

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING Monday, September 14, 2009 6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, September 14, 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
John Haas	5 th Ward
Richard Noel	6 th Ward

Also present were Mayor James D. Kalb and City Solicitor, Michael L. Jones.

On a motion by Councilman Mearan, Councilman Albrecht's absence was excused.

Council dispensed with the reading of the Journal for the regular sessions of August 24, 2009, on a motion by Councilman Haas.

There was no one present who wished to address any item on the agenda.

LEGISLATION

The Clerk gave a **third reading** to an ordinance authorizing the vacation of an alley running east-west in the 600 block of Market Street located between 607 and 611 Market Street as requested by Karen Frazier and more fully described in the attached legal description, with the City of Portsmouth reserving all easements to this property.

Councilman Mearan made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 5 – nays 0 The ordinance was passed. ORD. #53-09**

The Clerk gave a **first reading** to an ordinance authorizing the City Health Department Land Reutilization Committee and/or its designees to sell any and all properties and accept property donations acquired by the Land Reutilization Program.

Councilman Mearan moved this constitute a first reading.

There were no questions or comments. The roll was called. **VOTE: ayes 5 – nays 0 A first reading was declared.**

The Clerk gave a **first reading** to an ordinance authorizing the sale of properties at 1220 Allard Street for \$2,000.00 and 1909 Valley Street for \$500.00 to the applicants that were voted upon by the Land Reutilization Committee Members in the July 22 majority vote, and further authorizing a terms and agreement clause to be placed on each deed. This will require the purchaser to have a probationary period of three (3) years that will require the purchaser to remain in compliance with all State and City mandated laws or regulations. Any non-compliance would result in the deed reverting back to the City's possession to prevent said properties from continuing to remain in nonproductive status.

Prior to a motion, the Mayor said he believed these houses are ready for sale and if there were not a problem, passage of the ordinance tonight would mean the City could move forward with the sale.

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

The roll was called. **VOTE: ayes 3 (Haas; Mearan; Malone) – nays 2 (Mollette; Noel) The motion failed due to a lack of four affirmative votes. A first reading was declared.**

The Clerk gave a **first reading** to an ordinance authorizing the appropriation of \$25,000 from Capital Improvement fund No. 301 into Public Service Department Street Maintenance Line Item No. 301.335.5266 for needed repairs to East Front Street in Sciotoville that is eroding away and considering the same an emergency.

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

The roll was called. **VOTE: ayes 4 (Haas; Mearan; Malone; Mollette) – nays 1 (Noel) The rule was suspended.**

Councilman Haas made a motion to pass the ordinance.

Councilman Noel, noting that the work has been completed, questioned the need for this ordinance to be deemed an emergency but acknowledged that the bill needs to be paid. Councilman Mollette, acknowledged Mr. Noel's concern and, for the record, noted the \$25,000 for street maintenance and asked the Mayor to explain that these repairs were made with the approval of engineers and that there was some documentation that this "met some standards to the repair of this document, to this particular street since we've documented that it was a hazard". In response to the Mayor asking Mr. Mollette if he were asking him if it were repaired correctly, Mr. Mollette replied in the affirmative. The Mayor advised that it was properly repaired and has been inspected. Mr. Noel said the work looked okay to him but acknowledged he did not climb down inside it but described it as being "a bad place" and described what he had seen. He reiterated the fact that the work that was done looked okay to him.

There being no further questions or comments the roll was called. **VOTE: ayes 5 – nays 0 The ordinance was passed. ORD. #54-09**

The Clerk gave a **first reading** to an ordinance authorizing the Mayor to advertise for sale certain real estate owned by the City of Portsmouth located in the Sixth Ward commonly referred to as Parcel ID 34-2898, which contains approximately 90 acres located near U.S. 52 and is further described in the attached County Tax Map. The Mayor is further authorized to establish guidelines and restrictions as to the use and/or development of this property.

