



City of Powell, Ohio
City Council

MEETING MINUTES
SEPTEMBER 16, 2008

A regular meeting of the Powell City Council was called to order on Tuesday, September 16, 2008 at 7:31 p.m. by Mayor Tom Counts. City Council members present included Richard Cline, Don Grubbs, Jim Hrivnak, Art Schultz and Dan Wiencek. Elmer Meider was absent. Also present were Steve Lutz, City Manager; Jeff Robinson, Public Information Officer; Gene Hollins, Law Director; Susie Ross, City Clerk; interested parties and members of the Press.

PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

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

Vallery Hoy, 6222 Maryhurst Drive, Dublin, was before City Council to present invitations for a Leadership Symposium. She said it is a call to action by the US Surgeon General to raise the level of awareness about children between the ages of 9 and 15 who drink alcohol. Ms. Hoy said the moderator will be former Ohio First Lady Hope Taft. She said Mrs. Taft is also the President and CEO of the Leadership Foundation to Keep Children Alcohol Free. She said this is a non-profit, non-partisan organization and the goal for this particular program is for the community leaders to become aware of resources, participate, and implement changes in the community. She said that when children drink between the ages of 9 and 15, 40% become adult alcoholics. Ms. Hoy asked the members of Council to attend or appoint a designee. She said the members have a sphere of influence which can aid this grassroots effort. She said this event is not open to the public but is open to invited guests and their families.

Mayor Counts closed the Citizen Participation session.

APPROVAL OF MINUTES

MOTION: Councilman Cline moved to adopt the minutes of September 2, 2008. Councilman Grubbs seconded the motion. By unanimous consent, the minutes were adopted.

CONSENT AGENDA

Item

- Monthly Financial Report
- Monthly Historic Downtown Powell, Inc. (HDPI) Report
- Monthly Development Report
- Monthly Police Report

Action Requested

- Receipt of Electronic Report
- Receipt of Electronic Report
- Receipt of Electronic Report
- Receipt of Electronic Report

Steve Lutz, City Manager, noted the changes to the Police Report. He said Chief Vest and Jeff Robinson have made revisions to make the report more user friendly.

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

Mr. Lutz asked to consider Ordinance 2008-27 prior to Item 6 on the agenda.

SECOND READING: ORDINANCE 2008-27: AN ORDINANCE TO REPEAL CITY CODE CHAPTER 721 REGARDING PEDDLERS AND SOLICITORS AND ADOPTING NEW CITY CODE CHAPTER 721 REGARDING REGULATION OF PEDDLERS, SOLICITORS AND CANVASSERS.

Tabled from September 2nd

Mr. Lutz said the City's Law Director identified numerous deficiencies with the City's current ordinance which regulates Peddlers, Solicitors and Canvassers. He said a new ordinance was prepared and will be

reviewed by Mr. Hollins.

Gene Hollins, Law Director, said if persons are not compensated for soliciting funds or selling products, they are exempt from registration or licensing under the First Amendment rights. He said if they are going door-to-door on behalf of a recognized non-profit or religious organization and they are either compensated or seeking funds, they will have to register with the City and provide certain information. Mr. Hollins said there is a heightened scrutiny in the City's process for those who are going door-to-door for commercial purposes such as seeking orders or selling products. He said the process includes registration and completion of a background check. He said that is intended to ensure the safety of the residents or prevent trespass situations.

Mr. Hollins said a final draft was completed after further discussion with the Police Department and the City Clerk. He said changes were made to remove the group application process, reorganization and typographical corrections.

Councilman Schultz asked if school groups which solicit for funds would need to fill out an application. Mr. Hollins said they are exempt under Section 721.03(a). He said certain exceptions were written into the code based on prior experience with these types of groups. Councilman Wiencek said it reads as though Section 721.03(c) says they are still required to have a license. Mr. Hollins said the wording was intended to say that if a group is exempted by (a) they do not have to comply with (b) or (c). Councilman Wiencek said he would like to see the wording changed to clarify that section.

Councilman Schultz asked if school groups would be exempt if they are selling items rather than soliciting funds. Mr. Hollins said the intention is to have these groups completely exempt. Councilman Cline asked if private schools such as Village Academy would also be considered exempt. He said they may want to reference groups by IRS designation. Councilman Grubbs said some schools are not non-profit. Mayor Counts asked about the Girl Scouts and similar groups. Mr. Hollins said they would need to register. He asked if troops are sponsored by schools. Ms. Hoy said they are sponsored by churches.

