

## MINUTES – REGULAR SESSION

### PORTSMOUTH CITY COUNCIL MEETING Monday, September 28, 2009 6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, September 28, 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 <sup>st</sup> Ward
David Malone	2 <sup>nd</sup> Ward
Bob Mollette	3 <sup>rd</sup> Ward
Jerrold Albrecht	4 <sup>th</sup> Ward
John Haas	5 <sup>th</sup> Ward
Richard Noel	6 <sup>th</sup> Ward

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

Councilman Albrecht moved to dispense with the reading of the Journal for the regular session of September 14, 2009. In response Councilman Noel noted that during his discussion of City-owned property near 52 he had made a reference to cell phones but it was transcribed in the minutes as “telephones”. Mr. Noel’s comment having been duly noted, the motion to dispense with the reading of the Journal carried.

There was no public hearing and no one present wished to address Council with regard to any item on the agenda.

### LEGISLATION

The Clerk gave a **second 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 Albrecht moved this constitute a second reading.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 A second reading was declared.**

The Clerk gave a **second 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.

Councilman Albrecht moved this constitute a second reading.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 A second reading was declared.**

The Clerk gave a **second 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 locate 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 Albrecht moved this constitute a second reading.

Councilman Mollette asked the Mayor what guidelines and restrictions would be implemented with regard to the use and/or development of this property. The Mayor said he thought it would be advertised with a price for someone who has the intention of developing the area with Council having the decision of whether or not the property if the property would be divided into lots or let the potential buyer decide how they want to develop it. The Mayor felt Council wanted any type of negotiation to be brought back to them and he felt at that time he could present whatever proposal a potential developer might have. Councilman Mollette asked the Mayor if he could see any value in the line in the ordinance that authorizes the Mayor to establish guidelines and restrictions for the use and development of the property or should that authorization be eliminated from the

ordinance. The Mayor said he felt the price would have to be advertised and accepting offers at approximately \$100,000.00. Councilman Noel said he toured this property last week and again over the weekend. He said he also looked at maps of the area and he is satisfied, after talking with residents in that area, that this property does not drain onto the Milldale Road area and noting that to have been his main concern. Mr. Noel said with what he has learned and the conversation this evening, he is satisfied to move forward with the request. With regard to Councilman Mollette's question regarding the last paragraph, the Solicitor said his only concern with deleting that particular sentence is that it would potentially give restrictions on limiting this particular purchaser to making sure they do something substantial with the property. Mr. Jones said he would not want to see it sold to someone just to see the land sit there naked, saying he felt the intent of selling the property is to obviously increase tax dollars to the City. He said we could "tinkle" with the language, if Mr. Mollette wants to do that – but his recommendation would be to keep that particular language so that if it is put out for bid the City would have some sort of control on the bidding process in terms of what will be done with the property.

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

The Clerk gave a **second 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 728-2<sup>nd</sup> Street, Portsmouth, Ohio and contains approximately 0.487 acres of vacant land and is further described in the attached County Tax Map.

Councilman Albrecht moved this constitute a second reading.

