

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday, May 10, 2010

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, May 10, 2010 at 6:00 p.m., in the Council Chambers of the Municipal Building.

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:

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 Jane Murray; City Solicitor Michael L. Jones and City Auditor, M. Trent Williams.

Councilman Johnson's absence was excused, on a motion by Councilman Albrecht.

Council dispensed with the reading of the Journal for the Regular Meetings of March 22 and April 12, 2010 and special session of April 19, 2010,, on a motion by Councilman Albrecht

Councilman Albrecht made a motion to add to the agenda a resolution authorizing a cooperative agreement for planning of a Wastewater Project.

The motion carried viva voce. **VOTE: ayes 5 – nays 0 The legislation was added to the agenda as Item “7d”.**

There was no public hearing and no one present who wished to address Council with regard to any item on the agenda.

LEGISLATION

The Clerk gave a **first reading** to an ordinance authorizing the acceptance and appropriation of a check in the amount of \$1,610.00, received from HCC Insurance, Midwest Claims to repair damage to the radio tower located at 2546 Sunrise Avenue, into Fire Department Maintenance of Communication Equipment Line Item No. 101.223.5267.

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

The roll was called. **VOTE: ayes 5 – 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 5 – nays 0 The ordinance was passed. ORD. #19-10**

The Clerk gave a **first reading** to an ordinance authorizing the transfer of a direct deposit from the Attorney General in the amount of \$4,420 from Fund No. 217 and the appropriation of the same into the Law Enforcement Trust Account Line Item No. 225.221.5221 to be used exclusively for continuing education training of police officers.

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

The roll was called. **VOTE: ayes 5 – 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 5 – nays 0 The ordinance was passed. ORD. #20-10**

The Clerk gave a **first reading** to a resolution authorizing the approval of the Lawrence-Scioto County District Solid Waste Management Plan Update.

Councilman Albrecht moved to suspend the rule requiring a resolution with the weight of an ordinance be read on three separate dates.

The roll was called. **VOTE: ayes 5 – nays 0 The rule was suspended.**

Councilman Albrecht made a motion to adopt the resolution.

There were no questions or comments. The roll was called. **VOTE: ayes 5 – nays 0 The resolution was adopted. RES. #06-10**

The Clerk gave a **first reading** to a resolution authorizing a cooperative agreement for planning of a Wastewater Project between the City of Portsmouth and the Ohio Water Development Authority.

Councilman Albrecht moved to suspend the rule requiring a resolution with the weight of an ordinance be read on three separate dates.

The roll was called. **VOTE: ayes 5 – nays 0 The rule was suspended.**

Councilman Albrecht made a motion to adopt the resolution.

In response to a request by Vice President Haas, the Solicitor explained, for the benefit of the public, that this resolution is a part of the City's long-term control plan. He noted the City to currently be working with the Federal EPA. Mr. Jones said he had an opportunity to meet with the engineering firm that is working on this matter for the City. He explained that basically there is a very good possibility, hopefully, that the City will be able to obtain some grants money or a low-interest loan to proceed with the long-term control plan. Mr. Jones noted this resolution was, obviously, to authorize the City to pursue financing. He also acknowledged that he has provided Council with an opinion, noting there to have been discussion at issue with regard to the charter amendment and the terminology, specifically bonded indebtedness. He noted that Council had requested that some action be taken by himself regarding this issue and he provided them with his written opinion that basically says that the term "bonded indebtedness" would not include a no interest and/or low interest loan from a state or federal agency. The Solicitor respectfully requested Council to adopt this resolution this evening so the City can proceed with its long-term control plan.

Councilman Haas asked if there would be any cost connected with the passage of this resolution. The Solicitor advised him that his resolution basically authorizes the application process. The Auditor, noting to the schedule of fees on the back page, inquired as to what they were. The Solicitor explained that if this is in fact approved, this is the type of fees that will be included for this project. He noted that mostly, at this point, there would be engineering type fees and referred the question to the Mayor for more information. The Mayor stated that the basement protection plan will be a major part of this and will be primarily implemented in 2011. She said this has to be fast tracked, noting it to be one of the items the long-term plan the USEPA has required the City to address up front at one of the first measures. She said that would include the design and concepts. In response to the Auditor asking if these were the numbers to be financed, the Mayor stated that to be correct.

