

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING
Monday, February 22, 2010
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, February 22, 2010 at 6:00 p.m., at the Welcome Center, 342 Second Street, Portsmouth, Ohio.

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:

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 M. Jane Murray; 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 January 25, 2010, on a motion by Councilman Albrecht.

PUBLIC HEARING
Rezoning of Former McKinley School Property

The President of Council declared the Public Hearing open at 6:07 p.m.

Jerry Conkel – 2719 Sherman Road reiterated remarks made in 2006 with regard to opening up the closed end of Sherman Road and claimed the Planning Commission to lie.

Roberta Duncan – 1554-22nd Street read an e-mail from David Erwin, the owner of property located at 2131 Baird Avenue and who could not be present but wanted to object to the rezoning of the former McKinley School property.

Ms. Duncan also read, from a prepared statement, her objection to the rezoning based on her professional opinion as a licensed Real Estate Broker. She felt the rezoning would encourage “cut through” traffic; would be a threat to resident’s feelings of safety and security; for environmental issues; it would be an encroachment on neighbors and would “devalue” properties, which would include a loss of tax revenue to the City.

Fred Gohmann- 2200 Timlin Hill objected to the rezoning because he felt cars would be parking along the public streets instead of in a designated parking lot and noted a couple of instances where this is occurring at other locations in the City. Mr. Gohmann provided Council with a litany of excuses that people will give for parking on a public street as opposed to a parking lot and noted examples of this occurring in other places where there is ample parking on a lot. Mr. Gohmann claimed this to not be a “doctor’s office” but rather a “medical complex”. He felt it would be difficult to recruit doctors when any one of the present doctors retire or move out of town. He expressed his fear that either SOMC or KDMC would attempt to obtain the property at such time as no doctors are interested in it.

Dee Penix – 1708 Hutchins St. advised that she lives just a couple of blocks from the former McKinley School property and she was speaking, this evening, in favor of the rezoning. She reminded everyone of how congested the traffic was during school time and did not feel the medical building would create a traffic problem that would be that bad or worse. She further reminded everyone about teachers parking in front of residents for the entire day and the traffic problems that were created with parents and the school buses picking up and letting off children. Mrs. Penix did not believe people going to see the doctor would choose to park on the street instead of in a 150 car parking lot. She noted how people objected to the hospital discontinuing their valet service because they did not want to walk from the parking lot and could not imagine anyone not parking in a lot and having to walk even further. She cited Section 113.20.7 of the Codified Ordinances and read the various types of businesses that are permitted in a Residential “A” zoned area. Mrs. Penix shared information that she had obtained from the Scioto County Auditor that showed the land where the school was formerly located would produce, next year, \$2,050 in taxes but with the proposed 3 – 5 million dollar structures, the expected amount of taxes that will be generated would be between \$56,500 to \$92,700 per year. She declared this to be a lot of money to a community that is losing tax revenue.

Harald Daub – 1221-22nd Street reiterated remarks he made at a previous meeting in opposition to the rezoning of the former McKinley School property. He claimed the developers would be eligible to file for a

tax abatement, citing Section 7.13.02 of the Ohio Revised Code. He noted the rezoning would mean ambulances as well as garbage trucks and delivery trucks would be entering and exiting the property. Mr. Daub felt that the purchasers of the property should have requested a rezoning prior to making that purchase.

Bill Shaw – 2113 E. Timlin Road restated remarks he made at the last Council meeting in opposition to the rezoning. He claimed there were ample grounds for rejection of the request to rezone the property in the ordinance itself. He noted Section 1137.07 of the Codified Ordinances deals with amendments to the zoning code and read subsection 3d which stated, in part, that Council shall give due consideration to the proper relationship of such amendments to the entire zoning code. Mr. Shaw claimed the zoning codes to have originally been put in place 100 years ago and wasn't intended to deal with many of the problems we have today. He felt the zoning code to be "tremendously" outdated and should be revised in its entirety. Mr. Shaw continued by reiterating his belief that the rezoning of this property was in fact "spot zoning" and felt the clinic should be built elsewhere where zoning would not be interrupted.

Clark Carson – 1808 Howard Street said he does not live in the neighborhood where the rezoning is being proposed, noting Howard Street to run between Coles Blvd. and North Hill Road. With regard to the traffic issue, Mr. Carson noted there will be a lot less traffic than when the school was in operation. He agreed with Mrs. Penix, acknowledging that during the nine months of school there were cars parked on both sides of the Kinneys Lane and on McKinley Avenue. He felt the school buses seemed to navigate the streets okay so he felt there will be a lot less traffic than there was then. He said he did not know anything about the zoning but he does know that past precedence means a lot and we have precedence with a doctor's office that is located on the corner of Kinney's Lane and McKinley Avenue. He noted that prior to this doctor's office there was another one on the corner of Stockham Road and Kinneys Lane, which he said is now a gift shop, noting there to already be two businesses in that neighborhood. He further noted there to not be a traffic or parking problem in the area of Kinneys Lane where the cancer center was located. He felt anyone who wants to invest in our City should be applauded and that anyone who wants to discourage a business needs their heads examined. With regard to a safety issue, Mr. Carson stated that if a multi million dollar facility is located at the former McKinley School property it would obviously be lighted and security systems would be installed. He said that if you drive by that property now you will always find someone there drinking beer and there are beer cans left there. He felt that we now have a safety issue at that location now not when a business is located there.

Rusty Miller – 3124 Forrest Avenue, a lawyer, supported the rezoning and disagreed with Mr. Shaw with regards to spot zoning. Mr. Miller noted that "spot zoning" in a legal sense is the signaling out of a small area for discriminatory or different treatment according to other areas around it. Mr. Miller felt the "big issue" in this case is that Trinidad LLC bought all of lot #1 of the Dever Addition, which he said is 2 ½ acres in density. He noted that under Residence "A", under the law, 20 homes could be constructed on that space by anyone. He further noted that under Residence "B" there could be 30 houses constructed in that space. Mr. Miller pointed out that since Dr. Trinidad owns all of this very large area it does not really come into what spot zoning is. With regard to discriminating or different treatment, Mr. Miller acknowledged the two businesses previously mentioned by Mr. Carson and noted that this proposed rezoning is not a different treatment. He further noted that in looking at Residence "A" and Residence "B", as it relates to medical offices buildings, the only difference is that a physician is not required to reside on the premises in Residence "B". He pointed out that if you are standing on Kinneys Lane at McKinley Avenue and look to the west you will see in 3/10th of a mile, about three blocks" is numerous businesses and professional offices. He further pointed out that to look at the zoning as a whole, which Mr. Shaw, as himself, are proposing, the differences can be seen, saying, "It is just not pins in the middle", as was indicated on Mr. Shaw's mock up as to exactly where the spot zoning would be. Mr. Miller noted Kinneys Lane to be a main artery within the City and Trinidad LLC is not going to take a medical office building and "tuck it away" anywhere. He said any such building is going to be associated next to a major artery going in and out of the City in that area. Mr. Miller stated that if you look at the health, safety and morals this will be a controlled premises by these doctors, saying they are controlling their access to the patients and the patients access to them. He noted the proximity of this location to SOMC for any tests that need to be done is .06 miles. Mr. Miller applauded the doctors for taking this opportunity and moving forward for the citizens and their patients. He acknowledged that on the long-term the amount of taxes that will be generated from this property each year from land that have has lain fallow since 1927. On the short-term he acknowledged the jobs that will be created in construction of the medical office building and noted the number of trades and contractors it will be bringing into this City, who will be paying Income Taxes.

Carl Hilgarth – 2201 Woodlawn Avenue felt that during these types of situations things get distorted and emotional. He felt that Council should note that at the December 15th meeting of the Planning Commission meeting the majority of the people who spoke were not from the area. He claimed there to have been people present from Wheelersburg, West Portsmouth and sections of the City that he said appeared to have absolutely no real interest in this particular rezoning other than the fact that they were asked to come there at the behest of somebody who had a vested interest in this particular rezoning. Mr. Hilgarth acknowledged there to be commercial growth, if you go west on Kinneys Lane but felt that going east, the commercial rezoning was going to allow the "creeping commercialization into a residential area". With regard to people who represented the business at the corner of Offnere & Kinneys Lane speaking in favor of the rezoning, Mr. Hilgarth felt they did so because they intend to make money from it. Mr. Hilgarth agreed with previous speakers that the present zoning codes were outdated, calling them "archaic". He said when people think of a physician's office they are thinking of a "very small type of residence", claiming this to be, in essence, "a large scale project – a major piece of construction". With regard to traffic, Mr. Hilgarth claimed there to be "shift traffic" in the morning and again in the afternoon when there was a school on that property, however, he felt

this would be day-long traffic. He said there is only one way in and one way out through the parking lot that is proposed and which he said is going to be “aired”. He claimed a parking lot for 160 cars would be the size of 2/3 or a little bigger of the Kroger parking lot. He stated that there were people who presented a petition to the Planning Commission but he did not know if it were ever presented to City Council, however he had copies, which he provided to Council. Mr. Hilgarth expressed his belief that this particular matter was becoming a “done deal” on the part of those people who have a vested interest in it and do not live anywhere else near the former McKinley School property. He said he wished to remind Council that they are democratically elected representatives of each and everyone one of them and as such they are “responsible for government of the people, by the people and for the people and to the extent that you deviate of government from the people, for the people, by the people and for the people is the extent that democracy does not exist and special vested interest and self interest and commercialization begins to take its place” saying , in this way he thinks Council would be abrogating their rights and responsibilities as City Councilmen to approve this particular project.

William Daehler – 2125 W. Timlin, a retired physician, said he lives adjacent to the former McKinley School property and noted that some of the people who have spoken this evening do not live next to the property. He said the people who live next door are concerned and felt there to be a big difference in that and those who live 2 blocks or more from the property. Mr. Daehler questioned whether or not any of the physicians involved in this project or any member of Council would like to have such a facility in their neighborhood. He felt that most of them would not.

Dr. Christopher Schmidt – 1825 Franklin Blvd., an urologist at SOMC, said he was representing himself and three other doctors - Dr. Trinidad; Dr. Arrick; and Dr. Wong – in this adventure of theirs. Dr. Schmidt said he lives about a block from the proposed facility and he in no way, shape or form would jeopardize the safety of the neighborhood for a profit. Noting this to be an investment property, Dr. Schmidt said he would try to explain their rationale. He repeated the fact that he would not jeopardize the value of his property nor his children. Dr. Schmidt said he and his wife moved here six years ago and this has become their adopted home, saying they love it here and are planning to stay here. Acknowledging Mr. Gohmann’s remarks about SOMC being able to recruit doctors, he said he can list 26 doctors who have come and gone in the last six years since he has been here. He said they are four doctors who are potentially saying they want to stay here and practice in Portsmouth and provide health care. Dr. Schmidt said they want to control the situation, saying they all rent space at SOMC and are paying amount of \$30,000.00 to \$50,000.00 per year in rent and at the end of the day they have nothing to show for it. Therefore, they want to invest in property and he did not feel investing for profit to be a bad thing, noting that is the way our system of capitalism is built. He said they want an office building that is close to the hospital so they are able to mobilize themselves to attend to patients who are in the hospital. Dr. Schmidt said he has outgrown his present office space and he did not feel like expanding into a larger space in a building where he has no monetary interest. He said their proximity to the hospital is very important to them. With regard to Mr. Daub alluding to drugs, Dr. Schmidt said there will be no drugs in their office building. He reported the City to be losing doctors at a frightful pace and he, along with the other three are saying they want to stay. Acknowledging the loss of valet service at SOMC, Dr. Schmidt said their new facility might have an outpatient lab so there is a continuity of care. He said they are not going to put in a pill factory, a pain clinic or a trailer park on the property. He said they would like to finish their careers in Portsmouth and perhaps even retire to this community and for that they would like to make an investment. He said he hoped Council votes favorable on their behalf and they will try to make the building as beautiful and aesthetic as possible and fit into the neighborhood.

