

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday, JULY 13, 2009

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, July 13, 2009 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Acting President, David Malone 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:

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.

Council dispensed with the reading of the Journal for the regular session of June 8, 2009, on a motion by Councilman Albrecht, however Councilman Noel acknowledged to have misspoken in several instances and pointed out the fact that on page 4, paragraph 1, he referred to the \$2,000,000.00 street paving expenditure as \$200.00 and that he also referred to pay raises being 90% when he meant to say “9%”. Mr. Noel’s corrections were noted for the record.

On a motion by Councilman Albrecht, Council added to the agenda an ordinance authorizing assistance from the City to the Portsmouth Murals Inc., in their endeavor to secure grant funds to be used for placing additional murals on the floodwall.

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

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Linda Switzer – 319 Front Street, with regard to leasing the additional floodwall panels to Mural’s Inc., said she would appreciate it if a hearing were held on this so the Solicitor could explain the program. She said she is worried about leasing the floodwall to a non-profit organization and expressed her hope that the Council would “think long and hard” about leasing the floodwall for sixteen years.

Dee Penix – 1708 Hutchins Street, with regard to the ordinance proposing paying for street repairs through bonding, noted that, if the ordinance is passed this evening, the taxes to pay the debt would not be collected until 2011. She acknowledged that debt must first be created before payments can be collected from the debt retirement funds and did not see that as a problem, however she believed the additional taxes is only for one year. Since this assessment would be for two years, Mrs. Penix inquired as to how much extra interest would be paid for that additional year. She said she has a problem with more dollars being paid for interest “to borrow into the future years”. Mrs. Penix stated it to be her impression that the bond issue would be paid off in a single year. She noted the Mayor to have been quoted in the newspaper as stating that the City has not exceeded 4 mills since the 1960s and that the City has no plans to exceed that amount in the future. Mrs. Penix expressed her hope that the citizens can count on that and would like for the members of Council to agree to that statement. Noting that the City is already at 3.80 mills, she asked if that meant that Council has given up the idea of a City Building, because she did not believe an additional .20 mills would cover that cost. She inquired as to what will happen if there is an unanticipated emergency and there is no other means except debt retirement to address the cost. Mrs. Penix called these “serious questions” that need to be answered. She also noted a lengthy discussion at the last meeting about the fact that not many streets can be paved with this amount of money, which she felt would leave some streets that are not going to be done and inquired as to how future street paving will be done after the proceeds from the bond issue have been exhausted. Mrs. Penix said she felt there to be a lot of questions that have not yet been answered.

Teresa Mollette – 1705 Franklin Blvd., with regard to the addition to the agenda, accused the City of not taking care of things and that no one takes into consideration what other people might think. She reiterated her opinion, as she has expressed at other meetings, concerning the involvement of the public.

Mrs. Mollette felt the City was “moving too fast” with regard to street paving and that the plan to issue bonds to do \$1,000,000.00 in paving was spending the City future funds. She felt there to be no guarantee that the City would not go over the anticipated mills and again accused officials of not thinking things through. She claimed the City to collect almost \$1,000,000.00 per year from sale of licenses and made reference to charge offs. Mrs. Mollette asked that the City makes sure that the roads that are being paved are

moving us forward. She acknowledged everyone wants better roads but they also want a “comprehensive plan”. She felt there to be a need for “forward thinking Council people” and if they are not we need change.

Harald Daub – 1221-22nd Street reiterated his question from previous meetings with regard to how the \$600,000.00, he claimed was paid to the City for the sale of the pipeyard, was expended. He noted the money to not have been earmarked for streets and asked who was “tearing up” the streets. He again claimed there to be two members of Council who do not own property in the City. He claimed the City to be taxing people who do not even own a vehicle and claimed the streets to be damaged by large trucks. He claimed there to be empty buildings “setting everywhere” and accused the Mayor of “dropping” the rental fee program because his supporters owned rental property. He questioned where the \$93,000 collected from license fees and the money received from the gasoline taxes was being spent. As at a previous meeting, Mr. Daub again claimed some attorneys make more in an hour than some people make in a week. He requested the ordinance be tabled.

