now have 2/3 of their funding for the memorial. He said the foundation would like to move forward this year with the construction of the memorial. He said this would be a good year to proceed as the City will be working on the parking lot and other construction is going on. Mayor Grubbs said in order for the Foundation to move forward they need to have all of the funds needed to make the orders for the memorials and proceed with construction.

Kathryn Gerke, Foundation Vice President, said it will take 6 months for the granite monoliths to be completed and 4-6 weeks to complete construction. Mayor Grubbs said the Foundation would like to begin the process on Memorial Day and have the memorial completed and constructed in time for Veteran's Day on November 11th. He said the Foundation would like assistance from City Council in bridging the financial gap and would like to discuss options this evening.

Ms. Gerke said they presented the concept for the memorial to Council about two years ago. She said she is confident that once they break ground they will receive more in gifts. Ms. Gerke assured Council that they will continue to fundraise until all of the funds have been raised because that was their original promise to the City. Ms. Gerke said they are now asking for the assistance of Council and their blessing to continue with the Memorial.

Mayor Grubbs said one option is for the City to guarantee a portion of the \$49k, counting on the Foundation to continue their fundraising. Ms. Gerke said there is a payment schedule of one third to be

paid with the order, one third paid halfway through the project in three months, and one third at the completion of the project.

Councilman Cline said it is his understanding that the Foundation has received \$75,500 in donations and they have \$31,500 in pledges which have not been collected. Ms. Gerke said they have \$56k in pledges. She said there is an extra \$25k which has been pledged; she will be selling advertisements for the memorial dedication program and she has a backer who will cover the difference between the ad sales and the balance. Councilman Counts asked how long the time period is for outstanding pledges. Ms. Gerke said it is her understanding that the outstanding pledges will be collected before the dedication. Councilman Schultz asked if there are contributor names listed on the memorial which serve as incentive. Ms. Gerke said there are. Councilman Schultz asked if the memorial could be completed in phases. Ms. Gerke said the memorial is not large enough to allow phasing.

Mayor Grubbs they will want to investigate the prevailing wage issue before proceeding with a decision. Gene Hollins, Law Director, said it may not be triggered by the contribution of City funds but rather because it is construction or improvements on City land. He said it would then become City property but there may be ways to structure this to address that issue. He said that will need to be investigated in detail as it would affect the overall budget. Councilman Wiencek said they are phrasing this as a "loan" but it would be a loan with no guarantees. Mayor Grubbs said a loan was discussed but it may be treated as a donation or as a contribution as it will become City property. He said the term "loan" may be more problematic than an "appropriation" from a finance standpoint. He said the City would guarantee the gap once the shortfall is determined, up to a certain dollar amount.

Councilman Counts asked if the interest in the project has grown or waned and what amount could be potentially generated in the few next years. Ms. Gerke said they feel people will step up once they see the groundbreaking for the memorial. Councilman Counts said he wants to feel comfortable that the fundraising will continue. He said if they waited a year and the Foundation generated more donations the amount to be guaranteed would be less. Ms. Gerke said she believes waiting a year would be detrimental to the fundraising effort. She said she is receiving calls from those who have already donated and want to know the status of the project.

Mike Crites, Foundation President, said they have had lots of momentum in the first two years and the big push is on this year. He said they will not stop fundraising and they make that commitment to the City and to all Veterans. He said some people are still watching to see that this memorial becomes reality and they will donate significantly when it is completed. Councilman Schultz said they are at a point where they may be losing some momentum and construction will generate some excitement. He said if the City wants to see the memorial happen they will need to commit to it. He asked if they get to the last payment in October and the Foundation does not have all of the funding, would the City pay the balance and eventually be paid back from future donations. Mr. Crites said that is what they intend to do. He said they will continue to try to raise money and have set up a 501C3 corporation so they may pay the remainder of the gap and hold funds for maintenance costs. He said the fundraising activity will pick up once the memorial is built.