Councilman Haas moved this constitute a first reading.

Councilman Noel said he had spent several hours today on this property and said that as a child he had often rode over this area on horseback. He claimed the terrain to be mostly hills with some level spots and at one point it "comes down into the valley on Milldale, behind a gentleman's barn". Mr. Noel again noted this land to have "prime timber" on it and acknowledged it to be conducive to a lot of different types of development but it would have to be done properly to avoid any flooding. He noted that most of the drains on Milldale Road are in "pretty good shape. He expressed his concern that whoever purchases the property will clear cut the timber. He questioned whether or not, before anything is done, there should be an environmental study conducted. Mr. Noel reported one tract of land, belonging to Cline Jenkins, to have already been clear cut and claimed that to drain into Wilson Avenue, where he said they are having problems. He acknowledged most of these problems, dealing with run off, have been resolved. Mr. Noel said he has spoken with a lot of people and has learned that the property could be very valuable to the City, noting that a business man owns seventy acres of adjoining property, where he has constructed his home. He said, "The man that owns this now has made a killing on it". Mr. Noel reported this individual to have gained \$15,000.00 for each electrical tower that was constructed on his property and that the man sold \$50,000.00 in timber from the land. Mr. Noel felt there would be additional needs for telephones and therefore a need for additional towers. He felt it to be important to the City to keep the property unless they can get a really good price for it. Mr. Noel declared that he would not want to vote for anything unless it comes back to Council for passage. He said that tomorrow he is going to check out all the deeds on the adjoining properties and claimed the city-owned property to be a pivotal point for all the other properties. He felt any one who develops the property should be responsible for any runoff problems that might occur. Mr. Noel claimed the City to have had to construct streets and a water tower because of a development where homes were constructed in another area of Sciotoville in the 1980s. He claimed this incident to have caused the City a lot of money. He claimed this action will affect everyone who lives on Milldale Road and that he would like to see the legislation get a first reading. He also requested copies of any information regarding this proposal including information on any meetings that have been held. He also requested a detailed map of the area. The Mayor advised that he has been on top of the hill and acknowledged there to be "quite a bit" of flat land up there. With regard to the trees, the Mayor noted these would be considered in the selling price and described the presence of the trees to be a positive when trying to sell the property. He noted the City to have owned this property for years and pointed out that it remains undeveloped with only one person showing any interest in it for construction of a private home. He assured everyone that any clear cutting would have to comply with state laws as well as City ordinances. The Mayor said he has aerial maps, elevation maps and survey maps in his office should Mr. Noel want to look at them. He said other than that he did not know what other information he is requesting with regard to meetings where this was discussed. Mr. Noel asked if the Collier property were "cleared through this office here with the environmental protection people". The Mayor said he could not answer that question since he has no information regarding it and when he asked if he were talking about the Collier house, Mr. Noel said he was talking about the cutting of the timber. Mr. Noel said he was told Mr. Collier sold the timber and it was all "select cut", for which he received \$50,000.00 for sixty acres of timber. Mr. Noel said he was also told that Cline Jenkins clear cut all of his property this year and inquired as to whether or not Mr. Jenkins had a permit and if he went through the proper procedures. He claimed Mr. Jenkins' property drains into Wilson Avenue. The Mayor advised Mr. Noel that he would check on these things but was not sure all the Collier property is even in the City's limits but he did believe Mr. Jenkins' property is. He said he did not know anything about Mr. Jenkins doing any cutting of timber and that there was no indication he was doing so when he visited the site. Councilman Mollette explained what he felt the concern was by reading that part of the ordinance that would authorize the Mayor to establish guidelines and restrictions as to the use and/or development of the

property. He said he understands there might be a need to streamline this in the advertising of the property but felt that if the Mayor had those guidelines and restrictions to Council before the ordinance is passed, it would resolve the question.

There being no further questions or comments the roll was called on the motion for a first reading.
VOTE: ayes 5 – nays 0 A first reading was declared.

