

**MINUTES – REGULAR SESSION**

**PORTSMOUTH CITY COUNCIL MEETING**

Monday, October 25, 2010

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, October 25, 2010 at 6:00 p.m., in the Council Chambers of the Municipal Building.

President of Council, 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:

Kevin Johnson	1 <sup>st</sup> Ward
David Malone	2 <sup>nd</sup> Ward
Nicholas Basham	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 M. Jane Murray; City Solicitor, Michael L. Jones and City Auditor, M. Trent Williams

**STATEMENTS FROM CITIZENS ON ITEMS ON THE AGENDA**

Lisa Roberts of the City's Health Department provided Council with a hand-out on prescription drug abuse facts, in Scioto County in 2010. The hand-out was entitled "Scioto County – in a World of Hurt and provided statistics relating to the misuse of prescription drugs in our county. Ms. Roberts read aloud the information contained in the hand-out.

**LEGISLATION**

The Clerk gave a **second reading** to an ordinance instituting a one hundred eight (180) day moratorium on the issuance of any permit, license and/or authority to establish any "pain clinic", "pain management clinic" or "pain management center" within the City of Portsmouth, Ohio, to allow time for the City, its staff, agencies and departments to review regulatory options and further to formulate and adopt regulations, rules and ordinances for said "clinics", providing for severability and providing for an effective date.

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.

At the suggestion of the Solicitor, Councilman Johnson made a motion to amend the ordinance by clarifying the definition of "pain clinic" by adding the words "Any pain clinic, as being defined, shall be associated with a properly accredited hospital or university" at the end of Section II, item "c".

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

There being no questions or comments on Councilman Albrecht's motion for passage the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #65-10**

The Clerk gave a **first** reading to an ordinance authorizing the appropriation of \$16,000 from Waterworks Fund No.606 for repair to the roof of the filtration Plant and where necessary to authorize the Mayor to advertise for bids and thereafter enter into contracts with the lowest and/or best bidder for various purchases and projects for aforesaid repairs to the roof of the Filtration Plant, declaring the same to be an emergency.

Councilman Albrecht move 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. # 66-10**

The Clerk gave a **first** reading to an ordinance amending Ordinance No. 26 of 2010, the 2010 Income Tax Capital Budget to appropriate \$22,761.25 from remaining CIP funds to Public Safety Police Department Fund to pay a portion of the last year payment for five year lease on police vehicles and repealing Ordinance No. 26 of 2010.

Councilman Albrecht moved this constitute a first reading.

Councilman Johnson noted that during the discussion of this matter at the conference meeting, there was a request to suspend the rule in order to save money buy paying off he lease now. The Mayor further noted that the lease agreement is due in early November.

Councilman Albrecht withdrew his motion for a first reading.

Councilman Noel 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 Noel 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. # 67-10**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance and the appropriation of check no. 92217613 in the amount of \$1,268.24 received from Nationwide Insurance into Police Department Vehicle Maintenance Line Item No. 101.221.5264 for reimbursement of damages to a police cruiser.

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. #68-10**

The Clerk gave a **first reading** to a resolution assumption of Powers pursuant of Chapter 305.07 – Traffic Control of the Codified Ordinances of the City of Portsmouth, Ohio.

Vice President Haas, noting this resolution to have the weight of an ordinance, moved to suspend the rule requiring such resolution to be read on three separate dates.

The roll was called. **VOTE: ayes 4 (Albrecht; Haas; Malone; Basham) – nays 2 (Noel; Johnson) The rule was suspended.**

Vice President Haas made a motion to adopt the resolution.

