

MINUTES – ORGANIZATIONAL

PORTSMOUTH CITY COUNCIL MEETING
Monday, January 04, 2010
6:00 P.M.

The members of the City Council of the City of Portsmouth, Ohio met for an organizational meeting on Monday, January 4, 2010, at 7:00 p.m., in the Council Chambers of the Municipal Building.

City Solicitor, Michael L. Jones, called the meeting to order. The Pledge of Allegiance to the flag followed a moment of silent prayer.

Kevin Johnson nominated David Malone to serve as temporary Chairperson. There were no other nominations. David Malone was unanimously named as temporary Chairperson.

Councilman Albrecht nominated Jo Ann Aeh to serve as temporary City Clerk. There were no other nominations. Jo Ann Aeh was unanimously named as temporary City Clerk.

The Solicitor administered Oaths of Office to Kevin Johnson for position of 1st Ward Councilman; Nicholas Basham as 3rd Ward Councilman and John Haas as 5th Ward Councilman.

On a motion by Councilman Johnson, Council accepted a memo from the Auditor notifying Council that the official faithful performance/surety bonds for all newly elected officials have been secured in his office.

The memo was accepted on a motion by Councilman Johnson.

Roll Call showed the following member to be present:

Kevin Johnson	1 st Ward
David Malone	2 nd Ward
Nicholas Basham	3 rd Ward
Jerrold Albrecht	4 th Ward
John Haas	5 th Ward
Richard Noel	6 th Ward

Also present were Mayor Jane Murray; City Solicitor, Michael L. Jones and City Auditor, M. Trent Williams.

Councilman Malone was unanimously elected to the position of President of Council, having been nominated by Councilman Albrecht.

Councilman Haas was unanimously elected to the position of Vice President of Council, following a nomination by Councilman Albrecht.

On a motion by Councilman Haas, Jo Ann Aeh was appointed to the position of City Clerk.

The Solicitor administered Oaths of Office to all those being appointed.

Councilman Johnson suggested a number of changes to the “Rules of Council”, the first of which would modify Rule #9 by moving the motion “The Previous Question” from its rank of 5th place to 4th and the motion “To Lay on the Table” from its 4th place rank to 5th place and to make only the first 4 motions non-debatable as opposed to the first 5 being non-debatable.

Councilman Noel moved to amend the rules as suggested by Councilman Johnson. On a roll call vote the motion did not carry. **VOTE: ayes 2 (Johnson; Noel) – nays 4 (Malone; Basham; Albrecht; Haas) The motion failed. Rule #9 remained unchanged.**

Councilman Johnson moved to amend Rule #14c by adding “in the event that an Ordinance or Resolution bearing the weight of an Ordinance be amended at any time to significantly change the scope of same, or that adds financial costs or restrictions in any manner, such Ordinance or Resolution bearing the weight of an Ordinance shall be considered a new Ordinance or Resolution bearing the weight of an Ordinance and shall be reintroduced as new legislation for First Reading and shall be made available for input from Citizens as defined in Rule 4.a.6. Mr. Johnson cited several examples from previous minutes to support his motion.

Councilman Haas questioned “significantly” and how that would be determined noting that it could cause some issues “down the road”. Mr. Haas was concerned about possible future litigation over the definition of “significant” given the nature of how things have gone in the past. He also felt that if there is a “public backlash” regarding amending ordinances without public input on the amendment then that is something with which Council needs to deal. He also expressed concern that anytime an ordinance is amended it could be something that some citizen would not like. Mr. Haas felt it to be putting a rule upon Council that

he feels is over restrictive. Councilman Johnson noted it would be “significant” if the intent of the ordinance began as one thing but after amending it would actually mean something else. Councilman Noel concurred with Mr. Johnson, noting that it may create a need for more readings but felt it important to have public input on amendments. Mr. Malone acknowledged the importance of allowing the public to voice their opinion. Mr. Johnson felt that not allowing the public time to comment on an amendment was not a good way to legislate. He felt that by the time an ordinance gets to its third reading it should be the same ordinance that was introduced to the public on its first reading. He felt this to be the reason for a “three reading rule” – to give the public time to understand the legislation. Mr. Johnson said he was willing to look at amending the request if there is a problem with the word “significantly”, saying he did not have a problem with it but he does have a problem with an ordinance not having the same meaning at its passage as it did when first introduced.

