

**MINUTES – REGULAR SESSION**

**PORTSMOUTH CITY COUNCIL MEETING**

Monday, February 9, 2009

6:00 P.M.

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

Acting President, David Malone called the meeting to order. The Pledge of Allegiance to the Flag followed an invocation by Andrea Young, Associate Minister of Pleasant Green Missionary Baptist Church

Roll Call showed the following members to be present:

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

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

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

Councilman Haas made a motion to bring from the table an ordinance authorizing the Mayor to enter into an agreement with Environmental Engineering Services for engineering services. The motion carried viva voce. The ordinance was added to the agenda as Item “7h”.

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

Jane Murray – 1920 Dorman Drive, noted that she had, at the December 27<sup>th</sup> meeting, provided Council with a list of potential that she believed the City could and should include in the City’s request for federal economic stimulus funds. Ms Murray claimed that as late as last week the only funding request that was brought forth by the administration to the Council was for the 5 to 7 million dollar request from the Director of Waste Water, Mr. Duncan, which involves Environmental Engineering Services. She further claimed that it was just made known to her today that the City is developing an additional list and said she would appreciate knowing if that is the case and when it will be available for the Council’s and public review. She noted that she, and felt Council, is very much looking forward to seeing it. She reiterated her statement from the last meeting that “we” should submit our list to the new stimulus czar who was appointed by the Governor a couple of weeks ago. She continued by advising Council of all those government officials who, she said, should receive the City’s list for funding. With regard to the City’s Land Reutilization Program, Ms. Murray noted some of the properties in the City, which she felt would qualify under the stimulus program. She continued by expressing her opinion as to how she felt these problem properties should be addressed. She reiterated information that she received from the County Auditor’s office with regard to the City’s property tax delinquency and expressed her hope that the City would apply for additional funding through the stimulus package to rehabilitate or raze these properties. She also made other suggestions for the use of these funds with regard to street paving and assumed that the City did not follow the requirements of the Clean Water Act with regard to milling of streets and “in case” Council was not aware of what that meant, Ms. Murray proceeded to explain “milling”. She continued by reiterating those areas she felt should be included in any request for stimulus funding. Her five-minute time limit having expired, Ms. Murray requested an additional thirty seconds, which was granted. Ms. Murray continued by stating that our representatives in the U.S. Senate, as well as our Governor, are very aware of the City’s CSO problems. In closing her remarks, Ms. Murray noted that she did not see flow monitors for the Grandview Avenue area in Mr. Duncan’s list of requested equipment and asked that Mr. Haas and Mr. Mollette ask the questions as to whether or not the equipment is included and if not, why not and if it is not needed now.

Teresa Mollette – 1705 Franklin Blvd., expressing her opinion that there are those who do not want to do their research, read the definition of “compensation” as it appears in the ORC Section 102.01. She acknowledged that she has not received any response from the ethics board with regard to her inquiry regarding her opinion that City elected officials have violated ethic laws. Mrs. Mollette again objected to the pension pick-up being offered to elected officials as well as a cash payment for waiving hospitalization and a proposed 3% wage increase. She felt the laws were not being adhered to and that the Solicitor had provided advice about his own increase. Mrs. Mollette continued by reiterating previous statements with regard to giving raises to union employees while, she claimed, other cities were freezing raises. She noted lay offs and announced that “Dow Chemical is closing” and stated that we are going to lose all the citizens of Portsmouth who worked for Dow Chemical. She thanked Jane Murray “for her research”, claiming her to be someone who “actually” did research. She could not remember what but questioned something that she said “was not being put out for bid”. Noting, whatever it was to be an engineering service, she again questioned why it was not being put out for bid. She further questioned whether or not the City was “within its guidelines” of the charter

to just award this contract without “putting it out for bid”. Mrs. Mollette claimed the citizens of Portsmouth have been placed “in harms way because of ordinances” and gave, as examples, those ordinances that provide for pension pickup and wage increases.