Councilman Johnson again noted Council's receipt of the HNTB report in 2007 and claimed that until "this Mayor" was elected nothing had been done except to take out a couple of traffic lights, two of which, he claimed, were not even called for in the study and further claiming there removal to have resulted in "major problems". Claiming that traffic control is an administrative function and noting Council to be legislatures, Mr. Johnson objected to Council relieving the Mayor of the authority delegated to that position by ordinance. He continued by reiterating the matter of the HNTB report and reviewed actions that were and were not taken with regard to the traffic study. He questioned how this Council could be the administrators over traffic issues given their history with regard to this study. He acknowledged there to be a separation of powers and questioned how a resolution can overturn an ordinance. Mr. Johnson said, "It makes no sense to usurp the power of, not only this Mayor but future Mayors. He also felt this would cause the Council to become involved with the day to day activities of the department heads. Mr. Johnson claimed that, with the exception of the resolution introduced by Mr. Haas, this issue has not been discussed by Council and he could not imagine why they would want to do so now. Mr. Johnson stated, "Many of the things that I have seen come about because of political aiming at the Mayor". He said he disagreed with the Mayor on a lot of things but he can sit down and talk with her. He continued, saying, "I find this to be a political move that's not in the best interest of the City and it will not help our traffic situation". Councilman Noel concurred with Councilman Johnson. He claimed to know what the "main problems" were in Mr. Johnson's ward and in other places. He said he did not see how anyone could see how Council will be able to resolve this from their position as Councilmen. He claimed Council to "have the right to override just about anything the Mayor does" but felt to take away her "administrative rights" that have existed for several years to be degrading to the Mayor's position and he did not think the Council was qualified to do this because they are only here twice a month. He claimed the Mayor to be "doing her best" and described this action as "the most asinine thing that I have seen done before Council" and disagreed with this action. Vice President Haas, noting another member of Council providing some history with regard to this matter, said he would also like to provide everyone with a little bit of history. Mr. Haas continued by noting that since the first of the year traffic lights have been