The Clerk gave a **first reading** to an ordinance authorizing the Mayor to purchase for \$1.00 real estate commonly referred to as Parcel ID 29-1188.000 said real estate is located next to the Municipal Building located at 728-2nd Street, Portsmouth, Ohio and contains approximately 0.487 acres of vacant land and is further described in the attached County Tax Map.

Councilman Haas moved this constitute a first reading.

The Mayor reiterated the remarks he made at the last conference session, noting that the City has contacted the State and have had this property appraised twice. He said the City can buy that parcel of property for \$32,000 and would own it outright. He said the \$1.00 price would just tie up the property from now on for nothing but City use. He again noted that if the City decided to sell this property, the parcel would revert back to the State. The Mayor said he believe there to be no agreement with the State that we can buy the property later, if there are plans to develop the property. He said he could see where the State might later determine that parcel to be valuable and then charge the City \$200,000.00 for it. The Mayor felt this would be a real sticking point for any developer who is interested in the property when it is discovered that this small ½ acre of the property that is going to cost half as much or as much as the entire parcel. The Mayor said he felt it would be wise, on behalf of the City, to own that piece of property outright. He advised that he has checked with the Auditor and the amount needed is available.

Mr. Noel noted that the letter from the State was received apparently two years ago and if the City decides that we want to buy it in the future he did not believe the State would change, noting there to be a local person who is an engineer on the State level and saying, “you’re a local person, Mr. Director so I think that we should purchase it for \$1.00 as a City property and I think it should remain that way”. In response, the Mayor said he now feels more comfortable now knowing that Mr. Noel has that connection I the State because the people his office talked with gave the City no assurance that we could ever get that property for that price again.

There being no further questions or comments the roll was called. **VOTE: ayes 5 – nays 0 A first reading was declared.**

The Clerk gave a **first reading** to 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.

Councilman Haas made a motion to adopt the resolution.

The Auditor advised these to be the rates based on the City’s tax budget that was submitted to the Budget Commission in July. He noted the only millage rate that has changed from the previous year to be the bond retirement fund rate that went from 3.8 mills to 4.15 mills but is for the same dollar amount. He noted the change to be due to the elimination and faze out of the personal property tax. He noted this to have not only been a dwindling revenue for the City over the past several years it is now gone and will not be budgeted as a revenue in the upcoming years. He further noted that all other rates are exactly the same as last year. He pointed out that the dollar amount if flood defense has been reduced because the 1.00 mill, reflected on schedule “A” was reduced from \$200,000 to \$190,000 and the General Fund amount has been reduced by \$10,000 from the previous year.

Councilman Mollette, for clarification on the bond retirement, inquired as to what debts are reflected in this amount. The Auditor explained that the County Auditor and Budget Commission did not separate the two items covered by bond retirement funds. He said he knows the separation of the dollar amounts but does not have any indication as to the separation of the millage. Mr. Williams advised the dollar amounts to be \$700,000.00 for fire safety equipment that was approved by Council in December 2008 and \$150,000.00 for the on-going bond for the Ohio Police and Fire Accrued Liability Pension Fund.

There being no further questions or comments the roll was called. **VOTE: ayes 3 (Haas; Mearan; Malone) – nays 2 (Mollette; Noel) The motion failed due to a lack of four affirmative votes.**

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

David Gleason – 2525 Gilbert spoke in favor of the deer that are roaming the City, saying they have to live somewhere. Mr. Gleason expressed his opposition against allowing any hunting and reported someone to have poisoned some foxes and raccoons. He acknowledged the need to do something about the number of deer but felt that would resolve itself after the running of the deer. He noted the Arch Diocese to own some of the property and expressed is feeling that the deer were not causing a problem other than eating trees, bushes and things of that nature.

