



**City of Powell, Ohio**  
City Council

**MEETING MINUTES**  
**SEPTEMBER 18, 2007**

A regular meeting of the Powell City Council was called to order at 7:30 p.m. by Mayor Don Grubbs. City Council members present included Richard Cline, Tom Counts, Bill Morton, and Dan Wiencek. Elmer Meider arrived at 7:35 p.m. Art Schultz arrived at 7:45 p.m. Also present were Steve Lutz, City Manager; Debra Miller, Finance Director; David Betz, Director of Development; Shea Alltmont, Community Affairs/Special Events Coordinator; Gene Hollins, Law Director; Susie Ross, City Clerk; interested parties and members of the Press.

**PLEDGE OF ALLEGIANCE**

**CITIZEN PARTICIPATION**

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

**APPROVAL OF MINUTES**

The minutes of September 4, 2007 were amended and approved.

**CONSENT AGENDA**

<b>Item</b>	<b>Action Requested</b>
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	<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. The Monthly Reports were received.**

Councilman Meider arrived at 7:35 p.m.

**BOARD APPOINTMENTS/REAPPOINTMENTS**

Steve Lutz, City Manager said the reappointments were discussed in Executive Session at the last Council meeting. He said the individuals listed have been contacted and are willing to serve another term.

**MOTION: Councilman Cline moved to appoint Richard Fusch and Dan Wiencek to the Planning & Zoning Commission for a term to expire on September 18, 2010; Ed Cooper and Robert Hiles to the Board of Zoning Appeals for a term to expire on September 18, 2010; and Butch Knowlton to the Recreation and Parks Advisory Board for a term to expire on September 18, 2010. Councilman Counts seconded the motion. By unanimous consent, the motion carried.**

Mayor Grubbs said there are additional vacancies on some Boards and Commissions. He asked Staff if any additional applicants are interested in the positions. Mr. Lutz said they recently mailed applications to residents who have expressed interest and there is a brief article in the next Powell Quarterly. He said they hope to have a list of interested individuals within the next 4-6 weeks. Mayor Grubbs asked if the TIF Review vacancies have been appointed. Mr. Lutz said none have been appointed and he has a list of three applicants for two openings. He said he will contact them prior to the next meeting.

**LIQUOR LICENSE NOTIFICATION**

*Request for transfer from Hill Oil Company to Larry Gunsorek.*

Mayor Grubbs excused himself from the discussion and vote regarding this agenda item.

Susie Ross, City Clerk, gave a brief review of the application. Vice Chairman Counts asked if there were details regarding the reason for default of the agreement. Ms. Ross said she did not have specific details. Vice Chairman Counts asked if anyone from the public had comments on this subject. An unidentified gentleman asked if Council had held the Citizen Participation session. He asked when the meeting started. Vice Chairman Counts said the meeting started at 7:30 and they were on this portion of the agenda. Mayor Grubbs said they would move forward and there may be time later in the meeting for Citizen Participation.

Vice Chairman Counts asked if Council needed to take action. Gene Hollins, Law Director, said a hearing would be requested if there was concern about the criminal background of the applicant or if the premises experienced criminal activity. He said barring that there is no reason to request a hearing for this license. Vice Chairman Counts noted there is no interest in requesting a hearing.

Councilman Schultz arrived at 7:45 p.m.

Mayor Grubbs asked if there was any objection to reopening the Citizen Participation Session. He noted that Council started on time as is their practice and they proceeded as they always do. He reopened the Citizen Participation Session for items not listed on the agenda.

Ray Babbitt, 3485 Timberside Drive, said there he has heard there may be mediation between the Township and the City. He said their condos are adjacent to the Target and they have more to lose than anyone in the township. He asked if the Target has been approved. Mr. Lutz said the City is reviewing the application and no action has taken place. Mr. Babbitt said he moved here from New Jersey but he lived here previously in the 1980's. He said he liked the way Golf Village looked and was led to believe there would be buildings there similar to others in the City. He said he was disappointed when the Target was proposed because he was under the belief Powell would be staying a small town.