In response to Councilman Albrecht inquiring of the Solicitor as to whether or not there is a time constraint on this requests, the Solicitor replied in the affirmative, saying this needs to be passed so the application can be pursued.

There being no further questions or comments the roll was called. **VOTE: ayes 5 – nays 0 The resolution was adopted. RES. # 07-10**

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Peter Swal- South Shore, Kentucky, identified himself as a business owner of 2120-8th Street. Mr. Swal said he was here to speak on behalf of the Mayor, saying she has been a tremendous help cleaning up the (*not discernible*) streets in that area "there toward the viaduct between 7th and 8th Streets". He claimed that she takes her own time, "weekends and evenings, to come by and talk to us". Mr. Swal said he would also like to speak on behalf of Jeff Peck, saying, "He's been a big help to me with one of my businesses with handicap parking, saying for the record that he thought "the man is doing a great and wonderful job".

Preston Smith – 1115-15th Street, referring to an ordinance that was passed at Council's last meeting addressing increased water rates, said Council probably knew what the increase was and objected to there being "no ceiling" to how much the rates can be increased. He also objected to the increase not being presented to the citizens for a vote and inquired as to what could be done to change this fact and have it put to a vote. Mr. Preston felt the people should decide whether or not the water rates should be increased.

Judge Steve Mowery acknowledged there to be many things on Council's plate as well as the City's taxpayers. He further acknowledged that a person only needs to read the local newspaper and listen to local radio to know this. However, he said this is not unlike what we, at times, face as a family or a business, noting there are a lot of things with which we have to deal. Judge Mowery felt that he and Judge Kegley feel one thing that has to be dealt with is the situation in this building, which has to do with water and the damage being caused after a rain. He noted damage to equipment and left papers wet following last Sunday's rain. Judge Mowery acknowledged that he and Judge Kegley have not yet had the opportunity to sit down and list on paper

all the options that are available, however they do agree that the time has come to act. He stated that he and Judge Kegley believe that we can no longer do nothing and believe that as operators of the City's Municipal Courts, it is paramount that something occur because people who work in this building are in danger. Judge Mowery implored the Council and Mayor to act in some manner to resolve this issue. He noted this could just be a band aid or it could be a new roof. He honestly felt there to be many options that have been "beat around" for years and that the citizens have spoken on some of these issues. However, he felt there to still be options and collectively a decision can be reached and do something. Judge Mowery felt there to perhaps be options involving private enterprise and options other than being in this building. He said he received information from the Clerk of Courts, not yet confirmed, that the cost of electric last month, for this building, was \$4,800.00, which he felt would make a lot of mortgage payments. He expressed his hope that the Council and the Mayor will consider meeting with the Judges and other officers and officials of this City, including the Police and people located in other places to come up with a plan to do something. The Judge expressed his belief that the City is at a threshold of an opportunity, saying he felt we had smart leaders who he believed could take action and come up with a plan.

Harald Daub – 1221-22nd Street reiterated previous remarks he has made with regard to the roof and once again claimed the roof to have been "let go" due to a "personal agenda". Noting authorization to have been approved for various other expenditures, Mr. Daub called these things frivolous and again restated his opinion with regard to the building being neglected and objected to Council not approving an expenditure for the Mayor "to do even small repairs" to her office. He claimed her office to be in terrible shape and questioned how any member of Council might spend \$15,000.00 dollars on a kitchen for their home but would not allow the Mayor to expend more than that on her office. He claimed Council did not have their priorities in order, saying "You are here to represent the City and the City is represented by this building". Mr. Daub felt that "by letting this building go and the Mayor's office and all the rest of the offices, it should be a crime". He continued by saying, "I'm surprised the Judge doesn't file charges against City Council for not doing these repairs".

