

## MINUTES – REGULAR SESSION

### PORTSMOUTH CITY COUNCIL MEETING

Monday, March 28, 2011

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, February 28, 2011 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Acting President of Council, John Haas called the meeting to order. The Pledge of Allegiance to the Flag followed a moment of silent prayer.

Roll Call showed the following members to be present:

Kevin Johnson	1 <sup>st</sup> Ward
Rich Saddler	2 <sup>nd</sup> Ward
Nicholas Basham	3 <sup>rd</sup> Ward
Jerrold Albrecht	4 <sup>th</sup> Ward
John Haas	5 <sup>th</sup> Ward
Richard Noel	6 <sup>th</sup> Ward

Also present were Mayor David A. Malone and City Solicitor, Mike L. Jones.

Council dispensed with the reading of the Journal for the regular session of March 14, 2011, on a motion by Councilman Albrecht.

Councilman Albrecht made a motion to add to the agenda a resolution opposing the closure of the Ohio River Valley Youth Center in Franklin Furnace, Ohio. The motion carried viva voce. **VOTE: ayes 6 – nays 0 The legislation was added to the agenda as Item “7d”.**

There was no public hearing and no one present wished to address Council with regard to any item on the agenda.

### LEGISLATION

The Clerk gave a **third reading** to an ordinance authorizing approval of the preliminary legislation submitted by the Ohio Department of Transportation (ODOT) proposing, within the City of Portsmouth, to resurface) .58 miles of US23, 0.45 miles of US 23R, 0.38 miles of SR140 and 1.67 miles of SR335

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 5 (Johnson; Basham; Albrecht; Haas; Noel) – nays 0 – abstain 1 (Saddler) The ordinance was passed. ORD. #19-11**

The Clerk gave a **first reading** to an ordinance regulating “pain clinics”, “pain management clinics”, or “pain management centers” within the City of Portsmouth, Ohio, and providing for an effective date.

Councilman Albrecht moved to suspend the rule requiring an ordinance be read on three separate dates.

The roll was called. **VOTE: ayes 6 – nays 0 The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

The Solicitor advised this ordinance to be consistent with, but more restrictive than, HB 93 that was passed by the House and is currently in the Senate in committee. He summarized HB 93 and again noted this ordinance to be very much consistent with the State Bill. Councilman Johnson, noting Council had discussed “a number of amendments” during the conference session, said he has noted the two key amendments – “1,000 and eliminating a misdemeanor” and asked if these were not the two things Council changed. The Solicitor advised those changes were made and the changes have been reflected in the ordinance.

There being no further questions or comments the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #20-11**

The Clerk gave a **first reading** to an ordinance authorizing the Mayor to enter into an agreement to compensate the Village of New Boston an amount equal to ½ of all revenues received by Portsmouth for the treatment of sewage originating in Eden Park, not to exceed \$20,900, and a separate agreement to receive sewage from Scioto County at Eden Park for an initial rate of \$3.74 per thousand gallons.

Councilman Albrecht moved this constitute a first reading.

Councilman Johnson, referring to a note from the Auditor questioning the construction cost offset, noted the Auditor to acknowledge the City to have pledged \$120,000.00 to match the grant received by the County for the installation of sewers in Eden Park that will link in to the City's treatment facility. The Auditor's note further questioned whether or not New Boston has put up any matching funds to offset the construction costs and if not why would they receive half the revenue generated by its installation. In response, Rick Duncan, Director of Waste Water, said he has not discussed this with the Auditor and had not seen his note until just prior to this meeting. He advised that in 2009 the City applied for a grant through the Ohio Public Works Commission, which was awarded to the City last year, when Mr. Duncan was no longer the Waste Water Director. Mr. Duncan said the grant required the City to have a \$100,000.00 match to the grant/zero interest loan combination. He explained that was specifically for the sewer that goes along side Munn's Run, in North Moreland. He described the old sewer as being from the 1920s and was a clay-type like sewer with a lot of inflow into the pipe. Mr. Duncan explained that the City is under direction from the Ohio EPA to fix that particular pipe. He further explained that at the same time Scioto County is under order to run sewers in Eden Park and Twin Valley. He noted that Munn's Run sewer has a lot of e-coli bacteria from failed septic tanks and unauthorized connections into the stream, therefore the County is under orders to correct that situation and the City is under orders to correct the pipe situation in North Moreland, which includes Milldale Road, Dunlop Road and Pleasant Avenue. Mr. Duncan acknowledged the grant application was a joint application between New Boston, Scioto County and the City of Portsmouth and advised that when you have a joint application it increases your score and the possibilities of getting the grant. He further advised this to have been a very competitive grant and it was important to get your score as high as possible. With regard to the \$120,000.00 match by the City, Mr. Duncan explained this was passed by Council last year and will be used as the City's part of the engineering and part for the construction of that sewer. Mr. Duncan recalled that at some point last year there were discussions between Portsmouth and New Boston and a figure of \$120,000.00 per year was agreed to, which he said, is to compensate New Boston for sewage that would originate in Eden Park when the project is completed and which will flow into Portsmouth then into some sewers in New Boston and then back into the Portsmouth treatment plant. Mr. Duncan noted that part of the transmission of that sewage will be through New Boston. He explained New Boston officials' concern is that Portsmouth will be generating revenue from this new project and they will not be receiving any share of it. Mr. Duncan again acknowledged this to have been negotiated with New Boston last year but was not resolved until just recently. He further advised that he had a meeting on Friday with the Mayor of New Boston, their Village Administrator, a member of their Village Council and a Sanitary Engineer to go over the last areas of concern. Mr. Duncan informed Council that the County has requested this ordinance be passed as soon as possible but he did not believe it is ready for passage just yet and requested the ordinance be given a first reading. He advised that if anyone has any further questions he would be happy to address those in writing or at the next Council meeting. Mr. Duncan estimated the expected revenue from this project to be around \$40,000 to \$50,000 per year and the proposed agreement is to compensate New Boston for up to half the amount that is received up to a \$20,000.00 limit. He pointed out that the City cannot, obviously, lose money on this project. He noted that the County has proposed a slightly higher rate per 1,000 gallons compared to what the City is charging for sewage treatment from the Rosemount area or the Rigrish Addition and reasoned that to be an effort to make it a little more advantageous and worthwhile for the City to do that project.

