

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday, March 22, 2010

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, March 22, 2009 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.

Councilman Albrecht made a motion to add to the agenda a resolution donating a surplus 1979 pumper truck to the Rubyville Volunteer Fire Department.

The motion carried, viva voce. **The legislation was added to the agenda as Item”7d”.**

There was no one present who wished to address Council on any item on the agenda

LEGISLATION

The Clerk gave **first reading** to an ordinance authorizing the appropriation of a check in the amount of \$3,399.89, received from HCC Insurance Midwest Claims to repair damage to Fire Department Vehicle No. 3, a Ford F250, into Fire Department Maintenance of Licensed Vehicles Line Item No. 101.223.5264 in order to pay repair cost.

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. #13-10**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance and appropriation of two charitable contributions in the amounts of \$1,235.24 each from the Portsmouth Eagles into the Police Department and Fire Department contingency line item accounts.

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 Johnson extended his thanks to the Portsmouth Eagles, which was echoed by the President.

There being no further comments the roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #14-10**

The Clerk gave a **first reading** to an ordinance authorizing the amendment of Chapter 929 of the Codified Ordinances of the City of Portsmouth, Ohio, entitled Water Regulations, Section 929.15 – Water Department User Fees, increasing tap installation fees to cover the cost incurred by the City and repealing Ordinance No. 92 of 1991.

Councilman Albrecht moved this constitute a first reading.

There were no 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 authorizing the Portsmouth Fire Department to donate a surplus 1979 Ford Pumper Truck known as Engine 14, VIN D800VFA6613. The Rubyville Volunteer Fire Department agrees to accept this pumper truck “As Is” with no warranties, either expressed or implied.

Councilman Albrecht moved this constitute a first reading.

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

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

James Wilson – 1394-16th Street, reading from a prepared statement, thanked the Mayor for her efforts to take control of a “runaway city”. He felt she had inherited, from the previous administration, a city that is financially broke and further claimed the previous administration to have spent money “like drunken sailors” and felt the Mayor now has the job of “cleaning up this mess”.

Mr. Wilson, referring to the third ward, stated that they previously had a representative of whom he was very proud, saying he gave the office an air of respect and dignity and felt he raised questions about the City’s finances and bemoaned the fact that he was not reelected. He claimed to now have a representative, who he claimed was disrespectful “to a lady” and felt this person should grow up and be a responsible individual who will be responsible to the citizens he represents or resign his post. He also felt the other members of Council should censor his behavior as unbecoming a City official.

Austin Leedom – 1521-5th Street commended Councilman David Malone for “doing a good job presiding over City Council. He felt Mr. Malone has not been “a tyrant”, which he felt was experienced by many others. However, Mr. Leedom challenged the President, saying Council has a rule that is unconstitutional and referred to citizens not being allowed to use the proper names of officials when speaking. He said he and everyone in attendance are Americans and are entitled to freedom of speech. He felt that elected officials, whose name is in the public, “has no right to be anonymous” and that people had a right to call them by their name and claimed it to have been ruled by the Ohio Supreme Court that Council’s rule is unconstitutional and if he is restricted from using an officials name he will go to court.

Tom Rodriquez – 3231 Old Post expressed his concern about a pain clinic that has moved into property on 11th Street that was formerly occupied by Papa John’s. He advised Council that the owner of the property resides in Chillicothe and felt they are not concerned with our community. Mr. Rodriquez related the activity he witnessed at this location when he recently spent his lunch hour observing the property. He speculated that there are more lives lost in this City from drug abuse than to whether or not a traffic signal is or is not functioning. Mr. Rodriquez requested Council to consider some type of legislation that either increases the property taxes on those properties where the owner allows this type of activity to operate from that property. He also suggested the passage of legislation that would hold accountable the physicians who write these subscriptions and force them, if it is not already a requirement, to maintain data bases on the prescriptions that they write and to allow an independent auditor to review the prescriptions that are being written and to hold these people accountable. Mr. Rodriquez suggested Council should “unhand cuff” law enforcement and legal personnel by finding ways to “help clean this up”.

Mr. Rodriquez advised Mr. Haas that he still needs to get in touch with him with regard to “children playing” signs.