With regard to the "Clean and Green operation", Mr. Daub expressed his sorrow that none of the members of Council were present. He continued by naming and berating the fourth ward Councilman for not being there and saying it was "probably obvious spite against the Mayor". Mr. Daub, a resident of the third ward, continued railing at Mr. Albrecht and in spite of the Councilman calling for a point of order many times and several warnings from the President, Mr. Daub continued berating Mr. Albrecht and accusing him of being nonresponsive to his constituents in the fourth ward.

Linda Switzer – 319 Front Street said she also helped with the "Clean and Green" event, saying it was very sad to see the little straws. She claimed 14 tons of garbage to have been picked up in the first two days and expressed her hope that there would be more cleanup done. Ms. Switzer said there were a lot of good fine people in the 4th ward who deserve to live in peace and claimed people to be living in "condemned, boarded up houses".

Eileen Perry – 1410-16th Street claimed some of those "sitting behind the table" to have a "nasty attitude" toward the Mayor and claimed it to show in a letter to the editor that was written in the newspaper several months ago. She asked, "How come you all can't work with her?", she blamed Council by accusing them of "not trying". Ms. Perry further accused Council of "constantly fussing and attacking her". She felt that Council did not show the Mayor any respect. She next asked, "What about the McKinley Pool, people?" and questioned whether or not Council "were on" the CIP budget now. Noting it to be May 10th, Ms. Perry said the pool should be open next month and questioned whether or not it would be, saying she heard that there are 15 violations that need to be fixed. She reverted back to her accusations that Council was "bashing" the Mayor.

Wilmajean Smith – 2126 Argonne Road said she was proud of what was happening on Argonne Road with regard to the removal of a house in her neighborhood that "has been a menace for six or eight years". She advised there to be other houses that are in need of attention and noted one of them to be boarded up and demolished on the inside. Ms. Smith also claimed drug users are going into the house. She further claimed there to be rodents in these houses. She expressed her thanks for the improvement to her neighborhood with the removal of one of these houses.

Ms. Smith also said she would like to see the traffic lights that were removed at Scioto Trail and Bertha Avenue be reinstalled. She claimed people to be having a "hard time getting in at King's Daughters" and that "a lot of debris is being left on the hospital area up there". She claimed it to "get clogged up" She claimed the street to be blocked with traffic and was concerned about getting through, if there were an emergency. She also claimed it to be hard for people trying to get out on the highway at Bertha Avenue and felt they need the light reinstalled.

Betty Hicks – 2115 Argonne Road stated that she also is proud of the removal of the house in her neighborhood. She also supported the return of a traffic light at Scioto Trail and Bertha Avenue.

Patricia Smith – 313 Offnere Street thanked her Councilperson, David Malone. Mrs. Smith said she has lived in Portsmouth for twelve years and in Scioto County all her life. She expressed pride in our area and thanked Council for the things they have done with regard to the hospital and Shawnee State. She said she realized they can't be all things to all people and felt that people have to assume responsibility and do their part. She acknowledged having heard about the condition of this building and inquired as to whether or not

the City owned the former Marting's Building. Mrs. Smith said she would like to thank whoever decorates the windows of the Marting's Building. She noted all the bass carts throughout the City and acknowledged that she did not know the laws with regard to this nor the responsibility of the people who have them. She said she tries to make a note of from what store these carts came and call the various managers to inform them of where their carts can be found. In closing she said she knows people serve in thankless jobs and she appreciates their efforts and felt the future of our City will be greater and we have great opportunities here.

Miscellaneous business and reports:

City Clerk's Report

1. Received a copy of a notice from the Office of Governor Ted Strickland that he has appointed Police Chief Charles Horner as Member of the Ohio Prescription Drug Abuse Task Force for a term beginning 4/21/10 and continuing at the pleasure of the Governor.
2. Also in receipt of a notice that Police Chief Charles Horner has been continuing to serve as Member of the MARCS Task Force since his appointment by Governor Ted Strickland on August 24, 2009, and will continue to serve at the pleasure of the Governor.