Sharon Bender – 1666 Highland Avenue acknowledged there were people at the planning commission that lived in various places; however she does live in the area but not across the street or next to the property. She said she has no reason to speak for these doctors other than the fact that she believes anyone who invests that kind of money should be commended for showing an interest in the City and want to put their money here, bring jobs here and remain here. She said they are constructing a quality building and it should be allowed. With regard to a tax abatement, Mrs. Bender said she believed if people would check with the City’s Engineering Department they would find that property is not in the tax abatement area. With regard to rezoning the property and concerns that it could later be changed to Residence “B”, she did not believe this would happen because according to the zoning code, Residence “B” and stating that commercial would be encroaching on residential, Mrs. Bender noted that Residence “B” zoning does not allow for any kind of commercial activity other than a housing project or telephone exchange substation and noting further that an office of a physician, surgeon or dentist does not require the doctor to live on the site. Mrs. Bender acknowledged that a garden could be put on the property and the owner allowed to sell their produce from the site but she did not feel that to be something that is going to happen. She also acknowledged the tax dollars and jobs that will result from the development of this site.

Eddie Edwards – 2015 Franklin Blvd. recalled a request two years ago for rezoning of this site and the former Roosevelt School site by the School Board. He claimed that the superintendent, at that time, realized how much opposition there was in both neighborhoods to rezoning and withdrew her request at the meeting. He claimed it to have been obvious to her the divisiveness this was bringing to those two neighborhoods. Mr. Edwards referred to some other things that have created divisiveness in the City and asked if the decision on this property going to bring the City together or further divide this neighborhood from the rest of the City. With regard to the Planning Commission, Mr. Edwards asked Council if they wanted to endorse the way in which the Planning Commission handled this issue. He, as others, noted three members to be present and the motion to recommend the rezoning was with a 2 to 1 vote. He claimed that two members “decided not to show up”. Mr. Edwards reiterated most of what was previously stated by others with regard to how the meeting was conducted. He claimed the people in the neighborhood of the former McKinley School site to be, what is

left, of the “worker bees”. He claimed these to be the people who are working and paying the taxes. He also claimed they are the ones who volunteer at the schools and “the clubs” as well as being the ones who are “donating the money”. He claimed “this kind of decision” is running over those people and asked if that would make those people want to contribute anymore to this town or further divide us. Mr. Edwards said that almost all the people in favor of this rezoning do not live in that neighborhood. He said he doesn’t tell them what to have in their neighborhoods and he did not appreciate them telling him what he should have in his neighborhood.

Rick Estep -2220 McKinley Avenue said he has resided at this address since 1984 and grew up on 18th Street. He stated that when the former McKinley School property became vacant discussions began about what would happen to the property. He acknowledged neighbors to become close over the years and he has heard both legal and emotional issues regarding this matter and further acknowledged it to have caused a lot of divisiveness in the neighborhood. Mr. Estep applauded the doctors who made an investment in and commitment to this town and to those who want to stay here. He noted that eight years ago he made a family commitment to make an investment in a business in downtown Portsmouth and he knows how difficult it is to sign several pages of documents to the point you feel like you are giving your fourth generation of grandchildren away in order to purchase something in this town. However, he said, he made a commitment to this town and applauds those doctors who are willing to move here and make such a commitment. He said he does not know the detriment to this is going to be nor does he know all the good it might bring but he does know about SOMC and, when growing up on 18th Street there was no Life Center but there was housing in that area, but, he said he is very proud of to see the Life Center there and the continued development at SOMC. Mr. Estep said he went to Lincoln School and now he goes by the Cancer Center that now sits on that site, all the time. He described it as a “beautiful building” with no headaches due to people coming and going from that facility. He acknowledged that where he lives the area is a little narrower and he and his neighbors like it because of how quiet it is, in spite of the traffic on Kinneys Lane. He acknowledged that most of those living there work during the day but when there in the evening it is quiet and he does not want to see, should this request to rezone pass, the property turn into project housing, saying he would be totally against all of that. Mr. Estep said he is not here to promote any agenda but is here to state, as someone who has lived his entire life here and made an investment in this community, I applaud the doctors who are making an investment in the area and he would encourage them to continue their path in trying to make this area a place of which we can all be proud. He said he just did not think that they would want to build something that would be unkind to the eye or unnerving to the residents because they are also residents of this community. Mr. Estep said he wanted it on the record that neither he nor his wife are against the construction of this complex.

Dave Gowdy – 1216 Bihlman Drive said he thought we were all created equal and noted the Cancer Center to be a beautiful building and to his knowledge the citizens had nothing to say about that building being located in that spot. With regard to “degrading the property”, Mr. Gowdy asked what could be worse than the way McKinley School looked. He noted the proposed medical building would be state of the art and predicted property values will increase. Again noting that it will not be as bad as the old school, Mr. Gowdy said, “I think you better go for it because you could lose these doctors” and he felt that would be a shame because these doctors are willing to put their hard earned money into something that will help SOMC to grow, noting there to be no more property available for the expansion of the hospital. Mr. Gowdy said he would not mind living next door to the proposed complex.

Kirk Donges, with Tanner, Stone, Holsinger, Donges and Co. Architects, advised that he was here at the request of President of Council, David Malone to make a presentation in connection with this public hearing. Mr. Donges noted that Tanner, Stone, Holsinger, Donges and Co. Architects is a Portsmouth company that has been here earlier than 1916. He described the company as a legacy firm who is trying to continue and they do have a vested interest in the City of Portsmouth. Mr. Donges said he lived on Hutchins Street for a short number of years, around the corner from McKinley School, and he also has a little bit of love for the neighborhood and he is glad to have a chance to instill his design in this neighborhood. He said he felt they can do a good job without hurting the neighborhood as so many people think might happen. Mr. Donges provided everyone with a quick description of the project as well as a making a point on the zoning and how his firm handles due process. He also addressed a number of concerns that were voiced this evening to show that their concerns are being addressed, saying they want to work with the City and the residents and try to move forward in a positive manner. Mr. Donges gave a power point presentation that provided information regarding the amount of square feet in the structure, which was not even half of the amount of square feet in the former McKinley School. He noted that the zoning code will not allow them to build beyond a two-story structure. He advised that at the present time, building up to eight office suites to house eight different office practices is being discussed. He acknowledged there to only be “four on board” at this time. He stated the doctors are requesting one central waiting room; probably two-story in nature and consideration is being given to having a fireplace in the waiting area. Mr. Donges stated there are no surgical or imaging suites planned for inside this building at this time. In response to those people who have asked his firm why they want to build a hospital, Mr. Donges advised that they are not but if they were it would not have been necessary to request a zoning change. With regard to the design, Mr. Donges noted that to be in the eye of the beholder, saying it is up to each individual’s opinion as to whether or not the design is pleasing for the neighborhood. Mr. Donges described the plan to be a building with a brick exterior – something that matches the neighborhood; chimney emerging from the roof; single roof with a large overhang. He said consideration is even being given to creating a “front porch look” on the Kinneys Lane side of the building. Mr. Donges said the property will be properly landscaped. He said when the Doctor’s looked to him for his expertise, he informed them that the request would have to go before the Planning Commission and a public hearing was a requirement. He advised of the process that occurs when going to the City Building to obtain a permit and noted that the Zoning

Code does not require that any thing be on file at the time of the request. Mr. Donges stated that to be the understanding of his office for many years and if that is not the case then someone in the City needs to tell them what they should be doing. He said when making the request to the City they did what they thought was suppose to be doing. He noted that right below "Action by Council" is the requirement that "text and materials be on file" and further noted that to be the point at which these things need to be on file and theirs were. He said they have not been required to provide anything else at this point. Mr. Donges said he felt, in his opinion, everything that was required was done and nobody was trying to do anything underhanded or to "slide it through". With regard to area occupancy requirements, Mr. Donges pointed out the differences in Residence "A" and Residence "B" zoning, and noted they are doing everything the can to increase the green space around the building. He further pointed out that to go beyond the 8 or 12 families per acre they cannot do without coming back to the Planning Commission and City Council. He acknowledged that the original drawing of a possible plan for the building was not perhaps the best concept, however he is considering some changes to try to address the issues of the neighbors with regard to traffic and parking. He did not guarantee that those changes will be possible but an effort will be made to not create a bottle neck or create a public safety issue. With regard to Stockham Lane, Mr. Donges, noting this to be a one-way street, said it is not up to the planners of this project to make a change in that street but rather it is up to the City. With regard to green space, he pointed out that the area toward Timlin and Franklin Blvd. is being reserved as open green space and noted that there is something in one of the deeds that prohibits building on that particular space. He noted that a memorial tree that is planted there is going to remain,. He acknowledged that questions regarding parking is an questions that needs to be addressed by his firm and the property owners and they are willing to work with the City to resolve it. Mr. Donges said he is not a Traffic Engineer and does not have a traffic study in front of him, however he has tried to address the issue by requesting from the doctors, the four who are on board, to provide him with their staff numbers and the number of patients they see per day. He said he did some math and at the worse case, considering patient overlap, twenty people will be coming in and twenty people leaving the site every hour. He said that is up to the City to say if that creates too much congestion. He said he counted at five -minute intervals, the amount of traffic going east/west on Kinneys Lane at three different time on three different days. He reported there to be 45 cars going by every five minutes, noting that is pushing 600 an hour and this project will be adding 40 to that number. He acknowledged the close neighbors will notice the increase but neighbors as a whole or the City itself will probably not notice it. He reiterated the fact that he is not a Traffic Engineer and that he was only trying to study the issue and ask what this really means to the City. With regard to 145 parking spaces, Mr. Donges stated that to be worst scenario and is actually less than what has been indicated all along. He said this number includes what the engineers call "15% of fluff". He said these numbers are based on four doctors and doubling that amount because there are expectations of having eight doctors utilizing this facility. He acknowledged la problem with one way in and one way out of the facility and that perhaps the flow may need to be reversed in order to get this done and to help everybody. With regard to the issue of utilities, he said the lines being used by the medical facility, which he noted are required by the State of Ohio, are dedicated lines on Kinneys Lane and will not affect what is going on above the facility. He reported the water service coming into the facility will be supplied by an 18-inch high-powered line running along the street and he believed there to also be an 8-inch service line. He said he felt this facility will utilize the same tap that was utilized by the school, if it is still up to code and if the water company allows them to use it. He said that will not affect property above the facility. Mr. Donges advised medical office building to use very little water and put off very little waste. He again noted there to be no surgery or major procedures happening that would require a large outflow of water. Mr. Donges said that that the water that will be used on the landscape will be more water than will be used everyday for hand washing in the doctor's offices. He said he was not a mechanical engineer and did not have numbers on how much waste outflow there would be but advised it will be very little and acknowledged that at some point those numbers will have to be provided, by code, to the City. Mr. Donges further advised that storm water, by code, will not be allowed to leave the site any faster after the development than it was prior to the development. He noted there has not been any control of water leaving the site since the school has been there. He noted that since the school left the site there is mud leaving the site and flooding the sewers. He said the development of the property will control this event. Mr. Donges also said they can construct a parking lot that will allow water to seep through asphalt and not run off. He advised there to be all types of strategies to get things done that will help everybody involved and pointed out on the screen how this would work. He said all this has to be signed off on before even one load of dirt can be removed from the site. Mr. Donges said this techniques has been used by the City's schools; the new stadium and KDMC.