Mr. Babbitt said he spoke with Mr. Betz and went over the plans and he is surprised that there is only a six foot berm separating their family residences within 200 feet of a 30' tall building. He said he is disappointed Powell would only request one more foot added to a five foot berm and that will not do a thing. Mr. Babbitt said they would like help from the City if the Target should be approved: more berm area, a higher berm with evergreens, or a fence. He said there will be more crime. He said they have not had appraisals done but he is sure it will devalue their property. He said he also spoke with Mr. Betz about the truck route. He said if this is approved the loading docks will be accessed from the first exit on Woodcutter. He said he imagines that trucks will come down Sawmill, turn on Woodcutter, and come past the other side of their residences. Mr. Babbitt asked if a traffic report has been done. He said he is surprised to hear that even though it is already dangerous to turn left at Woodcutter, there will be no traffic signal recommended with the approval of Target and this could be a very dangerous situation. Mr. Babbitt asked that the City Council help in some way and ask Target to go something extra for them.

JoAnna Braun, 8272 Flagg View Drive, Director of Golf Village Resident's Association, echoed the sentiments of Mr. Babbitt. She said on August 15th the Golf Village residents complained to City Council, through attorney Bob Mann that the developer of Golf Village had failed to provide pedestrian under- and over-passes on Sawmill Parkway pursuant to the Development Plan Section 14.06 which has been enforced for five years. She said although the developer has had five years to correct this mistake he has never done so and Powell has never required it. Ms. Braun said Golf Village residents have been billed \$828k for a building cost for a bridge and tunnels which are exclusively used and accessed by a private golf course. She said the residents are questioning the appropriateness of these actions. She said last month their Association was advised that the City now owns the bridge and tunnel but there is still no access available to the public as the access is located on private property. Ms. Braun said sharing the bridge and tunnel with motorized golf carts, landscape vehicles, and a liquor cart would probably be a very unsafe and dangerous proposition for any pedestrian. She said she has now learned that the developer plans to integrate the bridge and tunnels with Powell's bikepath system, perhaps to appear as though he is fulfilling his obligations. Ms. Braun said the developer may be challenged on his zoning permits so he is moving in this regard. She said the integration is in the early stages but residents have been advised that this has received approval by the City. Ms. Braun said the Association is asking the City to put a stop to this project as it was never the plan to combined motorized golf carts with the overall bikepath plan in Powell. She said she understands there is a citizens group in charge of reviewing safety of bike paths and she has been informed they are not aware of this plan. She said it is dangerous to

expect pedestrians to safely share pathways with motorized vehicles. Ms. Braun said the private golf course serves alcoholic beverages and the likely result is going to be injury or death to a child. She asked the City to heavily consider the price tag paid by Golf Village residents when making their decision with respect to whether or not to approve the building of these easements to provide public access to the bridge and tunnels. She said they must consider the \$828k and the \$22 million debt for Sawmill Parkway which has grown to \$29 million. Ms. Braun asked that the City of Powell not ask residents to also assume the risk of injury from golf carts. She said they would like the City's assurances that special treatment for this developer stop as he has now begun building entrances to give public access to the bridge and tunnels. Ms. Braun said residents need to know this will not be an additional cost levied on residents through the Sawmill assessment. She asked City Council to stop the developer's project until it has been added to the next agenda and properly reviewed by Council and the citizen's group created to review the safety aspects of paths. She also asked City Council to halt all other commercial development projects by this developer until his unfulfilled obligation to build pedestrian under- and over-passes in Golf Village as they were intended to be built has been satisfied.

Mayor Grubbs closed the Citizen Participation for the meeting.

**RESOLUTION 2007-13: A RESOLUTION SUPPORTING THE CENTRAL OHIO GREEN PACT.**

Steve Lutz, City Manager, said the Central Ohio Mayors and City Managers Association meets on a quarterly basis and they have worked on a Green Pact for the Central Ohio Area. He said this is not a requirement or a mandate but is a plan to help promote a greener and better environment for this region.