Mayor Counts suggested that children under a certain age could be exempt from registration. Mr. Hollins said some of the solicitation perceived as objectionable is coming from outside the community. Mr. Lutz said under 721.05 any church groups would have to register only. Councilman Wiencek said he does not believe they will register and there is no sense having a law if no one follows it. Councilman Schultz suggested the head of the fundraising for a region could register for all of the groups. Mr. Hollins said they should look at it from the basis of what types of soliciting generate the most complaints. He said they can start with the licensing of those who are out there for commercial gain to see if that removes most of the complaints. He said that is what they have heard from the police department. He said there will be lots of this going on because of the recent storm damage. Mr. Hollins said they could start with registration for the commercial groups and implement the other restrictions incrementally if they are needed. Councilman Hrivnak said that makes the most sense. Councilman Wiencek asked how many complaints are received. Mr. Lutz said Staff receives complaints about commercial solicitors on a routine basis.

Councilman Wiencek said the typical door-to-door will not be aware of this registration and enforcement will still require residents being aware of the law and registering a complaint. Mr. Lutz said people soliciting commercially are often aware that individual cities have regulations and they contact the City first. He said residents may contact the police department and the officers can check it out. Councilman Schultz said the officers on patrol may also see solicitors.

Councilman Schultz asked who would be left if they exclude the scouts, schools, etc. Mr. Hollins said they may want to leave in registration requirements for only those who use paid solicitors. He said if people are asking for orders or donations they may be exempt but he will have to check to see if that is a distinction they can make. Councilman Cline said he has been questioned by his neighbors about teenage looking persons making "non-profit, scholarship" type magazine sales. He asked how that type of solicitor would fit into the regulations. Mr. Hollins said these groups should be subject to the registration process so their information may be verified. He said any type of compensation would be considered "pay" for services. He said he will take the suggestions and return with another draft. He asked that Council table these ordinances until the October 7, 2008 regular meeting.

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

MOTION: Councilman Cline moved to table Ordinance 2008-27 to the October 7, 2008 City Council meeting. Councilman Grubbs seconded the motion. By unanimous consent, Ordinance 2008-27 was tabled.

SECOND READING: ORDINANCE 2008-25: AN ORDINANCE AUTHORIZING AMENDMENT TO THE FEE SCHEDULE OF THE CITY OF POWELL.

Tabled from September 2nd

Mr. Lutz said the proposed change to the fee schedule is the registration fee which relates to the previous ordinance.

Mayor Counts opened this item to public comment.

Ms. Hoy said home schools are not covered under the listing within the previous ordinance. She said scout troops are sponsored by churches as it is part of their charter. She said 4-H Clubs should also be exempt. Ms. Hoy said the ordinance should address third-party for-profit fund raisers who solicit funds on behalf of non-profit entities.

Mayor Counts closed the public comment session.

MOTION: Councilman Cline moved to table Ordinance 2008-25 to the October 7, 2008 City Council meeting. Councilman Grubbs seconded the motion. By unanimous consent, Ordinance 2008-25 was tabled.

Councilman Cline asked that the Law Director look into 721.03(a) and make sure "Community Association of the City" is defined within the ordinance. Councilman Wiencek asked that Chief Vest or one of his representatives be present at the next meeting to discuss this item.

COMMITTEE REPORTS

Development Committee: No report. Next Meeting: October 7th, 6:30 p.m.

Finance Committee: No report. Next Meeting: October 14th, 7:30 p.m.

Operations Committee: No report. Next Meeting: TBA

CITY MANAGER'S REPORT

Mr. Lutz noted several items:

- Winter Salt – Salt prices have gone up tremendously from \$45/ton to this year's bid of \$68/ton. Caveat to the bids this year is that the salt companies will not guarantee delivery of specific amounts of salt since there is a shortage. The salt companies anticipate they will run out and when they do there will be no more salt to acquire. It was suggested the Operations Committee look at the City's snow removal policy and report back to Council as minimal supplies of salt will impact how they remove snow. Several communities did not receive bids the first time and when they opened bids last week their low bid was \$148/ton.
- Arson Reported - The men's section of the Arbor Ridge Park restrooms were damaged by arson and is closed until repairs are made. The City is working with the Ohio Blue Ribbon Arson Committee and they have offered a \$5k reward for information which helps convict the individual(s) responsible for setting this fire.
- Wind Storm - The major damage to City property was at Murphy Park (photos provided). The damage of the park gazebo was examined by the insurance agent and a report is forthcoming regarding the repair cost. The storm took out the City phone system but it is back in service as of late this afternoon. The majority of the community had electricity as of Monday night but a small pocket in Golf Village is still without power. The Powell police department distributed flyers throughout the subdivisions informing them the municipal building has power and is available to recharge phones or use the internet.

