

**MINUTES – REGULAR SESSION**

PORTSMOUTH CITY COUNCIL MEETING  
 Monday, October 24, 2011  
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, October 24, 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

Also present were Mayor David A. Malone and City Auditor, M. Trent Williams

Councilman Noel's absence was excused, on motion by Councilman Johnson.

On a motion by Councilman Albrecht, Council dispensed with the reading of the Journal for the regular session of October 10, 2011.

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 the Mayor to advertise for bids and thereafter enter into contract with the lowest and/or best qualified bidder for various purchases and projects by for approximately thirty-one (31) ADA ramps needed to be installed and/or refurbished by the City prior to April of 2012 so that ODOT can resurface portions of State Route 335 and State Route 140 and authorizing an appropriation in the amount of \$27,000 from funds already appropriated within the CIP Fund No. 301 with further appropriations hereby appropriated within the same fund in an amount not to exceed \$20,000.

**ORD. 49**  
 Advertise and contract ADA ramp repairs prior to April 2012

Councilman Albrecht made a motion to pass the ordinance.

Councilman Albrecht noted the month of April 2012 as during reading the City Clerk stated October 2012.

There were no further questions or comments. The roll was called. **VOTE: ayes 4 – nays 0 – abstain 1 (Councilman Saddler) The ordinance was passed. ORD. #49-11**

The Clerk gave a **third reading** to an ordinance authorizing the Auditor/Treasurer of the City of Portsmouth, Ohio to solicit to receive applications from area banks for the deposit of public monies coming into the Department of Finance and Audits of the City of Portsmouth, Ohio and to designate eligible public depositories for such deposits.

**ORD. 50**  
 Auditor to receive application from local Banks for City monies to be deposited

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 5 – nays 0 The ordinance was passed. ORD. #50-11**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance of funds in the amount of \$1881 received from State Insurance Company General Fund No. 101.000.4931 and appropriation of the same into Garage Building Maintenance Line Item No. 101.117.5238 for reimbursement for damages done to the perimeter fence at the Service Department facility.

**ORD. 51**  
 Insurance money from State Insurance Co for Fence

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

The roll was called. **VOTE: ayes 4 – nays 1 (Councilman Johnson) The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 5 – nays 0 The ordinance was passed. ORD. #51-11**

The Clerk gave a **first reading** to an ordinance authorizing the Mayor of the City of Portsmouth, Ohio to enter into an agreement with AMEC Earth and Environment, Inc. in the amount not to exceed \$126,000 to be paid for Flood Defense Levy FEMA Cert. Line Item No. 265.225.5502 and considering the same an emergency measure.

ORD. 52  
AMEC  
contract for  
Floodwall/Lev  
ee

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

Councilman Basham wanted to clarify with the Mayor that this request of suspending the rule is due to a timeline.

Mayor Malone advised that there are deadlines that we could meet. He also pointed out that Mr. Howerton was there and probably wanting to address and as he missed the opportunity to do so. The Mayor advised that the Council could pass the ordinance tonight or could wait to give Mr. Howerton the opportunity to address the issue. However, as far as the question asked, the Mayor stated that we would like to be able to do this as fast as we can.

Councilman Johnson pointed out that the motion is not debatable.

Councilman Albrecht offered to withdraw his motion to suspend.

Councilman Basham stated he just wanted to clarify that the Council was not just rushing this through without reason.

Councilman Albrecht confirmed that the Ordinance states that it is an Emergency.

Acting President Hass advised that he felt that Councilman Albrecht's motion was appropriate and that Mr. Johnson was just pointing out that the motion to suspend the ruling that asking and accepting questions or comments is not appropriate.