Councilman Mearan asked what the City would need to be able to do should we purchase this parcel for \$1.00 and then have an opportunity to sell all this property to a developer. The Solicitor advised Mr. Mearan that based upon the way he phrased his question, if the City did not continue using the parcel for public use it would automatically revert back to the State. He noted that at that time it would be up to the State, the City or anyone else interested in that property to negotiate for actual sale of the property at fair market value at that time. In response to Mr. Mearan noting that the State would have the option not to sell, the Solicitor agreed that would be correct and noted one on the issue that came up and he inquired about was that the City would not be able to maintain an option to purchase the property. Mr. Mearan felt it might be wiser to purchase the property for the asking price now so that the City would own it and then if there is a chance to develop this property we would not be taking a chance on the State nixing the deal. He did not feel like it made sense, noting that the City has use of the property now and did not see why we should even bother purchasing it for \$1.00 just for the privilege of having it only for public use. Mr. Mearan said he would like to see the City acquire the property so it can do whatever it wishes with it and not be tied to a single purpose. He felt that, if purchased for \$1.00, a City employee could park their car there, noting that to be something they can do anyway. Mr. Mearan felt it would be a big mistake for the City to not buy this property now, noting the fair market value to be a lot less now than what it is going to be if someone comes in and proposes a development. He felt that as soon as this happens the price will go up but acknowledged that this could be worked into the purchase price. The Solicitor noted it to be Council's decision if they want to go ahead and purchase the parcel for the fair market value; he further noted the current appraisal for the parcel to be \$38,000.00. He pointed out that it would be speculation at this point to try to determine what the situation would be a year or two years from now. Mr. Jones stated that if the City wants to acquire that property they have, at this point, the opportunity to buy it for \$1.00 to be used for a public purpose. He said he does not know what future development may or may not happen on this property or any other property. The Solicitor said he would be reluctant to advise the City to purchase this piece of property not knowing what, if anything, we are going to do with it, when we can get this property for \$1.00. He said he did not think it to be in the best interest of the City, at this point, to purchase a piece of property when we don't know what we are going to do with it. In response to Mr. Mearan supposing that the City does what Mr. Jones suggested, the Solicitor stated that he is not telling Council what to do. Mr. Mearan, questioning what would happen should the City accept the \$1.00 purchase price then there is a development erected on this property, asked if the City could still retain that parcel for City parking, noting that would be a public purpose. The Solicitor advised that the restriction on this particular deal is that if the City is not using it for the public then it would revert back to the State. Mr. Jones felt that "public use", in his opinion, would have a broad interpretation as to how the City could use it. In response to Mr. Mearan asking if the City just said the public could park on it, would that be public use, Mr. Jones said in his opinion it would. Mr. Mearan felt it to be obvious that no one is going to build on a piece of ground that is right next to the bridge, so if the City could use it for public parking and not trigger the "reverter"(sic) it would be okay. Councilman Noel felt the difference to be that right now the State owns the parcel but if Council were to pass this ordinance the City would own it. He inquired as to how the City would use it now, saying "The State don't have to let us park there, if they don't want to". The Auditor expressed his idea of the Solicitor or the Mayor going back to the State and attempt to have them, at the City's request, to remove that deed restriction simply because of the way in which this can be bought. Mr. Williams noted that the City had to, at its expense, raze a building in order for the bridge to be constructed, which took an extra two years or more and probably cost us more as a City and the cost to all the businesses in town was far more than \$40,000.00 in loss revenue. He said he would like to see the State remove the deed restriction and give the parcel to the City for \$1.00 without the restriction. The Solicitor stated that his involvement came due to an apparent inquiry that was made a few years ago about purchasing this parcel from the State. He said he was asked to propose legislation to purchase the property and was given the two options that he presented to Council. Mr. Jones said he contacted the Department of Transportation's legal advisors and their position was that they will not negotiate that provision and that restriction will remain regardless of whether or not Council purchases it for \$1.00. He said the deal is, basically, "take it or leave it" meaning the City can purchase it for

\$1.00 for use by the public or they can purchase it for the fair market value and do whatever they want with it. The Auditor still felt it would be a good idea to approach the State using the argument that the City has far more invested and lost due to the problems caused at the State level and question why the City should “have to pick up the tab”. The Solicitor expressed his only concern is that the City’s negotiating position is a very weak one right now and if we go back to negotiate the State could pull the entire offer off the table and not allow the City to purchase it for \$1.00 or the fair market value. Councilman Haas, concurred with Councilman Mearan, noting that if this property appreciates there is a part of a bigger deal that could be developed here and he thought the City would be making a big mistake, however, he felt if the only way of getting a majority of Council to agree to this is to buy it for \$1.00, he would vote for it but felt it should be purchased for the \$38,000.00. Councilman Mollette supported purchasing the property for \$1.00 and if there is a development on this property then he felt the developer “will end up paying the burden of the increase in cost”. He said he did not believe the State would stop any development that would result in jobs and thus creating a problem. In response, Councilman Haas noted the problem to be that the developer can make up the difference but in paying the difference the money will go to the State and not to the City. Mr. Haas restated his position by pointing out that the City, should this property be developed, would gain from any increased property values, otherwise, any gain would be paid to the State. Mr. Haas said he felt the property is more valuable as a whole than as two separate pieces of ground. Councilman Noel said he has more confidence in the State after working “up there with the very people that we are working with right now” He said he had all the confidence in the world that if we do decide to develop the property we can negotiate with them then. Mr. Noël expressed his support for purchasing the property for \$1.00.

There being no further discussion the roll was called on the motion for a second reading. **VOTE: ayes 6 – nays 0 A second reading was declared.**

The Clerk gave a **first reading** to an ordinance authorizing the appropriation of \$4,461.32, received from the City’s insurance claim for damages to vehicle No. 206, into Fire Department Maintenance of Licensed Vehicles Line Item No. 101.223.5364 in order to pay repair costs.

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. #55-09**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance and appropriation of two charitable contributions in the amounts of \$1,375.00 each from the Portsmouth Eagles into the Police Department and Fire Department contingency line item accounts.

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.

The Acting President, once again, expressed his thanks to the Eagles.

There being no further questions or comments the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #56-09**

The Clerk gave a **first reading** to an ordinance authorizing the appropriation of funds from Fund No. 606 to purchase 12 sacks of MIEX Resin at a total cost of \$106,470.00.

Councilman Albrecht moved this constitute a first reading.