Chris Murphy, the City’s Director of Public Service, with regard to the proposed increase in income taxes, acknowledged it to not be a popular thing to do but personally felt it to be the right thing to do. He acknowledged the City’s taxes to not have been raised for many many years. Mr. Murphy said he has two enterprise funds that he manages within his department and stated that because of the fact that the Mayor, by law, is required to submit a balanced budget there are times when the City has no choice but to increase the charge offs to certain departments. Mr. Murphy claimed to currently have approximately more than a quarter of a million dollars charged off to streets and sanitation. He acknowledged this to be a situation that the administration is trying to address and the tax increase will help the general fund operate so the amounts being charged off can be freed up and the enterprise funds can provide money for the things they were intended. Mr. Murphy said people do not get elected or are appointed to do the popular thing but are elected or appointed to do the right thing. He described an increase in income tax to be “the right thing”.

## **LEGISLATION**

The Clerk gave a **third reading** to an ordinance to submit to the electors of the City of Portsmouth, Ohio, at the Primary Election to be held on the 5<sup>th</sup> day of May, 2009, a supplemental section to the Charter of the City of Portsmouth, Ohio, to levy annually an income tax in an additional amount of six tenths (6/10) of one percent (1%), not withstanding any provision in Section 47-a of the Charter of the City of Portsmouth, Ohio prohibiting said tax.

Councilman Albrecht made a motion to pass the ordinance.

Councilman Mollette reiterated his concerns but agreed with Mr. Murphy and his remarks regarding charge offs and their effect on his budget. He claimed the issue of charge offs to be something that has not been discussed with Council and felt if these are to be eliminated it needs to be discussed with Council. He also claimed that it has not yet been established as to how the 6/10% increase will be spent specifically and felt the taxes were being increased just because it had not been done for a while. He also claimed to not have been given the information to support this ballot issue.

There being no further remarks the roll was called. **VOTE: ayes 4 (Mearan; Malone; Albrecht; Haas) – nays 2 (Mollette; Noel) The ordinance was passed. ORD. #08-09**

The Clerk gave a **second reading** to an ordinance to amend the Salary Ordinance as amended by Ordinance No. 72 of 2008, to reflect wage increases to the AFSCME 1039 C as a result of a new contract, to reflect wage increases for non-union employees and to make changes to reflect the minimum wage amount as outlined in the constitutional amendment passed by voters in November 2006 to be effective January 1, 2009 and to repeal Ordinance No. 72 of 2008.

Councilman Albrecht moved this constitute a second reading.

Councilman Mollette called this another issue that “puts Council in a tough decision”. He acknowledged Council to have approved three bargaining unit contracts, which he said he did not support “based on the fact that the long-term planning and the information, in order to justify the revenue, was not given to Council”. He agreed it to only be fair to provide non-union employees with increases if bargaining unit employees are receiving raises, but felt he was not given information to support increases and felt it was owed to the taxpayer to look ahead and provide information that shows the City will have the ability to cover those increases over the next three years regardless of the outcome of the income tax issue. He said if the income tax increase is needed to support these wage increases then that should be stated. He acknowledged that this year’s budget indicates a “surplus” of \$200,000.00 and questioned the need to raise taxes.

There being no other remarks the roll was called. **VOTE: ayes 4 (Malone; Albrecht; Haas; Mearan) – nays 2 (Mollette; Noel) A second reading was declared.**

The Clerk gave a **second reading** to an ordinance amending Section 169.10 of the Codified Ordinances of the City of Portsmouth, Ohio – Health Insurance Premiums.

Councilman Albrecht moved this constitute a second reading.

Councilman Mollette, noting the citizen who remarked that the \$3,000 waiver could be considered compensation, requested a clarification. In response to Mr. Mollette asking about the amount that the waivers would save the City, the Mayor said that amount would be between \$150,000.00 to \$200,000.00.

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

The Clerk gave a **first reading** to an ordinance authorizing the Mayor to submit to the Ohio Department of Development’s Office of Housing and Community Partnerships (OHCP) an application for the

Neighborhood Stabilization Program, and upon receipt of the grant, enter into agreement to carry out provisions of the grant, appropriate the funds, and consider same to be an emergency.

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

The roll was called. **VOTE: ayes 6 – nays 0 The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

Councilman Mollette acknowledged someone had done their homework in order for this ordinance to have been prepared and expressed his appreciation of those efforts.

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

The Clerk gave a **first reading** to an ordinance authorizing the appropriation of reimbursement insurance check no. 3509 in the amount of \$1,700 into Garage Licensed Parts Line Item No. 101.117.5351 for damage to a window of No. 189 Engine 3 fire truck.