The roll was called. **VOTE: ayes 4 – nays 1 (Councilman Johnson) The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

Councilman Johnson regrets that he was not at the last meeting and appreciated that the Council excused that absence. He is concerned that this ordinance is a redo of what was done by another company. Mr. Johnson expressed this concerns that the original company, Howerton was not informed or invited to the open forum where this was discussed. He expressed his concerns with the methodology of the person or person whom began these discussions that has lead to this contract. It was not essentially bid by the other company and Howerton did not have the opportunity to bid or discuss what they have already completed. Mr. Johnson pointed out as did the Mayor that Howerton was present and was not given an opportunity to attend the meeting nor to provide feedback at the discussion and mentioned the letter presented to the Council this evening from Howerton. He did not know if Howerton was there this evening to present any comments.

Howerton replied that he could.

Acting President Hass advised that there was an opportunity for discussing items on the agenda and that we have already passed the opportunity for debatable discussion.

Councilman Saddler stated that he was under the opinion that this was just a second opinion and requested confirmation from the Mayor.

Mayor Malone advised that Mr. Saddler is correct that this is a second opinion and that when Howerton initially did their work, there was a letter submitted to FEMA in April. The price to address one issue was noted and at issue. It was understood that at that time Howerton and those involved understood that three million dollars would be an issue for the city. The thought was to look for other avenues that would not cost the City the one to three million dollars proposed.

Councilman Saddler stated that all we were doing was getting a second opinion on an issue. Mr. Saddler made an analogy to a heart condition and receiving a second opinion.

Councilman Johnson requested one final comment. He stated that he understands in the medical sense, a second opinion, but that it is normally not done on the government level. We (the City) outline what needs to be done, he has read the documentation from Howerton Engineering and went online to view the subcontractors and they have had plenty of experience and background in this type of work. He suggest that if we want a second opinion that we follow the standard federal process for contracts. Having worked on the federal level and the banking industry where he served as a contract administrator, that if we are going to look for a second opinion or that we invite the one who has already provided a proposal and get both sides. He stated that we did not get both sides and part of his concerns are how we (the City) deal with contractors, and that the current company is not the only one who has had issues when dealing with the City. He states he is not pointing out the Mayor's office or Council or anyone else it is just dealing with City. Mr. Johnson stated that sometimes when dealing we don't

sometimes play fair and get all the information we need and for that reason he will be voting against this ordinance.

Acting President Hass stated he understands that Mr. Johnson was not at the meeting last when this was discussed, but Mr. Duncan was here, representatives from AMEC were here and explained the situation. He explained that we have Howerton's comments and what was a proposal to have another company to take a look due to the one section of the levy. Mr. Hass feels that spending up to \$126,000 dollars to save one to three million dollars is well worth the expense and the effort.

Councilman Basham stated that he recommended that the City go with AMEC a year ago and had that avenue been taken we would not be addressing the issue of more money.

There were no further questions or comments. The roll was called. **VOTE: ayes 4 – nays 1 (Councilman Johnson) The ordinance was passed. ORD. #52-11**

#### **Statement or Remarks from Citizens on items not on the Agenda**

Captain Robert Ware - Portsmouth Police Department– wanted to discuss funds requested during September 26, 2011 Council Letter for repairs to heating and air conditions unit. He understands the CIP funds have already been set and that the Police Department did not anticipate the needed repairs and such was not budgeted for and funds are not available to cover the cost of repairs made. Mr. Horner requested that that Council Letter be reconsider and the repairs be paid through CIP as the repairs were an emergency.

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

##### City Clerk's Report

1. Received, on 10/17/2011, from the Auditor, the following reports for the period ending 9/30/11:
  - Combined mtd/ytd expense report
  - Mtd/ytd revenue report
  - Combined mtd/ytd fund report
  - Mtd bank report
  - Appropriation transfer from transacting listing

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

##### Mayor's Report-

1. Wanted to comment and thank all the individuals that participated in the Make a Difference day held on Saturday 10-22-2011, coordinated at Tracy Park. The objective was to clean streets throughout the City. There were over 70 volunteers. It was a wonderful day overall. Community Development Director Becky Steele, Councilman Kevin Johnson, City Auditor Trent Williams and himself all participated. Food was served to the volunteers and may enjoy it as a social gathering. Mr. Malone wanted to extend special recognition to the Waste Management crew for spear heading the event.

