

**MINUTES – REGULAR SESSION**

**PORTSMOUTH CITY COUNCIL MEETING**  
 Monday, September 24, 2012  
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, September 24, 2012 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Vice President of Council, Rich Saddler called the meeting to order. A moment of silent prayer was observed followed by The Pledge of Allegiance to the Flag.

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
Jim Kalb	4 <sup>th</sup> Ward
John Haas	5 <sup>th</sup> Ward
Steve Sturgill	6 <sup>th</sup> Ward

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

The President called for a motion excusing City Solicitor Michael Jones from the meeting, Councilman Johnson and Councilman Sturgill so moved. Mr. Jones absence was excused.

On a motion by Councilman Johnson, Council dispensed with the reading of the Journal for the regular session of August 27 and September 10, 2012.

Councilman Johnson made a motion to remove item “7a” as the \$3200 from the CIP for traffic maintenance as the funds are no longer required.

The motion carried viva voce. **VOTE: ayes 6 – nays 0 The agenda item was removed for m the agenda**

Councilman Johnson made a motion to return to the agenda that was tabled at the last meeting regarding the Mayor entering into an agreement with P.R.O.U.D.

The motion carried viva voce. **VOTE: ayes 6 – nays 0 The agenda item was added as Item “7h”**

Councilman Johnson made a motion to add a resolution for the Mayor to apply for, accept, and enter into a water pollution control loan fund agreement not to exceed \$250,000.

The motion carried viva voce. **VOTE: ayes 6 – nays 0 The agenda item was added as Item “7i”**

Councilman Johnson made a motion to add a resolution authorizing the Mayor’s to sign to renew the annual agreement between the Scioto County Commissioners and the City of Portsmouth to provide representation to indigents charged in the Portsmouth Municipal Court. Mr. Johnson added that this is required annually.

The motion carried viva voce. **VOTE: ayes 6 – nays 0 The agenda item was added as Item “7j”**

**STATEMENT OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA**

Larry Essman – 2471 Grandview Ave. – Mr. Essman wanted to express his concerns regarding the Long Term Control Plan. He along with his neighbors are concerned about the down spout removal program. He stated that if the City is going to proceed with this plan, consideration needs to be given to very close proximity of the homes in the area. Will there be a monitoring by the City to see that this is done properly? He welcomes any to come out and ensure that he is doing it properly. But he has had problems where his neighbor removed theirs down spouts from the CSO (Combined Sewer Overflow) and the down spout were aimed directly at his yard and the water went through the foundation, causing seepage. If the City is going to engage in this program it would seem like there would have to have a monitor, to ensure that it is done properly. Several of his neighbors have stopped by and mentioned the same.

Mr. Essman stated that the EPA has stated that there would be a public hearing for residents regarding what the Long Term Plan would consist of and there has not been any mention of that so far. Mr. Essman stated that the second phase was recommended in 2001 and this seems that this would be a high priority. He can remember back when the Ohio EPA said that this needed to be

**Addition of  
 agenda item  
 “7h,” 7i” and  
 “7j”**

done and there now been additional development of the area. There is a lot of runoff on the east of 25<sup>th</sup> street.

Mr. Essman appreciates that Councilman Johnson visited his water collection system. He appreciates any input and he is making every effort with regards to the down spouts. He was having someone come in the next day to look at them.

Mr. Essman had an additional item regarding comments that he has heard about this plan not going to solve this issue. He asked if this is not done City wide and only just a few residents are making the changes will it actually do any good.

## LEGISLATION

The Clerk gave a **third reading** authorizing the appropriation of \$1,779 from Cemetery Trust Fund No. 851 to Grounds Maintenance of Equipment Line Item No. 101.333.5263 for the re-build of a lawn tractor engine used to cut grass at Greenlawn Cemetery.

ORD # 12-47  
Lawn Mower  
repair  
Greenlawn  
Cemetery

Councilman Johnson moved to pass the ordinance.

Mr. Williams stated that he is not sure why he did not catch this earlier. However he advised that this ordinance is moving money from the cemetery fund to the general fund. He is sure that this is not the intent. However the way that this is written it not correct and it is an appropriation from the general fund. He asked if there was anyone present that would have information on this ordinance.

Mayor Malone advised that Bill (Beaumont) was not present.

Mr. Haas asked why the bill for the rebuild would not be paid out of the trust fund itself.

Mr. Williams advised that this may be what they are wanting but that is not what this ordinance is asking Council to do. Mr. Williams advised to remove “to Grounds Maintenance of Equipment Line Item No. 101.333.5263” would cover what was being asked and the money would come the Cemetery Trust fund for that purpose. He is not sure why there has to be multiple funds referenced in ordinance he us not sure and does not know how these are written.

Councilman Johnson advised he would make a motion for the amendment but wanted to know if there was an issue would Mr. Williams advise Council.

Mr. Williams said yes but he did not think it was going to be a problem. Normally he would have caught this but it just caught his eye.

Mr. Johnson moved to strike the “to Grounds Maintenance of Equipment Line Item No. 101.333.5263” from the ordinance.

Mr. Williams advised in both the preamble and Section I.

Mr. Haas clarified throughout the ordinance.

There were no further questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 The Ordinance was amended.**

Councilman Johnson moved to pass the ordinance as amended.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 The Ordinance was passed. ORD #12-47.**

The Clerk gave a **third reading** to an ordinance authorizing the appropriation of \$700 from CIP Fund No. 301 to purchase a case, battery and pads for an AED for use on the 2<sup>nd</sup> floor of the Municipal Building.