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

The roll was called. **VOTE; ayes 6 – nays 0 The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #10-09**

The Clerk gave a **first reading** to an ordinance amending Section 169.20 of the Codified Ordinances of the City of Portsmouth, Ohio – Life Insurance.

Councilman Albrecht moved this constitute a first reading.

In response to Councilman Noel inquiring as to how much this will cost the City, the Mayor said it would actually be saving the City money in the future. In response to Mr. Noel asking if this was a savings over the whole health plan the Mayor advised him that this was about life insurance. Mr. Noel said he had not seen anything on it and asked the Mayor to explain the savings. The Mayor stated that the City is presently actually paying life insurance on employees who have retired that are not covered by a bargaining unit agreement. He said the City is proposing to change that and will no longer cover retired employees. He acknowledged those that are grandfathered will still be covered. He said the union employees will be covered per their contract.

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

The Clerk gave a **first reading** to a Resolution approving and ordering for certain eligible non-bargaining employees of the City of Portsmouth, Ohio, in the following departments: Legal, Legislative, Finance, Executive, Engineering, Public Utilities, Public Service, Police, Community Development, Fire, Health and Municipal Court, that an additional one percent (1%) of the total of the statutorily required employee contribution of the Ohio Public Employees Retirement System shall be “picked-up” (assumed and paid to the Ohio Public Employees Retirement System on behalf of its eligible member employees) by the City of Portsmouth, Ohio.

Councilman Albrecht moved this constitute a first reading.

Councilman Mollette requested the Solicitor’s opinion with regard to whether or not this is considered compensation and if this can be received by the elected officials. He also reiterated his concerns about whether or not the City has the revenue to pay for this pick-up. In response, the Solicitor, with regard to the first question, advised Mr. Mollette that he has already provided Council with his opinion last year and he still stands by that opinion. With regard to the second question, the Solicitor said he would have to defer that one to the Auditor. Mr. Williams said he would like to expound on the Solicitor’s reply to the first question by stating that this ordinance does not apply to the Mayor, the Solicitor or the Auditor, noting that benefit to have already been put in place some time ago. He explained that this ordinance applies to a handful of non-union employees in other departments. Mr. Williams stated that however, if it had applied to the aforementioned he would agree with the Solicitor’s opinion. With regard to the funds being available, the Auditor noted the pick-up has been budgeted. Councilman Mollette, noting the budget to have not yet been discussed but acknowledging its receipt by Council in the January 12<sup>th</sup> packet, asked the Auditor how he feels about the revenues projected by the Mayor. In response the Auditor stated that the projected amounts are attainable. He further stated that he would have to study it a little more over the next couple of weeks. Mr. Williams noted

that some of the Mayor's estimates are a little on the "high end" and he (the Auditor), being conservative, does not like to see estimates figured on the high end but felt they are obtainable.

There being no further questions or comments the roll was called. **VOTE: ayes 4 (Albrecht; Haas; Mearan; Malone) – nays 2 (Mollette; Noel) A first reading was declared.**

The Clerk gave a **third reading** to an ordinance authorizing the Mayor to enter into an agreement with Environmental Engineering Service for engineering services.

Councilman Albrecht made a motion to pass the ordinance.

Councilman Mollette noted the budget to have determined from where the money was coming and noted "different news articles" where the stimulus package was reported. Mr. Mollette pointed out that it was reported that the money may not "trickle down as far as people want to on projects". He said, "I guess as long as these projects that were designated that we would do the work regardless of whether or not the stimulus package was available". He thanked Ms. Murray for her comments and agreed there to be a lot of options and felt it unfortunate that Council has not had the opportunity to discuss possible projects. He continued by expressing his opinion as to what projects should be included and reiterating some mentioned by Ms. Murray. He asked that Council entertain "different ideas", noting other municipalities to be "going for more than just sewage treatment" and listed other possibilities and said he would "appreciate thought provoking testimony". The Mayor, in response to Mr. Mollette's remarks regarding the engineering services, said the City does plan to follow through with those projects, noting them to be projects that does have to happen and noted them to have been a part of a long-term plan. He said it is the City's hope that with some of the stimulus money these projects can happen a lot sooner than planned. Councilman Mollette inquired as to the flow monitoring and explained its purpose. Richard Duncan, Director of Waste Water, referred to the council letter that described the project and pointed out that the last item in the list was an upgrade of SCAIDA/telemetry system, and described the purpose of the telemetry system and the Lawson Run Sewer flow. Mr. Duncan stated that these projects are in the five-year plan that he developed and shared with Council. He said the only thing that possibly might not have been included was the belt filter press and noted these are things that need to be done in order to keep that plant in good working order. Mr. Duncan further explained the reason for focusing on these particular projects is that permits for installation are not required because they are upgrades and repairs of existing facilities, which, he explained, are one of the priorities of the first round of the economic stimulus package. Mr. Duncan said it is felt that all these projects can be expedited and noted engineering to be "pretty far along" on all the projects. He noted other projects that need more lead time and are not shovel ready but advised the engineering for those projects is being pursued. Mr. Mollette again explained the purpose of the telemetry system, which was acknowledged by Mr. Duncan.