Councilman Mearan, noting that at the conference session, it had been discussed that this is a locked in price and asked Mr. Sutherland, who was present, if he saw the price going up or down if Council waited to pass this ordinance. Mr. Sutherland, the Public Utilities Director – Filtration, stated that based on last year we could very well see the price increase and confirmed that the present price is locked in until next year in October. The Auditor noted that the price has increased 7% since last year. Mr. Sutherland concurred but noted the increase was not as much as some of the other chemicals that we did use.

In view of these comments, Councilman Albrecht withdrew his motion for a first reading and made a motion 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. #57-09**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance of the United States Department of Justice, Office of Community Oriented Policing Services (COPS) funding, under the COPS Hiring Recovery Program (CHRP), establishing a new Fund #228 for this grant and appropriating such funding as received.

Prior to a motion being made, Councilman Albrecht inquired into the importance of passing this ordinance now and whether or not the City would be in danger of losing the grant if it were not passed this evening. Chief of Police, Charles Horner, recommended the three reading be waived, noting that his department has grants that have to be processed and a window of time in which they need to be done. The Mayor suggested that while the Chief is at the podium he might be asked the same question about the next three ordinances on the agenda. In response Chief Horner made the same recommendation as to waiving the three readings for the next three items on the agenda. Councilman Mollette felt Council needs to be aware that this ordinance has strings attached that will require the City to maintain these new officers for a period of one year following the thirty-six months of the grant. Mr. Mollette felt Council did not yet have enough information to determine what the City's budget will be at the end of this year or what is going to happen next year. At Councilman Mollette's request, Chief Horner approached the microphone to explain how this would be paid for and if it would be paid through the school system. The Chief said the position would be designated as a school resource officer position and advised that there is a tentative agreement with the City Schools to do the same thing as they have done with the current school resource officer, which is to provide approximately \$15,000.00 per year, which, he said helps to offset the cost of that fourth year. He advised that the other positions would have to be funded by the City. He proposed that be handled in the same manner as the school resource officer by budgeting one-third of that position for the three years, thus being able to fund the position for the fourth year, which Chief Horner said would fulfill the City's obligations under the guidelines. In response to Councilman Mollette noting the additional required separate record keeping and asking if we are prepared for the City to keep and maintain these records, the Chief, stated that he has an excellent grants coordinator in Sgt. Laura Davis, who realizes this will be an extra burden on her. He further stated that one of the department's tentative goals is to have a second school resource officer where some of her time can be alleviated in order to lessen her burden and make it easier for her to be able to comply with the terms and conditions of the grant. The Chief said this grant allows the Police Department an opportunity to address the crime and drug problem in the City. In response to Mr. Mollette asking if there will be any required additional expenses with this grant other than those being addressed in the grant, the Chief said that recruiting, training and equipment will be paid through the grant. Calling upon Sgt. Davis to come forward to confirm this and to address some of the questions, the Chief apologized for not coming prepared saying the thought all these things were addressed at he last conference session, which was when the legislation was requested. Sgt. Davis stated that those expenses did not apply to the COPS Grant but did apply to the rule of hiring. She stated that with the exception of the general police equipment - uniforms, which are standard issue that a new recruit receives.- and noted this 'general equipment' in not in either grant. Sgt. Davis stated it to be her understanding that the training is included in the rural grant. Chief Horner noted that his department has a partnership with Community Action for the training whereby they fully reimburse the City for the cost. Councilman Mollette said he did not come prepared to pass this ordinance tonight and believing it would get three readings he thought that would allow for questions and the Chief would have time to get back to Council with the answers. In response to Mr. Mollette inquiring as to whether or not the City would have to pick up the cost of uniforms and equipment, Sgt. Davis expressed her understanding to be that these cost would also be reimbursed by CAO. Councilman Mollette, saying to the Chief that he feels he has "the right attitude that allows the individuals to, for the citizens to see a difference and be able to afford the difference in the future". He expressed his concern is about the budget. Chief Horner stated his opinion as being that the required investment, by the City, would be a minimum amount to hire all three officers. When asked by Mr. Mollette if this would create a problem if this were to just receive a first reading tonight, Chief Horner stated that it would not be a areal problem but reminded him that we are under deadlines and obviously would like to move forward with hiring in order to get the individuals into training. He advised that the next available class is in January and, in response to the Acting President, said the applicant has to first be certified through Civil Service and because there is not a qualified candidate pool it will be necessary to request another Civil Service test be given for a patrolman, which will be combined with an existing list in order to create enough qualified candidates to fill those positions, he explained the process of creating a list and stated that having this ordinance passed tonight would make the whole process easier for his department.

