



City of Powell, Ohio
City Council

MEETING MINUTES
AUGUST 21, 2007

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, Art Schultz and Dan Wiencek. Elmer Meider arrived at 7:40 p.m. Bill Morton was absent. Also present were Steve Lutz, City Manager; Debra Miller, Finance Director; David Betz, Director of Development; Gary Vest, Powell Police Chief; Joe Schmansky, Special Counsel; Susie Ross, City Clerk; interested parties and members of the Press.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Ana Gobora, Hayley and Carson Meyer, August 2007 Powell Mayor Kid Citizens of the Month.

The sequence of the agenda was amended to allow the presentation of the Kid Citizen awards to take place prior to Citizen Participation.

AUGUST 2007 POWELL MAYOR'S KID CITIZENS OF THE MONTH - ANA GOBORA, HAYLEY MEYER, AND CARSON MEYER

Mayor Grubbs presented the August 2007 Kid Citizen of the Month awards to Ana Gobora, Hayley and Carson Meyer. He said the citizens are selected for acts that are good for the community and good for others. He noted their nomination based on their act of kindness when they bravely stopped traffic on Liberty Street to carry a baby deer to the roadside so it could be coaxed to its parents on the other side of the street.

CITIZEN PARTICIPATION

Mayor Grubbs opened the Citizen Participation session for items not listed on the agenda.

Peggy Guzzo, Liberty Township Trustee, said from the CEDA Agreement meeting and recent resolution their Board passed, she wanted to clarify the Township's position with respect to the CEDA territory and specifically Golf Village Sub Area 2. She said it is their position it would require a major modification to the development plan because the plan calls for a "pedestrian scale" development so it would be a major deviation from the plan and the orderly development of Golf Village. Trustee Guzzo said that would require, per the CEDA agreement, the Trustees approval and no request has been made nor do they consent. She said as a point of reference it has been overlooked that Powell has a similar provision/development standard within commercial development which determines where parking areas are to be located. She said Powell standards say parking should be located in the rear of the building unless there is a specific provision in the development plan. Trustee Guzzo said building has occurred and some parking has been approved by City Staff with parking in the front. She said it has not been a major issue because there has not been a sea of parking but certainly a big box would be a much bigger area of pavement in front of the building. She said before the WalMart issue City Council was concerned about Big Box at 40k sq. ft. She said the City used the term "village scale" which can be compared to "pedestrian scale" in the Township. Trustee Guzzo said it is her goal to work more closely with City Council and she asked for their cooperation on this issue.

Bob Mann, 3614 Bainbridge Mills Drive, Legal Chairman for Community Oversight Foundation said the community appreciates the hard work of City Council. He said it is a community/family/residential-friendly community due to the work the Council and Trustees have done over the years. He said it often goes unsaid and the Community does stand behind them. Mr. Mann said a letter has been provided outlining the group's position: an approved development plan provides that this is to be a "pedestrian scale," "community scale" development and in the preannexation agreement in Section 4, the City accepts without change the zoning approved by the Township. He said in that same section it goes on to say that if applicant meets standards set forth in the development standards the building permit procedure will be followed as set forth in the letter of agreement between the developer and the City (Exhibit H). He said

that allows the permit to be reviewed by a City Official/Administrator, Mr. Betz. He said in Part D it says the landscape plan, graphics plan, and development standards are each subject to the minor revisions set forth in the minor revisions set forth in the memorandum agreement attached as Exhibit H. Mr. Mann said the CEDA agreement requires Golf Village be administered in accordance with Township Zoning Standards and those standards set forth a specific process for major and minor deviations. He said a major deviation would be anything that is a significant change in the character or use of the property. Mr. Mann said a major deviation requires that the review go before an administrative body instead of one administrative official and it must then come before City Council and then gain approval of the Township. He said it is clear this is to be a walking community and Target is completely inappropriate for what is approved and does not meet the standards of the development plan. He said the City and Township residents have been very clear that they want to preserve what makes them unique. He said the community does not have the infrastructure to handle big box development. Mr. Mann said the Committee asks that City Council follow the CEDA Agreement and Township Zoning Code and pass a resolution directing that Target cannot be approved, is a major deviation and requires a full review process by an administrative body, submission to City Council and the Township Trustees.