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

##### President's Report -

1. Early voting is ongoing and encourages everyone to go out and vote.

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

##### 1<sup>st</sup> Ward

Councilman Johnson wanted to also recognize that the City Clerk and her son were at the Make a Difference Day on Saturday.

One of the things that Becky Steele was doing was collecting food and that there was a \$500 anonymous contribution. Mr. Johnson wanted to extend his thanks for that and the 70 to 80 persons who volunteered and the Potter House. It did make a difference downtown.

Council has received a number of emails regarding the City Traffic Advisory Committee and the lack of public notice. In the Council packets there is a note from Chief Horner that they would in the future adhere to public notice. Mr. Johnson

wanted to stress that he was not “picking on” the Traffic Committee alone but he had also met with the Design Review Board and reminded them as well of the requirements for the open meeting. Mr. Johnson stated we need to remind our Committees that they are held to the same standards as to public access to their meetings and agendas printed and provided, at least to the press for distribution to the public.

Mr. Johnson stated that the critical thing for him was the issue of a traffic light on Scioto Trail at ether at Bertha or George and that was a topic of the Traffic Committees’ last meeting and he requested that they re-discuss it because it was not a public meeting.

He has gotten complaints from Argonne that they didn’t know it was happening and they are working on a petition now and he is assisting them, as there are many reasons why that light should be there.

2<sup>nd</sup> Ward -

Councilman Saddler wanted to touch base with what happened at Tracy Park this weekend with Potter House. Thank those individuals who volunteered and he regrets not being able to be there but has talked positively about it in the paper.

Mr. Saddler wanted to touch on what Mr. Johnson stated about the Committees, that he does not hear about anything until it comes in the packets. If he wanted to go to a meeting he would not know where it is at. We (the Council) rarely get minutes for committees. We don’t know what the committees are doing and it would be nice to have advanced notice when these meetings are and to make sure we get their minutes and correspondence after.

Mr. Saddler had a question about a complaint that he had forwarded to the Mayor from Mr. Cave, he has sent an email to the Mayor and saw where it was forwarded to the department heads but the two questions he had are still unanswered. On Robinson Ave. up on the hill side he noticed there is still a lot of trash and it is becoming grown up with weeds. Wanted some attention on this area and the grass on Robinson Street underpass, he believes that is Railroad property but is not for sure. Both sides of the underpass probably have 10-12 foot tall grass.

The Mayor asked for clarification on location.

Mr. Saddler advised that is there at the Robinson Street underpass by the Sheriff’s department. He restated that he is not sure if it is Railroad property but would like to see the City take care of this issue.

3<sup>rd</sup> Ward -

Councilman Basham stated that he would like to remind everyone to vote. The City Manager issue and the Fire and Safety Levy for Charter Amendments and encourage a “No” vote on Issue 2, which will strip the rights of public workers.

Mr. Basham addressing the Mayor stating that he was reading through the minutes from the Traffic Committee and there have been talks about the intersection at 3<sup>rd</sup> Street and Waller. In the minutes the SSU president is requesting a fully functioning light at this intersection, and Bill Beaumont had suggested moving the light from Sinton down to Waller. He asked for clarification of that lights current location. He advised the Mayor that he would also agree that this light, a full four way functioning light that is not a four way intersection anymore couldn’t be moved to the Waller Street location. He also questions why there would need to be this light and another at the very next intersection.

4<sup>th</sup> Ward -

Councilman Albrecht stated he received a complaint about an 8<sup>th</sup> Street dwelling and passed that complaint along to the health department.

5<sup>th</sup> Ward -

Councilman Haas stated that the intersection in question and the current location of the light is the one he spoke about in the last meeting. He also noticed the other day as he drove down through there is actually a turning lane but nowhere to turn.

Auditor -

Recognized and thanked the City for the current paving of Sunrise and Kenny’s Lane.

The meeting adjourned at 6:30 p.m., on a motion by Councilman Johnson.