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

The roll was called. **VOTE: ayes 5 (Haas; Noel; Mearan; Malone; Albrecht) – nays 1 (Mollette) The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 5 (Noel; Mearan; Malone; Albrecht; Haas) – nays 1 (Mollette) The ordinance was passed. ORD. #58-09**

The Clerk gave a **first reading** to an ordinance authorizing the approval and the acceptance of grant funds in the amount of \$34,051.53 from the Ohio Department of Public Safety, Ohio Traffic Safety Office, under the FFY 2210 High Visibility Enforcement Overtime Grant Program (HVEO) and the appropriation of such funding as received into Fund #217.

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.

Councilman Mollette read the third paragraph of the ordinance and expressed his appreciation to Sgt. Davis for her efforts.

There being no further remarks the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #59-09**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance of the Office of Justice Programs, Bureau of Justice Assistance funding, under the FY 09 Recovery Act Rural Law Enforcement Assistance: Combating Rural Crime Grant in the amount of \$480,522.00, the establishment of new Fund #229 for this grant and the appropriation of such funding as received.

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.

Councilman Mollette explained the content and purpose of the ordinance, calling this a “good grant”.

There being no further comments the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #60-09**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance of \$111,300.00 from the Ohio Department of Public Safety, Office of Criminal Justice Services (OCJS) funding under the Recovery Act Edward Byrne Memorial Justice Assistance Grant and the appropriation of such funding as received into Fund #225.

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.

Councilman Mollette explained the purpose and content of the ordinance.

There being no further comments the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #61-09**

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 Albrecht made a motion to adopt the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 4 (Mearan; Malone; Albrecht; Haas) – nays 2 (Mollette; Noel) The resolution was adopted. RES. #10-09**

The Clerk gave a **first reading** to a resolution designating a date and time for the 2009 Halloween “Trick or Treat” night for the City of Portsmouth, for Thursday, October 29, 2009 from 5:30 p.m. until 7:00 p.m. for children up to and including the age of fourteen (14) years of age.

Councilman Albrecht moved this resolution be adopted.

There were no questions or comments. The roll was called. **VOTE: ayes 6 –nays 0 The resolution was adopted. RES. #11-09**

Upon the Acting President noting the end of the legislative portion of the agenda, the Mayor, noting there to have been some items sent to Council in their packets for inclusion on this agenda, inquired as to whether or not Council wished to add those items at this time. Councilman Mollette had no objections to the items being added at this time, if the public is given an opportunity to comment on each of them. He also noted one of the requests to be for a grant application that is due October 2<sup>nd</sup>. Richard Duncan, Director of Public Utilities – Wastewater approached the podium and advised Council that the resolution he is requesting be added to the agenda and passed this evening is a grant that becomes available every year through the Ohio Public Works Commission. Noting this grant application to be awarded on a points system, Mr. Duncan said he has met with the Scioto County Sanitary Engineer to submit a joint application, noting that when two jurisdictions work together on a submission it produces additional points and increases the possibility of receiving the grant. Mr. Duncan apologized for not bring this request to Council sooner, noting with all the other ongoing projects he has he was unable to have this to Council in a timely manner. Mr. Duncan asked Council to authorize the Mayor to prepare and submit an application for \$300,000.00 in grant funds. Councilman Haas said the way he reads this it is a 1/3 zero interest loan, which would make the City's responsibility \$100,000.00 of the \$600,000.00. Mr. Duncan acknowledged that to be correct and cited the terms as being zero interest for twenty years, which would equate to a payment of \$5,000.00 per year and noted this kind of financing is hard to beat. He said for the last four years the City has been successful twice in receipt of the grant. He noted that one of the years when the City was not successful, the failure was due to a lack of enough points to be competitive.

Councilman Mollette made a motion to add the legislation to the agenda and reiterated his request that the public be given an opportunity to comment. He continued by reading from information provided to Council by Mr. Duncan, and listing the three projects for which this grant would be used.

The motion to add the item to the agenda carried, viva voce. **The legislation was added to the agenda as Item "7n".**

The Mayor requested legislation be added to the agenda ratifying the contract with the dispatchers and advised Council that this is a new contract noting that the dispatchers have moved from AFSCME to the FOP. He further advised that the finalized contract was just received by the City this week. It was also noted that if this item is added to the agenda it will also be necessary to include the salary ordinance. In response to Councilman Noel asking if it had to be passed at this time, the Acting President felt that it would be necessary since the dispatchers have been working without a contract since May of this year. The Mayor acknowledged that the dispatchers had previously gone for a long time without a contract and have now opted to be represented by the FOP. He advised the terms of the contract to be basically the same.

Councilman Albrecht moved to add the ordinance to the agenda.

The motion carried viva voce. **The legislation was added to the agenda as Item "7o".**

It being noted that the salary ordinance needs to accompany the ratification of the contract, Councilman Albrecht made a motion to add the salary ordinance to the agenda.

