

MINUTES – SPECIAL SESSION

PORTSMOUTH CITY COUNCIL MEETING
Monday, February 11, 2009
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in special session on Wednesday, February 11, 2009, at 5:00 p.m., in the Courtroom of the Honorable Richard T. Schisler.

The Acting President of Council, David Malone called the meeting to order, followed by the Pledge of Allegiance to the Flag.

Roll Call showed the following member to be present:

Mike Mearan	1 st Ward
David Malone	2 nd Ward
Bob Mollette	3 rd Ward
Jerrold Albrecht	4 th Ward
John Haas	5 th Ward
Richard Noel	6 th Ward

Also present were Mayor James D. Kalb; City Solicitor, Michael L. Jones and City Auditor, M. Trent Williams.

Clerk's Report

1. During the Conference/Work session on 2/9/09, Council unanimously agreed to meet in a special session to consider legislation authorizing the Mayor to submit applications for potential federal funding from the anticipated 2009 "Economic Stimulus Package" for construction of a municipal building.
2. Agendas were prepared and provided to members of Council, the Mayor, the Solicitor and the Auditor.
3. Copies of the agenda and proposed ordinance were faxed to the media.

The Clerk's report was accepted on a motion by Councilman Albrecht.

STATEMENTS FROM CITIZENS ON SUBJECT OF THE SPECIAL MEETING

Jane Murray – 1920 Dorman Drive, claiming that her contact last week with a representative of Senator Brown's office regarding the stimulus package resulted in his staff calling City officials for a meeting Monday, expressed her pleasure at that happening. She also expressed her "chagrin" at what she described as the Solicitor and others focusing on a new City building and not focusing on real problems and commenced to describe what she felt those problems to be and, for the record, felt this to not be the time to focus on a new City building. She referenced the various time that she has addressed Council with regard to those problems that she felt could and needs to be addressed by some of the stimulus funding and questioned whether or not members of Council had been around their respective wards and seen what she has seen. She accused Council of spending money, raising property taxes and passing a proposed tax increase over the past several months, which she described as being "during the worst economic crisis the world has faced in our century". She continued by reiterating the problems that she deemed to be a priority and, which she felt the City's elected officials were "more concerned with their own self interest and who show a total disregard for the residents to whom they are elected to serve". With regard to the 2009 budget that is scheduled for discussion following this meeting, Ms. Murray, accusing the administration of "hurriedly developing a stimulus list without Council or public input", said, "this Council is asked to pass a 2009 budget from a proposal by the Mayor that does not even include November and December revenues or expenditures". She claimed there could not be an intelligent discussion about projected revenues and expenses for 2009 without year end data and claimed there to be "absolutely no reason" why the Auditor could not have, by now, provided this information to the administration and to Council. Ms. Murray said, "It is my opinion that you should refuse to consider this budget until you have all the information on last year's actual".

Karen Collett – 1404 McConnell questioned what she described as being focused on the Marting's Building. She concurred with Ms. Murray and felt there to be a need to get along.

Teresa Mollette – 1705 Franklin Blvd., with regard to applying for stimulus funds for a City building, reiterated remarks made by Ms. Murray and also made suggestions as to what should be included in the City's request for funds from the stimulus package. She thanked Ms. Murray and credited her for the fact that a representative from Senator Brown's office came to Portsmouth. She questioned why other things were not included in the request for funds and claimed the meeting to discuss the budget and scheduled following this meeting was against the sunshine law.

Dee Penix 1708 Hutchins Street, with regard to the stimulus package, stated that we are all going to be paying for this since it all comes from taxes, which will be paid by generations to come. She pointed out the fact that this makes it “our money”. She further pointed out that when the federal government distributes funds, such as the stimulus package, someone is going to get that money and, since it is tax dollars, she wants her share and encouraged the City to go after any project they can and to get as much money as possible. She acknowledged, however, that she has been against the Marting’s Building and is still against it, saying, she has a “very positive reason” and claimed she could give those reasons. She said, I not against it just to be against it”. Having just come from the beauty shop, she said she asked her beautician if there were any talk about the Marting’s Building and her beautician conveyed to her what she has heard in her shop. Mrs. Penix claimed her beautician’s customers did not want the Marting’s Building and could not understand why the City officials did not realize that. Mrs. Penix acknowledged the need for a new building and Mr. Duncan having spoken two weeks ago about the list he had prepared. She encouraged the City to go after more than is needed, noting that all of it will not be granted. She further acknowledged the fact that City officials are going to have to make difficult decisions and related a situation that occurred during her time as a County Commissioner that brought her scorn from her own party. She reiterated the fact that she is not against a new building nor was she against a tax being assessed for a building, if the funding does not come from the stimulus package; however, she wants to know what the plans are for using the tax assessment. She asked for openness and honesty with the taxpayers.