Joe Perry - 1620 Waller Street complained about the parking problems on 17th Street where SOMC's patient accounting office is located. He said the employees are not allowed to park on the parking lot, therefore they are parking on the streets in front of people's residences all day long. He claimed this to also be happening in the area around the SSU Campus and around the hospital. Mr. Perry claimed this to devalue people's property.

Jim Curtis – Timlin Hill said he moved here over thirty years ago and that his wife was a native of Portsmouth. Referring to the National Guard Armory on Coles Blvd., Mr. Curtis questioned locating a "military compound" in the middle of a residential area. He said his father-in-law, in response to him asking this question, said that City Council thought it was okay. Mr. Curtis questioned whether or not that particular City Council had planned ahead and asked this City Council to do so in considering the rezoning of the former McKinley School property. He noted there to be a limited amount of area in the City for residential growth but an abundance of space for commercial growth. Mr. Curtis acknowledged his house will not be affected by the rezoning but felt the whole neighborhood would be effected. He noted there to be three places on Kinneys Lane - the former Mercy Hospital – the corner of Waller & Kinneys Lane is a big vacant lot – the junction of 23 and Kinneys Lane also has a big vacant lot and questioned whether or not these physicians, if they are going

to stay here, have to all be within two minutes of the hospital. He said it seemed to him that there is a lot of commercial area where they could build and questioned why they would build on the last residential space in this area. He questioned where someone would build should there be an influx of people into our community. Mr. Curtis felt this site to be the last one flat area to build a house, saying “progress is not tearing up the ground and putting in a parking lot and requested this be kept a residential area.

Tim Hartlage – 1555 Jackson Avenue said he does not live anywhere near this area but he did have something to say. He said he has been listening to people get up and speak and ask these doctors to go elsewhere. Mr. Hartlage reminded everyone that these doctors have already purchased the property and asked why some people should think they should go elsewhere. He noted it is their money that has been invested and they could sell that property to anybody and asked if anyone would like to see low-income house constructed on that lot. He pointed out the HUD – single family homes – that were constructed in various sections of the City. Acknowledging them to be “nice houses and “beautiful homes” when they were built, Mr. Hartlage but problems have occurred since they have become occupied because the people who are living in these houses do not take care of them.

Sandy Douthat – 1449 Layton Drive said she lives behind the former Roosevelt School property. She noted there to have been some interest expressed several years ago about building town houses on that property. She reported the neighbors to have gotten in “an uproar” because a number of people did not want to see that happen. Therefore, the developer decided not to go forward with his plans and now that lot is just going to set there empty because no one else has expressed any interest in it. Mrs. Douthat said she felt the same thing would happen to the former McKinley School property. She acknowledged the doctors who have an interest in relocating to the former school property have good reputations in the community and she would like to see them stay. She said she has two children who have moved back to this area and one son who no longer lives here. She said when that son comes to Portsmouth he drives around the City and finds the appearance of the City to be “awful” and how there is nothing new with the exception of the college and the hospital. She said her children had gone to Lincoln School and while they hated to see it razed it was beginning to look badly run down. Mrs. Douthat said her son has stated that the cancer center looks so much better than the school in its deteriorated condition. She expressed her feelings that these physicians will make every effort to make this building as attractive as possible and acknowledged that the residences behind this property are nice homes and she would not, if looking for another house, be opposed to purchasing a home in that area and does not think the proposed building would detract from it.

Councilman Albrecht asked Mr. Donges if it would be possible to have the exit and entrance both on Kinneys Lane. In response, Mr. Donges stated that would certainly be possible but they would run into the issue of all the residents north of the property dealing with only one way in and out. (*the remainder of Mr. Donges remarks could not be discerned because he was not using a microphone and other were talking in the background*).

The Mayor said she believed the matter of access on Kinneys Lane would bring up a traffic engineering issue that would have to be carefully analyzed because, she claimed, there would be several accesses onto Kinneys Lane.

There being no further questions or comments, the President declared the public hearing closed at 7:27 p.m.

Vice President Haas moved to add to the agenda an ordinance to make appropriations necessary for current expenses for the month of March 2010 for payroll and payroll associated expenses and debt service, utilities and emergency expenses only and declaring same to be an emergency. Mr. Haas explained the reason for this proposal is due to the lack of a budget going forward past the end of this month. He said this way we would be sure that at least the employees are paid as well as the utilities or any payments on debt service that the City is required to pay until we can get a budget.

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

Councilman Johnson moved to add to the agenda an ordinance authorizing the submittal of a FY 2010 Community Housing Improvement Program application and accepting grant and obligations, if funded, and declaring an emergency.

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

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

Harald Daub – 1221-22nd Street said he wanted to speak on the rezoning of the former McKinley School property. Mr. Daub stated the proper procedure would have been to apply for the zoning change prior to purchasing the property, saying “then we wouldn’t be in this mess”. Mr. Daub suggested Council “work with this group and perhaps work out an exchange for other property”. Mr. Daub claimed the City “to have numerous vacant lots” and made several suggestions as to how the City could “trade” with the doctors for some of these pieces of real estate.

LEGISLATION

The Clerk gave a **third reading** to an ordinance to amend the Zoning Map of the City of Portsmouth, Ohio, by rezoning all of Parcel Numbers 33-2640.000 and 33-2921.000 generally known as the former McKinley School, Ohio from its current zoning of Residence "A" District to Residence "B" District. This property is more particularly described in the attached Exhibit A.

Councilman Albrecht made a motion for passage.

Councilman Johnson expressed appreciation to Mr. Donges for his presentation and conveyed his wish that this information had been presented earlier. Mr. Johnson said he received a number of phone calls today from people in favor and those against this legislation. He noted one conversation was about a neighborhood discussion about the issue and to which both the Mayor and Councilman Basham was invited. Mr. Johnson said he was advised that several residents refused to sign a petition against the issue and were therefore not invited to the neighborhood discussion. Mr. Johnson said he was disappointed to learn of that and felt that all voices should be heard as Council is trying to hear all voices tonight. Mr. Johnson, noting that he has expressed his opposition to this legislation at the past several meetings, said his primary concern, as he looks at the neighborhood and how "landlocked" SOMC has become, he realized how much a regional hospital they have become. He felt that as the hospital continues to grow and have more and more aspiring doctors on staff, where are they going to go. He acknowledged the number of health facilities there are in our City and said discussion has to occur and decisions have to be made regarding what nature of neighborhoods Council wants to have in the City. Mr. Johnson felt that approving this legislation would set another precedent, noting there are other properties further down on Kinney's Lane that are in the midst of residential that would be perfect for other doctors who want to get out of expensive rent for a very small space. He noted several instances of successful developments that have taken out huge historical neighborhood. Mr. Johnson cited his concern to be for our future and inquired as to what neighborhoods are going to remain. He also expressed his concern for the neighborhood surrounding SOMC, saying he fears for the future following the trend that he is seeing. Acknowledging friendships with those of a different opinion than he himself, Mr. Johnson said he was elected to look at trends and all the facts that he can garner. Mr. Johnson advised the President that, at this point, he could not support this legislation.

Councilman Noel agreed with Mr. Johnson and felt the Navel Reserve Building that is owned by the City would be a beautiful place to build the proposed medical building and felt this location would not be interfering with any residential area. He also felt City-owned property in downtown Portsmouth could be developed for this purpose. Mr. Noel said he was not against the doctors but is forced to vote against this ordinance.

The President noted that as members of Council know that with each vote that they make they are not going to please everybody, acknowledging that there is always going to be a group that are unhappy but there are rules, guidelines and ordinances that have to be followed and as long as they do not break statues, rules and ordinances then whatever decision they make, that may not acceptable and favorable to the other side, it is not to try to divide anyone. He said he felt that as Councilmen they make decisions with the good of the citizens and the City in mind and it is not the intention of any of them to be divisive. He said Council understands the feelings of the people and he hopes they understand Council's judgment when they say they don't want this to be divisive no matter which way it may go. He said Council wants to go forward and allow everyone in the community to grow together. The President noted that Council has to remove their emotions and look at the legal side and the tools that are available to Council and move forward to grow our City.

There being no further questions or comments the roll was called. **VOTE: ayes 4 (Malone; Basham; Albrecht; Haas) – nays 2 (Johnson, Noel) The ordinance was passed. ORD. # 09-10**

The Clerk gave a **second reading** to an ordinance authorizing the Mayor of the City of Portsmouth, Ohio to enter into an agreement with Strategic Funding Group, Inc. of Lexington, KY for the purposes of providing strategic grants counsel services, funding research services and grant proposed development and writing services. Aid contract shall not exceed the sum of \$25,000.

Councilman Albrecht moved this constitute a second reading.

There were no questions or comments. The roll was called. **VOTE: ayes 4 (Malone; Basham; Noel; Johnson) – nays 2 (Albrecht; Haas) The motion carried. A second reading was declared.**

The Clerk gave a **second reading** to an ordinance authorizing Community Workforce Agreements.

Councilman Albrecht moved this constitute a second reading.

Councilman Johnson noted that at a previous meeting, when this was discussed, it was suggested that concerns be discussed and especially meet with the trades groups and get their input. He said he has not participated in any discussions or been notified that any of that has occurred. He reported that in discussions that he has had, thus far, even the unions have a concern about the language on the very low levels for bid that is reflected in the legislation. Noting our City was being compared to Canton, Ohio, Mr. Johnson read information regarding that City's budget problems and the fact that they have to lay off employees, including safety forces. He explained how Canton was unable to use their Community Workforce Agreement to utilize