Austin Leedom – 1521-5th Street, noting, “some things sound harsh”, again claimed there to be members of Council who have not paid property taxes in years and claimed the citizens are angry with any member of Council who votes for this and that maybe in November there would be three, possibly four or five, new faces on City Council because the citizens will be angry and are going to object. He described this possibility as being “one kind thing” that he sees about all this.

LEGISLATION

The Clerk gave a **third reading** to an ordinance authorizing a fund transfer of \$20,234.62 from the Mandatory fine Account No. 223 and \$1,576.48 from the Dare Account No. 213 to Law Enforcement Trust Fund No. 225.

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #45-09**

The Clerk gave a **third reading** to an ordinance providing for the issuance of \$800,000.00 Street Bond Anticipation Notes, Series 2009, by the City of Portsmouth, Ohio, in anticipation of the issuance of bonds.

Councilman Mearan, commended the Mayor for posing a way to deal with the problem that is facing everyone but felt the ordinance should be tabled at this time until there such a time as we can “come back with some long-range approach to the problem”. He felt the possibility of alternate sources of revenue need to be explored and if the use of the debt retirement is the answer then a plan will be needed for subsequent years. Councilman Mearan moved to table the ordinance.

The roll was called. **VOTE: ayes 6 – nays 0 The ordinance was tabled.**

The Clerk gave a **third reading** to a resolution providing for the annual tax budget for municipal purposes for the year 2010.

Councilman Albrecht made a motion to adopt the resolution.

The Auditor noted that since the bond issue did not pass and it was included in the tax budget the resolution would have to be amended to show the amount of funds derived from the Debt Service to be \$846,000.00 instead of the \$878,000.00, thus changing the grand total from \$32,421,000.00 to \$32,389,000.00.

Councilman Albrecht made a motion to amend the ordinance in accordance with the Auditor’s suggestion.

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

There being no further questions or comments on the motion for adoption. The roll was called. **VOTE: ayes 4 (Albrecht; Haas; Mearan; Malone) – nays 2 (Noel; Mollette) The resolution was adopted. RES. #07-09**

The Clerk gave a **second reading** to an ordinance authorizing the appropriation of \$10,000.00 from Capital Improvement Fund No. 301 into Grounds Maintenance Machinery and Equipment Capital Improvement Line Item No. 301.333.5533 to go towards the purchase of a pick up truck that was totaled in a vehicle accident.

Councilman Albrecht moved this constitute a second reading.

There were no questions or comments. The roll was called. **VOTE: ayes 4 (Haas; Mearan; Malone; Albrecht) – nays 2 (Noel; Mollette) A second reading was declared.**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance of insurance check No. 4085 in the amount of \$2,760 for damages to Fire Department vehicle No. 197 Tower 2 aerial fire truck into General Fund No. 101.000.4931 and the appropriation of the same into Garage Licensed Parts Line Item No. 101.117.5351 in order to pay repair cost.

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

The roll was called. **VOTE: ayes 5 (Mearan; Malone; Mollette; Albrecht; Haas) – nays 1 (Noel)**
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 6 – nays 0**
The ordinance was passed. ORD. #46-09

The Clerk gave a **first reading** to an ordinance authorizing the appropriation of an additional \$13,000 from the General Capital Improvement Fund No. 301 into Garage Line No. 301.117.5238 to replace the wash bay system that recently became inoperable.

Councilman Albrecht moved this constitute a first reading.

The Mayor advised there to be a need to replace this system since there was no other way to wash the equipment and further advised that he could answer any questions anyone might have with regard to this need.

There being no further questions or comments the roll was called. **VOTE: ayes 4 (Malone; Albrecht; Haas; Mearan) – nays 2 (Mollette; Noel)**
A first reading was declared.

The Clerk gave a **first reading** to an ordinance authorizing the appropriation of \$6,350 from the General Capital Improvement Fund No. 301 into Engineering CIP Traffic Line Item No. 301.331.5329 for the purchase of five 200 amp electric panels to provide electrical services to the River Front and Bannan Park and consider the same to be an emergency measure.