An unidentified speaker from the audience said he is a WWII Veteran said he really believes that the work put forth to raise the money will be completed and there are many who want to see this project completed to memorialize veterans.

Councilman Cline applauded the work of the volunteers of the Foundation. He said his concern is with the administrative and legal issues regarding prevailing wage and ownership of the memorial. He said it may be best for the City to grant a perpetual easement to the Foundation. He said those answers must be found quickly because the cost estimates may change radically. Councilman Cline said he is reluctant to commit until those questions are answered. Councilman Meider said he is in support of the project but would like to have the questions answered before making a commitment.

Mayor Grubbs asked if there is a consensus from Council to move forward. He suggested several options. Councilman Schultz suggested the upper limit of the backing would be \$59k and it would be determined in the fall time frame. He said the plan would eventually allow the City to recoup the funds loaned. He said that would be a reasonable commitment. Councilman Counts said there is enough cash in the bank to make the first payment but there is not cash in hand for the second payment. He said that is the

payment which puts the City at risk and he would like to see a plan of action by the Foundation to raise or secure the funds for the second payment.

Ms. Gerke said the payments required total \$127k and that is for the granite memorials. She said two-thirds of that amount is \$80k. She said one third would be paid when the order is placed and another third would be paid two-thirds of the way through. She said at the end of construction the last third plus any construction costs would be due. Mayor Grubbs clarified the \$127k would be covered by the \$31k in pledges when collected, the bank balance and the \$25k donation/advertisement sales.

Councilman Morton said he supports the project but he has questions whether the City should support this project if it places them at considerable risk. He said he is uncomfortable committing to loan an unknown amount of money. He said if they have clarification he would be in favor of committing support to move the project forward. Councilman Wiencek said he said he struggles with guaranteeing City funds in this instance. He said this project would have fallen into the "C" category as a Capital Improvement and he struggles with committing funds to a project in this category when the City does not have money to complete "A" & "B" projects.

Councilman Meider said there are legal questions to be answered. He said he is concerned about how strong the outstanding pledges of \$31k are but he is conceptually for moving forward. Ms. Gerke said she has written pledges and they are solid. She said if she does not raise \$25k in advertising the balance is still guaranteed by a sponsor. Councilman Schultz said they do not want to commit monies knowing that may not be enough finalize the project. Mr. Lutz said the biggest variable will be the actual construction cost. Ms. Gerke said some of the construction is "in-kind" service.

Mr. Crites said one year ago they had \$75k in pledges. He said people who committed in the first round have paid. He said they are now into the second round of pledges and he is confident those will be paid.

Mayor Grubbs said he is comfortable with the concept of the City funding what is needed. He said he feels the funding should be a guaranteed advance which will be repaid by the Foundation. He said the information requested will need to be provided so they can have a level of assurance. He said he looks forward to follow up discussion on this issue at the next Council meeting.

RESOLUTION 2007-05: A RESOLUTION AUTHORIZING THE CITY MANAGER TO ADJUST THE TIMING OF THE TRAFFIC SIGNAL LOCATED AT THE INTERSECTION OF OLENTANGY STREET AND LIBERTY STREET IN ORDER TO OPTIMIZE ITS OPERATION.

Steve Lutz, City Manager, said a study was received in March from EMH&T regarding the Four Corners intersection. He said various items were identified within the study which could be done to improve the operational efficiency of the intersection. He listed options which were identified. Mr. Lutz said this legislation would enact the first recommendation which is to adjust the timing of the signal. He said another recommendation could be to extend the turn restrictions.

Mayor Grubbs said they should also discuss the extension of turn restrictions beyond those in force at this time.

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

Councilman Meider said he supports the adjustment of the timing and they should also expedite extending the hours of turn restrictions. He said he would like to move forward with discussion of the turn lane restrictions in the Development Committee. Councilman Cline said he fully supports this legislation but feels it is unnecessary as this is already within the power of the City Manager. He said he also supports sending discussion to the Development Committee. Councilman Schultz agreed and said they may not want to adopt this resolution as they would then need to pass another if the timing needed to be adjusted again.