stimulus funds on a main artery because of the approval process with The Ohio Department of Transportation and Federal Highway Administration. He claimed that building trades and labor unions have a concern because the rates are set too low. Mr. Johnson said the process involved, according to this legislation, for a \$25,000.00 project is a lot. He also claimed that building trades were not even informed that this was being introduced, thus he has major problems with this legislation. The President concurred in the sense that the building trades are not quite ready for this, saying he has talked to a lot of the unions and it has been requested that it be tabled until all three unions can review it. He said he did not believe the unions to be totally against the legislation but there are just some numbers.....the President was interrupted by Councilman Johnson who wanted to clarify that he is not against the legislation but noted he is waiting for the unions to participate. He said he would also like to hear from the Chamber of Commerce as well as local contractors about how we can make this work for the benefit of the community. He voiced his main concern to be that the City hires locally and inquired as to how that can be achieved. In response to the President asking why the ordinance was brought from the table, Mr. Johnson reminded him that his motion to table was to a time certain, which was the date of this meeting. Mr. Johnson, after reconsidering, said he would like to table the legislation until such time as those parties, previously mentioned, have met and provided Council with feedback. Vice President Haas noting there is already a motion on the table, said he understands there have been many meetings in the City over the last month or so that dealt with issues revolving around the City - traffic and various sundry issues - that he has not been invited to attend. He said, as a member of Council, he would like to have been invited to those meeting. Mr. Haas said he did take the time to speak to union members and have discussed this issue with numerous business people throughout the City. He said he would like to vote on the motion for a second reading, noting this will give everyone two weeks to tweak whatever is necessary in the legislation. He said he would prefer a deadline for passage as opposed to tabling the matter indefinitely. Councilman Johnson described this matter as a complicated agreement with twenty-six steps and numerous implications to the community that he still has not figured out, in reading the legislation, how it protects local labor. He further stated that the labor and trade unions have had problems with the City in the past for letting bids to outside companies who were not the lowest bidder. Mr. Johnson felt there to be a lot of issues that need to be discussed and address. He said he hated rushing a process that's going to impact us tremendously in the future. Mr. Johnson said he would have to vote against the motion on the floor and claimed there had not been a first reading because it had been tabled. The Clerk advised the motion following the first reading was to table, however Mr. Johnson still said he would have to vote against a second reading. Councilman Albrecht, acknowledging this as a second reading, noted that if answers are not forthcoming in the next two weeks, the ordinance could be tabled on its third reading. Councilman Noel inquired as to the reason for "hurrying this through" and wanted to know why it could not be table until they get the information that is needed. In response, Councilman Haas advised that this item was tabled a month ago and from what he is hearing tonight no one on Council appears to have done any research. Mr. Haas said he did his research during the time this legislation was on the table. He said he felt it to be incumbent upon the members of Council to do their research and decide what they want to do. He felt tabling an item to be a method used to kill an item and he was obviously very much opposed to that. Councilman Johnson said he agreed somewhat with what Mr. Haas said but he would expect the person who introduced the legislation to involve other Council members in those deliberations, saying he was certainly available and made himself available. Mr. Johnson said he has done his research by talking with the trades counsel out of Ashland and local laborers and reiterated his previous remarks about their concerns. He did not feel there to be a rush to get this done and reiterated his remarks about the "tremendous impact" this will have on the City and he felt it would behoove Council to take their time, saying he did not care if it took three months if they have a good package that the community can support, labor likes and protects local workers. Councilman Basham noted this information to have been made public and has been discussed at public meetings and he has yet to hear anything from anyone in the public or from the unions who are against this. He acknowledged it to have been on the agenda and people could come up and speak about it and reiterated the fact that he has not yet heard anything negative. The Solicitor voiced his frustration, saying, if there are issues that need to be discussed, lets discuss them. Mr. Jones asked Mr. Johnson to point out those issues with which he has concerns and if he can get those answers or answers for any other member of Council who have them, he would be happy to do so. He said this is just a blanket statement that says there are issues that need to be addressed, which does not help him to provide legal advice to Council regarding changing the wording or accommodate what are apparently concerns. Noting Mr. Johnson to have made statements that there are concerns from the building trades and labor unions, the Solicitor asked Mr. Johnson to define the concerns that he is being told and they can be addressed. Mr. Jones said he has met with some of these same people and he has had nothing but rave reviews and thanks for doing something that will protect local labor and keep jobs in Portsmouth. Therefore, if there is something with which they are not happy or needs to change, Mr. Jones suggested it be discussed as opposed to delaying this issue hoping that someone is going to show up and hope it leads to change. He said he felt this ordinance to be a good thing and he believes it promotes keeping local labor in the City of Portsmouth. Mr. Jones acknowledged that every piece of legislation can be tweaked and can be changed to make it better but he noted that if we don't know what the issues are with these building trades that Mr. Johnson says we have then how can we change it. The Solicitor said he would be happy to meet with them, if they have a concern, to let them know that we will address their concerns. Councilman Haas also stated that he has heard nothing but kudos or thank you from everyone with whom he as spoken to about this proposed ordinance. He said if there are individuals out there that feel something needs to be tweaked or changed he is more than willing to speak with them but noted that so far no one has contacted him with any comments or concerns other than Mr. Johnson. The President noted that the individuals to whom he has spoken have said there are a couple of things that they would like to review and were suppose to get together with himself and another Councilperson to discuss the issue, however he said he has not heard from them as of yet. The Mayor interrupted to tell the President that the meeting occurred last week and has been rescheduled. She further stated that besides the labor union there were local contractors that were concerned. She acknowledged a meeting was scheduled twice and cancelled

twice and was suppose to have occurred today but was canceled again, noting this to not been at her behest. The Mayor advised everyone that the meeting is now scheduled for tomorrow at noon at the Labor's Local Union Hall and that every member of Council is invited to attend. She said she would be calling some of the contractors who had concerns. Councilman Basham said he would love to be a part of that meeting, being a union member himself, however some members of Council have full-time jobs and cannot always make meetings that are scheduled during the day. The Mayor noted that to be the time that was provided to her and therefore she had to make it work for her schedule as well.

There being no further questions or comments the roll was called on the motion for a second reading. **VOTE: ayes 4 (Basham; Albrecht; Haas; Malone) – nays 2 (Noel; Johnson) A second reading was declared.**

The Clerk gave a **first reading** to an ordinance to make appropriations necessary for the current expenses of the City of Portsmouth, Ohio for the month of March 2010 for payroll and payroll associated expenses and debt service, utilities and emergency expenses only and declaring same to be an emergency.

Councilman Haas 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.**

Prior to a motion being made Councilman Haas noted it to be his understanding that this ordinance was proposed after discussions between the City Auditor and the Solicitor regarding the fact that there has been no budget proposed for Council's consideration. He further noted that the two-month appropriation expires at the end of this month. Mr. Haas, referring to the Charter, pointed out the fact that according to that Charter Council can only consider a two and a ten month budget or a twelve-month budget. He stated it to be his understanding that a request has been made to the State regarding a month's extension and further stated that he did not believe that to be appropriate given the clear language in the Charter. He said he is in favor of this ordinance in an effort to make sure the employees of the City continue to receive their income, that the debt service is paid and that the lights are kept on in the City. Mr. Haas expressed his hope that within the next month a budget will be forthcoming and noted that the fact that the budget had a short fall last year was known and was included in a campaign throughout last year. He felt that to be two-months into an administration without a proposed budget for consideration by Council, causes him some concern. He reiterated his support of the proposed legislation but did not feel he would look on it so kindly, if we continue to go without a proposed budget. Mr. Haas said he does not want Council to be stuck with something at the end of March that we have to do or Council gets blamed for the lights being turned off. In response to Mr. Albrecht, Councilman Haas explained that this ordinance will meet the payroll obligations for the City employees, the City's debt service, pay the utility costs and meet any emergency expenses necessary for the continued operation of the City for the month of March only. The Auditor further explained that the language in the Charter is not exactly as stated by Mr. Haas, noting, however that we have always operated under that assumption. He explained that two-month equates to 1/6th of the budget that was originally proposed, however the charter does not break it down into months. Mr. Williams stated that by his calculations the 1/6th amount would actually take the City into March and that is why the ordinance before Council is different than the two-month appropriation that is presently in place. He noted the two-month appropriation was for total operation of the City. Reiterating the fact that 1/6th of the original budget would put us further than the Charter would allow saying that would be somewhere between 17% and 21% of our total budget. He noted this to be one of the reasons not to exceed the 1/6th by limiting the appropriations to those things listed by Councilman Haas. The Auditor noted that this appropriation will not just be a blanket for any expenditure other than those things listed. With regard to concerns about what will happen at the end of March, he stated it to be his understanding that the City cannot, by statute, go beyond March 31st without a permanent budget in place regardless what Council does with this proposed legislation or what the charter says. In response to the President asking if she had any idea when she would be submitting a budget to Council, the Mayor said that since she only got the year end data about eight days ago and looking at the budget deficit from which Council adopted a two-month appropriation, she said there are numerous, serious issues that have to be addressed. The Mayor said, "I am fully ready and capable of addressing them and I will address them in due course and I will bring them to Council". The President again asked her if she had any idea when that would be. To which, the Mayor replied, "In March". Before the Mayor could respond to the President inquiring if that was the beginning or at the end of March, the Auditor interrupted, to state, "just for the record", that the end of the year reports typically take longer than the end of the month and are normally provided to City Council sometime in the first couple weeks of February. He further noted this to not have been an issue in the past. The Mayor stated that she has also asked for data regarding the percentage of the budget that entails all personnel costs. The Auditor, saying he does not want to get into a big argument about this, said that on Thursday his Deputy Auditor was asked to provide the Mayor with that information. Upon the Mayor stating that she did not receive the information the Auditor said he will make sure the Mayor has copies tomorrow. Councilman Haas expressed his concern that in October 2009 candidate Murray, at a meeting of Council, was waving a budget, saying it was going to be hundreds of thousands of dollars in deficit. He noted that to have been five months ago. Mr. Haas said he does not want to wait until the very end of March to be forced to do something before anyone has had time to look at the figures. He said, "There was a promise made to Council at one of the earlier Council meetings that everything would be given to Council in plenty of time to review this material, it would be made available to the public and that the public could comment on it". Mr. Haas said he is just asking for the common courtesy to provide that to Council in substantial time, noting it has been two month, he said he would hope, at least, that Council would have an appropriate amount of time to review the material submitted. The President concurred with Mr. Haas. Councilman Basham, noting the Mayor had said that we would have a budget in March, asked the

Auditor if there was then any point in considering this ordinance. The Mayor interrupted to say that she did not say there was going to be a budget in March and claiming to have only said she was going to be presenting one in March. In response to Mr. Basham asking the Mayor what she was going to present in March, the Mayor said "I'm presenting a budget". Therefore Mr. Basham repeated his question as to why the proposed ordinance needs to be passed if the Mayor is presenting Council with her budget in March. The Auditor replied in the affirmative, saying that in order to make payroll and just pay required expenses, both he and the Solicitor agree that an ordinance is needed to carry the City through March, while a budget is being prepared, reviewed, analyzed or whatever. The President suggested that the Mayor attempt to get a budget to Council as soon as possible before the end of March, noting that Council wants to have enough time to review it and.....the President was interrupted by the Mayor who agreed, saying, "But what one would have to assume is that one would have to have the data one needs before one can make a recommendations and that is what I've been waiting on". In response to Councilman Albrecht asking if this would be before Council's last meeting in March, the President stated that to be his hope. The Auditor reiterated the fact that the budget needs to be in place by the end of March. The Auditor advised the Mayor that, if her statement was in reference to not having the necessary information to form a budget, she should look at the charter, which requires a budget to be submitted in November and which is far prior to end of year numbers. He further advised that no Mayor in the past has ever waited for year-end numbers to prepare a draft of the budget. The Mayor said, "What was presented last year was not only irresponsible but four members of Council voted for it so I have to be given the opportunity to use the data that I've been requesting and as I indicated, I have asked for this in a particular way and it is just now been made available, I don't yet have it so I'll get a copy of it tomorrow". The Auditor said he believed her office has it and received it last Thursday but he will check tomorrow to make sure. The Auditor reiterated the fact that in October the necessary information for a Mayor to prepare a budget was submitted to the Mayor's office and City Council in October. Councilman Johnson said he wants the Mayor and Auditor to work together and he "sort of didn't appreciate the he said she said". Mr. Johnson said he wants a budget and agrees with the Auditor with regard to the Charter and its requirements with regard to preparing a budget. However, he felt the problem that is being faced now is that the budget that was presented by the former Mayor was so out of balance it could never have been approved. He also noted this to be the first time the City is facing a "major deficit". Mr. Johnson acknowledged that we are not the only city to do so and referred to the City of Canton and their minutes, noting them to be far behind in presenting a budget. The Solicitor, from his perspective, acknowledged this to be unique circumstances and he is not here to place blame on anyone, however from a legal standpoint he has some concerns because we have some serious constraints from our own charter about how much money the City can spend in the next couple of months. He reported that he and the Auditor met and decided, based on their opinion as the Solicitor and Auditor, that there was a need to make sure employees were paid and the lights were on. The Solicitor further pointed out that when March 31st arrives, he will have a whole different perspective. While he was not a big proponent of additional meetings, the Solicitor felt additional meetings would be needed, saying this is an issue that will require many debates. He felt a meeting should be scheduled to specifically address the budget so that at a time certain we will know that there will be a proposed budget and allow ample time to debate it and if necessary come back at the final Council meeting, or a later date before March 31st. The President advised that if that is necessary it is something that will definitely be done. Councilman Haas felt that raised two questions – 1) Does Council have the authority, as Council, to set a meeting and ask that the budget be presented on a date certain in March? 2) Noting that in an earlier meeting Council was threatened with criminal prosecution if they did any administrative functions, expressed his concern as to whether or not the budget is an administrative function that Council is considering tonight in preparing and proposing this ordinance to carry the City through March. In response, the Solicitor said it weighs on both administrative, legislative and legal functions because the budget has to ultimately be approved by City Council and has to be proposed by the Mayor and he felt from a legal standpoint he needs to make sure nothing is being done that is not legally authorized. Mr. Jones stated that he just wants to get a budget and he did not want to sit here and argue about who is at fault for there not being a proposed budget. He acknowledged, quite frankly, that there are some issues with the charter, saying he was going to have some real concerns from a legal perspective, if there is not a budget come the end of March. The Solicitor said when he talked with the Auditor, the way they kind of proposed this ordinance is that the 1/6th is hopefully not going to be expended by the end of March. The Auditor concurred and added the fact that if everyone continued to expend funds as would normally be done, the 1/6th would be exceeded and he is not sure that we won't anyway but it will be close. The President noted the next two Council meetings will be on March 8th and March 22nd. It was further noted that the month of March had five Monday's and a special meeting could be scheduled for March 29th, if necessary. The President started to continue but was interrupted by the Mayor who said she would be glad to look at the dates of the meetings she has already set for finalizing work on the budget and give to the President a date on which a special meeting could be scheduled. The President agreed to that. Councilman Haas noting that one of his questions had not been answered restated his first question and inquired as to whether or not Council had the authority to mandate the submission of the budget. The Solicitor said he did not think Council has the authority to set a certain date for the budget to be submitted to them, noting that is addressed in the charter. However, he felt what has been done here today is, hopefully, to realize that there is a need to have the budget submitted and he felt the Mayor has indicated that she is going to submit a budget and at this point in time we will take her at her word and hopefully we'll have a budget come the first meeting in March. In response the Mayor said, "I did not say the first meeting in March". She continued, saying, "what I said was that I would be checking my schedule, I have meetings – work meetings for the budget and I would talk with you about a date certain by which we could have a special meeting on the budget". The Solicitor advised the Mayor that we are at February 22nd, which gives us approximately two weeks. In response to the Solicitor asking if she could have a budget by March 8th, the Mayor stated, "That's correct". She again stated that if there is to be a thorough discussion then she needs ... the Mayor was interrupted by the President who asked if she were going to have her budget meeting before March 8th. In response the Mayor stated, "I have a series of meetings set up and more to be set up and so as I

