

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING
Monday, November 9., 2007
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, November 9, 2009 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Acting President, David Malone called the meeting to order. The Pledge of Allegiance to the Flag followed a moment of silent prayer.

Roll Call showed the following members to be present:

Mike Mearan	1 st Ward
David Malone	2 nd Ward
Bob Mollette	3 rd Ward
Jerrold Albrecht	4 th Ward
John Haas	5 th Ward
Richard Noel	6 th Ward

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

Council dispensed with the reading of the Journal for the regular session of October 26, 2009, on a motion by Councilman Albrecht.

In response to a memo from the Solicitor, Councilman Albrecht made a motion to add to the agenda legislation repealing Section 169.91 (a) and (b) regarding residency requirements to conform with the decision by the Ohio Supreme Court.

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

STATEMENTS FROM CITIZENS ON ITEMS LISTED ON THE AGENDA

Linda Switzer – 319 Front Street requested the ordinance that was added to the agenda be read in its entirety and be given three readings.

LEGISLATION

The Clerk gave a **second reading** to an ordinance authorizing the Mayor of the City of Portsmouth, Ohio to advertise for bids and to enter into contracts for required supplies, materials and services for 2010 in accordance with Ohio Revised Code, Section 735.05.

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 (Mollette; Noel) The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

The Mayor explained that passage of this ordinance will allow him to go out for bid for material supplies and services while there is still an opportunity to get a good price.

Councilman Mollette said it would be nice if suspension of the rules could be discussed so members of Council would better understand the request and the need for the rules to be suspended.

There being no further comments, the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #68-09**

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 enter into any agreements and execute contracts as may be necessary and appropriate for obtaining this financial assistance.

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

The Roll was called. **VOTE: ayes 4 (Albrecht; Haas; Mearan; Malone) – nays 2 (Mollette; Noel) The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

Councilman Mearan acknowledged this to have been discussed at the last meeting and the fact that the ordinance needs to be passed tonight. In response Councilman Mollette, for clarification, reiterated the Solicitor's advise to Council at the last meeting and said he did not know if the City has actually received a notice from Time Warner. The Solicitor again advised Council of the importance of passing this ordinance in order to not lose approximately \$200,000.00 in Video Service Provider Fees and stated that he anticipates the notice will be received by the City any day. The Acting President noted that, based on the date of the contract, there would not be another meeting of Council prior to that deadline. The Solicitor again recommended, for the sake of assurance of receiving these fees that the ordinance be passed this evening.

There being no further questions or comments the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #69-09**

The Clerk gave a **first reading** to an ordinance amending Chapter 169 of the Codified Ordinances of the city of Portsmouth, Ohio – Employees Generally by repealing Section 169.01 (a) and (b) - Residency Requirements, to conform to the Supreme court of Ohio decision in Lima v. State, 122 Ohio St.3D 155,2009-Ohio-2597 which was decided June 10, 2009.

Prior to any motion being made and in response to Councilman Mearan, the Solicitor explained the case to members of Council. He explained that the Court has ruled that municipalities, villages, townships cannot have any kind of code that requires an individual that is employed by them to be a resident of that municipality. He further noted this decision supersedes any and all charters, therefore a City cannot have a provision that requires residency in that particular municipality. Mr. Jones said he wants to make sure the City's ordinances comply with the Court's ruling. Councilman Mollette noted that our ordinances just require an employee to be a resident of the county and that we are not changing anything since we are not specifying anything. The Solicitor stated that he is saying the City cannot place any restrictions on residency.

Councilman Albrecht moved this constitute a first reading.

There were no questions or comments, on the motion. The roll was called. **VOTE: ayes 6 – nays 0 A first reading was declared.**

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Mike Malone – 1731 Robinson Avenue, noting the City to be preparing the 2010 budget, requested funds be allocated to McKinley Pool. Mr. Malone reported the pool to have several violations and has been told by the Health Department that if these are not corrected the pool will not be opened in 2010. He asked that everyone work together to resolve these issues. He acknowledged the pool to be used by more than just the children and expressed hope that the issues will be addressed so there is no "scrambling" when the time comes to open the pool.

Mr. Malone, referring to a video that was shown during the 4th of July weekend regarding the Chuck Ely story, noted the video to have been on sale that weekend. He also reported the video was shown nationally and the producer of the video has won an Emmy for the documentary. Mr. Malone announced that if anyone is interested in the video they can call or e-mail Chuck Ely.

Harald Daub – 1221-22nd Street made a public records request, to the Mayor, for any information regarding anyone who has expressed interest in purchasing the present City Building and how much was offered for the property. He requested this information be provided ASAP and before the present Mayor leaves office.