Councilman Counts noted the consultants did not believe the turn restriction changes would help that much. Councilman Wiencek said he is initially leery of turn lane restrictions as they may have negative impacts upon the downtown businesses, especially those on South Liberty. Councilman Morton agreed with the comments regarding the legislation. He said shifting the turn lane restrictions to different times and different days could cause confusion. He said he is in favor of the addition of turn lanes and anything

they do to move traffic through the area will make more people frequent the City and that will help the downtown businesses.

Mayor Grubbs said this legislation was proposed because this intersection is unlike any other within the area. He said the resolution was intended to say that the City is taking this first step. He said changing the timing and the turn lane restrictions will not be capital expenditures so those options should be considered.

Councilman Schultz asked if another resolution will be necessary if Staff needs to adjust the timing again. Mr. Lutz said that would not be necessary.

MOTION: Councilman Cline moved to adopt Resolution 2007-05. Councilman Counts seconded the motion. By unanimous consent, Resolution 2007-05 was approved.

RESOLUTION 2007-06: A RESOLUTION DETERMINING THE NECESSITY TO REPAIR OR REPLACE SIDEWALKS IN THE CITY OF POWELL.

Mr. Lutz said each year the City sponsors a Citywide Sidewalk Repair and Replacement Program. He described the program and how it is implemented. He said this year the program covers sections of Olentangy Ridge and the City engineers have identified blocks which need to be repaired or replaced. He said they have sent letters to the residents notifying them about the repairs and estimated costs. Mr. Lutz described payment options for residents. He said the residents may also opt-out of the program so they may hire their own contractor to make the repairs to meet City requirements. Mr. Lutz said letters have gone out to 66 property owners and tonight's resolution determines the necessity to repair or replace the identified sidewalks.

Rob Rice, City Engineer said this is the fourth year of this program. He said they have thoroughly inspected the sidewalks by established criteria and identified those needing repair or replacement. He said there is a 21-day period from the date of the notice in which the residents may opt-out and this meeting is the public's chance to address Council regarding concerns about the notice.

Councilman Morton asked if anyone has opted out in the past. Mr. Rice said last year one-third to one-half of the residents opted out. Councilman Morton asked if there were any issues with the quality of the reconstruction. Mr. Rice said they inspect all of the work, whether done by the City or by the opt-out contractors and it was found to be acceptable.

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

MOTION: Councilman Cline moved to adopt Resolution 2007-06. Councilman Counts seconded the motion. By unanimous consent, Resolution 2007-06 was approved.

SECOND READING: ORDINANCE 2007-21: AN ORDINANCE APPROVING A COMMUNICATIONS FACILITY SITE LEASE AGREEMENT FOR THE PREMISES KNOWN AS 463 SOUTH LIBERTY STREET, POWELL, OHIO WITH NEW CINGULAR WIRELESS PCS, LLC.

Mr. Lutz recommended this item be tabled to the May 15th meeting as Staff is currently working with New Cingular Wireless on a few of the details included in the agreement.

Mayor Grubbs opened this item to public comment

Greg Gemienhardt, 126 Gainsway Court, said they live in close proximity to where this tower would be erected. He asked if other locations have been reviewed and considered. Mayor Grubbs said Staff and the company have looked at various places within the City and this seemed most appropriate. Councilman Cline said within the last two or three years the City adopted a policy to favor placement of these types of infrastructure improvements on public property when possible. Mr. Gemienhardt said if this is the most appropriate site it should not become an unsightly eyesore to the residents in the community. He said there have been discussions that these towers present health concerns and other communities have tried to prohibit them. He said in his brief investigation he sees there are some initial health concerns and also others who believe there are no health concerns. He said the question is that if they do not know the health concerns they should explore other options. Mr. Gemienhardt said there are 22 children on their cul-de-sac and there is a school in close proximity. He asked if future health concerns

had been investigated.