am looking at the scheduling and finalizing those meetings, I will be glad to contact you and set a date to have a special meeting. The Solicitor noted the second Council meeting in March will be on the 22nd and asked the Mayor if she anticipates having a budget by then. The Mayor said, "Well, I would anticipate that we could have a discussion of the budget before that date to give you plenty of time to consider it". Councilman Haas stated his concern to be that apparently the Mayor has set up "a bunch of meetings" to discuss the proposed budget but it is going to limit Council's ability to set up a number of meetings that he feels will be necessary, given the budget problems we have, to be able to go through the budget and make whatever changes or amendments that might be necessary. He said he was afraid Council was going to get pushed to the end of March, noting that he still hasn't heard a date for when the budget is going to be submitted to Council. The President advised the Mayor that it is a consensus of Council that they do need enough time to really look through everything given the situation in which the City is in, and he felt she would understand this need. He further advised that for her to present something to Council at the very last minutes would not be of service to the Council or to the community. To the Mayor, the President stated, that as a Council, they were strongly requesting this be done immediately and suggested that she prioritize her series of meetings during the next two weeks, saying it would be ideal to have the budget by the March 8th meeting and, as President, requested she "shoot for March 8th" as her target date. In response, the Mayor stated, "I will endeavor to get the best budget put together when I can and I'll advise you".

Councilman Haas made a motion to pass the ordinance.

The roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed ORD. #10-10**

The Clerk gave a **first reading** to an ordinance authorizing the submittal of FY 2010 Community Housing Improvement Program application and accepting grant and obligations, if funded, and declaring an emergency.

Councilman Johnson moved this constitute a first reading.

Mr. Johnson inquired of the Mayor what cost this would be to the City. The Mayor acknowledged that to be true, saying the money will come from the grant in itself and the community development grants that we incur. She requested this ordinance be passed tonight because of the deadline for submission of the application.

Councilman Johnson withdrew his motion for a first reading and moved to suspend the rule requiring an ordinance be read on three separate dates.

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

Prior to a motion being made the Mayor advised this to be the Community Housing Improvement Program (CHIP) and noted that other cities across the State have used these funds for years. She claimed that our City has not "successfully applied for any until last year". She explained CDC has an extensive history with regard to CHIP grants. She acknowledged that last year the former administration of the City and Community Development Director were successful in obtaining a \$400,000.00 grant, which was used for the east end improvement program. She said the problem to be with the planning process and explained how that works and what sections of the City would be involved. She explained that in order to meet the April 1st deadline for the application it needs to be passed as an emergency. She reiterated the fact that the money for CDC's work will come from Community Development funds. Councilman Haas felt the resolution was addressing two things. One is filing an application for a CHIP grant and the other authorizing entering into a contract with various other programs. Mr. Haas inquired as to whether or not a resolution should be limited to one issue. The Solicitor advised it should be one item, however this was a last minute thing that came to his attention. He said he actually met with the director of the Appalachian Philanthropic Group, Madilyn Hart, who is actually going to do the work required to apply for this grant. Mr. Jones said the intent of this ordinance is for Council to authorize the Mayor to apply for the grant and Ms. Hart will actually be doing all the leg work involved with the grant. He further advised Council that, with this ordinance, they would also be authorizing the payment of \$4,000.00 to Ms. Hart for her services. In response to Councilman Albrecht asking if we were sure we would get these funds for which we are applying, the Mayor said you cannot be sure of any grant but she had good reason to believe that the City will be funded again, noting that the funding for the CHIP Program has increased. Mr. Albrecht wanted to know if we still had to pay the \$4,000.00, if the application was denied and if so, from where would the money come. The Mayor said it would come from grant funding and when Mr. Albrecht questioned how it could come from the grant funding if we did not get the grant, the Mayor said there are some administrative funding in the Community Development Department for grant preparation and the \$4,000.00 would come from those funds. Councilman Basham asked if there is not someone on staff who could perform these duties. The Mayor responded in the negative claiming that in the past the City has not had the grants writing capacity that it needs and further claimed that it usually takes a staff of quite a significant number of people to do the varied types of grants that are needed. She felt that using the approach would allow the City to maximize its ability to pursue a lot of funding and not have to have a large staff, for which we do not have the money to fund. In response to Mr. Basham asking if the person who worked for the former Community Development Director, the Mayor replied in the negative. Mr. Basham then inquired as to whether or not this person would be able to perform the work needed for grant applications. The Mayor said she would not. Mr. Basham, asked if for \$4,000.00 one other person will then fill out the application. The Mayor stated that Ms. Hart will be, on this particular grant, involved in a list of activities as

described on page two. She also said, "For this particular grant, it will be not to be \$4,000.00". Councilman Haas acknowledged Mr. Basham to have asked the same question he had, however, he felt he did not hear an answer. He said it appeared to him that the City is hiring someone at \$4,000.00 to do the job of a person that is already on salary and who was responsible, in large part, for doing that before and has experience in that area. Mr. Haas said he is not sure he understands the rationale of farming out something for which we are already paying someone. In response to Mr. Haas asking the Mayor to clear up his thought processes with regard to this, the Mayor said the person who is on staff is a grants technician and although she provides a lot of the administrative clerical type of assistance she does not actually do the kind of planning and facilitation and actual writing that will be provided by Ms. Hart. Councilman Johnson felt it should be noted that Ms. Hart has a staff and it is not that she does everything herself. He said Ms. Hart's staff fills in the templates and described the Center for Appalachia Philanthropy as a group of people who work and brainstorm. He claimed that each member of the group have a set thing that they do, which he went on to list. In response to Mr. Basham asking if Ms. Hart's office was in the tuberculosis clinic, Mr. Johnson said she was not but did affirm that she is located in the City. The President, noting he has composed a letter to the Mayor on this subject, asked about Shannon Southworth, who is a grants technician and is presently employed in the Mayor's Office. He asked the Mayor if Ms. Southworth is assigned to her office as a permanent employee or whether or not she is still an employee of the Community Development Department. The Mayor advised Council, that in accordance with the City charter, she has made herself the Community Development Director, saying "So I brought that in house, so to speak, because this is an area that we have to really focus on in order to redevelop our neighborhoods our community (sic)". She advised Council that Ms. Southworth is working in her office but she is working as a grants technician. The President inquired about the difference in the salary Ms. Southworth received as a grants technician and that of an assistant to the Mayor, saying this question is in the written communication he provided her with this evening and can be addressed back to him in written form. Noting the request for \$4,000 to pay Ms. Hart, the President pointed out the other request from the Mayor for \$25,000.00 to pay a Lexington, Kentucky firm to do grant writing. He reminded the Mayor that at an earlier meeting he had inquired about her writing grants, at which time she was offended that she would be expected to write grants but now is declaring herself to be the grants person. The President acknowledged the fact that the Mayor has the authority to name herself the head of any other department and noted that she has now put herself in the position of a grant's writer. The Mayor interrupted the President, claiming that she did not say she was the "grants person" but she did make herself the director of the Community Development Department. Who, the President noted, will be overseeing the grant writing and there has to be someone who takes the technical time to review the grants to make sure they are properly prepared. He commended her for "wearing many hats" but he felt our Community Development Department has Ms. Southworth as its grant's technician and expressed his concern about paying out money and "shopping out" for people to write these grants when we have a Community Development department that she is overseeing. The Mayor advised the President that what he may not remember or maybe it wasn't made clear to him that in the last year the grants that were written for this "sizeable kind of proposal" were all farmed out to outside grants writers. She also noted that small communities, like ours, do not have the funds to have a full-fledged grants writing office, which is why our City works with the OVRDC. The Mayor reported that all the larger grants garnered by this City were done with outside grants writers. The President advised her that the City's CDBG grant writing was done by the City's Community Development Department and noted that some of those CDBG monies have been well in the \$900,000.00 range and higher. Councilman Basham acknowledged understanding what the Mayor was trying to say and noted that previously the City had a budget to work with and was very apprehensive about spending money when we have no idea, with what funds are going to be available. He said it would be nice to be able to pass this ordinance after we have a budget. He said he is all for a \$400,000.00 grant and expressed his hope that we will know with what we have to work by the first of March. Councilman Haas noting, with regard to the last issue, that Council talked about the budget and were not promised or guaranteed we would have anything by April 1st. Noting the deadline for this application to be April 1st, Mr. Haas questioned why this would have a higher priority, for Council, than the budget, which is going to run the City for the next ten months. Councilman Johnson stated that he worked very closely with a former Community Development Director, Jennifer Hanlon and acknowledged that she did most of the work with regard to grants but she never went after this grant because it was too much work for her staff. He said it was not until Mr. Saez became the Community Development Director that this grant was farmed out the first time the City was able to get it. Mr. Johnson reported having getting a lot of calls from constituents on Sunrise and Ruhlman Avenue about how their sidewalks are deteriorating. He advised Council that this grant has a lot to do with the issues with these sidewalks being addressed. He further stated the \$4,000.00 to be available in CDBG funds. He noted one of the big hurdles was surmounted when the grant was awarded the first time, noting the second time to be easier. Speaking for his ward, he said "We need this". The Mayor felt she needed to remind Council that there are some neighborhoods in our City that are in deplorable condition and this is the kind of funding that can be used to start rebuilding our neighborhoods. With regard to the \$4,000.00, noting this amount to already be available, she felt it to be a very minor amount of money to go after something that will help rebuild our neighborhoods. The Auditor said he needs more specifics on what is meant by "Community Development monies" and "the money is there" and asked "the money is where?" He said what fund and what account from which something is to be paid is usually identified in an ordinance. Mr. Williams asked from where the money would come, if Ms Hart were to come to him tomorrow for a check, saying he would like to have this information before an ordinance is passed authorizing this to be done. Mr. Johnson said he was informed that there is still money available in the CDBG grant. Mr. Williams, noting that he is not arguing as to whether or not this is true, but would like to hear it stated that a current CDBG grant is going to pay for the application preparation for a CHIP grant. The Mayor stated that the funding for the CDC will come from the CHIP grant, if awarded but if it is not awarded the CDC will not be paid. She said, "The \$4,000, an administrative expenses for the Center for Appalachian Philanthropy (*not discernible*) the \$4,000 at are to come from the CDBG Funds". She apologized about that fund not being given to the Auditor today. The Auditor asked