Eileen Perry – 1410-16th Street acknowledging the playground in Tracy Park, inquired about Mound Park. She claimed the equipment there to be "very very dangerous" and claimed that someone told her that someone was going to fix the equipment.

Miscellaneous business and reports:

The City Clerk had nothing to report.

Mayor's Report

1. Congratulated all the winning candidates and, noting himself to not be successful in his bid for re-election he congratulated Jane Murray and offered her any assistance she might need to make a smooth transition.
2. Announced plans for a City-Wide yard sale that will be organized by Dee Penix and Sharon Bender.
3. He advised Council that the 2010 operating budget is being prepared and will be ready for distribution to Council by the next meeting.

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

President's Report

1. The Acting President congratulated the Mayor elect and Councilmen elect, saying he is looking forward to working with them and expressed his appreciation to the outgoing officials.

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:

1st Ward Councilman Mearan congratulated the winning candidates and wished Kevin Johnson a speedy recovery from this upcoming surgery.

With regard to the video that was shown on July 4th about Chuck Ely, Mr. Mearan advised anyone who wants to purchase one to get in touch with him.

Referring to a memorial plaque recognizing Philip White that Howard Baughman was working on prior to his resignation, Mr. Mearan said he will purchase the plaque and donate it to the City for display at McKinley Pool.

2nd Ward Acting President, David Malone, had nothing to report from his ward.

3rd Ward Councilman Mollette congratulated all the winning candidates and announced that he would still be present at the meetings to support transparency, inclusiveness and accountability, reiterating his feeling that this is the only way to "win back the citizens of Portsmouth". In his five years of being involved in City government, Mr. Mollette felt the biggest problem is getting back the faith of the people, saying the people have thrown up their hands saying they feel they are not being represented and their opinions don't matter. Mr. Mollette said he feels City Council will have to work hard to regain that.

He thanked all the poll workers and those at the Board of Elections.

Mr. Mollette said he has followed up on the 2008 audit issues and expressed his hope that the Chief Auditor in the Athens region will provide the information to resolve those issues. With regard the 2009 budget, Mr. Mollette reiterated his concern with regard to anticipated end of the year revenue shortfall. He felt Council needed to play a role in seeing that administrative cuts are being made.

He said he has turned in a list of reported nuisances. He noted the Bridge in the playground at Mound Park has not yet been repaired and felt the City should have a contract person to whom problems with the playground can be reported.

He also expressed his hope that his suggestions for the 911 service does not "drop off" and reiterated his remarks with regard to "expectations" of this service.

He thanked everyone attending the meeting this evening.

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

He reminded those who were reporting repairs had not yet been made to the playground equipment at Mound Park, that what he had said at the last meeting was that he would take a look at the problem to see if he could do the repairs. He said he did look at it and has no problems with making the needed repairs. He said he e-mailed the Rotary Club to inform them of the danger.

Mr. Albrecht congratulated the winning candidates in the recent election.

5th Ward Councilman Haas also congratulated the winning candidates, saying he thought he has already spoken to each of them but if he hasn't he wants to apologize.

6th Ward Councilman Noel congratulated the successful candidates and said he was looking forward to working with them. He also expressed his appreciation to others for the work that has been done by those he has worked with during the two years he has been on Council.

He also expressed his appreciation for the road resurfacing that occurred in his ward. He cautioned those people traveling these new roads to watch their speed and not take advantage of the new surface.

The Auditor acknowledged everyone to have been provided with a copy of his written report, which he described as being “pretty extensive”. Mr. Williams said the report does not only involve the 2009 projections but also includes those projections for 2010. He noted the revenues to continue to “struggle along” this year saying they are not much different from the mid-year report that he provided to Council three months ago. Mr. Williams noted this struggle to be what most other cities are experiencing this year. He acknowledged the fact that the Mayor is continuing to work to reduce expenditures to reduce the gap as best as possible. He encouraged that, as soon as possible, Council, the Mayor and the departments initiate meetings to review some budgetary issues for this year, as well as to get an earlier start than last year on the 2010 budget. He felt the 2010 budget would be equally, if not more, difficult than this year’s budget. He said he does not see anything about next year that is going to dramatically increase revenues and he felt the expenditures, based on the economy, will be coming down on those things that are necessary to efficiently administrate this government. He said he would like to see the meeting reinstated between department heads and Council with regards to budget requests. He acknowledged information from the departments on what is being done and bringing Council up to speed on how things are progressing. He said if any member of Council has any questions they can contact his office or that of the Mayor.

The Solicitor had nothing to report.

The meeting adjourned at 6:37 p.m., on a motion by Councilman Albrecht.

City Clerk

Acting President of Council