Mayor Grubbs said this is a serious group of many of the Central Ohio Cities and Villages. He said the Green Pact is just one of the projects this group is working on. He said this pact focuses on honoring each City's economy and circumstances and was developed as a starting point. Mayor Grubbs said each City may be able to craft its own ways to support the goals for environmental responsibility. He said the scheduled roll-out for all participating cities is October 4th. He recommended passage of the resolution.

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

Councilman Wiencek voiced concerns about items listed which the City cannot change at this time or does not intend to change. Mr. Lutz said the wording says it "may" include items and that gives flexibility to each municipality. He said they work closely with MORPC and will address some things on a regional basis. He said at the next meeting they will study and review regional transportation. Councilman Wiencek said he is not opposed to the principle but he does not want to agree to do something which is unclear.

Councilman Counts said he had the same concerns but noted the resolution says they will support the principles of the pact. He said they will not be binding themselves if it cannot be done practically or financially. Councilman Morton said he supports the idea but does not want to commit to doing things they cannot afford or for the City to shoulder responsibility for too much of the cost. He said he supports the City working with other municipalities on a Central Ohio transit master plan. Councilman Meider said he is in agreement with the previous comments as Mr. Lutz answered his concerns. Councilman Cline said he plans to vote for the resolution only because they would "support the principles involved." He said to the extent the Green Pact is considered to be a promise, it would be a false promise as they do not have the funds to do this. He said conceptually the role of government is to be good stewards of the land and resources that are entrusted to them so that means they should be active in "thinking green."

Mayor Grubbs said he feels this is an important first small step and it is a statement for Central Ohio. He said most of the pact is to consider these issues and try to actively accomplish what they are able to do.

**MOTION: Councilman Cline moved to adopt Resolution 2007-13. Councilman Counts seconded the motion. By unanimous consent, Resolution 2007-13 was adopted.**

**RESOLUTION 2007-14: A RESOLUTION TO ADOPT A PUBLIC RECORDS POLICY FOR THE CITY OF POWELL.**

Mr. Lutz said earlier in the year State legislators adopted House Bill 9, which mandated each public body adopt a public records policy. He said as part of the statute, the State provided a model policy and legal counsel crafted this policy from that model. He said the City Clerk has been working with legal counsel

and the Public Records Commission in developing the City policy which meets the requirements of the State law. Mr. Lutz said the resolution also designates the City Clerk as the individual responsible for Public Records training.

Councilman Wiencek asked that Staff utilize a Public Records request form to help clarify and expedite requests. Ms. Ross said Staff has been using a request form for several years and it has been revised lately. Councilman Counts asked if the attached policy deviates significantly from the model policy. Mr. Lutz said it is similar to the model so it assures compliance with the law.

Councilman Cline asked if all of the members of Council will need to attend the training. Mr. Hollins said Council may name the Clerk as their designee but they are free to attend the training as well. Councilman Cline said a full time Staff member should attend the training so they are certain it may be implemented on a day-to-day basis.

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

Councilman Morton asked if there is a cost impact to the City or more work for Staff because of this change. Mr. Lutz said there is more administrative work but it is a cost of doing business. He said it will not have a huge impact on Staff because the Clerk has been able to fulfill the requests in a timely and efficient fashion and she will follow many of the same practices as in the past.

**MOTION: Councilman Cline moved to adopt Resolution 2007-14. Councilman Counts seconded the motion. By unanimous consent, Resolution 2007-14 was adopted.**

**RESOLUTION 2007-15: A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.**

Mr. Lutz said last month Council adopted a resolution regarding the estimated revenues and forwarded it to the County Auditor. He said this resolution is the next step in the County budget process.

Debra Miller, Finance Director, said the attachment to the resolution is the response from the County to the estimated revenues provided by the City. She said the County has set the millage and this resolution accepts those amounts. She said it will be revised slightly when the net valuation comes through in November.