Councilman Noel said he investigated the sewage coming from the area of Eden Park and found it to be terrible and felt that addressing this issue is important. Mr. Duncan noted that also in 2009 the City received a CDBG and those funds were used to rehabilitate about forty manholes in North Moreland. He reported the condition of the manholes were of brick and a lot of the mortar was missing from those brick, therefore every time the water table rose a lot of inflow into those bricks and right into the manholes. Mr. Duncan said the manholes are now "as good or better" than any new manhole that would be installed today. He advised that the remaining manholes, in the project area, will be rehabilitated to the same standard as well as replacing or relining the sewers that are subject to infiltration in that area. Mr. Duncan felt this project will be very beneficial to both the City and New Boston.

There being no further questions or comments the roll was called. **VOTE: ayes 6 – nays 0 A first reading was declared.**

The clerk gave a **first reading** to a resolution opposing the closure of the Ohio River Valley youth Center in rankling Furnace, Ohio.

Councilman Albrecht made a motion to adopt the resolution.

Councilman Johnson noted the closing of this facility to not only not be good economic policy for our local community, as a State it is not good economic policy period. He stated there to have been studies conducted comparing this facility with others in the State that show upgrades to the Franklin Furnace facility that do not exist in any other such facility in the State of Ohio. Mr. Johnson further stated that every parameter of the Franklin Furnace facility is the best in the State at a lower cost for the State. He said he did not like to see it noted that this would be devastating for our community when it would also have an economic effect on the whole State and felt that should be stated in the ordinance. After it was pointed out to Mr. Johnson that the resolution did include the economic effect this would have on the State, he said he would have strengthened the language. The Acting President added "parenthetically" that it is his understanding that some of the Franklin Furnace facility is relatively new and state of the art, which was done at great expense. Mr. Haas said he did not understand how the State determined to close this facility when they are now going to have to do modifications to the other existing facilities. He agreed that it does not make good economic sense for the State of Ohio and he further noted that of the 330 employees at the facility, 181 live in Scioto County and 65

live in the City of Portsmouth, therefore that is 181 families that won't be able to shop as much as they might have or they may even have to move. He acknowledged it would be hard to say the effect this will have on these people and noted it will also have an effect on the City losing the income tax from 65 good paying jobs. He said, he felt with this resolution, we need to make sure Columbus understands that we are not pleased with this decision on several points.

There being no further questions or comments the roll was called. **VOTE: ayes 6 – nays 0 The resolution was adopted. RES. #06-11**

#### **STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA**

Thomas Lowe – 5257 Wilson Avenue, representing Betty Lowe expressed his concern about the sale of property in Sciotoville, owned by the City adjacent to property owned by his mother. Mr. Lowe claimed his only concern is the sale of this property creating a “major safety issue”. Noting, that in the past, there have been hill slides along this area he was concerned about development of the property at the top of the hill creating more hill slides. Stating that “thousands of people” travel this area on a daily basis, Mr. Lowe suggested the property be surveyed before it is sold. If sold, he questioned who would be responsible for the maintenance of the highway along that area. He wanted to know if a life was worth what the City would make from the sale of this property, saying it does not take a certified engineer to figure out the safety issues involved.

Van McGinnis – (no address given), also the owner of property adjacent to the City-owned property in Sciotoville said he lives within 10 feet of this property and claimed there to be a boulder ready to fall from the hill side. He echoed Mr. Lowe's concern for the safety of the citizens driving past that area on a daily basis.