Tony Hamilton, President of Local 512 Firefighters felt there had been some “bad light” shed on the firefighters of this City during the past few weeks. He noted an article in the paper stating that the firefighters are not willing to meet with the Mayor to negotiate with regard to problems within the City. Mr. Hamilton noted that, as president of the union, he has not been contacted, even one time, to meet with the Mayor. He acknowledged that the Mayor has been to the fire department to speak with employees but not once in his capacity of a union leader. He noted that during the Mayor’s visit to the fire department there was only one member of their union present and that person has no authority to discuss anything and was only there to take notes. Mr. Hamilton said he was not notified of this meeting. He also advised there to be other facts that are being misrepresented. He noted one of these to be the reference to a 5.7 revenue shortfall, which he noted is not revenue but rather projected revenue with available fund balances. He noted this reduction to be due largely to special projects that were completed and paid out in 2009. Mr. Hamilton said it is not a spending problem in the City, noting this to be stated earlier and the past administration being accused of spending money recklessly. He reported the spending to not be increasing but rather the revenues to be falling in the City of Portsmouth. With regard to discussions about benefits, Mr. Hamilton said the benefits allotted to the firefighters were negotiated over the years, noting the firefighters have been a union since 1937 and that everything they have has been negotiated in good faith with the City of Portsmouth, City Council, Mayors, City Managers or whoever was in charge at any given time. He noted a lot of the benefits were given in lieu of pay increases. Mr. Hamilton advised everyone that the local fire department is the lowest paid department, per capita, in the State of Ohio. He also advised that the firefighters have, over the past fifteen years, been contributing to their health care insurance by way of higher co-pays, deductible and reduction in their covered services, noting that every year his benefits decrease. Referring to the newspaper article where it was stated that the firefighters did not care about the City’s streets and the sewage problems, Mr. Hamilton disagreed, saying “the firefighters care deeply about this community”. He pointed out how they are always available to provide for the needs of the citizens regardless of what that need is, noting that when it comes the charities or benefits the firemen are “the good guys in town”. Mr. Hamilton said the firefighters local is willing to sit down with the City and discuss the budget problems but since the Mayor does not feel she should have to negotiate with the union employees, according to the story in the Daily Times by Mr. Lewis, the firefighters would be more than happy to sit down with City Council to resolve problems with the budget and the help with its passage.

Harald Daub – 1221-22nd Street said he was glad to see so many union members present and saying he has been a union member for over 40 years “in all different capacities” and related his varies activities. With regard to the budget, Mr. Daub said it could not be blamed on the Mayor and he felt that “sometimes unions

become complacent when things are fine". He also felt that "things get lax" when everyone is "working good". Mr. Daub claimed to have attended about 95 % of the Council meeting in the past six or seven years and claimed to have spoken against a lot of things that he felt Council has "rushed through", which he felt "hurt these union brothers". Mr. Daub continued by again reiterating his opinion with regard to the contract with Ameresco and again claimed the City to have given away all kinds of work to out-of-town contractors. Mr. Daub said two young men and a woman from Ameresco sat in front of him at the meeting where they made their presentation to Council and further stated, "When the people from Ameresco left, I walked out in the parking lot right behind them and they jumped and laughed and they said 'we got em'" Mr. Daub claimed this to be correct because they got the City for a \$7,000,000.00 contract and felt it is Council that "these union brothers" should be blaming because of "things they have done in the past". As he has previously suggested, Mr. Daub again accused the Council and the City to "run on favoritism". He further claimed to have been present at a meeting where the Solicitor, Auditor and Mayor gave themselves a \$10,000.00 pay increase and claimed that to be what is wrong with this City. Mr. Daub continued by reiterating remarks he had made at a recent meeting regarding the purchase of a new SUV for the Auditor's office, which he claimed to be a \$26,000 vehicle. He also reiterated his opinion regarding those employees who drive a vehicle home and felt these to be something about which the unions should be upset, saying, "They should not be upset about a Mayor that just took office two months ago and she is burdened with this stuff". Mr. Daub suggested that the members of the unions watch Council and "be after Council, what's going on". Mr. Daub noted that Council controls the money – not the Mayor. He expressed his disappointment that the members of the union were not present and "up in arms" when the agreement was made with Ameresco.

Jerry O'Bannion – 1222-24th Street publically apologized to Councilman Basham for having encouraged him to run for Council. However, he praised him for the fine job that he has done and for his diligence in his efforts on behalf of the majority of the constituents in the third ward. Mr. O'Bannion said he had no idea of the hostility that he was going to face for trying to do his job and for that he apologized. He also apologized to the rest of Council. He felt the problem with our City to be that a vocal minority can't get elected but keep trying to run our town by constantly haranguing our duly elected representatives. Mr. O'Bannion expressed his hope that members of Council "hang in there" and continue to do the good job that they are doing because he thinks a change is coming.