Mayor Grubbs asked if it is correct to say the City's combined millage is 3.76 mills. Ms. Miller said that is correct but in November it should be slightly lower.

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

**MOTION: Councilman Cline moved to adopt Resolution 2007-15. Councilman Counts seconded the motion. By unanimous consent, Resolution 2007-15 was adopted.**

**SECOND READING: ORDINANCE 2007-45: AN ORDINANCE AMENDING SECTION 505.11 "HUNTING PROHIBITED" OF THE CODIFIED ORDINANCES OF THE CITY OF POWELL AND REPEALING FORMER SECTION 505.11(b).**

Mr. Lutz said there was a lengthy discussion at the last meeting regarding this ordinance. He said there was discussion regarding public relations and it is available for the City to use the newsletter and/or web site to distribute information so residents know how to handle wildlife situations. He said they also suggest the City expand the current policy so the City will be responsible to dispose of carcasses which are on private property.

Mr. Lutz said there was some concern regarding the exceptions component under Section 1. He said Mr. Hollins added terminology and made a minor adjustment in Section A. He said he received input from one member of the public asking if the penalty was strict enough.

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

Councilman Morton asked if under Section 1B, Exceptions, this would also allow an Animal Control service to work on behalf of the City. Mr. Hollins said it would cover persons authorized by the Police Chief which could include a Staff person or someone through a contractual arrangement.

Councilman Wiencek said he is still not sure they should be excluding domesticated animals in Section 1(B)(3). He said he would personally like to see that wording removed. Councilman Counts said if this is opened up to domesticated animals it may create many problems. He said domesticated animals should be covered under the zoning code as a nuisance. He suggested the language in Section A be amended to say "No person shall hunt or trap any animal or fowl by the use of firearms, bow and arrow, air rifle or any other means within the corporate limits of the Municipality except as provided in subsection (b) below".

**MOTION: Councilman Cline moved to amend Ordinance 2007-45 in Subsection A to read as follows: "No person shall hunt or trap any animal or fowl by the use of firearms, bow and arrow, air rifle or any other means within the corporate limits of the Municipality, except as provided in subsection (b) below." Councilman Counts seconded the motion.**

**VOTE:            Y   7              N   0**

**MOTION: Councilman Cline moved to adopt Ordinance 2007-45. Councilman Counts seconded the motion.**

**VOTE:            Y   7              N   0**

**FIRST READING: ORDINANCE 2007-49: AN ORDINANCE ACCEPTING THE ANNEXATION OF A 1.618 ACRE TRACT, MORE OR LESS TO THE CITY OF POWELL AND AMENDING THE ZONING MAP, REZONING FROM LIBERTY TOWNSHIP FR-1, FARM RESIDENCE DISTRICT TO CITY OF POWELL PC, PLANNED COMMERCIAL DISTRICT.**

David Betz, Development Planner, said the public hearing for this ordinance will take place at the next meeting so this will need to go to a second reading. He identified the subject property and said this land was not a part of the original Golf Village annexation. He said along with this annexation is the rezoning of the property to change it to the same zoning regulations as the property which surrounds it on three sides. He identified adjacent properties within the township and their zoning classifications. He said the Home Road bridge over the railroad will affect the frontage of the subject property and the right-of-way has been purchased by the State.

Mr. Betz said the attachments include the annexation petition and survey as well as the text for the zoning following the guidelines for Sub Area F. He said those guidelines were included in the original Golf Village zoning plan. He said variations to it include City of Powell landscaping and signage requirements. He said the Planning & Zoning Commission reviewed the application and recommended approval subject to the conditions as outlined in Section 2 of the ordinance.

Mayor Grubbs opened this item to public comment.