ORD # 12-48  
AED case,  
batter and  
pads for  
second floor of  
Municipal  
Building

Councilman Johnson moved to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 The Ordinance was passed. ORD #12-48.**

The Clerk gave a **second reading** of an ordinance authorizing the appropriation of funds in the amount of \$2,070 from CIP Fund No. 301 into Public Service Equipment Line Item No. 301.114.5533 for replacement of a pedestrian signal pole assembly at the corner of 15<sup>th</sup> and Chillicothe Street that has been destroyed.

Councilman Johnson moved this constitutes a second reading.

Councilman Saddler suggested that this be passed this evening as it is a safety issue for pedestrians crossing the street. He believes that it needs to be installed and fixed now.

President Haas addressed Mr. Williams regarding this being a transfer of funds and that these funds are being transferred from CIP to another fund.

Mr. Williams advised that this is within the same CIP fund.

Mr. Johnson withdrew his motion for a second reading.

Councilman Saddler move to have the rule requiring three reading be waived

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

Mr. Johnson moved to pass the ordinance.

There were no questions or comments. The roll was called. . **VOTE: ayes 6 – nays 0 The Ordinance was passed. ORD #12-49.**

The Clerk gave an ordinance authorizing the City Auditor to make fund transfers and appropriations necessary to satisfy the requirements of the Auditor of State's proposed finding for adjustment as a result of over-allocated central service costs in the 2011 budget as an emergency.

Councilman Kalb move to have the rule requiring three reading be waived

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

Mr. Kalb moved that he ordinance be passed.

Councilman Basham asked the City Auditor what this will take the City deficit to.

City Auditor Trent Williams advised that this amount will be added to the beginning balance for 2012 which was \$700,000 that will take the City to a little over 1.1 million dollars.

President Haas asked how we are currently doing with respects to the budget for 2012.

Mr. Williams advised that the City is on target, if not better, with regards to the \$700,000 dollars.

Councilman Sturgill requested clarification that the deficit will be 1.1 million dollars at the end of this year.

Mr. Williams advised that this is correct.

Mr. Sturgill stated that we told the state (Auditors Office) that we (the City) were going to reduce our deficit, as requested by the State, and we have two years.

Mr. Williams advised that we told them two years.

Mayor Malone clarified stating that we did not tell them. The state told us two years.

Mr. Williams agreed that the State told us two years.

Mr. Sturgill said they told us.

Mr. Williams stated that we agreed to a program that reduced the deficit by half in the first year and the remaining half in the second year. This is will leave \$700,000 at the end of the first year and \$0 at the end of the second year This addition puts a little problem in that plan. He continued stating that he has not discussed this with the state recently or local government service regarding the this new problem.

Mr. Sturgill said at the end of the year, which will be on us shortly, if there is any conceivably way to erase the 1.1 million dollars without a reduction in services.

Mr. Williams advised no.

Councilman Basham stated that the State outlined the plans for us then basically changed the rules.

Mr. Malone said he wouldn't say that.

Mr. Basham stated that we had an approved plan and budget.

ORD # 12-49  
Chillicothe and  
15<sup>th</sup> Street  
pedestrian  
signal pole  
assembly

ORD #12-5-  
Allocations  
correcting 2011  
Charge-off  
adjustments

Mr. Williams clarified that the State does not approve our budget. They approved the plan and so long as the budget goes as expected we would have been on target for that plan. They don't actually approve the plan; they review it after it is finished. You are looking at 2011 budget where there were about one million dollars in charge offs. The State wants us down to about \$600,000, speaking of the general fund only but as you can see it effects four or five other funds.

Mr. Basham asked if we could tell them that we will get there in another two years.

Mr. Williams advised that he did write them a letter, since the last Council meeting, explaining that we fully understand what the problem is. The state was always talking about a reasonable methodology for Central-Serving, Central Service Cost allocations, what we refer to as charge-offs. Charge-offs, in their opinions, which you will remember we had a study done (Mr. Basham interrupted)

Mr. Basham stated that we paid good money for the study.

Mr. Williams stated the study came in and actually you (Council) never implemented the study in the budget. The budget was pass with about 1 million dollars in charge-offs and the study showed it should have been around \$600,000 in charge-offs.

Mr. Basham asked if the study was done when the Council was going through the budget process.

Mr. Williams stated that this is the reason for his most recent letter and this was the point he wanted to make, we received in November of 2011, we received their edict to make these changes, actually to get a cost study done based on the 2010 audit, they advised us to get it done for 2011, in 2011. Because you have your (unable to hear wording) though the next year when they make the finding. He accepted the time frame, they told us this in July, we met with the State in August, Council passed the ordinance in to authorize the cost plan in September, the next day he called and made the request for the plan to begin and in November it was finished and by then what were we supposed to do with a \$400,000 difference. He asked them to reconsider this based on it not being reasonable. The States whole thing was being reasonable methodology for the basis for the indirect cost, which does not seem to be a reasonable time frame for the City to work in to make changes to get it working. He has not heard back but he believes that we need to go ahead and do it. (accept the Ordinance and make the changes)

Mr. Sturgill requested that the Auditor correct him if he is wrong, and is sure that he will, but it seems to him that if they told us in November of 2011 that we needed to do a study and the City paid for a study and the study said we needed to keep it (charge-offs) down to \$600,000. But this body (Council) decides in January/February that we weren't going to heed that advise and paperwork. We did what we wanted to do anyways.