Mayor Grubbs clarified that Council is only discussing the lease agreement and the actual site and process will be decided by the Planning and Zoning Commission. He said there will also be other opportunities to comment on this issue.

Councilman Schultz asked if a distance was identified in the research. He said Mr. Betz organized a fairly elaborate review and assessment of the different sites, proper distances and other criteria. He asked if there was discussion in the past regarding reasonable distances.

Mr. Betz said the reason for the choice of this site for this application was that Cingular and T-Mobile are looking for areas south of Bennett Parkway. He said in the zoning code there are certain requirements and this application meets those requirements. He said health effects are not shown in the zoning code but there are studies and opinions on each side. He said the distance from other property lines is typically looked at in relation to the monopole toppling onto a residence. Councilman Counts said the Telecommunications Act of 1996 said cellular towers cannot be prohibited but they can be regulated. He said the City has determined appropriate regulations and as long as that is reasonable it is allowed. He said it is difficult in this community because it is heavily residential and it is not possible to put in a tower that is a significant distance from residences.

Mr. Gemienhardt asked if there is a certain amount of square footage required for the tower and what are the benefits to the community. Mr. Betz said he will meet with Mr. Gemienhardt to provide the site information. He said this cellular tower would provide better coverage for people inside their homes, increased technology to people connecting computers and using cell phones. Mayor Grubbs said by having this tower on City property they can regulate the tower on the site and also receive revenue from the companies using the tower.

Mayor Grubbs closed the public comment session. He encouraged Mr. Gemienhardt to meet with Mr. Betz and attend future meetings on this subject.

MOTION: Councilman Cline moved to table Ordinance 2007-21 to the next regularly scheduled City Council meeting on May 15, 2007. Councilman Counts seconded the motion.

VOTE: Y 7 N 0

DISCUSSION: CAPITAL IMPROVEMENT PRIORITIZATION/4-CORNERS OPERATIONS STUDY/MURPHY PARKWAY EXTENSION

Mayor Grubbs said even though they do not have the tabulation of the new prioritization, this will allow the Capital Improvement Budget to keep moving. Mr. Lutz asked that the members of Council forward their tabulations to him prior to this Friday so it may go to the Finance Committee meeting on Tuesday.

Councilman Cline said they will first have to tally Council's second round prioritization. He said once they have the tabulations they may be able to look at these projects in context of money and time. He said there is no money available in the budget for any of these projects as the Capital Improvements portion of the current budget has been exhausted. He said they hope to create a long range plan which provides a renewable funding source and provides a mechanism for a thought process on how and when the projects may be accomplished. He said conceptually they are looking at 1/2 million dollars as a cut off point where if an individual project is at that amount or less, it would be funded by cash. Councilman Cline said if it is over that amount it would be funded through issuance of debt and the proceeds of the funding source would service the debt. He said the Finance Committee is looking at a construction horizon of no more than ten years and a payout of no more than twenty years for those projects which require bonding and long term debt. Councilman Cline said they will fine-tune that depending upon the input of Council, RITA and the Finance Director. Councilman Wiencek said the Finance Committee will also consider the pooling of projects under the threshold. He said the priority of those projects falling into the same timeline and the efficiency gained will make the odds of pooling the projects unlikely.

Mayor Grubbs asked if the Finance Committee anticipates they will be in the position to move along at their next meeting. Councilman Cline said if everyone provides their feedback by Friday there is a reasonable possibility that will happen.

Councilman Schultz said what people hear most is that the City has a shortfall and they are worried about

it. He said it is healthy to be concerned but it is important to convey to the public that this is consistent with what they have been doing. He said they are living within their means and they will continue to do that and this is a way to get organized.