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 expressed her appreciation to the volunteers and for donations received with regard to her clean-up project. She expressed her hope of doing more in the Fall. She reported there being over 40 volunteers over the three day clean-up effort. She recognized staff from the Health Department and those people who were working through the probation department, Noting this to have been an opportunity to pick up debris from the alleys, she recognized the Service Department for the "wonderful job" they did picking up materials that were set by the curb. She announced that the Labor Union donated \$500.00 to the cause and Sherwin Williams gave a discount on the paint. She acknowledged her desire to organize a city-wide clean-up campaign.
2. The Mayor provided members of Council with her analysis of accidents before and after the removal of traffic lights, which involved 24 months prior to the removal of the lights and a 22 month period following the removal of the lights. The Mayor's analysis showed a significant increase in accidents after the removal of the lights. She claimed the accidents that have occurred following the removal of the lights to be three times more than before the lights were removed. The Mayor advised everyone that the "raw data" would be in her office and available to anyone.

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 announced the reappointment of LuAnn Valentine to another term on the Civil Service Commission.
2. Announced the Bicycle Safety Rodeo sponsored by the FOP will take place this Saturday, May 15th, from 10:00 a.m. until 1:00 p.m. at the Portsmouth Elementary parking lot. He recognized supporters of the event and advised that all kids and all parents are invited to participate.
3. Noted a couple of complaints that needed follow up and acknowledged those have been addressed by the appropriate departments. He expressed his appreciation to those who resolved the problems.
4. The President acknowledged everyone to be familiar with the Police Department's involvement with the pill mill investigations by various law enforcement agencies and emphasized to our Police Department that they are a part of the City and represent all of us. He noted the fact that the Police Department does everything they can to keep us all safe. Mr. Malone acknowledged the fact that we don't have enough officers and

therefore a lot of things we feel should be done is not getting done as quickly as we would like. He asked that a “thumbs up” be given to our Police Department to let them know that we support them and the work that they do. He asked everyone to do whatever they can to assist the officers and assured them that they have the support of Council, who will do whatever they can to assist them in the work that they do.

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 reported Dunlop Road to have been flooded during the recent heavy rainfall. He praised the City workers for doing a good job addressing the flood waters.

Mr. Noel reported all other complaints to have been reported to the proper department.

5th Ward Vice President Haas, with regard to Mr. Smith’s remarks about the increased water rates, advised Mr. Smith that the Mayor raised rates on high volume users only.

To Judge Mowery, Mr. Haas extended his congratulations, noting the Judge’s son to have become a member of the Bar Association. Mr. Haas agreed with the Judge regarding this building and acknowledged something needs to be done. He noted ideas have been kicked around for years and a determination needs to be made as to where we go from here.

Mr. Haas advised that the union is working with Mr. Jones and Mr. Williams to nail down concessions included in the City’s operating budget. He expressed his hope to have something later this week. He said it has been a pleasure working with the unions and acknowledged them to be doing a great public service by making these concessions that they are not required to make.

Mr. Haas advised that the firefighters have contacted several people who have volunteered, along with a couple of firefighters, to do some work to make sure McKinley Pool get opened on time. He pointed this out as being another positive move on the part of the Fire Department to move the City forward.

4th Ward Councilman Albrecht reported having received several complaints about tall grass that he passed on to the Health Department. Also reported a complaint about a deteriorated building at the corner of Grant and Grandview, which he passed on to the Engineering Department and believes they are in the process of addressing the problem.

Announced the reappointment of Richard Grimm to the Traffic Committee.