Mr. Williams advised that you (Council) decide in January, eleven months prior. The 2011 budget, these transfers will be based on the 2011 budget. That budget was passed sometime in the first quarter of 2011. You got this report in November of 2011, all but closing up that year. Now we are supposed to implement \$400,000 less in your budget.

Mr. Sturgill stated if that was the case and we found out then, why didn't we make more budget cuts in 2012.

Mayor Malone advised that we didn't know then.

Mr. Sturgill stated that if we found out in November of 2011, that there wasn't enough for 2011 and we continue in 2012 and decided that we were not going to do it the recommended way and we will continue to go with at least one million dollars in debt. Is that what we decided January of 2012 that we were going to do what we wanted to anyways?

Mr. Williams advised that this correct and if we do not change if for 2012 between now and the end of the year, it will keep up the cost. We did reduce the cost in 2012 from about one million to about \$900,000, so this \$428,000 would have been added to last year will drop to about \$300,000. So add that to the 1.1 million dollars that you are already looking at as a deficit and add \$300,000 more; plus you have 2013 right on you.

Councilman Saddler asked regarding next year, there will be the \$700,000; if we can accommodate this \$400,000 now then we are going to have that this year and next year.

Mr. Williams stated that Mr. Saddler is correct. To reduce your budget deficit to this year again is a negative \$700,000 and next year to be \$0. So now at the end of this year you are not going to be at \$700,000 you will be at 1.1 million dollars. Next year you are already in debt \$700,000 that you had to make up but you are going to add the \$300,000 to next year's budget from 2012 to 1.4 million. So at the end of 2013 if everything goes right you are still \$700,000 in the red instead of \$0. Next year will be the point where you should have been this year; you are going to have to make some changes.

Mr. Sturgill said so next year we will have to cut 1.4 million dollars to erase the budget.

Mr. Williams advised to erase the budget deficit and get back to on track, Mr. Sturgill is correct.

Mr. Haas advised that there is also going to be the additional \$300K or \$400K that is used this year that we won't be able to use next year for charge-offs. So you are compounding so it is 1.7 million, then we are going to have to cut out of the budget for next year to get to \$0, if everything stays the way that it is.

Mr. Williams advised that is correct. You have to come up with different numbers.

Mr. Sturgill asked how we do that.

Mr. Saddler advised the Mayor to put his thinking cap on.

Mr. Williams advised that he has stated repeatedly that we don't necessarily agree. Just because **(someone)** does a study that says \$600,000, the Mayor or someone else might do one that shows one million or someone else that shows \$500,000.

Councilman Kalb stated a few years back a company called Maximus, what did a (Mr. Williams interrupted)

Mr. Williams stated he did, know it was back in 2003. He remembers it saying that we could charge off more than we were. But at that time we were not up to a million dollars. But he does not know the numbers that were on it.

Mr. Kalb wonders how it has changed in to those years with regards to charge-off amounts.

Mr. Williams advised that in his opinion \$600,000 is too little and one million is too much. Mr. Williams addressed Mr. Sturgill asked if he had a question.

Mr. Sturgill stated that he didn't know what to ask.

Mr. Basham suggested with regards to the next budget that we need a post-it note with the number of charge-offs that we are allow to put in there. But in the mean time, as a local elected official, we had a problem: first we had one plan, of CIP money, that the local judge did not find palatable. So we come up with another plan, we though this out, we worked this out, we came up with numbers that within two year we can be back above level or at least to level. Then it is like having the rug pulled out from under you. It is just the State telling the local government what you can and can't do. At the same time telling us you can't have a deficit, you can't do this but you can't be in the hole either. So what if we just don't do anything? He said that it is a mess up there in Columbus and he will vote in November but let hope that enough people vote the way he is thinking. His question is: if we leave it the way that it is what is the State Auditor going to do?

Mr. Malone advised fiscal watch.

Mr. Basham said fiscal watch? If the City goes back up to one and a half million dollar deficit, we are going to end up in fiscal watch anyways.

Mr. Williams advised going back to the number that we need to be at. A reasonable methodology is what they asked for. They did not ask for a cost allocation plan by Schonhardt and Associates. They got one view, they have a guy setting here asking questions. Did he ask the right questions? Mr. Williams stated he does not know but he does not think so. The charge-off study showed the Council's entire budget or nearly all of it charged on to other funds. We have never charged-off City Council's budget to other funds. The City has always held to the practice of never charging-off anything of City Councils. Their philosophy was that everything City Council is does is for the other funds of the City. You can reasonably accept that. So everything in your budget with the exception of small stationary was charged-off to other funds. In their opinion that was reasonable and the State agreed with it. the way that this things are come up with is, they ask a thousand questions.

Mr. Basham asked who they are.

Mr. Williams advised Schonhardt, the guy that they send to do the collection of information. What Mr. Williams asked the Mayor a year and a half ago was ask the same questions and put that report together and show that we don't need Schonhardt to show us how to do it. If our departments can say that our Street Division has a million dollar in charge-offs and we do X amount of that for water and sewer because of water and sewer lines that break. We certainly do more than maintain streets. If the departments were totally on their own they would have to pay for the street repairs. A reasonable cost allocation would be for streets to charge part of their budget over to water for the services.

Mr. Basham advised that he understand this and asked if Mr. Williams believes that 2012 budget has reasonable cost allocations in place.

Mr. Malone advised that we do.