Councilman Cline said it is true the City has spent close to \$2 million per year for the 5 years but about \$7 million of that was voted funding for the parks. He said that funding source is not available for these other projects and for the first time in his time in City government the current operating expenses exceed the current revenues. He said in calendar year 2007 it is expected that they will spend down some of their reserve. Councilman Cline said they must be upfront with the public that they are at a crossroads and in order to do core functions they must find another funding source. Councilman Schultz said it should not be projected in the media that they are "doom and gloom." He said every year they say they will not make it one more year and yet they do. He said the point is that they need to find a better way to fund their capital improvements.

Mayor Grubbs said they are being responsible by looking forward on how they can continue to do the things they need to do with the smallest burden on the taxpayers. Councilman Counts said the only difference between the past and the future is that the funding sources are a little more challenging. Councilman Schultz said the projects also included the Village Green, the Municipal Building, and road construction and gathering the funds was very difficult. Councilman Cline said they have been blessed with a community which is forward thinking and if they identify the need and present options the residents will make the right choice.

COMMITTEE REPORTS

Development Committee: Councilman Schultz said the Committee met earlier this evening and discussed the Cell Tower as well as better communication between the Planning and Zoning Commission and City Council. He said there were a majority of the members of the Commission that felt frustrated at the fact that P & Z went through a detailed review of the rehab proposal and without apparent warning had a new building proposed for review instead. Councilman Schultz said they talked about how they may communicate better and the committee suggested there be an agenda item for information on issues/updates. He said it may be helpful to invite the Commission members to the Council meetings where these types of items are discussed. Next Meeting: June 5th, 6:30 p.m.

Finance Committee: No report. Councilman Morton asked for clarification regarding funding for the municipal parking lot. Councilman Cline said there are no uncommitted funds earmarked for Capital Improvements. Mr. Lutz said the parking lot is estimated to cost approximately \$1.1 million and they are compiling all capital funds and that will go toward that expense. Next Meeting: May 8, 2007, 7:30 p.m.

Operations Committee: No report. Next Meeting: June 4th, 7:30 a.m.

CITY MANAGER'S REPORT

Mr. Lutz said Staff will notify the Planning & Zoning Commission regarding the Communications Facility Lease which is being discussed. He said this Friday is Touch-A-Truck at Adventure Park and Sunday will be the first Street Market of the year.

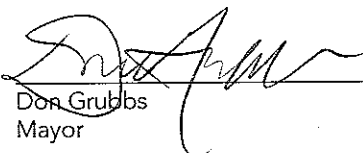
OTHER COUNCIL MATTERS

Councilman Wiencek said he received feedback that last year's Concerts in the Park were a little early in the day and pushing them to a later time may attract more attendance. Mayor Grubbs noted the "pre-" traffic study was completed as part of the Murphy Parkway barricade removal. He also presented information about the Mayor's Association of Ohio Conference.

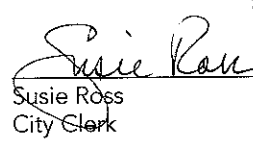
ADJOURNMENT

The meeting was adjourned at 9:17 p.m.

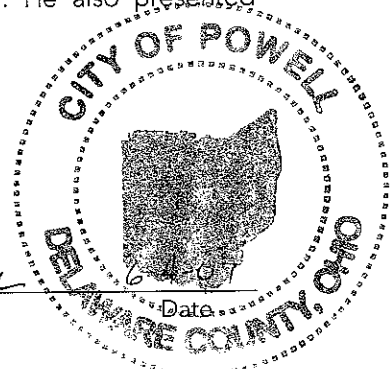
DATE MINUTES APPROVED: May 15, 2007


Don Grubbs
Mayor

6-4-07
Date


Susie Ross
City Clerk

6-4-07
Date



City Council

Don Grubbs, Mayor

Richard Cline

Tom Counts

Elmer Meider

Bill Morton

Art Schultz

Dan Wiencek