which grant, noting there to be several CDBG grant funds. In response, the Mayor again stated that she though the fund had been provided to the Auditor this morning. Councilman Haas said he is confused on the terms that everyone's throwing around the CDBG – saying he did not know what that means but he is aware of what the CHIP Program is because he can read that. The Auditor explained that the CDBG Community Development Block Grants that are broken up into Formula Grants by year. He said he did not want to “burn” Mandy by making sure that if she is promised money for performing a service, that he knows from what grant it is to be paid. Mr. Haas said he just understood the Mayor to say that Ms. Hart gets paid, if we get the grant and it come out of the CHIP. The Mayor claimed that CDC of Ohio is the consulting company that will actually be making the grant application. Mr. Haas apologized, saying this is where he gets confused when there are two things in one ordinance. He noted there to be the CHIP and the CDC issue in the first part of the proposed ordinance, while the second part of the ordinance is the other \$4,000 for the Appalachian Philanthropy Center. The Mayor confirmed this, saying it is “because they will be providing the general administrative functions on the application - the CDBG, CDC will be preparing”. She reiterated previous remarks she had made with regard to the process that involves various meetings within our community to determine the various neighborhood needs that will be included in this proposal. She further stated that Mandy Hart and her staff will be providing those functions to CDC and as well as developing the information they will need for the application. Councilman Basham noted that the City is going to pay someone to prepare information so that someone else can prepare information for submission for a grant and inquired as to whether or not that was correct. He restated his questions, saying “Mandy is going to prepare information to give to the CDC who is actually going to prepare information to apply for the grant. In response, the Mayor stated, “Actually CDC does the grant application itself. She stated that consulting firms, regardless of the grant, would require information and involvement from the local community's Community Development Office, noting that function will be supplemented by the Center of Appalachian Philanthropy because we don't have a large office. In response to Mr. Basham noting the City will be paying Ms. Hart to do the Mayor's job, the Mayor stated her job to be “Mayor” and stating that job to be for her to “determine the best way to administer the functions of government”. Mr. Basham noted the Mayor to have named herself as the head of Community Development and as such is going to pay Mandy to do the job that should be done by the head of Community Development. The Mayor noted that the City's charter provides that the Mayor may name himself or herself as the director of a department and therefore she named herself as the director of the Community Development Department because she did not believe that she needed to hire a director for that department. She stated that what she needed was various competent, professional, skilled people to provide the function along with a grants technician. She felt that in doing that the City's ability to go after the most grants would be broadened and that the City would be more successful in that way. She claimed that using these type of agencies is what most communities do unless they are of a sizeable population. She reiterated her previous remarks with regard to using local people in the community to facilitate the preparation of the grants. Councilman Haas, addressing the Mayor, stated that so far this year she has asked Council to approve \$25,000 to the Strategic Funding Group Inc. of Lexington, Kentucky for grant writing and now she is asking for approval of another \$4,000, noting these to be jobs for which the Community Development Director is responsible. Mr. Haas inquired into the pay range for a Community Development Director, noting that we are two months into the year and have already been asked to approve \$29,000.00 for grant writing. In response to the Mayor stating that she did not know the pay range because it was not her intent to do that. Mr. Haas asked the Mayor if she could confirm or deny the Community Development Director's pay range to be \$35,000.00 per year. The Mayor advised Mr. Haas that what she could tell him is that “the City of Portsmouth has been sitting here falling into further and further decay” upon being interrupted by Mr. Haas, the Mayor firmly advised him that she had the floor. Being allowed to continue the Mayor repeated her remarks about the City's “decay” and continued by saying, “I was elected to try to lead us out of it and I have functioned as administrator to bring the budget, to bring a process to the table. That is what I'm doing and if you want to nit pick everything I do, then go right ahead and do that but the public knows better – the public is smarter than that – the public understands what the issues are here”. She continued by noting the conversation at a meeting she attended last week to have been about code enforcement and housing stock in the neighborhoods and reiterating previous statements about declining neighborhoods and claiming some of the properties to have been condemned for more than ten years. She also reiterated previous remarks concerning drugs and prostitution, debris and trash in certain neighborhoods. She blamed past administrations for addressing the problems, in her opinion, “ineffectively”. She said, “I've been hired by the public to try an approach we can maximize potential for getting the grants and the help we need to rebuild this community”. She reiterated her feeling that \$4,000 was a small amount to garner \$400,000.00 in grants for those neighborhoods she just mentioned and saying, “As soon as I give you the fund line tomorrow, we will know which fund it is coming out of”. She again restated, “The monies are already in the budget”. Councilman Haas said he would take it that the answer to his question he asked is that she really doesn't know what the Community Development Director is”. He again expressed his concern is that she has requested \$29,000.00 so far this year for grant money and advised her that the salary for the Community Development Director is \$35,000.00. He also pointed out that the City would have someone on staff, from the community and who is working here 365 days a year. Mr. Haas said he did not know if this is an intelligent use of the City's money at this time, especially when we don't even have a budget yet and have no idea where we are headed. Councilman Johnson reiterated his long association with Jennifer Hanlon, noting that she would have loved to have had this type of legislation since neither she nor Mr. Saez would have been able to put something like this together in a month. He again noted the City to not have the internal expertise to do this. He stated that a community development director has to oversee a lot of different things and at times have to decide whether to bring in the expertise or to do the work in house. He noted that until recently the Center for Appalachian Philanthropy was not here and there were not any local people who did nothing but grants. He noted the company started by Ms. Hart is a local company that does nothing but working with grants. Mr. Johnson claimed there to be a great difference in being a Community Development Director and doing the work required to obtain this CHIP grant and felt the former Director, Mr. Saez would

agree. He expressed his concern that the Mayor and Council are talking past each other at this point instead of talking with each other. He noted the bottom line is that this is not going to affect us today because the process is going to take a while, saying that our budget will have been passed long before we hear back on this and further noted that the application has to be submitted. He said, "Either we will get paid upon success out of what they are doing here or, if not successful, they get paid out of CDBG funds". He expressed his hope that the Mayor will select which fund. He said this will not effect the budget Council will be looking at through March. Councilman Basham acknowledged Mr. Johnson to be correct and agreeing with him advised the Mayor that he also agreed with her remarks about the 4th ward. He said he would not talk past anybody but, to the Mayor, he said he could not believe she had the audacity to want Council to pass this ordinance as an emergency measure when she is not even sure from what account the money to pay the \$4,000 is coming. He said he was not against the request but when she comes forward with legislation she wants presented at the last minute and she just told the Auditor she was not sure but would get with him tomorrow on from where the money will come. The Mayor said she indicated that she thought that information had been given to the Auditor's Office today. In response Mr. Basham said he thought there would be a budget. Councilman Noel said he was tired of sitting her and listening while our community is "running down to nothing". He claimed "this" to be what has been going on for years. He felt that to be the reason the City to be in trouble now. He said the thing that "burns" him up is that we have someone who knows what she is doing and he for one has watched this community deteriorate and accused Mr. Haas of "nitpicking". The President called Mr. Noel out of order due to his personal remarks. Councilman Albrecht called for the question. The Clerk advised there to be no motion on the floor.

At the request of the President the roll was called on Councilman Albrecht's calling for the questions.
VOTE: ayes 6 – nays 0 The motion carried. Debate on the question ceased.

Councilman Johnson made a motion to pass the ordinance.

The President acknowledging there to be no further debate the roll was called. **VOTE: ayes 3 (Albrecht; Noel; Johnson) – nays 3 (Malone; Basham; Haas) The motion failed due to a lack of three affirmative votes. The ordinance was defeated.**

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Wayne Nichols – 1829 High Street claimed there to be crime in the 4th ward and advised Mr. Albrecht that he was still in his ward and threatened him with recall. He also noted the Mayor cannot be recalled until in office for 6 months but believed the 5th ward Councilman could because he was appointed during the last term before he began serving his present term for which he was elected. Mr. Nichols continued pointing out those members of Council that he believed could be recalled. He claimed "This new man obviously duped the voters of the 3rd ward and to vote for his self (sic)" Mr. Nichols expressed his belief that the 3rd ward Councilman would be recalled in six months. The President rapped Mr. Nichols who then advised members of Council that they should not do anything about "The Madame Mayor" without worrying about their own positions, saying, "Because I will personally go out and get the – he did not continue but rather spoke about how he passed recent Initiative petitions regarding limiting the City's borrowing to \$100,000.00. He accused Council of "dancing with the law" and claimed they would find out that they don't know more than anyone else, saying "there are other lawyers in this world that will tear you up". At this point the President advised Mr. Nichols that he was finished.

Tim Hartlage – 1555 Jackson Avenue agreed with the Mayor in regards to the deteriorated condition of our neighborhoods. He pointed out the fact that a house on Argonne Road that is nothing more than a shell following a fire. He predicted that someone is going to get hurt, if we should experience a high wind. He noted that to not be the only piece of property in that condition. Mr. Hartlage pointed out the property belonging to Mr. Nichols on 8th Street that burned down in October or November of 2009. He said it looked like a "hell hole" and the debris needs to be removed. He questioned why the City's code enforcement officer is not doing his job. He said he realized that property was purchased by the Labor Local and that they plan to erect a new building on that spot. Mr. Hartlage pointed out that each and every officials was elected to work together, noting he has been attending meeting for almost two years, he said he has watched members of Council bickering back and forth against each other and fight with both the past and present Mayor. He said he is sick and tired of it and claimed the City to be the "laughing stock" of the State of Ohio. He felt this to be a beautiful part of the country but compared the City to Carlsbad, California, which he said was clean as opposed to trash being everywhere in our City. Mr. Hartlage noted adults to be the biggest culprit when it comes to intentionally littering because they are too lazy to put their litter in a trash can. He felt the \$500.00 fine for littering should be imposed. He suggested the media inform the public of these codes and warn them that they are going to be enforced. He felt that most citizens are not aware of these laws. He claimed the whole county to be "filthy" and agreed with Mr. McHenry's letter to the Editor claiming our community to be broken, primarily due to drugs. To the Mayor he said the people wants a public apology for the things she has done and for which she does not seem to think that she owes anyone an apology. He said he was not against her and wants her to succeed because if she does then so does the City of Portsmouth. He felt the Mayor to be determined that everyone "up here" are against her, which he did not believe to be true. He said he thinks everyone was elected by the citizens of Portsmouth and can all be taken out by those citizens.

Carl Hilgarth – 2201 Woodlawn, with regard to the ordinance authorizing an appropriation of \$4,000, an item that was on the agenda, advised Council that this amount is 1% of \$400,000.00 and that \$400,000.00 is money that does not come from the tax payers of this city and does not come from a budget that is over

stressed. He claimed the grant would provide tremendous relief for the City's situation with regard to sidewalks. He questioned the fiscal responsibility of those sitting on Council who voted against this ordinance. He called the discussion of this matter to have been a mockery. He further claimed students at Shawnee State do not believe Council to be in touch with reality.