Mr. Williams advised that it is his belief that it is fairly reasonable but that there is not a reasonable methodology in place. It is better than the year before and the year before that. We are on track to reach that \$600,000 over three or four years. You can't just take \$400,000 and be done over night.

Mr. Saddler asked how the State can expect that out of us.

Mr. Williams has stated he has asked that numerous times.

There was unintelligible conversation between several members.

Mr. Williams stated that as long as you have a written methodology as to why you are charging this way. Then they don't care if it is ten million as long as there is something reasonable.

Mr. Sturgill stated that Schonhardt was sent from the state to give us an allocation.

Mr. Williams advised that he was not sent from the State. He was used for Capital Appropriation assistance.

Mr. Sturgill advised that the City of Portsmouth paid for him to come up with that allocation system.

Mr. Williams confirmed this statement.

Mr. Sturgill continued by stating that they gave us a number and we just arbitrarily went a half a million over.

Mr. Williams advised that the budget was already in place for 2011, for 2012 they would need to look at it.

Mr. Sturgill stated that maybe that is why the state is concerned.

Mr. Williams said that could be and he agrees with that. He said 4-12 we could make those changes now, it was going to hurt but in his opinion if you are using reasonable as a basis for this whole conversation, reasonable is not end of the year, in December 1. If you remember it was originally \$700,000 and he told them they were dead wrong and they went back, reviewed it and came back with around \$400,000. They reduced the proposed finding to \$400,000 and said now you have to transfer that money. At the last meeting it occurred to him, that if you are talking about reasonableness, he is trying to split hairs a little bit, because he does not want us to lose that money for this year. However, he also knows if we had a cost allocation plan that showed a million dollars they would have approved it. If we have one that shows \$600,000 they want the difference made up of the \$400,000. This is because they base this as reasonable. If you look at the time frame that you were given for 2011 it was not reasonable, to have implemented that into an 11 month old budget.

Mr. Sturgill stated it would have been reasonable for 2012.

Mr. Williams advised that he stated that in his letter, that they have the City dead to rights for 2012. We are happy to comply with the decision for 2012, we were given fair warning but 2011 is not reasonable.

Mayor Malone advised that we (the City) are looking at the \$400,000 and implementing that being included into the 2013 budget. We are trying to eliminate 1.1 million dollars in the 2013 budget. The only thing that the City will have to make any adjustment to, if needed, is the 2012 budget. He continued advising that there was a meeting scheduled today to work on the charge off issue and come up with a methodology or justification to the 2012 charge-offs. If they are able to get that document together then he would say before year's end it may go a long way in getting the State to readjust or give the City an additional year to work on the amount from 2012. There won't be as much as the \$400,000 from 2011. It will be a smaller amount that the City will be able to address.

Mr. Williams advised that Mr. Malone mentioned two things: coming up with a different plan or justification for 2012. He stated if the Mayor does this and it justifies the 2012 budget then Mr. Williams believes they will be on track. The second thing mentioned was being given more time, he does not see that happening.

Mr. Sturgill stated that we have to get to the point that everyone around the table accepts the fact that 2013 and up, we have to balance the budget.

Mr. Malone advised that they are addressing the 2011 and 2013. The 2011 \$400,000 charge-off that we have to make the adjustment for, will be included in the numbers for 2013. The 2012 the State has not audited that yet so there is not a required adjustment as of yet. This is something that they will work on putting together a methodology or a justification for when they do audit. If they come up with a reasonable justification it maybe favorable to us, he is not sure as he does not know what the state is going to do.

Mr. Williams added that going back to Nick's (Basham) question: what the State will do: as far as whether they place us in Fiscal Warning, he can't answer that. He did however ask the same question: what if we don't do it, this was back in his first response. He did receive a preliminary response that maybe the City would just take your situation and move one. He found out later that it will still carry over into the next year. He figured that is what would happen but he did actually get a response.

Mr. Basham said that next year we would have closer to a balanced budget.

Mr. Williams advised that you will still have to carry over the \$400,000 and add it to what every they are going to come up with from 2012. He believes that this amount will be about \$300,000, so add the \$400,000 that we have and add that to the \$300,000, you are starting out at the end of this year with 1.4 million at the beginning of 2013 instead of \$700,000.

Mr. Saddler stated we are was right back to where we were with respects to the budget.

Mr. Haas stated that we had a report done by Schonhardt, but what he believes Mr. Williams said is that if the Mayor's office can come up with the same kind of reasonable plan, that would suffice.

Mr. Williams stated he cannot say how the state would view this. It is the Mayor's office, the Mayor's budget, he creates it and if he has a reasonable methodology for where those numbers come from .

Mr. Haas stated that it is no different from what Schonhardt or anyone else has come up with.

Mr. Williams advised that it just has to be documented and verified as to why for example \$30,000 from general fund charged-off to Water. Why did you do it? Do you have a reason for doing it?

Mr. Basham addressed the Mayor asking if he would make that happen.

Mayor Malone advised that yes he would.

There were no further questions or comments. The roll was called. . **VOTE: ayes 6 – nays 0**  
**The Ordinance was passed. ORD #12-50.**

The Clerk gave a **reading** of a resolution designating a date and time for the 2012 Halloween "Trick or Treat" night for the City of Portsmouth, for Tuesday, October 30, 2012, from 5:30 p.m. until 7:00 p.m. for children up to and including the age of fourteen (14) years of age.

**RES #12-14 –  
Halloween  
/Trick or Treat  
date and time  
set**

Councilman Johnson moved that the resolution be adopted.