Jon Bennehoof, 3974 Village Club Drive, said he read from prepared comments at the CEDA meeting. He said at this time they have over 440 signatures on their petition opposing Big Box development in the City of Powell. He said as a concerned citizen he has been part of group that is organizing within Golf Village and they are now represented by the Community Oversight Foundation. He quoted from newrules.org that "it is repeatedly shown that local businesses provide a greater return to the community, are less of a burden on local services and infrastructure, and are more prone to maintain and enhance local character and sustain the quality of life in the neighborhood." He said this website provides economic impact analysis and he provided further information. He said the quotes were taken from 2004 at approximately the same time Council was discussing Big Box legislation. He said the report reviews the findings of fiscal impact studies of eight central Ohio communities and seven of those showed a negative drain on the economy to the tune of 44 cents per square foot. He said he does not want to see tax revenues decline here. He noted many other studies are available on the website.

Joanna Braun, 8272 Flagg View Drive, said she believes City Council looked into impact studies when they discussed Big Box in 2004. She said one of the reasons they oppose Target in this community is because they are a "regional draw" meaning they draw visitors from outside the community. She said City Council compared a Powell restaurant to a 135k sq. ft. Target Store. She said Council also argued the lack of definition for the term "pedestrian scale." Ms. Braun quoted portions of City Council meeting minutes where the terms "pedestrian friendly," "community scale," "in scale" were utilized to show a preference for smaller structures that foster a walking community. She said in a 2002 City survey the Powell citizens said Big Box is not desirable. She said City Council placed some significance on that survey when they placed a square footage cap in 2004. Ms. Braun said Council also conducted an extensive financial review of potential benefits of having Big Box and then came to a conclusion that tax revenue would be insignificant and the negative implications of crime and traffic could not be offset. She said she hopes today's City Council's position does not represent a departure from what was learned in 2004.

Max Holzer, 4885 Paddington Way, Executive Director of Community Oversight Foundation, said the mission of the foundation is not anti-development. He said they hope to bring efficiency to the public voice and they want to work with elected officials to get the best possible development in their community. He said since the CEDA meeting he has received roughly 60 emails from people in the community and he reviewed their basic comments:

- The Leadership in Powell does not understand the principles of democracy, communicate forthrightly or listen to the community.
- The filibuster at the CEDA meeting was transparent and disappointing.
- The Powell Leadership wants Target and is willing to sacrifice property values of Golf Village residents and their way of life.
- The story would be different if the members of Council lived in Golf Village.
- Target is a major modification to the Liberty Township zoning in place then and now.
- The citizens want to challenge the proposed Target but not be faced with the BZA or lawsuits - but they are willing to do so.
- Do any of the members of Council support the Target store? The residents would like to receive that information this evening.

John Crowder, Villas of Woodcutter resident, said he has met with Mr. Betz regarding the Target store. He said it will be at their back doors, only seven steps farther away than the length of this room. He said semis will be going by their patios and porches and bedrooms. He said they have retired residents who look to them for their support and safety and he does not believe they are going to get it. Mr. Crowder said they have met with Target and they told them what they planned. He said now they are proposing ornamental trees instead of trees that would block the view of the building. He asked what will happen during the winter and fall seasons. He said he looks to have all of their taxes lowered as the Council has just devaluated their property.

Betty Miller, Villas of Woodcutter resident, said she lives in one of the condos right on Woodcutter Drive, on the minimum number of feet allowed from the store. She said she is not looking forward to the traffic with three entrances to Target planned on Woodcutter. She said she was looking at this in a selfish way but she was missing the point. Ms. Miller said two new elementary schools, one middle school and the high school will be in the nearby cluster of schools. She said traffic is now phenomenal with buses and people picking up children. She said it will be unbearable and besides traffic and congestion, the thought of the danger these children will be in with the additional traffic is unimaginable. She said they will regret this when a child is killed. Ms. Miller said she now focuses her concern on the children rather than on the noise and traffic near her home.