Dee Penix – 1708 Hutchins Street said she agreed with the last two speakers but she did not think the problem to be this Council or Ms. Murray, however she felt the Mayor got started on the wrong foot. Mrs. Penix referred to an account in the local paper where the Mayor stated "that the public needs to know what this is all about after saying that the City Council was going to attempt to have her recalled". Mrs. Penix pointed out that City Council can't have a recall and noted that the reason people are upset, even out in the public, is because the Mayor is not following the charter and the rules. She advised the Mayor that whether or not she agrees with the charter or the rules they must be followed. Mrs. Penix acknowledged that she did not agree with all the traffic lights that were removed but the Mayor did not even have the courtesy to get in touch with the Traffic Committee and noted that the Mayor had stated during a meeting of Council that "the Traffic Committee was not educated to know enough on the subject for input". Mrs. Penix questioned why these people would be serving on the Traffic Committee if they lacked the necessary education. Mrs. Penix went on to note the Mayor had also stated that she is the administrator not members of City Council and reminded the Mayor that this is a Council/Mayor form of government not Mayor form and not Council form but a government where the two entities work together. Mrs. Penix said the Mayor is to supervise the administration of affairs of the City and noted that she is quoting from Section 34 of the charter. She continued by reading Section 34 and stated that the Mayor's position is to oversee the administration of the City not to control it. She further read from Section 34 that the Mayor sees that the ordinance and the laws are enforced, to keep Council aware of the City's affairs, to keep Council aware of the City's future needs, to prepare and submit the budget, to prepare and to submit to Council such reports as may be required by Council to perform such other duties as may be prescribed by this charter or required of him or her by ordinance or resolution of the Council. Mrs. Penix said she did not know what plans Council has but what she is hearing from her neighbors. Mrs. Penix objected to the Mayor not following the charter and noted that within an hour of taking office she had fired three department heads. She acknowledged this to be the Mayor's right, however she had no one ready to take their place according to the EPA, which has now put the City in jeopardy. With regard to the traffic lights, Mrs. Penix said that now that has to be reconsidered. She acknowledged the Mayor to have hired people to replace the ones she fired and gave them titles that do not exist in this City, therefore there is no payroll for those positions. Mrs. Penix suggested that the Mayor admit that she has made mistakes, step back and say she is sorry and that she wants what Mrs. Penix wants and what she feels most people in this City wants. Mrs. Penix agreed with previous speakers who feel this City is going to continue to go downhill. She said she felt the Mayor had some good ideas and acknowledged that she did not vote for her even though she supported her in the beginning. She also, like Mr. Hartlage, said she wanted to see her succeed because she loves Portsmouth and if the Mayor fails it will mean the City fails but if she succeeds everyone in the City will succeed. Mrs. Penix emphasized that this would require everybody working together and reiterated the fact that this is a Council/Mayor form of government – not one above the other.

Rusty Miller – 3124 Forest Avenue addressed Council on behalf of Habitat for Humanity of Scioto County. Mr. Miller said the organization is in desperate need of property on which to commit some builds. He noted there to be some property at 1310 Franklin Avenue and noted there to have been some grant money that was deposited on a build that was to take place earlier on Grandview Avenue. He reiterated the organizations need for property and asked that they be considered and need to find someone with whom to speak in order to address the available grants.

Judy Doll – 5862 Beaver Pike, Beaver, Ohio, advised that she is the Research Director for the (*not discernible*) Friendship Center. She said she did not mean to make light of this, saying she too really cares about Portsmouth. She said she was one of the three women who "wrote up" the historic district back in the 70s. She continued by advising everyone of other things in the City of which she has been involved. Ms. Doll stated that she has her masters and spent two years in Spain studying peace, development, security and conflict transformation. She said what she learned from her conflict transformation seminars is that "you guys are really lucky". She claimed conflict to be an opportunity for growth and to look at themselves individually to see that what they bring to the table is an issue and suggested it might have been a personal problem regarding their home life and continued to claim there to be more happening at this table than "what is happening with the issue". Ms. Doll expressed her belief in the Mayor and felt she loves Portsmouth and has a commitment. She continued by expressing her interest in Farley Square and the kids and community of that area. She closed by saying "Don't worry guys because when everything is this uptight you're on the precipice of really making peace and helping our community survive, so don't take it negatively look at it in a positive way".

Curtis Shanks – 1209-4th Street spoke with regard to the rezoning of McKinley School property, saying he was at a zoning meeting and accused a member of Council of storming out and slamming the door" in people's face because he did not like the way things were going. He said he was involved in another rezoning when they were building the school and after sixteen months of being told not to do anything else to his house because he would not get anymore money, however the school could not be built according to plan and the whole thing had to be changed. Mr. Shanks felt planning and zoning does not always go the way you want. He also felt the traffic lights should be reinstalled noting ODOT wants to "do a by-pass" and suggested ODOT be told to take out the rest of the lights on Rt. 23 and 52 and they will have their by-pass and speculated that by saving the State money they might give our City some money. Mr. Shanks accused claimed there to be three or four members of Council who "were in Jim Kalb's back pocket" and further claiming they allowed him to do everything he wanted to do and said if they had nit picked at Jim Kalb, even when he was on

Council, the City would not have the problems we now have. He said he did not know how some members of Council could sleep at night after doing all their “nit picking”.

Harald Daub – 1221-22nd Street began by criticizing Councilman Haas and accusing him of acting like a district attorney “on our new Mayor”. Mr. Daub asked Mr. Basham if he were a drama teacher. He noted Mr. Malone to have ran for Mayor two different times and imagined the adrenalin running in him when he heard words of recall of the new Mayor. When gaveled by the President, Mr. Daub also reminded Mr. Malone that there is a lawsuit pending with regard to allowing people to speak. The President advised Mr. Daub that he was not trying to keep him from speaking but he did want to remind him to respect members of Council. Mr. Daub responded by saying, “When the Council respects the citizens, you’ll get the respect in return”. He continued by stating that tonight Council had put two nails in the coffin of this City. He claimed Council to have turned down a \$400,000.00 grant just for spite for the Mayor. When the President tried to remind Mr. Daub that he was speaking in regard to an item on the agenda, Mr. Daub just continued his diatribe against the Council by referring to another item that was on the agenda – the rezoning of the McKinley School property. Mr. Daub accused Council of having a personal agenda and that they had “hard feelings” because their candidate did not win the election and claimed it to be their objective to do everything they can to discredit the new Mayor. He said this was very obvious and expressed his disappointment that the news media were gone since he felt this to be something they need to know. Mr. Daub, having already verbally attacked three member of Council began to attack a fourth member, Mr. Albrecht who had been excused earlier for medical reasons. Mr. Daub claimed to have pictures of “many meetings where he slept through the meeting”. At this point the President rapped his gavel and advised Mr. Daub that he was finished. However, Mr. Daub claimed that Mr. Malone could not take the truth.

Richard Duncan – 109 Judy Lane, Lucasville, Ohio noting someone having stated that the City “is a laughing stock”, said he did not believe that to be true until January 4th of this year. He noted that Mayor Murray has repeatedly stated that he (Richard Duncan) was responsible for losing a million dollar grant for the City of Portsmouth and most recently made that statement in the Portsmouth Daily Times on Friday, Mr. Duncan said he had a list of grants that over the years he himself had applied for on his own without a staff and he did not hire anyone to do them. Mr. Duncan shared a list of twenty major grants that he garnered for the City. Some of which were 1) the Kinneys Lane improvements that included the retaining wall, new sidewalks and new paving – funded by ODOT and was a \$1,100,000.00 and he did not believe we would get anymore grants from ODOT because the City is not doing what they say we have to do. 2) Major improvements to the Basham Reservoir was constructed with a grant as was the transfer station, the Highland Bend Sewer, Harding Avenue waterline replacement; the Little Scioto River Bridge improvements and noted the list to go on and on. Mr. Duncan said he has gotten more grants since he has been the Director of Waste Water and noted it to not be true that he lost any grants for the City of Portsmouth. Mr. Duncan said he explained that to City Council on July 27, 2009. He acknowledged the City to have had a choice of a grant for the wastewater treatment plant, which is 50 years old and is falling apart and needed many improvements. Mr. Duncan said he already had approval from City Council to have the necessary engineering done for the plant and that he explained to Council that the \$20,000,000.00 grant that Ms. Murray was talking about was an either/or proposition and that the City could not get both. Mr. Duncan reminded everyone that Ms. Murray had even sat in the audience when he was explaining this to Council and she had to be gaveled down several times because she kept interrupting Mr. Duncan as he spoke. He reiterated the fact that he had explained to Council that the City could not get both the \$5,000,000.00 and the \$20,000,000.00 grant and if the City had gotten the \$20,000,000.00 grant it would have come with a \$1,000,000.00 debt service that the City would have to repay for a project that may or may not have been approved. Mr. Duncan said he just wanted to clarify that the decision that was made was supported unanimously by City Council and that he had also discussed it with the Mayor, the City Auditor and the City Solicitor and the decision was also recommended by the environmental engineering service, which he noted is the same engineering service that the Mayor is presently using. He also noted this to be the engineering firm that Mayor Murray claims is covering for the City with regard to the wastewater treatment plant. He said the use of that grant was what this same engineering firm recommended. He said what Ms. Murray wanted to do would have been a disaster for the City and that is why the actions that were taken transpired. Mr. Duncan said he would be happy to talk to anyone at anytime about this matter, saying he has all the documentation. He said he felt like what the Mayor is doing is trying to, after the fact, justify some stupid decisions that she has made, which he considers to be slander and liable and expressed his hope that she does not continue to repeat these statements that he feels affect his reputation and his judgment as an Engineer and as a wastewater operator. He noted these to be things that affect his livelihood and he did not think it very wise to keep repeating those types of statements. Mr. Duncan encouraged City Council, saying they are making some smart decisions and don’t just go on statements made by the Mayor just because she says they are true because most of the things she says are not true. He said he would be happy to answer any questions about the grant, of which she is making claims that he (Mr. Duncan) caused the City \$20,000,000.00, saying,” that is just not true”.

NOTE: *Councilman Albrecht was excused at 9:20 p.m. for medical reasons).*

Miscellaneous business and reports:

City Clerk’s Report

1. Received from the Ohio Division of Liquor Control a copy of a request for a new D51 permit for: West Miller Inc. DBA Dakotas Roadhouse, 1619 Chillicothe Street.

2. Received from the Auditor's Office on 2/5/10, the following reports for the period ending 12/31/09:

Combined mtd/ytd expense report
Mtd/ytd revenue report
Mtd bank report
Combined mtd/ytd fund report
Appropriation transfer from transaction listing
Combined receipt by account transaction listing

With the exception of the appropriation transfer from transaction listing and the combined receipt by account transaction listing, on 2/17/10, the Clerk's Office received, from the Auditor's Office, all previously listed reports for the period ending 1/31/10.

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

Mayor's Report

1. Reported that application has been made to U.S. Senator Sherrod Brown and also making an application to Senator Voinovich for some 2011 appropriations funding for 2011 for infrastructure. – primarily water and wastewater.
2. She reported working with ODOT for some grant funds – essentially low interest loans that might be needed.
3. She advised Council that last week the Health Department and all the City's code enforcement officers joined forces with the Land Reutilization Committee to begin to put together some more rigorous requirements of property owners so they can start addressing the disasters in some neighborhoods. She said she would be bringing this forward and will have the Health Commissioner, Peggy Burton to provide updates at future meetings of Council.
4. The Mayor said she wanted to involve the public in a massive effort to clean and beautify our City this Spring. She said she would welcome involvement and has asked for help in getting the garden clubs to participate. She said, "We have an opportunity to start rebuilding from the ashes" and it was going to take the public to accomplish that for our community. She announced that she is already working with some "central business interest" in the community and is looking at some new technology that might involve working with some other counties to develop industry here. She described it as "green technology" and will be bringing more information to Council in the future. She said don't give up and come to the neighborhood meetings, saying they are going to start block by block evaluations and inventorying all the properties in our neighborhoods so we will know what we have to do to help the revitalization of the City and to make it the kind of City we once knew.
5. Reappointed Dr. Saab to another term on the Board of Health.