The motion carried viva voce. **The legislation was added to the agenda as Item "7p".**

Councilman Mollette felt this "should not be the norm" saying we should always be "struggling" to get everything on the agenda so people who attend the meetings can be informed. Mr. Mollette felt this legislative meeting to be for the citizens and felt things were on the agenda so people who have an interest in those things would have an opportunity to speak on those items. He continued by expressing his feelings with regard to items added to the agenda and reiterated previous remarks he has made regarding this matter.

There was no one present who wished to address Council with regard to any of the additions to the agenda.

The Clerk gave a **first reading** to a resolution authorizing the Mayor of the City of Portsmouth, Ohio to prepare and submit an application to participate in the Ohio Public Works Commission State Capital Improvement and/or Local Transportation Improvement Program(s) and to execute contracts as required.

Councilman Albrecht made a motion to adopt the resolution.

Councilman Mollette requested Mr. Duncan to enumerate the three projects that will be addressed with the receipt of this grant. Mr. Duncan, repeating the list as was done earlier by Mr. Mollette, identified these projects as eliminating the sewer odor on Scioto Trail, north of Coles Blvd; a structure that was allowed to be built over a sewer line that has developed a crack and, because of the structure it has been difficult to dig around the pipe, so the best option is to run a liner through the present pipe, which he said has been in the City's five year plan. Mr. Duncan identified the third project to be a weir modification to reduce the amount of combined sewer flows that would go to the Scioto River. He said he would like to do all of this as one package and feels it would be a very strong benefit to the City and to the residents of that area. He again apologized for being late in getting this request to Council.

Mr. Duncan reminded Council of the 1:00 open house and ribbon cutting tomorrow at the Waste Water Treatment Plant for the new treatment process, which will reduce odors in the Charles Street area of the

City. He reported tours will be given of the new facility as well as to the plant, which are open to the public and City Council.

There being no further remarks the roll was called. **VOTE: ayes 6 – nays 0 The resolution was adopted. RES. #12-09**

The Clerk gave a **first reading** to an ordinance ratifying the contract between the City of Portsmouth, Ohio and F.O.P./Ohio Labor Council – Fire/Police Dispatchers, for the period of May 1,2009 through December 31, 2011.

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

The roll was called. **VOTE: ayes 5 (Albrecht; Haas; Noel; Mearan; Malone) – nays 1 (Mollette) The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

Councilman Mollette acknowledged this to be a contract and further acknowledged the date of the contract and felt that for him to be “an informed decision maker” he would like to have some indication as to the City’s ability to meet the contract and reiterated previous remarks regarding a budget and a five-year projection. He felt that a projection just to the end of the year would be helpful in making these types of decisions. He again expressed his frustration at having contracts that increase expenses but felt we are not sure from where the resources will come.

There being no other remarks the roll was called. **VOTE: ayes 4 (Haas; Mearan; Malone; Albrecht) – nays 2 (Noel; Mollette) The ordinance was passed. ORD. #62-09**

The Clerk gave a **first reading** to an ordinance to amend the Salary Ordinance as amended by Ordinance No. 24 of 2009, to reflect wage increases to the F.O.P./Ohio Labor Council-Fire/Police Dispatchers as a result of a new contract to be effective May 1, 2009 and to repeal Ordinance No. 24 of 2009.

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

The roll was called. **VOTE: ayes 4 (Mearan; Malone; Albrecht; Haas) – nays 2 (Noel; Mollette) 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 4 (Mearan; Malone; Albrecht; Haas) – nays 2 (Mollette; Noel) The ordinance was passed ORD. #63-09**

Before moving on to the next item on the agenda, the Mayor reminded Council of another item that was in their packet that involved a request by the Mayor for Council to recess and tour the former juvenile detention center for consideration as a possible police station.

The Acting President noted no member of Council desired to make a motion for a recess, concluding that there must not have been a desire to have one.

Councilman Mearan made a motion to recess to tour the facility.

Recognizing Mr. Mearan’s motion, the Acting President noted the facility has been offered to the City by the County and recognized it as being an opportunity to view another option/alternative for a police station.

Councilman Mearan felt another alternative to be to have a special meeting tomorrow or the next day and felt it important to look at the building soon but was not inclined to extend this meeting any longer.

In response the Solicitor said he would have some reservations with advising Council to carry out that request. Mr. Jones said he felt there could be some issues with potential notice, issues with potential public meeting issues, saying he did not even want to create an appearance of an issue about this. Mr. Jones said he felt there to be a better ways to resolve this and to accommodate the request. He said he did not want to create any type of issue that would come back later to cause controversy for the City. The Solicitor cautioned City Council and recommended that they do not go into recess. In response to the Acting President asking if he could see any other alternative, the Solicitor said that if some kind of advance notice is given to the public so they are aware of this it could be made a conference agenda item where, potentially City Council could go view the property. He said he thinks there are other options but he wanted to make sure we’re not creating an issue where one is not needed. Mr. Jones expressed his concern of there being a potential argument of a lack of notice to the public regarding this particular issue.