Ray Babbitt, 3485 Timberside Drive, said this is not far from the Villages at Woodcutter. He said there is a 66" drain taking all of the water from Sawmill Parkway and the businesses and draining across their property line into a ditch. He said in addition they will be having 21 acres of asphalt and 130k sq. ft. of roof which also drains into their area. He said the only green on the 30 acres is the pond to the rear of the proposed Target. He said all of the rest is asphalt. He said these will drain into the same ditch which is four feet deep and 15' long. Mr. Babbitt said he has asked Mr. Betz who will be responsible for this area and he indicated the condos will be responsible. He asked if the City has a percentage of green space required. Mr. Lutz said that does not apply in this case and he explained that when Golf Village was annexed it was approved under the Liberty Township Zoning and Development Plan. He said the City was required by the Liberty Township Trustees to enter into an agreement which stated the City of Powell would keep the plan as the Township had approved it and not have deviations from it. Mr. Lutz said that is why Golf Village is different from the City of Powell in that they must maintain the Liberty Township plan as it was approved in 2001. Mr. Babbitt said that is a shame but the City may still reject the Target application.

Mr. Betz clarified that, as determined in the engineering requirements, each individual site retains their own stormwater and it outlets into another pipe. He said the 66" pipe is in a 25' easement and it is a public storm sewer which the City is required to maintain. He said the City has the authority, within the 25' easement, to go in to make repairs or to allow further storm sewer taps if needed. Mr. Betz said in this

instance, the stormwater pond designed at the back of Target is being designed to accept the storm water from this area. He said it is under review at this time to ensure it is in compliance. He said the site includes other storm sewers which will bring it to the pond where it is detained and outlets take it on to further ponds within the overall Golf Village detention.

Mr. Babbitt said there was recently a two-inch rain which filled the ditch 1/3 full of water. He said the entire 30 acres will drain into it and he anticipates a problem. He said he does not have full faith in the design of an engineer and this annexation represents another 1.6 acres of asphalt coming their way. He asked that they think of the residents they represent before they accept this annexation. Mr. Babbitt said he feels this is an important matter and his property could be injured by this.

JoAnna Braun, 8272 Flagg View Drive, Director of Golf Village Resident's Association, said the Association does oppose the annexation and the rezoning of this property until reasonable control over commercial development in Golf Village can be exercised by the City with respect to the Target permit proposal that is opposed by their association, and until the promise to build pedestrian under- and over-passes on Sawmill Parkway is fulfilled without requiring the residents to share the path with motorized golf carts and without levying it on Golf Village residents as an additional improvement through the Sawmill Parkway assessment.

Mayor Grubbs closed the public comment session.

Councilman Wiencek said there are several conditions added to this ordinance due to discussion at the Planning & Zoning Commission. He described the conditions and the reasoning behind them. He said the Commission felt it was necessary to have the conditions in place because they have not yet seen a development plan.

Councilman Schultz asked if the City can require the applicant become a part of the infrastructure authority. Mr. Lutz said the residents within Golf Village pay an additional 10.25 mills to pay down the debt. He said in the past, when there is new land adjacent to Golf Village, they add it to the authority because whenever they bring in raw land with no debt it helps the residents pay down their debt more quickly. Councilman Schultz asked if it requires more approval than the City. Mr. Lutz said it requires the approval of the authority and they promote that as it reduces the debt burden on the residents.

The ordinance was taken to a second reading.

#### **COMMITTEE REPORTS**

**Development Committee:** No report. Next Meeting: October 2nd, 6:30 p.m.

**Finance Committee:** Councilman Cline said they met last week and discussed Capital Improvements. He said the Budget should be discussed at their next meeting. Next Meeting: October 23rd, 7:30 p.m.

**Operations Committee:** Councilman Counts said they met earlier this evening. He said they discussed Change of Occupancy Permits and Community Improvement Corporations. Next Meeting: TBD

#### **CITY MANAGER'S REPORT**

Mr. Lutz said packets included correspondence from Craig Painter, legal counsel for Liberty Township. He said it is a request for a mediation conference regarding the interpretation of the CEDA. He said he asked Mr. Painter what would be mediated and what the Township suggested as a mediation process. Mr. Lutz said Mr. Painter spoke with the Township Trustees at their meeting and the Trustees did not reach a consensus. He said he will work with Mr. Painter within the upcoming weeks to clarify the matter.