There being no further questions or comments the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #11-09**

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

Linda Switzer – 319 Front Street expressed concern about the lights that are scheduled for removal in the area of 11<sup>th</sup> and 12<sup>th</sup> Streets and felt their removal would create a dangerous situation. She also reported the flashing of the light at 2<sup>nd</sup> and Market Street is making it difficult for people who want to cross the street at that intersection. She requested information about whether or not accidents have increased or decreased since changes have been made in the number of active traffic signals.

Jerry Conkel – 2719 Sherman Road asked if the cameras that were present tonight are the ones that will be used to televise Council meetings and inquired as to when the water fountain will be fixed.

Teresa Mollette – 1705 Franklin Blvd. reiterated her opinion with regard to the lack of a plan. With regard to the budget, which was an item on the conference agenda, Mrs. Mollette stated that this was not received until February 9, 2009 and reiterated the section of the charter that refers to the submission of the budget by the Mayor. She described this as a "lack of a plan". She claimed this to be brought before Council for passage but noted, "It does not say it's an emergent" (sic), however, she said, "It is my guess someone will be keyed in to say 'hey, make this emergent'" (sic). She said she has heard a lot of good things with regard to the "tax levy that went through on November 3<sup>rd</sup>" (sic) and felt it to be a "good thing". She also claimed to have heard a lot of misconceptions with regard to the \$100,000.00 limitation. She claimed this limitation to be a good thing and inquired as to how many times the 401 debt retirement fund has been used in the last few years. She answered her inquiry by referring to the purchase of the Marting's Building and claimed this to have occurred "because the 401 debt retirement was not controlled". She again reiterated her opinion with regard to the recent purchase of a fire truck and said she did not believe this purchase to have been a safety issue but felt that it has been "misconstrued". She continued by reiterating the need for a "plan". She wanted to know we had to be different from anyone else and accept less. She said she did not accept less for herself and would not accept less "from the people who are in office that I am paying that I, they work for me. I demand for them to work to the best of their ability. I demand that they provide me the security I need to work and live in my community." She claimed to not be getting that from this Council, the Mayor, the Auditor and the Solicitor" and expressed her concern about the survival of the City over the next five years. Mrs. Mollette claimed the information being "put out" about the \$100,000.00 "was not a detriment to this City", instead she claimed it to be "a blessing to the taxpayers of Portsmouth".

## **Miscellaneous business and reports:**

### City Clerk's Report

1. Received from the Ohio Division of Liquor Control a notice of a request for a C2 permit:

From: Aldi Inc Ohio  
2339 Gallia Street

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

### Mayor's Report

1. With regard to comments that were made this evening regarding the City's survival over the next five years, the Mayor noted this person to have been reporting the same thing for the past five years. He further noted that the City has survived and that employees have received raises. He pointed out that the City has survived in spite of having lost a million dollars a year from the debt retirement fund, which we had received since the 1940s. He also pointed out the fact that the City continues to do its projects and that this year's budget shows a carry over. The Mayor noted there to be other entities in a close proximity that are in a deficit. He acknowledged things to be getting tighter and tougher but pointed out that we have survived this long and have no plans of failing at anytime in the near or distant future regardless of how hard someone tries to make that happen.
2. With regard to the water fountain in the upstairs lobby, the Mayor reported that a contractor has to be hired to make some repairs on the wall and to order an ADA water fountain.
3. With regard to the stimulus projects, the Mayor said the City has been working on that on a daily basis. He reported a meeting with a representative from U.S Senator Sherrod Brown's office today. He said a list has been compiled and is in the process of being prioritized. The Mayor said a lot was learned today about the different tiers and levels of funding the stimulus package. He said the City is making sure it can take advantage of anything that is available to us.