bagged; “Do Not Enter” signs have been erected on both ends of an alleyway next to the Mayor’s residence; “no truck signs” have appeared all over town; “no turn on red signs” have also appeared all over town in violation of City ordinances; handicap parking signs have been placed in residential neighborhoods; a stop sign was erected at the end of Waller Street and noted it was removed within two hours. Mr. Haas continued pointing out that traffic lights were turned on and then turned back off, he also noted a long history of actions taken by the Mayor without respect to the Chiefs of Police and Fire, without respect to the Traffic Committee that was put in place by ordinance for a reason, which he declared to be “checks and balances”. He said he believed everyone in this room and middle school knows for what reason “checks and balances” exist. He acknowledged a big part of that is to stop “idiotic ideas” from making it to the fore, which, Mr. Haas acknowledged, has not been done. He pointed out that the Traffic Committee is there for a reason and that Council is here for a reason and he did believe that Council can do a better job, with respect to traffic issues and what has happened this year. Mr. Haas pointed out that at the last Council meeting an indication was made that this issue was going to be taken to the Traffic Committee and then brought back to Council, however that did not happen. He acknowledged the matter to have been taken to the Traffic Committee in the form of a Power Point presentation by Howerton Engineering at a cost to the City of \$5,000.00. He advised that nothing was brought to Council and that he learned about this in the newspaper. Mr. Haas stated, with all due respect, that this was an issue that has lingered since January and acknowledged that he had requested this legislation on September 13<sup>th</sup> but it was not until this past week that he met with the Solicitor and drafted this resolution. He said he wanted to give every opportunity to the Mayor to do the right thing but that didn’t happen. He noted that not only were there going to be new stop signs crosswalks were going to be painted and parking areas marked that cannot be undone. With that Mr. Haas respectfully asked Council to adopt this resolution. Councilman Johnson said he would like to bring to everyone’s attention that within the HNTB’s studies everyone of the “no turn on red” that were implemented by our “traffic squadron” are all in the report and he claimed they were all approved by the Traffic Committee as part of their overall recommendation. Mr. Johnson also pointed out that there is a reason why the Traffic Advisory Committee is an “advisory committee” that may not be able to do all the things that they want. He noted one lingering issue that has been neglected for years and has not been dealt with by Council are the lane switches going North on US 23 where it crosses Rt. 52 West. He claimed there to be many complaints about this and that the Traffic Committee has made many reports on it but Council has not done anything. He went back to the HNTB report and reiterated remarks he made previously including remarks that the Traffic Committee endorsed the “entire report”, which included every stop light on Gay Street and he thought it would be a disaster to remove the light at Kroger’s. However he felt this was beside the point because that is what the study recommended. He continued to reiterate the events regarding the study and the action and/or non actions that were taken with regard to the Traffic Committee’s recommendation. He further stated that the last Traffic Committee meeting he attended the members said they were not going to respond to the Solicitor’s memo for clarification because they stood on their recommendation to adopt the study. Mr. Johnson continued by noting inaction by Council and supporting the Mayor’s decision regarding this issue and reiterating the recommendation of the Traffic Committee. He emphasized the fact that this committee serves in an advisory capacity and felt that saying every recommendation by the various committees had to be followed would be advocating Council’s responsibility as an elected official. Mr. Johnson advised Council that he will “pick this apart” and again referred to the recommendation to remove the light at Kroger’s and quoted from the study with regard to other recommendations. Mr. Johnson said, “I do not see how this Council can be an administrative part of this government, it is not, this is legislative”. He called this resolution “beyond the pale”. In response, Vice President Haas stated that the Traffic Advisory Committee is exactly that and noted the Traffic Advisory Committee was not asked anything about Phase I of the study and there was no advice sought or requested. This plan was a done deal before it was presented and he did not know why \$5,000.00 was spent for a Power Point presentation and shown to the Traffic Committee. He further noted that there was no request for one bit of input from anyone on the Traffic Advisory Committee with regard to this new program. Mr. Haas admitted that Council does not want to be involved in traffic issue but felt they have a choice. The President, in response to Mr. Johnson claiming Council to have ignored this since 2002, said he is in his seventh year of being on Council and this is the first time he was made aware of this traffic study so he could not say that Council knew but the former administration did. He acknowledged that Council does not have a right to administrate but noted an ordinance provides Council with the authority, should there be an issue with traffic matters, to reassume the decision making responsibility. He agreed with Mr. Haas, saying he was waiting on the Traffic Committee to come before Council and provide them with a report. He noted that to have not occurred. He advised Mr. Johnson that the e-mail he received from him, relative to this issue, is the first he heard that the Traffic Committee adopted the entire study. The President recalled the Solicitor’s response to the Chief of Police and noted that he himself had responded to the Chief prior to Solicitor having done so. He noted that neither he nor the Solicitor received a response. Councilman Johnson advised the President that the study had been provided to all members of Council on April 9<sup>th</sup> and each packet contained the respective Council member’s name. Councilman Noel also concurred, saying he had received a copy. Councilman Johnson inquired as to whom amongst the members of Council would be negotiating with Mr. Brushart and ODOT and assumed this would be done by the President of Council. Mr. Johnson continued, reiterating his inquiry as to who on Council would negotiate with Mr. Brushart, noting there is more than just reviewing recommendations from the Traffic Committee. He again noted the time line in which Council received the information and the fact that nothing was done.

Councilman Basham called for the question.

The roll was called. **VOTE: ayes 4 (Haas; Malone; Basham; Albrecht) – nays 2 (Noel; Johnson)**  
**The motion carried. The discussion ceased.**

The roll was called on Vice President Haas' earlier motion to adopt the resolution. **VOTE: ayes 4 (Malone; Basham; Albrecht; Haas) – nays 2 (Noel; Johnson) The resolution was adopted. RES. #13-10**

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

Carl Bishop – 11 Brookside, Lucasville, Ohio said he comes to Portsmouth a lot and, noting some boarded up houses, inquired as to why the City did not purchase these houses, rehabilitate them and provide places for the homeless to live. He also felt there should be places provided by the City for stray pets to stay. He felt this to be an issue that no one is addressing.

#### **Miscellaneous business and reports:**

##### City Clerk's Report

1. On October 20, 2010, the petitions for the recall of Mayor Jane Murray were certified as sufficient and notice of same was e-mailed to the Mayor and all members of Council per Section 152 of the City Charter. Of the 1368 signatures submitted, 1,171 were found to be valid, thus exceeding the 1,148 required signatures.