Councilman Noel agreed with the Solicitor and felt it to be too late to take a tour this evening. Councilman Haas expressed his concern, along with the Solicitor's, saying he did not think the City should open itself to another law suit and felt Council should not recess to tour the facility.

Based on the preceding comments, Councilman Mearan withdrew his motion to recess for a tour of the former juvenile facility.

The Mayor stated that he was just passing this information onto Council, noting that it is Council's decision. He said he was trying to figure out a good way for Council to view the building and felt during a meeting would be a good time because everyone would be present and also pointed out that the public was invited so that there would be no suggestion of anything being secret. However, he said he would respect Council's decision not to do it. The Mayor said he felt it was his responsibility to propose all alternatives to resolve the City's long-term problems. The Acting President agreed that perhaps Council needs to take the opportunity to view the building, should that be something Council would like to do and he did not feel the building should be totally shut down and requested the Solicitor to provide Council with whatever information he can as to how to setup whatever is necessary so we can move forward and try to take advantage of any opportunity to view this building.

#### **STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA**

Carolyn Elliott – 5616-5<sup>th</sup> Street, Sciotoville advised Council that she has lived at this address for more than forty years and about a month ago the curb in front of her house was painted yellow. She further advised that there is no parking at the curb across from her house and now she has no place to park except behind her house, which subjects her vehicle to vandalism. She pointed out that parking is permitted on both sides of Bloom Street, which makes it difficult for the garbage truck to make a turn. She asked that the yellow paint on the curb in front of her house be removed.

Beulah Maple – 4305 Sterling Avenue, North Moreland reported a house next door to her to be infested with roaches. She said she has found these roaches in her car and newspaper and that extermination is not doing any good. She reported people to have been moving in and out of the house for the past three years and that the house has no running water. She claimed the property to be very unsanitary and that nothing is being done about it.

Karen Collett – 1404 McConnell again asked that something be done about the weeds and trash in the alley behind her house. She reported a couch and a mattress to have been placed in the alley and wanted to know why something can't be done about this reoccurring problem. She also reported a very large possum, the size of a dog, has taken up residence in the neighborhood. Mrs. Collett said the Health Department no longer sets out traps for possums and inquired as to how to get rid of it.

Harald Daub – 1221- 22<sup>nd</sup> Street railed at Council for suggesting the purchase of the juvenile detention center. He accused Council of being more interested in real estate than in legislating. He claimed the tax payers to have already paid for this building once, when purchased by the County, and that the City is opening itself up for a class action law suit and again accused Council of making no attempt to use or sell the buildings it already owns before getting ready to jump into another building purchase. He continued by reiterating previous remarks he has made about vacant properties in the City and claimed the City to own more property than anyone else. He claimed the purchase price of \$2,000,000.00 to be an extravagant price to purchase and remodel a building two months before the end of the year.

Chief Charles Horner advised Mr. Daub that the purchase of the juvenile detention center was not proposed by Council but was, in fact, his proposal because it is an investment in the City's police department and because he felt the officers sitting in this room deserved a (*not discernible*) place to work. (Because the Chef was speaking with his back to City Council some of his words could not be heard). Noting the Marting's Building to be sitting empty, Chief Horner said this was "because of obstructionist in this community". He continued, stating, "We collectively have to come together as a city, we have to invest in ourselves and I am telling you this is the best investment you can ever make or we can make, best option I've seen in 26 years with your Police Department". He said when he approached the police officers about this proposal, one of the responses he received from the officers was "the public doesn't care about us so why should I go up there". He continued saying he cares about our police department and our community and that is the reason why he comes here. With regard to the Adelphia property he said if it would have given them something better than they have downstairs, he was for it. He continued saying, "If it was the Marting's Building and we did it properly, I was for it". He said, "I am tired and your police officers are tired of being treated second rate". The Chief, commending the fire department and calling them great, hard working guys, said he heard less argument about their \$1,000,000.00 purchase that was placed on debt retirement and described this as "ludicrous". He said, "Our City is going crazy". He said his goal when he made this proposal, was a request to invest in the police department and reiterated the fact, for the record, that nothing was being proposed by Council.

Teresa Mollette – 1705 Franklin Blvd. noted the two sheds had been removed from Mound Park and applauded this action by the City's Service Director, Chris Murphy.

Mrs. Mollette, stating that on September 11<sup>th</sup> it was noted that Chief Horner was engaged in an ongoing investigation of several Internet websites, requested a copy of all the papers, logs, tape recordings, etc.

that has anything to do with that investigation. She said she was making that request through “Mike Jones, Jim Kalb and Charles Horner”.