The Solicitor also expressed concern with the reference to “financial costs or restrictions in any manner”, saying this is also left to interpretation of what a restriction is, noting this to already be an issue and he did not want to subject the City to any additional litigation over words. While he understood the intent, the Solicitor felt this particular manner of going about it could be a potential pit fall.

Councilman Haas expressed his belief that Council is responsible to do what is right and he did not know that he needs a bunch of rules that can confuse, although with good intent to do the right thing, and come back on Council. Councilman Albrecht noted that one of the examples used by Mr. Johnson was an ordinance that was amended on the third reading to include a dollar figure because that was what the public requested and it was passed after that amendment because of time constraints.

In response to Mr. Johnson inquiring as to how many law suits have been filed with regard to the Rules of Council, the Solicitor stated that he did not know. Mr. Johnson stated that to his knowledge there had been none, noting that all cities have Rules of Council and they are generally a guide line so citizens know what to expect. He said he has never heard of a law suit being filed in relation to these rules, noting that most lawsuits are about perceived violations of an ordinance or a charter.

There being no further discussion the roll was called. **VOTE: ayes 3 (Malone; Noel; Johnson) – nays 3 (Basham; Albrecht; Haas) The motion failed. Rule #14 remains unchanged.**

Councilman Johnson moved to add rule 14e to make a motion to suspend the rule requiring three readings a debatable motion.

He stated that in the years he has attended Council meetings suspension of the rules has been enacted a lot and he felt the “three reading rule” was there to protect the public and to allow the press to be able to communicate to the public. Mr. Johnson stated it to be his belief that such an important motion that is used so often should be debatable.

Councilman Basham inquired as to how long a debate would last should the motion become an issue. The President advised that Council can debate all night as long as everyone has had an opportunity to voice their opinion.

There being no other questions or comments the roll was called. **VOTE: ayes 2 (Noel; Johnson) – nays 4 (Basham; Albrecht; Haas; Malone) The motion to add Rule #14e failed.**

Councilman Johnson moved to add Rule #14f, which would state that the rules that require three readings may not be introduced nor utilized for an ordinance or resolution bearing the weight of an ordinance that shall increase taxes or the cost of City services to citizens of Portsmouth. Mr. Johnson, again referring to previous minutes, cited an example of when bonds were issued for the purchase of a new fire truck in May of 2009. Councilman Albrecht advised there to have been a time constraint involving the purchase of the truck since there was another buyer interested in making the purchase. The President noted that the City saved close to \$900,000.00 by taking this action.

Councilman Basham questioned the wording of the rule noting the language states that three readings cannot be given to ordinances that increase taxes or incur a cost for services. Councilman Johnson acknowledged that the suggested rule was incorrectly written and apologized, saying the intent was that three readings not be suspended on any such ordinance.

Councilman Basham said he agrees with the idea especially when it comes to raising taxes and inquired as to how this has worked in the past. The President advised that anything that raises taxes or relates to financial aspects is normally given three readings. He, however, remembered the ordinance on the truck being an exception, noting there to be a need and it was a large savings to the City. He said he viewed that as “lifting a burden off the City” but was not speaking for the rest of Council. Councilman Noel cited the passing of an ordinance relating to the disposal of hazardous waste many years ago and he felt this was not done correctly and claimed the City to have a “hazardous dump” within its limits. He claimed there to be other examples over the years and further claimed the Ohio Revised Code says everything should be given three readings and the only time an ordinance can be passed as an emergency is when it is an emergency. Councilman Albrecht pointed out the fact that often the bonding company or late submission by the State government on grants makes it necessary to suspend the rule in order to meet the time constraints. Mr. Johnson pointed out that his amendment is only related to increasing taxes or cost of services. With regard to the purchase of the fire truck, Mr. Johnson stated that he has heard from many auto dealers that a certain price

is only good for a limited amount of time and he does not buy into that. He acknowledged that he did not know the specifics about the fire truck but finds that unusual as well.