Wayne Nichols – 1829 High Street, in response to a citizen's remarks at the last Council meeting", said he was making an effort to clean up the debris that resulted from when his former residence on 8th Street burned. He claimed there to be a charge of \$350.00 for a "roll back" for seven days. He said it is also another \$350.00 if it is emptied once. He suggested that perhaps the citizen complaining about the debris would like to loan him some money so he could rent the dumpster. He also suggested that perhaps that person would like to come down with a shovel and help him put the debris in a bag. At this point the President gaveled Mr. Nichols. He claimed Mr. Lewis, of the Portsmouth Daily Times, and the police to be witnesses to his efforts, claiming that the police are harassing him "because they see my cleavage on my buttocks sometimes when I am bent over trying to pick stuff up down there".

He congratulated the President of the United States for passing the Health Bill and conjectured that he may be the greatest president we have ever had.

With regard to the traffic lights, Mr. Nichols claimed the issue to have been "shoveled off" to the Traffic Committee and expressed his hope that the Mayor will invite ODOT, District 9 or the head of the ODOT to "sit down with us" and have a public meeting on the lights to see if they are going to take away our federal money if we turn the lights "back on". He suggested that there could be a tax payer's suit filed, questioning the purchase of the lights if they were going to be removed. Mr. Nichols claimed tax payer's suits are filed in federal court, "where they can win". Mr. Nichols also felt the 3rd ward member of Council should be ashamed of his actions and expressed his hope that legal action will be "brought upon him".

Susie Munion – 267 Dunlop Road, reading from a prepared statement, invited everyone to take a Sunday drive on Dunlop Road. She claimed there to be abandoned houses and drug dealers living in every other house. She also claimed slum lords to own rental houses that look like junk yards. Ms. Munion also claimed that drug dealers with no employment are "buying up" property with their drug money. She said she was excited when the first article appeared in the paper about Jane Murray's plan to clean up the City but after attending a few Council meetings, she said she can see that it is not going to be that easy. Ms. Munion claimed that some members of Council are against everything the Mayor tries to do. She acknowledged her street to not be the only street with such problems but expressed embarrassment about her street and felt citizens deserve clean, safe neighborhoods.

Miscellaneous business and reports:

City Clerk's Report

1. Received from the Auditor on 3/12/10 the following reports for the period ending 2/28/10:

Combined mtd/ytd expense report
Mtd/ytd revenue report
Mtd fund report
Mtd bank report

2. Received from the Ohio division of Liquor Control the following notices:

A request to transfer stock to: Hicks Wholesale Co.
DBA Hicks Wholesale Do.
249-2nd Street

A request to transfer stock to: Hicks Wholesale Co.
2306 Gallia Street

A request to transfer a D1; D2; D3 and D3A permit:

From: Eula E. Teeny Musser
DBA Eulas Murray Street Pub
811 Murray Street

To: B O B Dickens Pub LLC
DBA Dickens Pub
811 Murray 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. The Mayor distributed some reports to Council. 1) A status report on the Community Housing Improvement Program and the work that has been occurring in the community. 2) Information on the FEMA Flood Certification, which is an important process and noted the work that FEMA will be doing with regard to the flood plain. 3) Information with regard to construction and grading permits.
2. Acknowledged a proposed budget to have been submitted to Council and extended to the employee an apology for stating that they didn't care and acknowledged that they do care. She stated that the employees that she has gotten to know have given her their ideas and together, they are working on doing the best job possible for the citizens. She further acknowledged the budget to have been very difficult. She advised the Council President that she would follow whatever Council decides as a convenient time to discuss the budget. She reported plans to put the budget on line and stated that she had spoken with one of the union representatives this afternoon and will begin to make contacts with everyone who needs to review the document so we can go forward as Council wishes.

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

President's Report

1. The President acknowledged Councilman Johnson's suggestion that Council hold a series of meetings with regard to the budget. Councilman Haas suggested a budget meeting be scheduled for Thursday, at 6:00 pm, in the Council Chambers. The President noted that Mr. Johnson had suggested Wednesday or Friday. Mr. Johnson, acknowledging this to have only been a suggestion, agreed that Thursday would also be an acceptable day but felt more than one day is going to be needed. Mr. Noel also felt two meetings would be necessary. Mr. Haas explained that his reason for suggesting Thursday was because Council received this document not ten minutes ago, and due to the fact that some members of Council has other jobs he did not feel there would be enough time between now and Wednesday to go through the budget. He felt Thursday to be a "comprise day" and after they see how far they got another day and time can be scheduled for another meeting. The President felt it important that all members of Council have ample time to review the budget and formulate their questions and recommendations. Councilman Albrecht advised that he has another meeting on Wednesday and would not be available for that day, noting that Thursday would be much better for him. Councilman Johnson agreed that it will take a couple of meetings to get through the budget and suggested as an alternative that Council meet on Thursday with Monday a possible second meeting. It was agreed that Council would meet to discuss the budget on Thursday at 6:00 p.m., in the Council Chambers.