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

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

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0**
The ordinance was passed. ORD. #47-09

At the request of the Acting President, the Clerk gave a **first reading** to, and read it its entirety, an ordinance authorizing the Mayor of the City of Portsmouth to enter into a lease agreement with Portsmouth Murals, Inc. for the purpose of assisting Portsmouth Murals, Inc. in securing a grant from the Ohio Cultural Facilities Commission for additional floodwall murals. The deadline for submission of the necessary documents for this grant is July 30, 2009.

Prior to a motion being made, the Solicitor advised everyone that he was contacted by our State Representative, Todd Book, in regards to this request. Mr. Jones said he has also dealt with the Ohio Cultural Facilities Commission's legal counsel. He explained the issue to be that the Commission, as part of their grant requirements, require the entity receiving the money enter into a lease for the actual (*not discernible*) they receive. Mr. Jones noted that, in the case, the amount of grant money that will be received is \$250,000.00. He explained this to be just for the sole purpose of allowing Portsmouth Murals to lease the floodwall for placement of murals on the remaining panels. Mr. Jones assured everyone that the City is not giving up any rights and there are no safety issues involved regarding the floodwall. He also noted that the Army Corps of Engineers will retain all their rights with regard to maintenance of the floodwall, if necessary. Mr. Jones noted this is being done in order to assist the Portsmouth Murals to obtain this grant. Mr. Jones, noting his work with the Commission's legal adviser, said the Commission is the one that has approved this lease agreement. He explained the reason for the time of the lease being sixteen years was because they typically require a fifteen-year lease, however with the deadline for this particular grant application being July 30th, the funding will probably actually be January of the next fiscal year, they want to be sure that the actual fifteen-year period is covered. The Solicitor said he would be happy to answer any questions anyone has and asked Council to take into consideration the deadline for submission of the application. Mr. Jones described this as being "a good thing" and he did not see any legal ramifications and would be a benefit to Portsmouth. The Acting President inquired as to how much space is available for additional murals. In response, the Solicitor noted there to be very limited space and pointed out a small section of floodwall facing Second Street that has not yet been utilized for murals. He advised that, from the City's standpoint, we are only trying to secure this money for Portsmouth Murals. Mr. Jones again advised everyone that this lease agreement is required by the Ohio Cultural Facilities Commission and have actually provided him with the lease agreement, which he has reviewed. In response to Councilman Albrecht asking if this lease is only for those blank panels or for the

entire floodwall , the Solicitor stated that the way the lease is drafted it would include the entire floodwall but again noted the only panel left for the placement of murals is very limited. Noting the application to be due July 30th, Councilman Albrecht asked if this were given a first reading, would there still be time for the submission of the grant. Mr. Jones, acknowledging Council's next meeting to be July 27th, said there would be time, but advised that it would be close, if Council feels it is necessary to give this a first reading. He further advised that he will be happy to provide Council with any additional information they might want. Councilman Haas asked if this lease or ordinance, if passed, have any affect on Portsmouth Murals, Inc. from obtaining other funding from anywhere else. The Solicitor said he could not honestly speak for Portsmouth Murals, Inc., noting, again of Representative Book's request of him, which is to assist Portsmouth Mural's, Inc. in securing this particular grant for \$250,000.00. He further stated that Representative Book and the Portsmouth Murals Inc's concern is that if they don't get this lease, they will, potentially lose that quarter of a million dollar grant. In response to the Acting President asking if the grant would expand the fifteen years, the Solicitor, said he could not speak for the Commission but noted their requirement to be very specific, saying that is part of their agreement requirements to allocate money through the Cultural Facilities Commission. In response to Councilman Albrecht asking if this was an "assured grant" or if there was a possibility that they would not get the grant. Mr. Albrecht explained his thinking to be that, perhaps there should be language in the lease that says if they don't secure the grant, the lease would be void. Mr. Jones advised that could be included in the lease agreement. Councilman Mearan asked if more than three days is needed to prepare the grant for submission before the deadline. Mr. Jones said he can get it together in one day but expressed his concern with the time constraints. However, he felt that once Council approves the lease he could secure the Mayor's signature that same day, which would be July 27th.

Councilman Albrecht moved this constitute a first reading.