#### **Miscellaneous business and reports:**

##### City Clerk's report

1. Received, from the Ohio Division of Liquor Control, a notice of a stock transfer

to: B O B Dickens Pub LLC  
DBA Dickens Pub  
811 Murray St.

The Clerk's report was received, filed and made a part of the record, on a motion by Councilman Albrecht.

##### Mayor's Report

1. The Mayor said he had no report as such but congratulated Councilman Basham on his life as a newly married man.

The Mayor's report was received, filed and made a part of the record, on a motion by Councilman Albrecht.

##### President's Report

1. Acting President, John Haas, announced the reappointment of Matt Schackart to another term on the Board of Design and Review. He also advised that he has put in a call to Kirk Donges to request an acceptance from him of reappointment to another term on the Board of Design and Review.
2. Mr. Haas reported having received correspondence this week from the Community Action Organization requesting a resolution be adopted in support of CAO in Scioto County. Mr. Haas passed that request on to the Solicitor in hopes that legislation will be prepared for consideration of adoption at the next regular meeting of City Council.

The President's report was received, filed and made a part of the record, on a motion by Councilman Albrecht.

##### Miscellaneous business from City Council

##### 6<sup>th</sup> Ward

Councilman Noel reported a situation in his ward that involves a contractor who is clear cutting 69 acres of timberland. He felt this was endangering that entire community and noted the cutting of timber is not addressed in the ordinance regulating hillside excavation. He reported mud to be sliding down the hill and again noted the City's hillside regulations do not address tree removal. Mr. Noel explained the problems he and his neighbors are having as a result of the mud that is sliding down the side of the hill. He said he has had “soil people in” as well as

“soil contamination people”, which he believes are a part of the EPA. Mr. Noel stated it to be his understanding that the owner does have a permit to cut roads along the land that he owns. He also claimed there to be “a whole bunch of “junk cars” stored on this same property. Mr. Noel stated it to be his understanding that there are two people involved in this project, saying that the person owning the junk cars gave the person cutting and doing the wood chipping a right-of-way over his property.

5<sup>th</sup> Ward The Acting President had nothing to report from his ward but commended the Portsmouth Trojans for being in the final four basketball tournament. He noted the City to be very proud of the coaches and the players.

4<sup>th</sup> Ward Councilman Albrecht had nothing to report from his ward.

3<sup>rd</sup> Ward Councilman Basham reported having received a phone call a few weeks ago about a basement flooding in the area of Coles Blvd. He explained that upon inspection by the home owner the problem was not a City problem but rather a pipe issue. Mr. Basham noted that upon further investigation it was learned that the faulty pipe was actually located on someone else’s property and there was no recorded right-of-way, however, due to the neighbors, Mrs. Jean Carver and Mr. Mike Dickerson, working together with the City’s Director of Waste Water, Rick Duncan and the City’s Solicitor, Mike Jones, the problem is being resolved. Mr. Basham cited this as being a true example of the City and the neighbors working together to correct a problem. He thanked all those involved, saying it has been a pleasure to watch this process.

2<sup>nd</sup> Ward Councilman Saddler acknowledged the passing of a former Chief of Police and Public Utilities Director, Ray Thompson.

1<sup>st</sup> Ward Councilman Johnson, referring to the Traffic Committee’s report regarding a continuing problem in the 5<sup>th</sup> Ward at Southern Ohio Medical Center with littering in the area of Coles Blvd., he acknowledged the hospitals in Cincinnati to provide smoking areas for their patients and visitors and he didn’t know why SOMC did not follow their example. He felt the problem could probably be solved if SOMC would build a facility for smokers and restrict the smokers to that facility by not allowing them off the property or to smoke anywhere else. He claimed this to have gone back and forth to the Traffic Committee but nothing is getting done.

Mr. Johnson also acknowledged “excessive speed” on residential streets. Mr. Johnson noted the Chief of Police, during budget discussions, when asked about the fines dropping “year after year”, admitted, although he had not advised the Mayor or Council, that he discouraged his staff from writing tickets because of the paperwork involved. He pointed out that on the one hand we have a police department that is discouraged from writing parking, traffic or speeding tickets but when residents ask about having the option of speed bumps that the City does not want to deal with that liability issue. Mr. Johnson noted the Traffic Committee’s solution was to erect more speed signs. He claimed this to not be logical and he had a difficult time reading this in the Traffic Committee’s report, especially when he has been to other communities and has seen where they do have “light” speed bumps, differentiating them from the “heavy” ones. He questioned why other communities can do that but ours “cannot even look into it”. He said he understands the liability issue but felt we are at a point where we have no option to give to our residents when it comes to speeding. Mr. Johnson felt the City needs to “look into options other than putting up more speed limit signs”, saying “they are not working anyway”.

The Solicitor had nothing to report.

The meeting adjourned at approximately 7:40 p.m., on a motion by Councilman Albrecht.

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City Clerk

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Acting President of Council