There were no questions or comments. The roll was called. . **VOTE: ayes 6 – nays 0**  
**The Resolution was adopted. RES #12-14.**

The Clerk gave a **reading** of a resolution accepting the amounts and rates as determined by the Budget Commission of Scioto County, Ohio, authorizing the necessary tax levies, and certifying the same to the Auditor of said County.

**Res #12-15 –  
Tax Levies  
Budget  
Commission of  
Scioto County**

Councilman Johnson moved that the resolution be adopted.

Mr. Kalb pointed out that the year at the top of the resolution is 2011 and not 2012.

Mr. Kalb advised that we could address this as a typo and President agreed.

There were no questions or comments. The roll was called. . **VOTE: ayes 6 – nays 0**  
**The Resolution was adopted. RES #12-15.**

The Clerk gave a **second reading** to an ordinance authorizing the Mayor of the City of Portsmouth, Ohio, to enter into an Agreement with Portsmouth Residents Organized For Urban Development (PROUD, INC.), a non-profit organization, of which Jim and Allison Kalb are trustees and incorporators, for the repair, remodeling and use of the Shelter House at Mound Park.

Councilman Johnson moved this constitutes a second reading.

Mr. Sturgill asked if there was a reason why the Council did not just go ahead and pass this ordinance.

Mr. Haas advised not that he is aware of

There were no questions or comments. The roll was called. **VOTE: ayes 5 – nays 0 Abstain – 1 (Kalb) A second reading was declared.**

The Clerk gave a first reading of a resolution authorizing the Mayor to apply for, accept, and enter into a water pollution control loan fund agreement not to exceed \$250,000 on behalf of the City of Portsmouth for planning, design and/or construction of wastewater facilities; and designating a dedicated repayment source for the loan.

Councilman Johnson moved the resolution be adopted.

Mr. Johnson asked about the designated repayment source for the loan.

Mr. Rick Duncan, Waste Water Director addressed Mr. Johnson's question stating that the City Solicitor prepared the resolution and the repayment will be out of the sewer fund and is stated in Section II.

Mayor Malone clarified that when things such as this are going forward there is the opportunity for qualified bidders. He addressed Mr. Duncan asking if this agreement will allow for this to take place.

Mr. Duncan apologized for the timing of this resolution. He does not like to bring things to Council at the last minute. However there are 2012 funds still available at a low interest rate, just over 2% interest. This will do will get the City ready to apply for the 2013 funds. These funds are going to be very supportive of the City getting what is called principal forgiveness loan. This means that part of the loan will be wiped out, similar to a grant. The principal forgiveness funds are completed for 2012, but will be available in 2013. Mr. Duncan is very hopeful that the City can obtain about 50% or more from this 2013 fund and the remainder will be low interest. The City will have to go through the requirement of the State with regards to the consultant selection. The deadline for this application is October 1, 2012. This date was not known about until late last week during a meeting with the Solicitor and himself. This is why the timing is crucial. Again this application is due by October 1, 2012 as it must be submitted 60 days before the last meeting of the EPA. To answer the Mayors question yes there will be qualified consultants and contractors.

Mr. Johnson stated that former Senator Voinovich headed up the committee that looked into the nationwide CSO issue. The figure that they came up with for this nation issue was approximately 3.3 trillion dollars. Due to this amount it is apparent that the EPA is not able to address this issue even in a tenure time. He also stated that EPA monies are; use it or lose it, because there is so much demand for not only the funds that are given at a low interest rate but also the principal interest forgiveness program. Mr. Johnsons believes that this is a great opportunity. Not every community is getting this opportunity and if you add the number, only a few hundred at most across the nation, will receive this opportunity due to the limited amount of funds available from the EPA to address the CSO issue. He supports this resolution stating that it places the City in line to go after the monies in 2013. The City has been at this, as stated by Mr. Essman, a long time and it is time to see progress and the EPA wants to see us make progress.

Mr. Malone agreed with Mr. Johnsons last statement.

Mr. Kalb believes that Mr. Duncan stated that the money that is available this year is left over and is at a low interest rate. We have the opportunity to snatch some of those monies up now.

Mr. Duncan advised that Mr. Kalb's statement is correct.

Mr. Sturgill requested clarification that the City will have to apply now in order to be eligible for the low interest funds? We could not apply a month from today and still be eligible for the low interest funds?

Mr. Duncan advised that the 2013 funds are not available yet and would not be available before the end of the year. This application will help the City to be ready to get the 2013 funds. This is to pay for continuing reporting, preliminary engineering for projects and the EPA has encouraged the City to buy some video equipment as a backup, this information was outlined in the memo sent to Council. He continued stating that there are three items with this request. The principal forgiveness program is not available for the planning stage, which this is considered. However it is available for engineering, design and construction which will be covered under the 2013 monies that the City will be requesting. The application that the City needs to submit has to be 60 days before their meeting. The last meeting of the year will be in mid December 2012. To be placed on their agenda we have to have the application in by October 1, 2012.

Mr. Kalb asked when the funds would be released.

Mr. Duncan advised the funds would be released that month. They meet monthly with the exception of the months of November. They just have one meeting and this in December for both months. The funds are available immediately.

Mr. Kalb asked if the funds would be available the same day for the low interest and forgiving.

Mr. Duncan advised yes. The following year he believes they have monthly meetings even in January. The City will not have to wait until December of next year for 2013 funds. The City just have to be in time to get it into a meeting.