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

##### Mayor's Report

1. The Mayor reminded everyone that "Trick or Treat" would be on Thursday, October the 28<sup>th</sup> from 5:30 p.m. until 7:00 p.m.

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

##### President's Report

1. The President made the following appointments:

Mr. Scott Moore to the Design and Review Board, replacing Mr. Mark Harris

Mr. Joe Newberry to the Cultural Affairs, Neighborhood and Recreation Committee

Mr. Bob Gamble and Mr. Lawrence G. Fitch to the Housing, Infrastructure and Economic Development Committee.

In order to meet the requirements of the Charter, the President advised Council that he is calling a special meeting for Thursday, October 28<sup>th</sup> at 7:30 p.m. in the Council chambers to consider legislation setting a date for the recall election of Mayor Jane Murray.

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

##### Miscellaneous business from City Council

6<sup>th</sup> Ward Councilman Noel, in response to Mr. Bishop's remarks, advised there is a lot being done with regard to dilapidated houses by the Mayor and her Housing Committee. He claimed that during this past summer there has been more done on this subject than has been done in a lot of years. He reported that about a month ago four houses were torn down in his neighborhood. Mr. Noel advised Mr. Bishop that the City is working on this matter and commended the Mayor for making that one of her priorities. He called these areas "slum districts" and stated that three or four areas of his ward have already been improved nearly 100%.

5<sup>th</sup> Ward Vice President Haas expressed his condolences to the family of John Berry, a local attorney who passed away Friday evening.

4<sup>th</sup> Ward Councilman Albrecht reported all his ward concerns to have been passed on to the appropriate department head and have been resolved.

He thanked the college students for their clean-up efforts a few weeks ago.

3<sup>rd</sup> Ward Councilman Basham, noting a lot of talk about blighted areas of the community, said he would like to remind everyone that there are nice properties in town. He

said he put together a little crew who went around his ward and selected a home displaying the best Halloween decorations. Mr. Basham congratulated Kimberly Newman of 3292 Seneca Drive, who was selected as having the best decorated home in the 3<sup>rd</sup> Ward.

2<sup>nd</sup> Ward

The President had nothing to report from his ward.

1<sup>st</sup> Ward

Councilman Johnson reminded everyone that this Wednesday at 5:30 p.m., at the Welcome Center will be the next meeting of the Portsmouth Bicentennial Committee. He expressed his hope that they will have their first officers appointed and be ready to proceed by the first of the year.

He said he regretted to inform Council that due to a long-standing personal event that involves his late partner, he cannot be present at the special meeting.

The Auditor had nothing to report.

The Solicitor expressed his condolences and shock over the passing of John Berry. He said Mr. Berry had been an acting magistrate in the Municipal Court for the past two years. He described Mr. Berry's death as a shock.

The Solicitor, noting that he did not get a chance to comment on the resolution, said he felt that everyone, including himself, can do a far better job of communicating these issues, not only traffic issue but all kinds of issues. Mr. Jones said he does find it regretful that Council had to take the kind of action they had to take this evening and felt it was unfortunate that the situation had reached that point. He pointed out that the City has a lot to do this next year and reported the budget for next year is going to be difficult. Mr. Jones acknowledged being one of the Mayor's "biggest sources of frustration" in terms of letting her know when he disagrees with something but also wanted to commend her in terms of the budget. He noted this to be the first time, in which he has been involved with the budget, of sitting down beforehand and trying to come up with a budget. He also expressed his appreciation to the Council President, Mr. Malone and all the department heads who is trying to put together a budget for 2011. He noted it to also be frustrating because the job of the City's officials is a political environment and he does agree with Mr. Johnson that a lot of things that have happened with Council have been motivated by politics and expressed his hope that can be stopped in the future and start doing what is best for this community.

The meeting adjourned, on a motion by Vice President Haas.

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City Clerk

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President of Council