Jim Warnock – 2880 Circle Drive expressed his concern about the digging in Tracy Park. He claimed the Kiwanis original plan was scrapped because of a tree, therefore the hole was moved per order of the City's Service Director. Mr. Warnock questioned Mr. Murphy's authority to relocate the site. He suggested City Council stop all construction of the playground until a determination is made regarding the location of the equipment.

Teresa Mollette – 1709 Franklin Blvd. expressed her concern about the playground being installed in Tracy Park and stated that the reason the Kiwanis chose Tracy Park was because of all the "nonsense" that was taking place in Mound Park. She also expressed her opinion that putting the playground equipment in Tracy Park would create a danger for the children, noting this park to be in a commercial area as opposed to a residential area. She also felt the trees in Tracy Park, which she claimed to be a type that takes six to eight years to die, poses a danger to children, using an incident in the park where a child suffered a broken arm when a limb fell from a tree while he was playing on a swing set. Mrs. Mollette felt that children are not concerned about safety and are likely to run into the street in front of a car just to get to an empty swing. Mrs. Mollette continued by criticizing the City for what she felt in lack of code enforcement and for Police Officer, who she claimed do not get out of their cruiser to check out storage sheds at Mound Park. Mrs. Mollette claimed these to be places where drugs and prostitution are happening.

Allison Kalb – 2234 Vinton Avenue, stated that she has spent a lot of time in Mound Park and felt the grounds crew does a good job maintaining the park but acknowledged there to be some "characters" frequenting the park after hours. She also felt the Police Department is doing a good job and noted it to be very hard to see everything from the street. Mrs. Kalb said she has personally witnessed the police doing a "good job" with these types of problems that are throughout the City, saying they are trying to do what they can but acknowledged it to be unfortunate that this is something that is occurring all over the City. Mrs. Kalb felt it to be everybody's responsibility to help where we can by keeping things clean and maintain the playgrounds at the parks. She acknowledged the various items that are found in the park as a result of illegal activity and admitted that she did not know the answer but suggested that more lighting in the park might be helpful. She reiterated her belief that the police are trying to do their job the best they can but cannot be everywhere and there are only so many officers. She said it was told about the buildings today by someone who observed some teen agers entering them to apparently do something they should not be doing and that this was something that had not yet been reported to the Mayor. She suggested the doors be removed from the buildings or that the buildings themselves removed.

Dee Penix – 1708 Hutchins Street stated that she lives two doors from Mound Park and is often awakened in the early hours of the morning by someone playing on the basket courts. She questioned the whereabouts of the parents of these individuals who are around 15 to 16 years of age. She said she felt children should be disciplined in an effort to straighten up the town. She emphasized the fact that she is not placing blame on anyone. She acknowledged the park to be beautiful but felt if it is going to provide those things that parks are suppose to provide then the park should be a profaned park, saying that was what it was designated as being and that is not what it is today. She asked, "Are we going to let progress happen or are we going to maintain it the way it was suppose to be".

Miscellaneous business and reports:

City Clerk's Report

1. Received on 9/10/09 the following reports from the Auditor's office:
 - Combined mtd/ytd expense report
 - Mtd/ytd revenue report
 - Mtd bank report
 - Combined mtd/ytd fund report
 - Appropriation transfer from transaction listing
2. Oath of Office
 - Chris A. Dunham for position of Special Deputy Clerk of the Municipal Court.
3. Received a notice from the Ohio Division of Liquor Control of a request to transfer stock to:
 - Ribs of Portsmouth LTD
 - DBA Damons Restaurant
 - 711 Second Street

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

Mayor's Report

1. In response to parent's responsibility for the actions of juveniles, the Mayor stated that he has had with him, for the past two meetings, proposed legislation that would place more responsibility, for the action of their children, on parents. He noted that along with that he is suggesting offering reward for any information leading to the

conviction of vandalism by graffiti. The Mayor advised that the reward would be paid by the person that was convicted.