Mr. Haas requested clarification that this money is for planning and some equipment. The funds next year will be for the principal forgiveness type money which will be used for construction. These funds are necessary to complete the planning before moving on to the construction.

Mr. Malone advised that as far as the construction is concerned; the consent order that we are waiting on, is it normally practical to fund something like this when we really don't know what is in the order?

Mr. Duncan advised that they have been working on this order since the spring. The schedule, which that they are looking at now, they want to have a document that both parties, the City and the EPA, by October. This is a raw outline. Once the draft is complete before the end of October, it will be released for public comments. Public comments will go from November 1 to December 1. This will be published and on the City web site and made available for public comments and respond to the draft plan. Nothing will be finalized before the public process is completed.

Mr. Malone addressed Mr. Duncan stating that he had said, in an email, that this is a draft but a more detailed or final draft is forthcoming. Mr. Malone wanted to know how much of a difference will there be compared to the draft.

Mr. Duncan advised that the draft that is currently complete he is very satisfied now. The US EPA seems to be satisfied with this draft. The attorney, US EPA and Dave Burchmore, Squires and Sander the City's attorney, they want to take one last look at it and then it will go to City Council for input. He is hoping to get that done by mid October. There is just some language that the attorneys are wanting to clean up a little bit. The main parts are the construction projects that are outlined in the memo sent to the Mayor and Council. The only construction is what is called CMONS, Capacity Management Operations and Maintenance, explaining the reports that you have to repair. It basically forces the city to become very correct, instead of just keeping up with the payment. There is a five year schedule that is to be followed. At the end of that five years every sewer in the City will have been cleaned. Then we will go back and do it again.

Mr. Kalb said we have not reached the point of retention ponds but when we do, will there be money there either through low interest loans or grant money to purchase property for water retention.

Mr. Duncan advised that it can be included at the time if needed.

Mr. Johnson wanted to thank Mr. Essman for his comments. Mr. Johnson went out to look at some of the properties this past weekend and the comment about the general contractors bidding on and putting systems that disconnect from the CSO. Mr. Johnson saw firsthand where neighbors run off was directed directly into his (Mr. Essman's) basement. How do you get the word out to the contractors that are getting the work in this area, to get them off the CSO drainage and on to the lawns? They need to be given guidance as the work is being done willy-nilly. It may be solving the City's issues but it is not solving the issues of the home owners in the area. Mr. Johnson does not know how this is going to be addressed, with the high numbers of contracts going out to divert off of the CSO.

Mr. Duncan agreed that this is a legitimate concern and he is encouraging citizens to call the City, which Mr. Essman has done. The City has been in contact with several of the citizens that received letters, they are trying to divert their run off. However it is still an ongoing issue.

Mr. Johnson continued by stating that not only the proximity but the topography of the area that is an issue. One other thing that he has notice about Grandview Avenue, when the City has repaved this street the City has not cut back then repaved. The paving has been done on top of the existing pavement. There are curbs and sidewalks that are barely this much, (indicating with his fingers approximately one half inch) above the road way as opposed to when they originally start like this (indicating with his fingers approximately 3-4 inches). Over the years the pavement has built up. Not only has this encumbered the system to take the drain water off the old side units to take the drain water; some of them have openings like this (indicating one half inch), some of them have had grates installed to deal with the water. The problem is when it rains and you look at the topography of SOMC and adjoining properties and how the road ways funnels water off the parking lots and such. This water is funneled to Grandview which in itself becomes almost a river going towards 11<sup>th</sup> and 12<sup>th</sup> Streets. You only have this much of a difference between the sidewalks and the road ways (indicating one half inch) where the drains could capture and take the water away, it is getting into the lawns. Has any consideration been given to redoing Grandview so that there is a curb system that will keep the water out of the lawns and directed the drains that to exist on Grandview.

Mr. Duncan advised that this has been considered and he plans on trying to get that project done next year. He has instructed Mr. Altman and some of the resident on Grandview would like the option of diverting their down spouts to the street. He has been told that any situation where they can divert the water to the street, the City will divert the water to the nearest manhole or catch basin by grinding as needed and making it smooth. We will do that has needed this year. As for doing both sides of the street he would like to have this done next year. It has not been addressed with the EPA at this point.

Mr. Sturgill asked if Mr. Duncan stated that he send a consent order to be done by the end of October.

Mr. Duncan advised that they did not get the consent order until two weeks ago today, the same date as the last Council meeting.

Does it make since to make sure that this is taken care of before we take a vote on with the current resolution.

Mr. Duncan pointed out that if this is not passed the City will lose the opportunity to obtain the 2013 principal interest forgiveness funds.

Mr. Sturgill asked again stating that he is not sure the Mr. Duncan answered it but Mr. Sturgill didn't hear it. Mr. Sturgill believed that this had to be passed right away in order to get the low interest loan. Is that true or not?

Mr. Duncan advised that the low interest loans 2012 principal forgiveness funds have already been given out and those funds are not available for the planning phase of the project. The funds that he is requesting are 2012 funds. In order for the City to get the 2013 funds there is required preliminary work that must be done, that is what the 2012 fund are for and it will put us first in line for the 2013 funds.

Mr. Sturgill stated he guesses he will have to wait on his question but he believed that the process that was in place was: that the department head would bring this to the Mayor, the Mayor would intern bring an ordinance or resolution to Council when he was comfortable with what the department has presented. He addressed the Mayor stating that the Mayor does not act like he is comfortable.