#### **OTHER COUNCIL MATTERS**

Councilman Schultz said they have been working to try to get use of the Golf Village bikepaths and bridges since the beginning of the development. He said the developer's comments were that this could be a dangerous situation and Council felt they could accomplish it with the right plan. He said the City is seeking an agreement with the developer to see how they could share the paths. Councilman Schultz said he believes this is a good thing and it was his understanding the Infrastructure Authority included all public improvements but the pathways. He asked for a summary and update. Mr. Lutz said the Golf Village plan approved by Liberty Township identified where the under- and over- passes are located. He said that was part of the Golf Village development plan and there has been confusion whether or not the public may use the paths. He said Staff and Mr. Hollins will meet with the developer on Thursday to review easements necessary to make those connections. Mr. Lutz said the paths would be public paths, a

signage plan would be prepared for review, and the easements would be maintained and repaired by the golf course rather than the Infrastructure Authority. He said he will bring forward more information in upcoming weeks.

Councilman Schultz said there was a concern this would be yet another tax on the Infrastructure Authority but in fact the Golf Village would be responsible for maintenance. Mr. Lutz said they would and the additional connections would be maintained by the developer or the golf course. He said all parties will have their insurance companies review the proposal. Councilman Wiencek said discussion regarding safety issues should include the addition of a few speed bumps on the pathway.

Mayor Grubbs said a contact was furnished by CSX in response to the correspondence from the City. He also noted there is a new Women's Club of Powell and there were 71 attending their initial meeting. He noted the Red Cross of Delaware County will be holding its Heroes Breakfast on November 20th. He said they are accepting nominations for heroes in Delaware County.

**MOTION: Councilman Cline moved at 8:48 p.m. to adjourn to Executive Session in accordance with ORC Section 121.22 (G) (3) to discuss pending litigation. Councilman Counts seconded the motion.**  
VOTE: Y 7 N 0

**MOTION: Councilman Cline moved to adjourn from Executive Session at 8:52 p.m. Councilman Schultz seconded the motion.**  
VOTE: Y 7 N 0

**MOTION: Councilman Cline moved to reconvene in Regular Open Session at 8:52 p.m. Councilman Counts seconded the motion.**  
VOTE: Y 7 N 0

**RESOLUTION 2007-16: A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SETTLEMENT AGREEMENT WITH EDSALL & ASSOCIATES LLC REGARDING THE POWELL PARKS DEVELOPMENT PROJECT.**  
There was no discussion on this item.

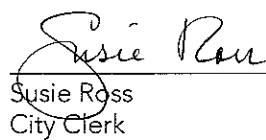
Mayor Grubbs opened this item to public comment. Hearing none, he closed the public comment session.

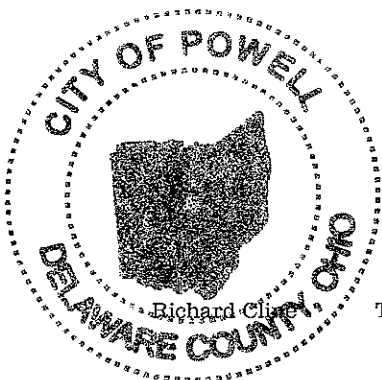
**MOTION: Councilman Cline moved to adopt Resolution 2007-16. Councilman Counts seconded the motion. By unanimous consent, Resolution 2007-16 was adopted.**

**MOTION: Councilman Schultz moved to adjourn from Regular Open Session at 8:54 p.m. Councilman Counts seconded the motion.**  
VOTE: Y 7 N 0

**DATE MINUTES APPROVED: October 2, 2007**

  
\_\_\_\_\_  
Don Grubbs  
Mayor  
10/12/07  
Date

  
\_\_\_\_\_  
Susie Ross  
City Clerk  
10/12/07  
Date



**City Council**  
Don Grubbs, Mayor  
Richard Cline  
Tom Counts  
Elmer Meider  
Bill Morton  
Art Schultz  
Dan Wiencek