The language being clarified as to Mr. Johnson's intent, the roll was called on the motion. **VOTE: ayes 3 (Noel; Johnson; Basham) – nays 3 (Albrecht; Haas; Malone) The motion to amend failed.**

Councilman Johnson moved to amend Rule #19 to include instructions that the City Clerk upload, to the City's website, the agenda, at least 6 hours prior to each regular or special meeting.

The Clerk advised that she does not put information on the website and further advised that action is done by Mike Penn. She further advised that the agenda is in fact given to Mr. Penn and it is uploaded by him onto the website on a Tuesday or Wednesday prior to the meeting. She further advised that she did not want to be responsible for something that depended on an action by another person over which she would have no control.

Councilman Johnson withdrew his motion to amend Rule #19.

Councilman Johnson moved to delete Rule #27, noting it to be redundant since there is a State Law prohibiting smoking in public buildings.

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

Councilman Noel made a motion to change the meeting time to 7:00 p.m.

In response to the President asking his reason and noting that the meetings sometimes run long, Mr. Noel said he thought it would give people more time to get to the meetings. He said he remembered the reason it was changed was to allow business people to come to the meeting without having to go home first.

Councilman Johnson noted that with a conference following it makes a long evening.

Mr. Noel amended his motion to leave the meeting time as 6:00 p.m. on the 2nd and 4th Monday of each month.

There were no questions or comments. The motion carried viva voce.

There was no one present who wanted to address members of City Council.

REMARKS TO CITIZENS FROM COUNCIL MEMBERS:

1st Ward Councilman Johnson thanked the voters for their support and Mike Mearan for making it a smooth transition. He also thanked his friends for their support as well as thanking his mom.

2nd Ward President Malone expressed his appreciation to the citizens who come to the meetings for their input. He stated that he is going to do all he can for the betterment of our City. He said anyone who has any suggestions or comments they can call him at 354-5095.

3rd Ward Councilman Basham thanked everyone who wished him well and good luck on this endeavor. He said he is excited to see good things happen here. He advised those who want to call him can do so at 876-8030.

To the citizens of the 3rd Ward, he said he has talked to several members who live around the former McKinley School property and he has checked with the architect and wanted the citizens to know that their concerns are being heard on both sides of the fence. He expressed his hope that the end result will be something that will benefit everybody.

4th Ward Councilman Albrecht expressed his appreciation to everyone who in attendance at this meeting and extended his welcome to the newly elected officials.

5th Ward Councilman Haas thanked everyone for coming and for getting involved. He said he is ready and looking forward to working with the new members and predicted some exciting times in the next year or two.

6th Ward Thanked everyone and said he has enjoyed the last two years and is looking forward to the next two years.

The President extended to the new Mayor an opportunity to speak. The Mayor advised the Council and the public that her administration will work hard to make sure that all the information is available in plenty of time for thorough review and discussion. She further advised that she will be making a presentation to

Council about the budget and requested they meet as a Committee of the Whole so that extensive information can be provided to them about every issue that they bring forward and therefore there is plenty of opportunity for discussion. She said she felt this would, in many ways, assure that they will have less animosity, less suspicion the more they reveal how government is working and what their ideas are and involve the public in helping to form and shape those ideas. She said, "I know as Council members you are closer to your wards and that is as it should be but representing the entire City, residential owners, business people, people who live here we have a lot of constituency that we have to address". She said they were going to be sure they bring things forward in a very step wise manner so you have plenty of time to deliberate. The Mayor assured Council that occasionally they might get their back into a corner but that is going to be rare and not the rule. She said the public is always welcome to look at the books and what she does and will make sure that all records are posted on the new website as time permits. Noting they have just taken office she assured everyone that all information will be available to the public at the same time it is made available to Council.

On a motion by Council Haas, the meeting adjourned at approximately 8:00 p.m.

City Clerk

President of Council