Mayor Malone stated as Mr. Johnson said we have been at this for a while. He has found out that Rick, Trent and the Solicitor met to put together this resolution.

Mr. Sturgill asked how the Mayor was left out of this process.

Mr. Malone said it was his guess that they chose not to include him. He continued by stating that they have been at this for a while, the long term control plan He has participated in some of the conference calls and knows the thoughts and ideas, the projects that are in the planning but as far as this particular document he was not aware of it until noon on Friday.

Mr. Sturgill believes the details are important. Most of what has been discussed this evening is about details and process. He added that Mr. Johnson knows the process.

Mr. Johnson stated that he also knows when dealing with the EPA you have to strike when the iron is hot. He also knows that most if not all of what is proposed within the quarter of a million dollars is something that the EPA has discussed before and will require no matter what consent agreement that we come up with. This will be a part of that. He feels very confident about that. He may have quibbles, don't get his wrong, but his quibbles are minor compared to the big picture of what Mr. Duncan is trying to accomplish.

Mr. Williams wanted to answer Mr. Sturgill question about keeping the Mayor out of the recent meeting. He advised that the meeting that took place last week, he has been getting copies of the email for this project. He is involved because he is the one who will be signing off on the financial part. He is not going to the meeting when Mr. Duncan may be meeting with the Mayor or their meetings with the Solicitor where they have been coming up with the consent stuff. He appreciates the email and the opportunity to be involved so he can see where the path is going. He gets a call from Strand wanting to go over the financial information necessary for the application. He meet with Strand.

Mr. Sturgill said he thought it was going to be put up for bid.

Mr. Williams advised that he did not believe that you put your consultant up for bid.

Mr. Sturgill said we don't put that up for bid?

Mr. Williams continued to state that you put your projects up for bid after they are decided on. But that is out of his realm. His realm has to do with the application sent to the EPA to get the money to do the projects and without the money available you can't do the projects. The projects may change. The consent order may come in two week and a decision made that something different needs to be done but without any money nothing can be done. He was asked to meet with Strand to help fill out the application with the financial information. At this meeting it was discovered that part of the application was a resolution by Council appointing a representative to act on behalf of the City. At that time the realization was made that this resolution had to accompany the packet being sent and they needed to see if the Solicitor could pull together a resolution by Friday, so it can be presented to Council on Monday. This is how Mr. Williams comes into the whole thing. And the reason for the Mayor's absence, he guesses he was not needed for this part of it but as far as Mr. Williams know the Mayor has been included on the emails and every other part of this project. As for what is currently before Council, whether they do A, B, C and D or Z, X, Y and W,

you are going to need money to get started. This money is available until October 1 and then it is gone. He stated that they were told that this is needed to get started in order to utilize 2013 and if we lose this money, we will just be that much further behind.

Mr. Duncan advised that he was meeting with Mike Jones (Solicitor) about a different issue. He was aware that the Auditor would be meeting with Strand. We were told that we had to get a nomination form in by October 1, 2012. That is what Strand was working on with Trent. As they were reviewing the application they verified that there had to be a resolution accompanying the nomination. In the meeting Mike agreed to draft the resolution. The next morning Mr. Duncan get a call from the City Clerk advising that he would need a memo go accompany the resolution. He put the memo together and got it turned in by noon. The Mayor was not aware of the memo until he got it. He did not have the chance to discuss this with the Mayor until after the memo was sent. No one was left out of any meeting and he would not do something like that. On the other issue; will be additional ordinances to appropriate funds which will allow Council the opportunity to voice any of their concerns. He regrets the un-timeliness of this and it was not intentional and he appreciates their support.

Mr. Williams added this resolution just give the City access to the money. If the plan changes, the money can still be used at that point. He did bring it up to Mr. Duncan that the meeting of the EPA,, in December, then we are looking at receiving the money sometime in January and at that point you will have to have an appropriation order to expend the funds. However by that time you will know exactly know what it is for.

Mr. Basham called for the question.

There were no further questions or comments. The roll was called. **VOTE: ayes 5 – nays 1 (Sturgill) The Resolution was adopted. RES #12-16.**

The Clerk gave a **reading** of a resolution to authorize the Mayor to sign to renew the annual agreement between the Scioto County Commissioners and the City of Portsmouth to provide representation to indigents charged in the Portsmouth Municipal Court.

**RES #12-17  
Indigent  
program  
though  
Municipal  
Court**

Councilman Johnson moved that the resolution be adopted.

Mr. Johnson advised that this resolution is required yearly and that this does not add money to the City's budget as this item has already been budgeted for.

There were no further questions or comments. The roll was called. . **VOTE: ayes 6 – nays 0 The Resolution was adopted. RES #12-17.**