Mr. Lutz thanked the staff of the Public Service Department and Police Department who reported to work at 4 p.m. on Sunday. He said the major cleanup has to do with trees. He said if a felled tree is on private property, the clean up and removal is the responsibility of the private property owner. He said if the tree was originally located on public property or in a public right-of-way, the City will remove the tree. He said the most tree damage took place in Bartholomew Run and Falcon Ridge subdivisions and that is where the crews will start clean-up efforts. Mr. Lutz said the crews have worked in the public parks and have all parks cleaned up except Murphy Park. He said they also started on a few of the bike paths. He reviewed

Rumpke's regulations for yard waste and roof shingle disposal. He said once the public service department performs clean up on City property, Staff will look into the manpower and equipment needed to help out residents who would bring branches to the curb. Councilman Schultz said it is a good idea to help the residents but the challenge is to do it in a timely manner. He said information should be sent to Council members prior to the next Council meeting. Mr. Lutz said by the time Staff takes care of City property it may be too late. Councilman Cline asked that they post that information to the web site. Mayor Counts asked that they post the Rumpke requirements on the web site as well.

OTHER COUNCIL MATTERS

There were none.

EXECUTIVE SESSION IN ACCORDANCE WITH O.R.C. SECTION 121.22 (g) (3), PENDING LITIGATION AND SECTION 121.22 (g) (1), PERSONNEL, BOARD AND COMMISSION APPOINTMENTS.

MOTION: Councilman Cline moved at 8:10 p.m. to adjourn to Executive Session in accordance with ORC Section 121.22 (G) (3) to discuss pending litigation and Section 121.22 (G) (1) to discuss personnel (Board and Commission appointments). Councilman Grubbs seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to adjourn from Executive Session at 8:55 p.m. Councilman Grubbs seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to reconvene in Regular Open Session at 8:56 p.m. Councilman Grubbs seconded the motion.

VOTE: Y 6 N 0

MOTION: Councilman Cline moved to approve the following Board and Commission reappointments:

- Kevin Futryk, Planning & Zoning Commission, for a term which expires 9/16/2011
- Donald Emerick, Planning & Zoning Commission, for a term which expires 9/16/2011
- Marge Bennett, Historic Downtown Advisory Commission, for a term which expires 9/16/2009
- Larry Coolidge, Historic Downtown Advisory Commission, for a term which expires 9/16/2009
- Tom Coffey, Historic Downtown Advisory Commission, for a term which expires 9/16/2010
- Deb Howell, Historic Downtown Advisory Commission, for a term which expires 9/16/2010
- Richard Fusch, Historic Downtown Advisory Commission, for a term which expires 9/16/2011
- Chris Meyers, Architectural Advisor, to serve at the pleasure of Council
- Joe Jester, Board of Zoning Appeals, for a term which expires 9/16/2011
- Gary Bell, Arbor Advisory Subcommittee, for a term which expires 9/16/2011


Councilman Grubbs seconded the motion.

VOTE: Y 6 N 0

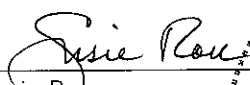
MOTION: Councilman Schultz moved to adjourn from Regular Open Session at 8:57 p.m. Councilman Grubbs seconded the motion.

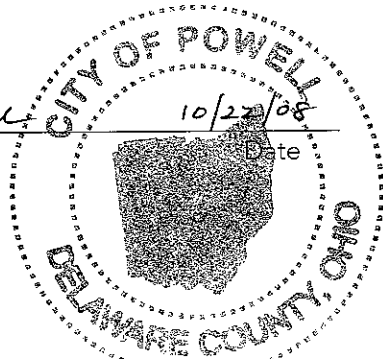
VOTE: Y 6 N 0

DATE MINUTES APPROVED: October 7, 2008



Tom Counts
Mayor
Date 10/18/08



Susie Ross
City Clerk
Date 10/22/08


City Council
Tom Counts, Mayor

Richard Cline Don Grubbs Jim Hrivnak Elmer Meider Art Schultz Dan Wiencek