She relayed to Council the announcement that SOMC would no longer have a pediatric department, noting that hurt or sick children, needing more than 23 hours of care, will be “shipped out” to another facility outside of our community. She expressed her disappointment with the hospital’s decision.

In response to Chief Horner stating that the police department needs a safe place to work she said that the citizens of this community also need such a place to raise their families. She did not feel that a new building for the police department is what brings people to a community and reiterated remarks she has made with regard to infrastructure and a comprehensive plan.

Alan Barlow – 2017 Waller Street, with regard to the police department, noted the building to be empty and acknowledged that he has lived her for eleven years and did not know that building existed. He further noted our police department to be in the basement, stating that when he first came to Portsmouth he went to the police department to get some records and he had to “look for the place”. He claimed part of the police department to be in the basement and part of it on the second floor and claimed that he also could not find the Engineering Department. He felt that some of the departments that are in the present building could be located in the former juvenile detention center. He said, “It is worth the effort and if you put together your budget and budget it out, you place it over five or ten years to pay for it, it’s a good deal. He felt it to be “stupid” and “really dumb” to let the building set there and not be used.

Capt. Robert Ware – Portsmouth Police Department, with regard to the Police Chief’s proposal, said that regardless of the political overtones that have been in the community over the last three to five years, acknowledging his fellow officers who were present this evening, he noted the world to not be perfect and felt the perfect solution would be to build a nice state of the art/21<sup>st</sup> century building for the police to do their job and keep the community safe in the best way possible. Capt. Ware acknowledged the reality of it is that we can’t do that in Portsmouth, Ohio and further acknowledged that to be understood but felt that we have an alternative, noting it to not be the best one but a very good solid building, secure, technically sound that will allow the police to do the things they need to do to take this community into the next century or next decade as a police department. Saying that some of the things the general public doesn’t see if the future trends, Capt. Ware said “We are going to need a more secure building than what this building provides us as a police department”. He said at the former juvenile detention center the police department could stay open 24 hours a day – like they should be. He said it would provide the department with a safe working environment, saying he came to work today, after being gone for a week, to find the record bureau flooded. He said you do not know from day to the next if the facility is working or if the roof is leaking, thus they need another building. He said he understands the arguments and both sides of the issue and agreed there are pros and cons to the proposal but felt it better to utilize a fairly new building or leave it sit empty as another blighted property within the City’s limits. He acknowledged there to be a lot of issues facing the City and the department understands them and are not asking for the world but are just asking for a facilities that they can be proud of and where they can invite people from out of town into without feeling embarrassed about the place in which they are working. He said he would like for Council to consider the opportunity being presented to them.

**Miscellaneous business and reports:**

The City Clerk had nothing to report

Mayor’s Report

1. In response to all the comments that have been made this evening regarding the City He Building, the Mayor said he was told by people who are supporting him on the upcoming election that he should not even mention another building and he saw value in that. However, he felt it to be his job to bring options before Council. He said he does not have a vote so it will be up to Council to make the decision and acknowledged that sooner or later a decision will have to be made. He further acknowledged the condition of this building and as another example, he said people who are working on one of the air conditioner’s wiring, he reported a crack in the Clerk of Court’s Office that is getting wider and wider. The Mayor noted that office to be just above the Police Department and expressed his concern about it collapsing. With regard to a comprehensive plan, the Mayor said everything that can be as been proposed and enumerated the many attempts to move the City offices, noting that not even utilizing the Marting’s Building, which would have returned the purchase price back to the City, “did not fly”. He further noted that neither a proposal to renovate an existing building or erecting a new building has met with approval. The Mayor said he does not know for what everyone is looking. He acknowledged that the juvenile detention center is available and, although the County is hurting, the City is not bailing them out but if they have a need and the City has a need, he felt it to be worth Council’s time to take a look at the building. He said there are people interested in the present site of the City Building and its not because the City building is moving out to see the site to a friend but because this building has served its purpose and has outlasted its usefulness. He acknowledged that the building had not been properly maintained, as was the Post Office Building but the fault does not lie with this Council, pointing out that other people have sat in these Council seats in the 1970’s

and 1980's. The Mayor said it seems like everyone can't get on board when there is any plan presented. He said he figured sooner or later people are going to have to wake up and see and questioned whether or not it was going to take someone getting hurt in this building. The Mayor admitted it was hard for him to bring that option to Council at a time like this in his career but he felt it is the Mayor's job to present proposals to Council and to seek their expertise. He felt City Council to be influenced a lot by the public but so far none of the proposals have satisfied the public. He said if Council would tell him what they are looking for or exactly what they want, he would be more than happy to try to find it. With regard to a "comprehensive plan" the Mayor said he did not know what kind of a comprehensive plan would be needed for a City Building and suggested it might need to be explained to him then he would go out and try to put that information together for them.