2. The Mayor also advised of another legislation proposal addressing the problem of baskarts around town. He noted there to be a lot of information for Council to review but felt it will be possible to get a handle on a lot of these things some work and new legislation.

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

The Acting President did not have anything to report.

Miscellaneous business from City Council

1st Ward Councilman Mearan commended the River Days Committee and all those who planned and worked on the various River Days activities. He also congratulated Portsmouth High School on the opening of their new stadium, saying they had done a tremendous job and had something of which they can really be proud. Mr. Mearan reported everything he attended this weekend was "packed with people".

2nd Ward Councilman Malone concurred with Mr. Mearan's comments and expressed his appreciation to the River Days Committee for doing such a good job.

3rd Ward Councilman Mollette reported his having sent the Mayor a letter regarding the Auditor's projected \$1,000,000.00 shortfall and requested the Mayor to indicate what administrative actions being taken for ending the year in the black.

Mr. Mollette suggested the City initiate backup prevention devises and to not let this be contingent upon the approval by the EPA of the City's long-term sewer system plan, saying this would just further cause longer delays.

He reported having gone to Tracy Park today to gather information on a reported problem regarding the installation of playground equipment in the park. He reiterated previous remarks he has made with regard to citizens speaking up, saying "This is just another example of where I feel that they was the inclusiveness, the transparency and the accountability was not as clear". He claimed the things he heard today were issues of traffic and he felt that if these issues had been addressed previously then he did not feel there would be a delay. He claimed the issue to be whether or not we need a crosswalk and if there are additional cautions that need to be taken to make sure that this is made a safe visit for the children. He said he is looking forward to getting these answers and he believed the Mayor to have taken the right position to get his facts before moving forward.

He reiterated his remarks regarding 911 and reported having submitted a letter to the Mayor and Council on September 9th and expressed his hope that Council is interested in receiving input about this issue. He advised everyone that several people are present this evening that represent emergency services.

5th Ward Councilman Haas thanked the residents of his ward for taking the time to call him to discuss the issue of controlling the deer. He said he received some interesting suggestions and recommendations were made.

6th Ward Councilman Noel concurred with Dr. Gleason's remarks regarding the deer. He said he was an avid hunter in his younger days but was broke from hunting when he had to throw away four squirrels he shot when he opened them and found workbels and had to throw them away and has never killed another animal since. He said he has deer bedding down behind his house that eats his wife's flowers. He felt well enough should be left alone, saying the deer will thin out eventually. He acknowledged that at present they are overpopulated. He said he was very adamant against hunting and acknowledged that he has his senior hunting/fishing license and can go hunting anytime he wishes, but feels the animals and fish have to live also.

Mr. Noel reported the double lines that use to be painted on Milldale Road are no longer there and he was almost hit when someone came across what would have been a double line. He claimed the cars traveling on the road were doing between 50 and 60 miles an hour and his neighbors claim it to be like that all of the time. He expressed his respect for the police department and he felt they are doing everything they can, however, he felt neither Sciotoville nor North Moreland is adequately patrolled. He further noted there to be no signs indicating the speed limit. He said he wonders what would happen if the police did stop someone when there are no signs. He requested signs and for the police to patrol the area at least every hour.

The Auditor advised Council that he has prepared a revenue report, which he gave to the City Clerk and the Mayor for Council to review. He further advised Council that there is, at this point, no substantial difference from the previous report, however the income tax has been enhanced by \$150,000.00 but noted it not to be a concrete figure.

The Solicitor concurred with earlier comments regarding the atmosphere on River Days, describing it as “exciting” with an estimated crowd of from 6,000 to 10,000. He also noted a lot of people being present for the Trojan’s inaugural football game where he described the atmosphere as being “electric”. He expressed his pride at being a Trojan as well as pride in being a resident of Portsmouth.

The meeting adjourned at 7:06 p.m., on a motion by Councilman Mearan.

City Clerk

Acting President of Council