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

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Harald Daub – 1221-22nd Street reported what he described as a "dangerous issue" and calling it a "sink hole" on private property on Thomas Avenue and felt this could threaten the life of a child. He claimed he has watched this "serious hole" for months, that the water, in this hole, is about 4 feet deep in spots, and that some boys threw a dog into the hole. He claimed this property has been allowed to turn into a dump noting Council to pass ordinances with regard to property maintenance but felt that when there is a "life and death" issue it is ignored and felt the City to "run on favoritism, political favors", saying "if you don't agree with Council or what they do, then the shoes on the other foot". Mr. Daub said, "I want Council to have that immediately taken care of, if not, if there is a life or someone's harmed up there, I'll be the first one here to point the finger at you". He claimed the mud to be like "quicksand" and asked if Council wants the fate of an "unsupervised child" on their hands should they wonder into this "hole". He continued, saying, "I'm pointing this out to you and I am demanding immediate action, I mean first thing in the morning". He claimed he has kept quite too long about the deteriorated condition of this area of the City. He said he did not think the City owns the property involved but felt they are responsible. He expressed his hope that Councilman Haas would drive past this property tonight, noting that it is in his ward.

To Mr. Malone, Mr. Daub stated, "This is City Council's meeting, you are the president of it, statements are made by members of Council or Mayor concerning anything that is said here. I hope that Council will allow a rebuttal of false statements made by anyone at the end of the meeting about any issue that has been spoken of, I hope that Council will have the dignity to allow rebuttal of that".

Teresa Mollette – 1705 Franklin Blvd. claimed weed killer to have been used in the cemetery along the fence line and around tomb stones. She felt this made the cemetery look bad and blamed the administration of the City for allowing this to happen. She commended the employees at the cemetery for doing the best they can with the resources they are given. Mrs. Mollette felt seasonal workers could be used to provide additional help with the upkeep of the cemetery. She also reiterated her remarks with regard to charge offs and claimed management of the City was not good.

Eileen Perry – 1410-15th Street also inquired as to how the City spent the \$600,000.00, which she claimed, was paid to the City for the pipeyards. She also reported weed, rats and rodents to be present in a lot across fro Bannon Park and asked, "why not mandate people to clean up this property", noting the property to be owned by someone.

Miscellaneous business and reports:

The City Clerk had nothing to report.

Mayor's Report

1. He pointed out a correction to those who claimed the City to have received \$600,000.00 for the sale of the pipeyard property and informed them that the property was sold for \$475,000.00, which was clearly listed in the 2009 General Fund Budget as a General Fund Revenue, noting it is "right there" and has not been

hidden and there has been no secret about it. He also felt this had been posted on one of the Councilmen's web site and provided that web sites address.

2. With regard to the "life and death" issue on Thomas Avenue, the Mayor said he would have that looked into and expressed his lack of understanding why the citizen would wait for three weeks (the length of time since Council's last meeting) to report this "life and death" issue and could not understand why the person did not immediately call the proper authority or his office so he could take care of it.
3. With regard to the accusation that he, as Mayor, dropped the rental licensing program, he responded by saying he supported this program when it was twice before discussed and he still supports it. He said the revisions that were requested were made and he would not have brought the issue back for a second time had he been "playing up to his development buddies".
4. The Mayor expressed his disappointment that the paving issue did not pass because he felt it would have been a big improvement for the City and noted he pays property taxes on two houses, so this would mean fewer taxes that he will have to pay.
5. With regard to the use of weed killer in the cemetery, he said that was the first time he had heard of that and that all the remarks he has heard have been complimentary with regard to the care of the cemetery. He said he would, however, look at it to see what the problem might be.

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

President's Report

1. The Acting President said he did not have a report but wanted to comment on the scope of Council's responsibility. As he has previously done, Mr. Malone again explained that the position of Council is not administrative, however if an issue exists a citizen can contact their Council representative who will do whatever he can to report the matter to the appropriate department. As in the past, he emphasized the fact that Council's function is strictly legislative and not administrative.

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:

6th Ward Councilman Noel said he had a problem on property at the top of the hill. He explained that the owner had passed away and the heirs have cleaned up the property, however other people are depositing their garbage on the property. He asked if there was anyway that the police could patrol this area on their way to Sciotoville. He noted that the City has cleaned it up but will have to continue to do so if the person or persons depositing their garbage on the property is not stopped.