Jeff Splain, 4174 Village Club Drive, said he just left the location where this will all happen. He said there were about 500 children playing football and listening to the concerns about safety really struck a cord with him. He said he doesn't want to live in a neighborhood where crime and increased traffic will happen. He said his children will go the Indian Springs School and if they were to walk to school the amount of traffic on Home Road will be unbearable and scary. Mr. Splain said they moved to Powell ten years ago and they love the rural feel. He said he and his wife commute 20 miles to work each day because they want to live here. He said it is in all of their best interests to maintain what they have today.

Mr. Mann said he has found out in the past few days that the developer has threatened litigation and it is perfectly understandable that the City Council has not spoken out publicly on this issue.

Mayor Grubbs closed the citizen participation. He apologized for his comments regarding Lucé at the CEDA meeting. He said the response regarding the comment is right on and his comment was unfortunate and inaccurate. Mayor Grubbs said he bristles a little at some of the comments Council has been receiving. He said democracy is a process and a voice. He said the City has a process and they have been listening to all of the comments from Staff and the citizens. Mayor Grubbs said emails and information are being circulated and they are considering everything. He said Mr. Mann's comment is apt as litigation is not in the best interest of the taxpayers. He said they are trying to deliberately go through this course in the best way they can. Mayor Grubbs asked the citizens to continue to communicate and to be patient with the process. He said the Council wants to end up with the best result for the City.

APPROVAL OF MINUTES

The minutes of August 7, 2007 were adopted as submitted.

CONSENT AGENDA

Item	Action Requested
Monthly Community Affairs/Special Events Report	<i>Receipt of Report</i>
Monthly Financial Report	<i>Receipt of Report</i>
Monthly Historic Downtown Powell, Inc. (HDPI) Report	<i>Receipt of Report</i>
Monthly Planning and Zoning Report	<i>Receipt of Report</i>
Monthly Police Report	

MOTION: Councilman Cline moved to adopt the Consent Agenda. Councilman Counts seconded the motion. By unanimous consent, the Consent Agenda was adopted. The Monthly Reports were received.

SECOND READING: ORDINANCE 2007-41: AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR BRAD YATES/MANOR HOMES FOR SOLIHULL/AIRPORT LLC FOR AN OFFICE BUILDING CONTAINING 7,722 SQ. FT. IN THE PC, PLANNED COMMERCIAL DISTRICT, AT 60 CLAIRE DAN DRIVE.

Public Hearing

Steve Lutz, City Manager, said the proposed development was discussed at the last Council meeting and this is the advertised Public Hearing.

David Betz, Development Director, described the proposed office condominium development. He said there are no variances requested as part of this development and all respects of the landscape plan were met. He said the Planning & Zoning Commission recommends approval of this plan with no conditions.

Mayor Grubbs opened Ordinance 2007-41 to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Cline moved to adopt Ordinance 2007-41. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

SECOND READING: ORDINANCE 2007-42: AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR TRADITIONS OF POWELL, LLC FOR A 9,000 SQ. FT. RETAIL DEVELOPMENT IN THE DB, DOWNTOWN BUSINESS DISTRICT, ALSO WITHIN THE HD, HISTORIC DISTRICT OVERLAY DISTRICT, AT 180 WEST OLENTANGY STREET.

Public Hearing

Mr. Betz reviewed the proposed development of two buildings for retail development. He indicated the site location and surrounding uses and the shared access point at Traditions Way. Mr. Betz reviewed the location of an area of green space which could be used for restaurant patio for the first building and the proposed parking areas. Mr. Betz said a lot of time was spent on this project from an exterior design standpoint and the end result is two buildings of which everyone may be proud. He described the proposed materials, design details, window treatments, and signage for each building. He said because the rear of the back building faces the condos, that building was given four-sided design. Mr. Betz said the landscape plan is extensive and one variance is for perimeter landscaping around the front building. He said the number of plant materials are met on the other three sides. He said the Planning & Zoning Commission reviewed this application and recommend approval with the five conditions stated in the body of the Ordinance. He said this is the advertised Public Hearing.

Todd Farris, Farris Planning & Design, said this has been a very interesting project and process. He said it has been a collaborative effort between all parties and the Council will be very proud of this development.