Jennifer Hanlon, the City’s Community Development Director, for the purpose of clarification, reported having met with a representative from the office of Senator Brown several days ago. She acknowledged several department heads were present and basically provided him with a laundry list of different projects that the City is interested in doing. Ms. Hanlon said the representative explained the various funding sources that are likely to be available and noted they are working on the 2010 appropriation bill for the federal budget. She said the representative suggested that the City only give him no more than five projects and he actually pulled from their long list those projects for which the City should actually apply. Ms. Hanlon pointed out that besides the City building there are two large water projects, sewer projects and a fire department project. She noted these are being submitted as an appropriations request, which may or may not be a part of the whole stimulus package. Ms. Hanlon reported that just this week the State of Ohio has updated a website that allows cities to apply for, not so much stimulus money, but to make a proposal for any and all projects that the City has. She noted that some of the department head’s wish lists may fall under the stimulus funding while others will be through the appropriation funding, which the City is applying for through Senator Brown’s office. Ms. Hanlon reiterated the fact that there are multiple requests being submitted and, noting this to have been discussed at this past Monday night’s conference session, she reminded everyone that the Solicitor stated that it would be appropriate to bring forth an ordinance regarding the request for funds for a City building because it is different from the other projects. She pointed out that the water, wastewater and fire projects are typical projects that all departments do on a daily basis, while a new City building is not. She again explained that to be why there is an ordinance on this particular project and not on the others. Ms. Hanlon also noted that legislation is not necessary in order to apply for this funding. With regard to the ordinance submitted by the Director of Wastewater, Ms. Hanlon pointed out that funds were needed in order for him to secure the necessary preliminary engineering. She further advised that the Waterworks Director already has funds built into his budget for engineering that will be needed for his projects. She closed by noted there to be “two pots of money” to draw from for multiple projects.

Sharon Bender 1666 Highland Avenue, reported there to be three dilapidated properties within one block of her house. She felt there to be so many things that the stimulus funds could be used for and while she acknowledged there to be a need for new City offices and is in favor of that but the citizens do not want “our money” put into that “old building down there”. She said she did not know what the fascination with the building is but felt the majority of the citizens of Portsmouth do not have that fascination with it. She stated that the school system was denied funds to rehabilitate an old building, saying it was not feasible and therefore they had to construct new buildings. She claimed the government will tell us exactly for what they will provide funds and for what it will be used.

Linda Switzer – 319 Front Street stated that while everyone is sitting here the people on Grandview are worrying about the rain and their basements and asked Council to consider these people when discussing the ordinance that is on this evening’s agenda. Ms. Switzer also claimed to have been to a beauty shop today and that those customers were also talking about the Marting’s Building. She quoted one customer as saying “They must think that people in Portsmouth are stupid”. She said she did not think they were, saying “but maybe someone that comes in here are”.

LEGISLATION

The Clerk gave a **first reading** to an ordinance authorizing the Mayor to submit any and all applications for potential federal funding from the anticipated 2009 “Economic Stimulus Package” for construction of a municipal building for the City of Portsmouth, Ohio.

Prior to a motion being made the Solicitor, in response to a couple of comments, said he felt there to be a misconception as to why this ordinance is being brought forward. He said there seems to be those who think that by having an ordinance authorizing an application be submitted for funding from the stimulus package for a City building will, potentially, cause this project to replace some other project. He pointed out the fact that it has been said on numerous occasions that the City of Portsmouth is trying to obtain any and all

funds available as a result of the stimulus package. Mr. Jones explained that he felt if the City does not apply for these funds then we are potentially losing that part of the stimulus package. He made it clear that if the City receives money for this project it does not mean that the City will lose funding for another project. He reiterated the fact that there are several pools of money and that there are several projects that potentially qualify for this. He acknowledged that the mere mention of a City building causes controversy and, for that reason, he approached the Mayor about submitting this by ordinance as opposed to having the Mayor to proceed and submitting this stimulus package request, which he would be more than legally authorized to do, that we should come forward and let the public know this is something important that we want to do. He reiterated Ms. Hanlon's remarks with regard to there being numerous projects submitted for funding. Mr. Jones said he was at the meeting with Senator Brown's representative and noted the various department heads that were also present. He said these things were discussed and they were told by Senator Brown's representative to shoot for the moon – submit everything that the City thinks it could possibly need and they would do their best to get the City as much money as possible. Mr. Jones pointed out the fact that every city is going to be requesting these funds. He noted cities with more population are asking for \$400,000,000.00 to \$500,000,000.00. He acknowledged that we may not get the money being requested for the City building, however, he felt the City should at least request it. He noted that this would create jobs and would provide stimulus to Portsmouth.