5th Ward Councilman Haas said there were a couple of 5th ward problems that have arisen since Council's last meeting and those have been reported to the Mayor's office.

With regard to the matter on Thomas Avenue, Mr. Haas reported that he is aware of that, saying he was contacted by PMHA very early on and he has talked with everyone with whom he can speak. He concurred with Mr. Malone that as a legislative body, the most Council can do is to talk to people and try to get them to do the right thing.

4th Ward Councilman Albrecht reported the concerns of his ward have been passed on to the appropriate department.

3rd Ward Councilman Mollette said he has turned in an issue regarding an alley on Hutchins Street, to the Mayor. He acknowledged pavement to be a concern along with people's alleys, saying he has received comments on when the alleys are going to be addressed. Mr. Mollette said he was thankful for Council's action with regard to the ordinance to issue debt for paving without a plan. He said, "I am glad at this time they decided to pass it and table it until they get more facts" and claimed that he has not received anymore facts or any information as a result of two letters that he sent. He said that would have been the sole reason he would not have been in favor of the proposal.

He again expressed his appreciation to citizens who come to these meetings, saying “their concerns should be our concerns” and appreciated Ms. Switzer requesting a first reading on the ordinance to lease floodwall space to the Mural’s Inc. However he expressed disappointment that the letter requesting the lease was written on July 7th and said “hopefully, we can do better in the future” saying, “these type items should be added to the agenda before they get to us to the public and the new media will have a copy of it so they will be able to put that information on there to let people know that, that particular ordinance is coming up”. He said he felt July 7th, when the meeting wasn’t until the 13th would have been adequate time to at least get it added to the agenda.

Mr. Mollette reported having received complaints about the City using weed killer instead of a weed eater in the cemetery. He expressed his appreciation of the workers but felt the City needs to find other ways of maintaining the cemetery.

He again expressed his appreciation to those people who were in attendance this evening.

2nd Ward

Councilman Malone reported on his attendance at the North End Reunion and commended Council for their financial assistance. He also commended the North End Reunion Committee, calling it a “job well done”. He said he was not sure how many attended the event but reported the area to be “flooded with people”.

1st “Ward

Councilman Mearan said he also attended of the North End Reunion functions including the gathering for Chuck Ealey. He encouraged everyone to see the film and said he would be glad to share his copy. Mr. Mearan said he spoke with Mr. Ealey about trying to get his program of working with high school students to Portsmouth. He described it as “a great program”.

Mr. Mearan expressed his appreciation to people making comments, noting that Council listens to these comments and that he takes them seriously. He said he believes in this city and felt this paving issue to be one of the hardest things with which he has had to deal since being on Council. Mr. Mearan stated that more time is spent by members of Council regarding City issues than what is spent at these meeting. He said he traversed all the roads and by doing so on a scooter he can testify first hand that something needs to be done. Mr. Mearan felt the two million would just be a “drop in the bucket” and while everyone agrees that a fix is needed he is still waiting to hear solutions. Mr. Mearan still felt an income tax would be the best solution with regard to financing the program and noted Council had placed the issue on the ballot to increase income tax but it was beat three to one. He said he was asking for the public’s help, noting the ordinance has been tabled he suggested working together to resolve this problem.

In response to remarks made about the cemetery, Mr. Mearan said he makes it a point to try to talk with some of the workers and commended the cemetery workers. He said he felt a lot of the City employees are exceptional workers.

With regard to the Log Cabin on Front Street, Mr. Mearan acknowledged being one of the people responsible for having that moved there from Ashley Corner many years ago. He called it the “3rd Wonder” of the City – behind the river and the murals.

Mr. Mearan expressed concern about the City’s finances and acknowledged the questions as to what happened to the gasoline tax and license plate tax. He said he has looked into these revenue sources and is convinced that 100% of the license plate goes toward street improvements and at least 80% of the gasoline tax is spent on street related issues. He also acknowledged the Mayor and Auditor to have spent time with him explaining the charge offs, which he said relates to accounting measures and he did not believe anyone was using the funds in any way other than intended.

Neither the Solicitor nor the Auditor had anything to report.

The meeting adjourned at 7:15 p.m., on a motion by Councilman Albrecht.