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

The Acting President had nothing to report.

#### Miscellaneous business from City Council

6th Ward Councilman Noel appointed Theora Bradley to replace Jeff Dempsey on the Traffic Committee. Mr. Noel explained that due to family illness Mr. Dempsey is unable to serve at this time but will be reappointed whenever his situation changes.

Mr. Noel described the house that is overrun with roaches to be a "very bad situation" and claiming nothing that was stated by Mrs. Maple was an exaggeration. He felt the house should be razed and suggested someone do something to correct the problem.

With regard to Mrs. Elliott's parking problems, Mr. Noel said he had checked the situation several times and that she had tried the curb from being painted, saying she had contacted everyone. He reiterated Mrs. Elliott's remarks and said he did not see why the curb needed to be painted yellow.

5th Ward Councilman Haas had nothing to report from his ward.

4th Ward Councilman Albrecht had nothing to report from his ward.

3rd Ward Councilman Mollette asked everyone to keep in mind that he believed "the strength of our community lies in the public's ability to guide policy making and our government's ability to provide that transparency, inclusiveness and accountability and that's with open dialogue and a plan". He applauded Chief Horner's "forethought" to bring his proposal before Council. He continued by reiterating previous statements he has made with regard to making informed decisions. He advised everyone that if they were interested in the Police Chief's proposal, they could read about it on his web site. Mr. Mollette stated his purpose as being to listen to the public and that he is "swayed by the citizens" because he represents the citizens and he felt that is the way it should be. With regard to the fire truck, Mr. Mollette noted that Council may have taken less time to discuss the fire truck but felt the biggest issue to be is that "we" have been handicapped over the years because we are not taking everyone into consideration when we make these decisions. He said, "We make spot decisions based on one particular items(sic)". As a "for instance" he said citizens are looking at a 5% per year increase in sewage rates and he felt that should be something that is on the table when discussing all our options. He reiterated his position with regard to budgeting and noted the repaving issue was "called off" because the intent was to use the debt retirement option to pay for it. He acknowledged the fact that the streets do need paved and restated his position on the use of debt retirement funds. He claimed there to not have been any discussion with regard to what is going to happen to the present building should the police department be moved to another facility. He felt that we need to get and maintain a building but noted there to be associated cost that had to be considered.

He said he has asked for additional information and supplied solutions with regard to the 911 emergency calls. He noted that he has proposed some changes to the Codified Ordinances "in order to improve the system and let individuals know what the expectations are so that it develops a better system that just establishes expectations and I think that's healthful". He said he has also requested additional information on the deer problem in the City, "so we can make informed decisions we have to identify what the problem is and I don't think they have really identified what the problem is to date on how big a problem it is". Mr. Mollette claimed to

have also requested nine or ten items of additional information in order to make those informed decisions.

He expressed his appreciation for the Solicitor's input this evening and felt it to be very candid.

With regard those "individuals" who are present tonight, Mr. Mollette he expressed his appreciation those who are speaking and wanted to encourage them to continue speaking.

2<sup>nd</sup> Ward

Councilman Malone said the concerns of his ward have already been passed on to the appropriate department.

1<sup>st</sup> Ward

Councilman Mearan said he has been involved in the criminal justice system in Portsmouth for four decades and could remember when prisoners were actually housed in this building back in the early 70s. He said he has spent many hours on the top floor of the courthouse in that archaic dungeon and has observed the changes that can take place. Mr. Mearan said he also has spent a lot of time in the new county jail where all the prisoners are housed noting the offices and the security of the facility. Mr. Mearan said he does not know of another city the size of Portsmouth in America that at 8:00 p.m. a citizen who is in trouble can't go to their police department for help. He claimed that cannot be done in Portsmouth. He told about the events that occurred, prior to his being on Council, regarding the Adelpia Building and the City becoming the owners of the property. He said that he and his client have received nothing but criticism over this transaction, when all his client did was donate a building to the City for its use. He said he thought that building could be used, and noting there are different alternatives, he expressed his feeling that the police officers of this City needs a safe place in which to work and the citizens need a place in which to go. Mr. Mearan stated that as long as he is on Council, seeing that happens, is going to be one of his top priorities.

Mr. Mearan advised everyone that his law office is now located in the 1<sup>st</sup> Ward at the corner of 6<sup>th</sup> and Court Streets and he will be available there for his constituents.

The Solicitor invited everybody to the Domestic Violence vigil that will be held on October 15<sup>th</sup> at 7:00 p.m. at the Scioto County Courthouse. He said this is a night to remember all the victims of domestic violence and encouraged everyone to attend.

The Auditor had nothing to report.

The meeting adjourned at 7:55 p.m., on a motion by Councilman Albrecht.

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City Clerk

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Acting Council President