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

The roll was called. **VOTE: ayes 4 (Mearan, Malone, Albrecht, Haas) – nays 2 (Mollette, Noel)**
The rule was suspended.

Councilman Albrecht made a motion to pass the ordinance.

Councilman Haas, acknowledging a representative from Senator Brown's office to have met with City officials, asked how the subject came up of funds possibly being allocated through the stimulus package for a City building.

The Mayor said that the fact that the City was in need of some of these funds for that purpose had previously been discussed and the representative for Senator Brown's office thought it was an excellent idea and felt the City should definitely apply for the funds. He said this is money that will not cost the local taxpayers a dime. The Mayor said he believed there to have also been some conversation with the Foundation as to their willingness to reconsider allocating the 1.4 million dollars to certain aspects of the project. In response to Mr. Haas asking if there were other projects that were removed from the City's request for stimulus funding in order to submit the request for the City building, the Mayor said the list still includes everything that was previously requested and noted this to just be an additional item. The Mayor also reiterated both Ms. Hanlon's and the Solicitor's explanation that there are several pots of money available with most of it coming from those agencies, from which, the City is already receiving funding. He also restated the fact that this is the first round of funding and the City has been told to apply for everything it can. The Mayor also stated that he believed the second round of funding will be available in January for applications through normal avenues of funding. The Mayor said the departments have put together applications for everything that is needed, which included improvements to the stadium, recreation, highways and streets, wastewater, water, City building and anything that the City needs. Councilman Haas asked if there were anything indication from Senator Brown's office that applying for something like a City building would eliminate any one of the other requests for funding, the Mayor said he believed the City has applied for everything they could. Ms. Hanlon explained that there are actually different appropriation bills that come through Senator Brown's office. She noted that the water and wastewater projects are actually under the energy and water bill and further noted that something like a City building would never come from that funding source. Ms. Hanlon said it would come from a separate piece of legislation for general facilities, therefore funding for a City building would not eliminate any other request. She repeated the fact that the representative from Senator Brown's office actually went through the list of the City's requests and stated that the appropriation bills that this office is doing would not include street paving projects. He noted that water, wastewater and facility projects are the only ones that they would even consider. She again noted there to be 10 or 12 different appropriation bills and our projects basically fit under different ones. However, she noted that water and wastewater do sort of fit under the same bill. She further noted that it is doubtful that all the water and wastewater projects submitted for the City will be funded.

Prior to any more statements being made, the Acting President reminded everyone of Council's rule that limits each member of council to speaking twice on each item, but noting this to be a special meeting he was going to allow members to speak more than twice.

Councilman Haas, noting statements like "shovel ready" or projects that are ready in 90 days, asked if the City building project would meet these requirements. Ms. Hanlon advised Mr. Haas that everything that is being heard about the stimulus funding is that projects have to be shovel ready by July. However, she noted that Senator Brown's office is also submitting general appropriations requests for the 2010 general funding projects, which she stated, would be a part of next year's budget and would not have to be shovel ready by this July. The Mayor noted that this should answer the question regarding whether or not the submission of a request for stimulus funding for a City building would replace some other project and confirm the fact that it would not. Councilman Noel felt that if that were the case, the other projects should be listed in the ordinance. It was again explained that the purpose of this ordinance is to make sure the public knows this request is being made and cannot, if the funds are granted, claim to have not known and accuse the City officials of slipping

something past the public. The fact that none of the requests are required to be submitted by ordinance was reiterated. The Mayor also restated the fact that the representative from Senator Brown's office felt this to be a worthy project that stands a good chance of being funded through the stimulus package, not only because we have a site for it but because of the money that has already been expended for the purchase and drawings. He also noted the project is ready to go and said the Senator Brown's representative was quite adamant that the application should be submitted.

Councilman Noel, still feeling all projects should be listed in the ordinance because he felt it would appear that the City building was taking priority and pointed out other things he felt were more important. The Mayor again reiterated the fact, as pointed out by others, that the City building was not taking priority over any other project nor was any other project deleted or moved to the back burner because of this request. Mr. Noel felt, if that was the case the ordinance should be amended to list other projects. The Mayor acknowledged that to be his choice and all he needed to do was to make a motion to amend the ordinance accordingly.

Councilman Noel made a motion to amend the ordinance to include other projects.