Mayor Grubbs opened Ordinance 2007-42 to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Cline moved to adopt Ordinance 2007-42. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2007-43: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2007.

Mr. Lutz said Ms. Miller has been tracking the interest earned on the Police Facility Construction Bond Fund. He said this legislation has been prepared so they may use the monies and spend down the account. He said the plan is to use the monies for directional signage around the facility and the balance used on the parking lot construction.

Mayor Grubbs opened Ordinance 2007-43 to public comment. Chief Vest said they need signs. Mayor Grubbs closed the public comment session.

MOTION: Councilman Cline moved to suspend the rules in regards to Ordinance 2007-43. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2007-43. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

FIRST READING: ORDINANCE 2007-44: AN ORDINANCE TO VACATE AN UNRECORDED 0.080 ACRE EASEMENT, LOCATED ON LOT 332 OF THE RETREAT SECTION 4, OF RECORD IN PLAT BOOK VOLUME 14, PAGES 123, 124 AND 125, IN THE RECORDER'S OFFICE, DELAWARE COUNTY.

Mr. Lutz said in 2003 the City worked on drainage issues in the Retreat subdivision and they obtained an easement to divert storm water. He said as the project went forward they did not need the Miller's property for the work. He said the drainage easement was never recorded and the Law Director suggested they pass an ordinance to vacate the unrecorded easement.

Mayor Grubbs opened Ordinance 2007-44 to public comment. Hearing none, he closed the public comment session.

MOTION: Councilman Cline moved to amend Ordinance 2007-44 to add a "y" to the last word in the third Whereas clause so it reads "citizens of the City." Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to suspend the rules in regards to Ordinance 2007-44 Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adopt Ordinance 2007-44. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

COMMITTEE REPORTS

Development Committee: No report. Next Meeting: September 4th, 6:30 p.m.

Finance Committee: Councilman Cline said the Committee met earlier this evening to hear a request from the Abbotsgate Development for an adjustment to their Parks and Recreation Fee. He said Council will see an ordinance on the next agenda. Next Meeting: TBD

Operations Committee: No report. The meeting was cancelled earlier this evening and will be rescheduled. Next Meeting: TBD

CITY MANAGER'S REPORT

Mr. Lutz said at the next Council meeting Staff will bring forth proposed legislation which would permit residents to hire licensed and bonded wildlife removal and control services to capture animals on their property if they so desire.

OTHER COUNCIL MATTERS

There were none.

MOTION: Councilman Cline moved at 8:34 p.m. to adjourn to Executive Session under ORC Section 121.22 (G) (3) to discuss litigation. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adjourn from Executive Session at 10:58 p.m. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

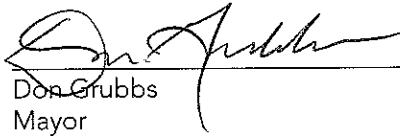
MOTION: Councilman Cline moved to reconvene in Regular Open Session at 10:58 p.m. Councilman Counts seconded the motion.

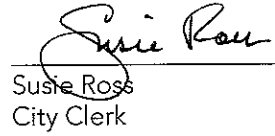
VOTE: Y 6 N 0

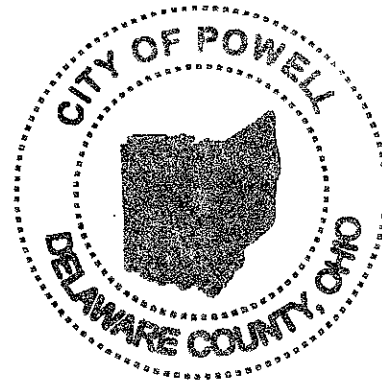
MOTION: Councilman Cline moved to adjourn from Regular Open Session at 10:59 p.m. Councilman Counts seconded the motion.

VOTE: Y 6 N 0

APPROVAL OF MINUTES: September 4, 2007

 9-17-07
Don Grubbs
Mayor Date

 9/18/07
Susie Ross
City Clerk Date



City Council

Don Grubbs, Mayor

Richard Cline

Tom Counts

Elmer Meider

Bill Morton

Art Schultz

Dan Wiencek