The President reiterated an invitation to constituents and members of Council to the Ohio Department of Rehabilitation Services Commission's café conversations, on Friday March 31st, from 1:00 to 3:00 p.m., at the SOMC Friends Center.

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

Miscellaneous business from City Council:

6th Ward

Councilman Noel thanked everyone in attendance this evening; especially Susan Munion who, he said was like a second daughter. He concurred with everything Ms. Munion said and expressed his pride in the Mayor, saying “fixing up” the neighborhoods is something to which he is looking forward. Mr. Noel claimed the 6th ward to have been treated like a “step child” for many years, saying he has tried to get something done for the past fifteen years. He claimed he ran for Council in order to try to get something done for that ward and further claimed, “they tried to run me off” because he had a summer home outside of the City. He felt that with “new faces” and a new Service Director, the ward is getting attention but claimed, “the place is in such bad shape, its’ going to take time to get it done”. He stated that Ms. Munion is willing to serve on a committee to do what needs to be done as will people in other neighborhoods. Mr. Noel felt it would be fair for him to say that the 6th ward is in worse shape than anywhere else in the City. He claimed the people of the 6th ward to be proud and to be proud of the Mayor.

5th Ward

Vice President Haas reported to everyone that he attended a meeting this morning with the Mayor, the Auditor, the City Solicitor, the President of Council and the State Auditor’s Office. He said he was proud to report that the State does not consider the City in a state of fiscal watch or fiscal emergency despite the statements made, of late, in the newspaper. Mr. Haas said he would hate to think that this upcoming budget process would get into a big political game and the consequences that would emerge. He stated that, in reading about the statements of furloughs to be something the union contracts will permit and did not believe it to be something that is on the table. Mr. Haas said he is interested in going through the Mayor’s budget and wants everyone to understand and be assured that he is going to go through it line by line.

4th Ward

Councilman Albrecht said he really did not have a report but would like to bring to Council’s attention the notification received by the City Clerk. Mr. Albrecht read the notice that advised Council that upon receipt of the minutes from the Cultural Affairs Committee, she had prepared a Council Letter, which was submitted to the Mayor’s Office to be included on this evening’s conference agenda. Mr. Albrecht, noting there to be no conference agenda, inquired as to whether or not there is some way legislation can be prepared for distribution of funds as recommended by the Cultural Affairs Committee. The President advised that it could be added to the legislative agenda for the next meeting.

3rd Ward

Councilman Basham reported that after reading the bizarre statements made by Mayor Jane Murray, as reported in the Portsmouth Daily Times on Sunday, March 1, 2010, he believed he has no choice but to set the record straight. Mr. Basham began by saying, “At no time did I threaten Mayor Murray or intimate her in any way”. He continued, calling the Mayor’s statement to be a “childish version, crafted by Mayor Murray to make herself appear as a victim”. Mr. Basham noted the facts to be that the Mayor had asked him to meet with her in a previous letter he received on March 12th, in which she made the following statement, “I’ve called you and left you messages about a meeting. You have found no time to call for such a meeting, I can only conclude that your insistence that I respond to your rude questions is that you have no intention on working with me on real problems of the community.” Mr. Basham stated, “Due to the Mayor’s recent erratic behavior in recent meetings with representatives of our City employee’s unions on March 12, 2010 regarding health insurance, I was reluctant to meet with her alone. Some of those representatives, at the meeting, said the Mayor had threatened employees, made wild accusations and left the meeting by slamming the door”. Mr. Basham assured everyone that he does, however, want “to make Portsmouth a better place”, therefore, he did agree to meet with the Mayor but requested the meeting place be with the City Clerk present, as a witness and the Mayor agreed. Mr. Basham explained that constituents of the third ward have been calling him frequently insisting on answers to questions they have for their current administration. He noted it to be unfortunate, that despite the Mayor’s promises to maintain a transparent government she has been very challenging when it comes to providing information. Mr. Basham shared some of the questions that he has asked at previous Council meetings and in the letter he sent to the Mayor. He emphasized the fact that these questions are from residents of the third ward – 1) Is Mr. Jeff Peck a qualified engineer in the State of Ohio? Does he have an associates or bachelors degree in engineering or any field? 2) When will you put the wastewater plant back in EPA compliance? 3) Are you aware of Section 61 of the Charter does