When asked by the Acting President to provide the language as he would like it to appear in the ordinance, Mr. Noel said he felt other projects should be listed at the beginning of the ordinance following the mention of the City building. He suggested adding streets, infrastructure and any thing in the City of Portsmouth that could be done under normal conditions without having to go through the regular procedures. Mr. Noel continued by describing a project that he said was "at my place" and claimed he had been promised for several years that it would be fixed. As he began describing another problem that one of his neighbors was experiencing, the Mayor called for a point of order, noting we are getting off the subject of amending the ordinance. In response, the Acting President asked Mr. Noel to provide Council with the words he wished to be added to the ordinance. Councilman Noel responded by asking, "Would you want to put me down to where I'll make a mistake on it?" Not receiving an answer, Mr. Noel continued by requesting that following the words, "on Sixth and Chillicothe Street in Portsmouth, Ohio" to insert the words, "also include other projects that could be immediately taken care of within the City of Portsmouth". Mr. Noel also suggested naming the projects such as "infrastructure, streets, alleys and dilapidated property".

Councilman Mollette said he felt the concern to be from the public and from Council is that "Council has not heard of the stimulus list". He said he felt that paving is a big item but the City only concentrates on the main streets and noted alleys never get paved because they are less of a priority. Mr. Mollette said he felt paving to be something that is easy to have ready and puts people to work. He also felt this to be something that is easily put together in a package in order to create that work. He felt Council is making a single on this particular item but claimed to be hearing from people who want to know how requests are being prioritized. Mr. Mollette felt Council has not been involved "in what the total list is that gets it more down into the neighborhoods on what really affects them". Mr. Mollette said he felt Mr. Noel "does not want this priority to be placed over some other priorities". He felt Mr. Noel "sees some immediate priorities that he gets constituents to call him". Mr. Mollette felt these "priorities seem closer to the citizens" and asked, "where do we, where is the list and what other items are we possibly avoiding asking for?" Mr. Mollette said he understood there to be five projects for which the City is requesting stimulus funds and acknowledged it to be his understanding that none of these projects are being eliminated by the request for funding for a City building. Mr. Mollette said he has some questions on this particular City building but right now he wanted to know what was included in the list of items and how the City was making sure that higher priority items are being addressed. He questioned whether or not a City building fell into "paving programs and sewers" and felt those things should be considered ahead of a building saying, "we could renovate or we can use the money as for renovating a court (*not discernible*) building".

In response, the Solicitor again explained the reason for submitting the City Building request by ordinance and again said he would take responsibility for doing it this way. Mr. Jones reiterated the meeting with the representative from Senator Brown's office and again explained that any request for stimulus funds for a building was not on the City official's agenda but it did however come up during the meeting. He said it was noted that the City already had plans, which qualified the City for this potential stimulus package and the City was encouraged to submit a request for funding of the project. Mr. Jones noted that when the City tries to be positive and provide the public with information that lets them know what is being done it is turned around and used against the City officials for trying to do what is right. He said the City if not, for a lack of a better word, "trying to shove this City Building down people's throat". Mr. Jones repeated the fact that he is just trying to take advantage of the 10 to 12 million dollars that the federal government might allot to the City for a municipal building. He pointed out that the ordinance specifically states that "no local tax funding would be utilized for the building" and the worse thing that can happen is we don't get the funding. He also pointed out the fact that the proposed stimulus package has yet to be approved by the federal government. Mr. Jones again stressed the fact that no one knows what projects will be funded and the importance of requesting funding for any and all things. He acknowledged there to be other higher priority projects than a City building and pointed out the fact that the City is applying for those higher priority projects. He said he felt the City should take the opportunity to apply for these funds and again stressed the fact that he did not want there to be an issue a year from now, when the project is under way, for someone to file a lawsuit because they were not informed.

Councilman Mollette, in response, expressed his appreciation for Mr. Jones' comments and felt it to not be a "negative thing" for people to ask questions. He felt that just because City officials know what is included in the list; other people do not and felt that to be the reason for the "questioning attitude". Mr. Mollette inquired as to what specifically is being applied for with regard to a City building. He wanted to

know if it would involve a single building in one location like the present site or the Adelpia site or if we were talking about “the Martings Adelpia”. He claimed the concern to be about the cost of the different scenarios. With regard to the Marting’s Building he asked that the 2006 City Building Committee’s statement that the building would be inefficient and too big. Mr. Mollette claimed the City would only be using one floor and believed the tax payers would be asked to upkeep the entire building. He claimed these to be valid questions and something for which someone can provide input.

There being no further questions or comments the roll was called. **VOTE: ayes 1 (Noel) – Nays 5 (Malone; Mollette; Albrecht; Haas; Mearan;) The motion to amend the ordinance failed.**

The roll was called on the motion for passage of the ordinance. **VOTE: ayes 4 (Albrecht; Haas; Mearan; Malone) – nays 2 (Mollette; Noel) The ordinance was passed. ORD. # 12-09**

The meeting adjourned at 5:55 p.m. on a motion by Councilman Albrecht.

City Clerk

Acting President of Council