#### **STATEMENT OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA**

Lee Scott – 936 ½ Ninth Street – Mr. Scott advised that he has spoken to Council regarding the Columbia and the Charter. He wants to help our area move ahead. He has done a lot of research on Charter types of governments seem to be a good government when they are county wide and not when it is just a small city, like ours. Our city has 78 men for every 100 women, so you men better watch out. Our city charter was adopted in the late 1928, the population of the City at that time was approximately 42, 000. Our city was very prosperous then. We have had increases in population of 40-46% prior to the enactment of our charter. Once the charter was enacted in 1928, over the next 40 year, every 10 year there is a decrease. Every 10 years we have lost citizens. And now the City is at 20,000 in the last censuses, they haven't let the area, just moved out into the county. Our county population has remained around 80,000. A lot of our jobs have left the area. We only have about 40% of the people in our area are under 24 years old, they are not paying taxes, 20% of the population are retired, they are not paying taxes. You have 20,000 unaccounted for that have left the City, those were the working base of our City. The average per capita pay for the City is \$15,000 a year. The house hold income is \$31,000 per year. He agrees with what Chillicothe Ohio did, they took out their charter for one census period. During that census period they grew. It does not take a rocket scientist to look at the numbers of this city to tell what went wrong. Our original Charter, he has a copy at his Home in North Carolina, speaking of which a quarter of a million dollars house, same as the one here. His property taxes down there are \$1100 a year, up there they are \$3600 a year. What is wrong with that picture. It is the way we had done things, the way we have let our charter rule us. We have lost so much income in our city. We have made some really bad decision. We have give away (His five minutes was up) He requested that it be looked into by Council to see for themselves how bad it is.

#### **MISCELLANEOUS BUSINESS AND RPORTS:**

##### City Clerk's Report –

1. Oaths of Office

Oaths of Office

Jo Ann Aeh

Acting Executive Secretary - Civil Service  
Commission

9/12/2012

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

Mayor's Report – Mayor Malone did not have a report at this time.

President's Report – President did not have a report at this time.

#### MISCELLANEOUS BUSINESS FROM CITY COUNCIL

1<sup>st</sup> Ward Councilman Johnson address the Mayor regarding some repair work on roads that received immediate response from the Mayor's Office. Mr. Johnson expressed his appreciation for the quick resolutions.  
Mr. Johnson wanted to know if the issue with the Alley at 24<sup>th</sup> street.

Mayor Malone advised that it was being taken care of the following day.

Mr. Johnson continued stated that residents from Zittua, Germany will be arriving October the 18<sup>th</sup>. For purposes of Council and the Mayor the dinner for them will be held prior to their leaving on October 21, 2012 at SSU and the cost is \$15.00. One of the issues that Sister City had brought to his attention was the way the downtown area looked, let's just say very trashy. He took this to Judge Mowery whom he wanted to thank and all his staff and probationers. Judge Mowery must have had a dozen workers hitting every street in downtown Portsmouth this morning picking up trash. They will be following up to ensure that our downtown is pristine. So between that and the bricks being replaced along Chillicothe Street, we will be in good shape for their visit. Mr. Johnson advised that a group went to visit Zittua many years ago and it is not only a beautiful city but these are beautiful people and he hopes that Portsmouth will show them that we love our community as much as they love theirs.

2<sup>nd</sup> Ward Councilman Saddler addressed the Mayor requesting information regarding the Service Department yard that was discussed in the last meeting. Mr. Saddler noticed that there has not been any trash removed but there has been more brought in. He would like to see something taken care of with respects of this.

Mr. Saddler advised that the Building Committee met last Wednesday and during the Mayor's Conference agenda this topic will be brought up. There are two members here this evening, Sharron Bender and Sean Boldman and Council may ask either to address Council or answer questions during the Mayor's Conference.

3<sup>rd</sup> Ward Councilman Basham addressed the Mayor requesting that he pass information on to Crystal in Engineering, that the alley between Highland and North Robinson. He requested clarification from Sharron Bender, who stated it was between Highland and Robinson bordered by Fourth Avenue and Franklin. Mr. Basham asked if there is any leftover pavement, there are some spots there that make it difficult for cars to pass, trucks are fine.

Mr. Basham also wanted to thank the Mayor on how well the paving has gone. He has heard a lot of comments from citizen that are glad to see it being done and whatever company we are using, he searched for the word, then stated he didn't even know they were there. One morning he saw some cones up when he came home from work US RT 52 was smooth. He was impressed with how quick they are completing the work. It is nice to see that it is not disrupting to much at once throughout the city.

Mr. Basham want to address the statements regarding the Charter verses the Ohio Revised Code he had asked prior if someone could come to Council and present the advantages. He would still like to hear that. He said that what was presented tonight the census number can be blamed on the decline on the shoe manufacturing and the steel manufacturing in our town. This was a nationwide decline and affected more than just Portsmouth. He does not feel that our City Charter pushed that out of the County. He would still like to hear the advantages as to why the Ohio Revised Code would be better for Portsmouth.

4<sup>th</sup> Ward Councilman Kalb did not have a report at this time.

5<sup>th</sup> Ward Councilman Haas just wanted to second what Mr. Basham said about the paving. It was amazing how fast they ground it up and put it back down. He appreciates that. He is also appreciative of the areas that are being paved. He

addressed the Mayor stating that they did a good job picking out the worst of the worst to get take care of first.

6<sup>th</sup> Ward

Councilman Sturgill wanted to echo what has been said about the road paving. Everywhere you go people are talking about it and they are happy. It's a good thing. The company seems to be very professional. He came into town one day last week when the work was being done on US ST 52 in the morning and he assumed he would have to go around the Kentucky side. He went down the Kentucky side on his way home and was told later that the road was done and open.

He also wanted to comment on the Rose Street Park completion. However he feels that one name was left out of the article and wanted to call to attention Mr. Rich Noel's contribution to the project. He addressed Mr. Noel thanking him and stated if it wasn't for Mr. Noel it would never have been done in time.

City Auditor

Trent Williams did not have a report at this time.

The meeting adjourned at approximately 7:29 p.m. on a motion by Councilman Basham.

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City Clerk

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President of Council