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

President's Report

1. Shared a letter he drafted to the Mayor, which requested clarification on a couple of issues that has been discussed throughout the community and various departments. Noting the Mayor will be receiving the letter, the President provided an overview for the record. 1) The need to name an appointee to the 15th District Public Works Integrating Committee and noting that Dan Saez, the former Community Development Director had been serving in this capacity. 2) Issues regarding the rehiring of Mr. Sam Sutherland as an Assistant Director of the filtration plant and the extent of his duties. 3) Clarification with regard to Shannon Southworth's position.
2. He noted there to be several other items that need to be clarified and advised that he has gone to the Mayor's office several times to get some information and have some questions answered but she was not present. He noted that he has been working with a constituent regarding a matter and was told by a person in the Mayor's office that the situation was resolved, however the constituent has not been contacted by the Mayor's office. He said if the issue has been resolved, this person needs to be contacted.

3. Expressed pleasure at learning that the Mayor was able to secure the 2010 liability insurance through Portsmouth Insurance. He noted there to also be a question regarding the employee's health insurance and requested she advise Council of what steps she is taking to make sure this matter is addressed.

The President pointed out that these issues are in no way an attempt to usurp the Mayor's authority but felt it important that everyone work together and noted that he and the Mayor has met on a couple of occasions. He expressed his willingness to work with the Mayor. Acknowledging that the Council has fiscal responsibility but with regard to the grant he pointed out that until Council knows from where the funds are to be paid they cannot approve the needed legislation and remain fiscally responsible. He said he has no problem voting for the request, however he first needs to know from where the funds to pay for this will be coming.

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

Miscellaneous business from City Council:

6th Ward

Councilman Noel believed that if he had half the backbone as the Mayor maybe he could have done something a long time ago. He said he has watched a previous Mayor who tried to do things like the present Mayor is attempting to do but things were made so rough on him, saying anything he wanted to do Council would work against. He claimed that to be what is being done now with the present Mayor. He said he has had full cooperation from her since she has been in office. He said he is not going to get into an argument with the former "statesman" but noted that he was the only director under the last Mayor that would talk to you and act like a person should. Mr. Noel said that in is ward the director did everything he could, including "making a dump out of a beautiful park". Mr. Noel felt this was done just because he wanted the park improved, claiming the former director "went after" him and further claimed that he is trying to do his very best to have him removed from office along with the Mayor. He claimed the present Mayor has and is trying to "get the community fixed up" and cited as an example the property along Walnut Street. He said the two previous administrations have allowed this area to go down. He claimed there to be a house in that neighborhood "where they running the sewage right out" but acknowledged this to be something on which the Health Commissioner is working. He claimed there to be things of this type going on all over town and felt there to be "a person who has come in here as Mayor and they have done nothing but pick at her – nit pick since she's been here", saying he does not know how she has been able to do the job she is doing. Mr. Noel said, "If they would leave her alone we'll get this thing back to, maybe before the old codgers like me die and maybe we could see this town return to what I seen back when I came back from the Navy in 1947".

5th Ward

Councilman Haas began by saying he senses and understands the frustration of the public and the speakers present this evening. He acknowledged that their frustration was about a quarter of his. Mr. Haas, with regard to the problems that have existed over the past few months, noted there to be procedures set up that provides for a Mayor's conference following the legislative session and further noted that to be when items, such as the request for filing an application for grant funds, are suppose to be discussed. He stated that to be when they go to the Solicitor's office for the preparation of the legislation. He advised that during that preparation the line items are determined with regard from what fund the costs will be paid. Acknowledging Council to be the legislative body and the Mayor's office the executive branch of the government, Mr. Haas noted there to be checks and balances. He further noted the Council is not required to rubber stamp everything that is presented to them and felt that to do so they would not be doing their job. Mr. Haas stated that he was saying these things with all due respect to the Mayor but over the last two months Council has been told that Mr. Peck is an engineer and that he has a degree, which, he noted has all turned out not to be true. At this point the Mayor attempted to call Mr. Haas on his statement. The President reminded her that Mr. Haas now has the floor, however the Mayor refused to stop protesting and took exception to Mr. Haas' remarks. Continued attempts by the President to bring order were unsuccessful as she continued to argue and insist on interrupting. The President then proceeded in calling the Mayor out of order, to which the Mayor claimed that to also apply to Mr. Haas. The President disagreed and Mr. Haas continued. To the Mayor, Mr. Haas stated, "Madam Mayor when I tried to interrupt you before, I kept my mouth shut and let you finish not answering my question. I would just ask for the same courtesy as you". Mr. Haas reminded the Mayor that she had advised Council at a Council meeting that Mr. Peck had filed his application with the State of Ohio to become an Engineer in the State of Ohio. As Mr. Haas was noting that to not be true, the Mayor again interrupted him and inquired as to whether or not this

was a question/answer session. Again, the President had to call the Mayor to order and when she attempted to argue with him he advised her that Mr. Haas was not asking questions but was merely stating facts. However, the Mayor attempted to argue the point with the President and felt that she had a right to respond. The President disagreed again, stating that Mr. Haas is relating information that he has received. Mr. Haas again acknowledged frustration as being a member of Council and not being able to rely on the executive branch to report to the Council and to report facts. He noted that throughout the Council meetings that have occurred to date, Council has been told that the wastewater department is in compliance and the problem has been addressed. Mr. Haas pointed out the fact that this is not the case. He said he has not heard that the City is as yet in compliance and he does not know what the plan is and has heard nothing about what is being done to bring the plant into compliance. Mr. Haas said he attended the EPA meeting, with both the Mayor and Mr. Peck present, who assured those in attendance that they had someone to operate the plant. He reported them to then blame Council because they did not authorize enough money to pay someone to do the job, when, in fact, Council authorized the amount of money that was requested by the Mayor's office. Mr. Haas confirmed his being very frustrated and apologized but felt there to be issues that need to be dealt with, there is a looming budget crisis that, from what he can see has not been dealt with and we are at the end of February. He noted the budget will expire for everything but payroll, utilities and emergency issues at the end of this month. He again acknowledged sensing the public's frustration, saying he is doing the best job he can do to represent his ward and to make sure that the procedures that have been in place for years are followed. He said he was not going to be handed a piece of legislation at the last minute when he walks into a Council meeting and be asked to pass it as an emergency basis when it is not complete.

Mr. Haas said he would like to meet with the Solicitor in the next couple of weeks, noting he has had a complaint from a 5th ward resident with regard to some barking dogs and who has not been able to have the problem resolved. Mr. Haas felt like the ordinances need to be reviews with regard to this matter.

3rd Ward

Councilman Basham describing his ward as being notorious, in the past few years, for gathering information, said the thing he needs to know, as a new councilmember who needs to make decisions, he has to have more information. He acknowledged that this may sound as if it is coming from him personally; therefore he distributed a letter with questions from constituents for the Mayor. Mr. Basham advised everyone that these questions come from his constituents and that he personally has no axe to grind, saying "I just want an answer". The letter contained questions regarding Mr. Peck's degree and when did he apply to be a licensed Engineer in the State of Ohio. There were other questions regarding Mr. Peck's position and people being hired into positions that do not exist. Citizens inquired as to when the City would be in compliance with EPA regulations and if she was aware of Section 61 of the Charter, which prohibits entering into contracts without Council approval and how she intend to pay for these renovations. The Mayor was requested to provide in writing the report about numerous accidents occurring between 11th & 12th Street as she had promised at the January 25th Council meeting. The Mayor's decision to reinstall and reactivate previously removed traffic signals without taking the matter before the Traffic Committee was also called into question and a request was made for the Mayor to provide the proof of her savings of \$325,000 as a result of her firings and hiring in the first week of her administration, noting this claim has been announced by her repeatedly. The letter also noted that even though she sated at the Meet the Candidates Night that she had the figures and not only knew what the problems were she waved the financial printouts and offered to show them to the then Mayor, Mr. Kalb, therefore the question was when was she going to do her job and prepare a working budget. In closing the letter thanked the Mayor in advance for providing "vital information that will insure the stability of the City of Portsmouth".

2nd Ward

The President had nothing to report from his ward.

1st Ward

Councilman Johnson stated that he has absolutely no problems with the comments of Mr. Haas or Mr. Basham, saying he has the same questions himself but he tends to deal with them differently – on a private level with the Mayor. However, he said he wanted each of them to know he has some of the same concerns, saying he did not like sloppy work, even though he feels Council could have passed the ordinance to apply for the \$400,000.00. Mr. Johnson said he knows one of those CDBG funds has the money but as Mr. Haas and the President stated, felt that Council needs to have that information and follow their fiducially responsibility. That having been said, Mr. Johnson expressed "great confidence" in the Mayor. He acknowledged that she has made a couple of mistakes and he felt her to be dealing with them. Mr. Johnson said he would be the last person in the world to say that he hasn't made mistakes, acknowledging that he has, and saying when he recognized them he

would apologize for them. He stated that he was sure he will make more over the next four years and apologized in advance for whatever they might be.

Mr. Johnson noted Portsmouth Bi-Centennial will be occurring in five years and acknowledged the great celebration that was held for the City Sequel-Centennial celebration and expressed his hope that something similar can be planned for the City's 200-year celebration. He announced an initial meeting had taken place last week to, at least, discuss the upcoming event. He said monthly meeting will be held to review what has been done in the past so as not to reinvent the wheel. He said he hopes Main Street can match some of their goals to the time of the celebration.

Mr. Johnson announced that he will be attending the Ohio Municipal League's training this Saturday for new members of Council and noted this will be at his expense and will not, given the City's fiscal condition, be asking for reimbursement.

The Auditor said he wished he had been given another opportunity to speak before the question was called on the discussion regarding the ordinance to apply for the \$400,000.00 grant. He said he had another comment that he had hoped would sway Council's opinion in the opposite direction. Mr. Williams said all he wanted to know was if the \$4,000.00 was coming from grant money and noted this amount would not be much of an investment toward a \$400,000.00 grant possibility. He said he just wanted Council to know that the money would come from grant funds and not from the General Fund. He expressed his hope that the Mayor will resubmit the request even if it requires a special meeting of Council. The Auditor stated it to be his impression that Ms. Hart has done "good work" and that he hopes the City supports her with that information.

The Solicitor, acknowledging the hour to be late, noted, with regard to legislation, that his office prepares legislation and he take responsibility for all legislation. He said he had a brief discussion with the Mayor and obviously being new to the office and going through some "growing pains" it is obvious that the format of getting information to Council needs to be worked on but ultimately he would prepare legislation and he will take full responsibility for not having that fund included in the ordinance. The Auditor stated it to not be his intention to blame anyone.

Having said that the Solicitor advised Council that there are a few matters involving pending litigation coming up and respectfully requested Council consider recessing into an executive session in order for him to provide Council with an update regarding this matter.

Councilman Haas made a motion to recess into an executive session.

The roll was called. **VOTE: ayes 4 (Basham; Haas; Johnson; Malone) – nays 1 (Noel) Council recessed into an executive session at approximately 10:00 p.m.**

Council reconvened at 10:26 p.m. All those previously in attendance were present with the exception of the Mayor and the Auditor.

The meeting adjourned at 10:27 p.m., on a motion by Vice President Haas.

City Clerk

President of Council