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

### President's Report

1. Acting President Malone, in response to a citizen's inquiry, said that the cameras located in the chambers are working at this point and recording the meeting. He said Mr. Penn will review the tapes following this meeting and expressed his hope that the meetings will soon be televised.

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

### Miscellaneous business from City Council:

#### 1<sup>st</sup> Ward

Councilman Mearan with regard to the removal of traffic lights, stated it had been reported by one officer that wrecks have been reduced. He said he often travels on Findlay and has found that at 6 a.m. it is nice to be able to avoid the light at Findlay and 11<sup>th</sup> and 12<sup>th</sup>, however he felt it to be a dangerous intersection in the afternoon and suggested the signal be activated at certain times during the day.

He reported on an article in the Miami Herald this weekend that featured a story listing various projects for which Florida is trying to seek funding through the stimulus package. Mr. Mearan pointed out one project is a new city building for one of the cities. He said he knows Senator is very familiar with our city's attempts to construct a new building and felt that would be something that would put a lot of people to work.

In response to a citizen's remark regarding 1,500 homes that need to be rehabilitated or razed, Mr. Mearan said, with new properties being added every day, it has become a monumental task. He said he will be meeting with Chris Smith of the Health Department to see if some volunteer lawyers would do the title work and other legal work regarding these properties to expedite the foreclosure process. He

felt that these properties being purchased and upgraded would not only get rid of an eyesore but would benefit the City's tax base.

2<sup>nd</sup> Ward Acting President Malone had nothing to report from his ward.

3<sup>rd</sup> Ward Councilman Mollette expressed his appreciation to those citizens who were in attendance this evening.

With regard to the removal of certain traffic signals, he reiterated his opinion that a public forum should be held on this matter, which would allow for citizens input.

He expressed appreciation for the employees' efforts to clear the streets of the recent snow. Reported having received reports that some citizens called the Mayor's office regarding to inquire when their streets would be plowed and were advised that the streets weren't scheduled. He suggested the Mayor's office have a plan prioritizing removal of snow and suggested some streets that should be considered.

4<sup>th</sup> Ward Councilman Albrecht reported the Main Street Chocolate Walk to have been a big success, according to his wife and daughters, who hope this will be an annual affair.

Reported having complaints about drugs and prostitution, which, he said he has passed on to the Police Department.

5<sup>th</sup> Ward Councilman Haas reported having turned in the concerns for his ward to the appropriate department.

6<sup>th</sup> Ward Councilman Noel expressed appreciation for citizens' input.

He reported problems with ice in his ward but acknowledged it to be beyond the Mayor's control.

The Auditor had nothing to report.

The Solicitor reported it to have been his pleasure to meet with a representative from Senator Brown's office with regard to the stimulus package. He commended individual department heads, Jennifer Hanlon and the Mayor's office for their tremendous efforts and leg work in trying to get the City as much money as possible. He noted that the City is not limited to just a few projects that have been discussed but noted there to be several projects that Ms. Hanlon has put together and need to be prioritized, noting that we were obviously not going to get funding for all these projects. Mr. Jones said one of the issues that was specifically mentioned at the meeting with Senator Brown's representative was a municipal building. Mr. Jones said they were very interested in funding a city building for the City of Portsmouth and he felt it to be an opportunity of which the City needs to take full advantage. He said he felt the City should request the funding and noted the worst case scenario would be that they would say "no". Mr. Jones said he also took the initiative to talk with a representative from the Marting's Foundation and he felt they are very receptive to the idea of working with the City with regard to the 1.4 million dollars and trying to coordinate with the City through this package, if the City is fortunate enough to receive some money. Mr. Jones said this is a great opportunity for the City of Portsmouth to take advantage of this funding.

The meeting adjourned at 7:08 p.m., on a motion by Councilman Albrecht.

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City Clerk

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Acting President of Council