not allow you to enter into a contract such as office remodeling unless Council approves the contract? 4) When will you show Council and the community the report showing “numerous accidents” between 11th and 12th Street, which you promised to show us at the January 25th Council meeting? 5) You have repeatedly reported a savings of \$325,000.00 due to firings and hirings your first week in office. You have promised to show us how you arrived at this figure, please show how these savings were achieved. 6) What is the status of the investigation by the Ohio Ethics Commission regarding your conflict of interest over your pending lawsuit against the City of Portsmouth? You promised you would provide this report a well. Mr. Basham said he did not believe these to be hostile questions but important ones that need answered. He noted the Mayor to have responded to his letter and his questions by not answering any of them, further noting her main response was, “I will not answer loaded questions from you”. Mr. Basham stated that during their meeting in the Clerk’s office he again asked questions and advising the Mayor that these questions are coming from third ward residents. He said that, as a new Councilman, he is trying to bring answers from the government to the people, noting this to be the most important part of his job. He reported the Mayor to have replied, “You have all the information you need”. He said he repeated the questions again and stated that she has answered none of them, when, at this point of the meeting, he was belittled, chastised, reprimanded by the Mayor for not letting her do her job. Mr. Basham acknowledged, that while they were sitting at a small round table she leaned across the table, pointing her finger at him – a few inches from his face and said “young man you know nothing of government”. He described her as being loud, overbearing and demanded “What do you want me to do?” He said he responded by throwing his hands on the table and saying “do your job”. He reported her to have, “in typical Mayor Murray fashion she stood up, stormed out of the Clerk’s office and slammed the door loudly”. Mr. Basham noted this to be the same exit that the union representatives witnessed in the jury room the week before. He further noted that “luckily” bailiffs and the City Clerk have been present to witness this behavior. Mr. Basham said, “As a Councilman of the City of Portsmouth it is his duty to ask questions, make informed decisions and bring answers from the government to the residents of his ward. He said he was very disappointed that this meeting was sent to the media because the Mayor is attempting to use it as a distraction from the most pressing problem. He noted our Mayor to have a budget to balance and produce to the public and issuing press releases all week long with half truths, seems more important to her than presenting Council with a budget that they can approve and thereby allowing the City of Portsmouth to continue to function. Mr. Basham declared that services to the citizens must not stop and he believes that the citizens and employees should be put first.

2nd Ward

The President had nothing to report from his ward.

1st Ward

Councilman Johnson encouraged everyone to look over the proposed budget information. He also suggested looking at previous years’ figures and the City’s certificates of estimated resources. He expressed his concern about the Insurance “B” fund, which he claimed to be in the whole \$652,000.00. The Auditor advised that the monthly transfers have not yet been received from the Mayor’s office. Mr. Johnson inquired as to what we expect the month-to-date expenses to be at this point for Insurance “B”. The Auditor advised it would be about 1/12th of \$3,000,000.00. Mr. Johnson noted this to be one of the accounts that was in the negative at the end of the year and felt this to be the type of thing Council need to review, saying costs are going up and income is going down. He expressed his hope that everyone participates in our census.

Mr. Johnson announced that the State of Ohio has an opportunity to change one of its statues in Washington, DC, which are on display at the Rotunda. He said the citizens of Ohio will be able to select, beginning this past weekend through the end of June or first of July, by ballot who they would like to represent Ohio at the U.S. Capital. He noted that one of the people who has been nominated is from Portsmouth and was an editor of two of the newspapers that preceded the Portsmouth Times. He said he would be working with the Portsmouth Public Library to set them up as the recipient of ballots. Mr. Johnson said he will be getting this information out to everyone in the next couple of days. He felt this to be a great opportunity for citizens to participate, especially the schools, and learn a little more about our State’s history.

The Auditor had nothing to report.

The Solicitor advised Council that he has received some information late this afternoon and respectfully requested Council to adjourn into an executive session to discuss pending litigation.

Vice President Haas made a motion to adjourn into executive session to discuss pending litigation. The roll was called. **VOTE: ayes 5 (Johnson; Malone; Basham; Albrecht; Haas) – nays 1 (Noel) The Council recessed into executive session at 7:00 p.m.**

Council reconvened at 7:10 p.m. With the exception of the Auditor, all those previously in attendance were present.

The Solicitor, for clarification based on a question by Councilman Johnson, restated the purpose of the executive session was for pending or potential imminent litigation.

The meeting adjourned at 7:12 p.m., on a motion by Councilman Johnson.

City Clerk

President of Council