3rd Ward Councilman Basham shared a letter he received from a constituent, Grant K. Stephan of 2831 Sherman Road, who claimed to have been present at most council meetings since he moved to Portsmouth in the most recent past. Mr. Stephan explained that he had, for 40 plus years lived in an area that has a similar type of government as Portsmouth and also have had issues similar to the ones being experienced here. Mr. Stephan stated that he does not know nor does he have issues or problems with our Mayor but is speaking from what he has seen where he grew up. Mr. Stephan’s letter went on to say that he had read an article on the Portsmouth Daily Times website that prompted this letter. He said he grew up in a house with an engineer and noted there are many engineers in his family and with others that are employed simply because of engineers. Mr. Stephen said the article on the Daily Times website prompted him to do a little research because of his curiosity over some of the comments that were made. He

said he has been in touch with Professors of Engineering at three separate highly qualified universities in the states of Ohio, Kentucky and North Carolina as well as state inspectors from Ohio and North Carolina. He said he was very enlightened with the information and input he was given and the ease with which it was attained. Mr. Stephen stated that he was a State Certified and Licensed teacher whose credentials allows him to teach in a particular state. He explained that he can only teach in the state in which he is licensed and could not teach, even in that state, without the proper credentials. Noting that the Mayor had, in the newspaper article, described Mr. Peck as being in an administrative position only and not in one that would need to be a licensed engineer in order to fulfill his job duties and requirements. Mr. Stephan further wrote that when he was speaking with the educational professionals and the state inspectors he was told that any documents presented, grants written and general information needed must be accompanied with the credentials of the State Licensed Engineering Professional that put together the documents. Mr. Stephen further advised that the professionals with whom he spoke suggested the most effective way of budgeting is to ensure that employees be qualified so that more funding must not be appropriated for each individual document and/or study. Mr. Stephen questioned how all this must make our city look and felt that with problems like this we need to give people a reason to move here and stay here. Mr. Stephen acknowledged that he knows Mr. Nichols and felt him to be an asset to the City. Mr. Stephen criticized the “inconsistencies within the hiring process in the City building and felt trying to blame Council is a misdirection of blame and an attempt to cover up the truth and the severity of the problem. For the record, Mr. Stephen stated that he was one of the “concerned citizens” that got in touch with their councilman and asked about the qualifications and credentials of Mr. Peck more than two months ago. He pointed out that these concerns were directly and publicly addressed in a Council meeting and still to this date have not been addressed or answered. He described the public as being “smart” and needing to know the facts.

Attached to Mr. Stephen’s letter was the list of duties and responsibilities the Mayor has placed on the position held by Mr. Peck and comments from the engineering professionals as to whether or not Mr. Peck would be qualified to administer these particular duties. Of the eleven listed duties, it was advised that Mr. Peck’s lack of certification would only allow him to do three of these, however one of the duties would require an Ohio Professional Engineer to be signed by an Ohio Licensed Engineer and another would need to be filed by a qualified engineer.

2nd Ward

President Malone, noting that he does not have a report specific to his ward, said he wanted to address a few questions. With regard to the question as to ownership of the Martings Building, Mr. Malone advised that the City does own the building and expressed his hope that the City would be able to use that building, temporarily, to house the Judges and the Courts. He said he has spoken to Judge Kegley, who was “pretty much” in agreement with the idea.

The Auditor had no report.

The Solicitor said he felt obligated, as the Solicitor, to read the following statement:

\ “Mr. President, members of council, Mr. Auditor, and the citizens of Portsmouth, it is my opinion that our City is facing tragic consequences and potential financial devastation as a result of the recent decisions of our Mayor. Since January 4, 2010, this Council body and myself have been forced to respond to a multitude of legal and other issues as a result of many of these decisions. We have been responding in a reactive mode for the last four (4) months. In my opinion, these unnecessary roadblocks created by the Mayor have prevented this City from moving forward in a positive and constructive direction.

The issues that I have personally addressed since January 4, 2010, include three separate defamation lawsuits in which the City and Mayor have been named Defendants, compliance issues with the Ohio EPA regarding our Water Filtration and Wastewater Treatment Plants, potential unfair labor practices regarding the use of city vehicles, the potential breach of a contract that resulted from changing the City's insurance agent of record, the creation of positions that were not properly authorized, and the list goes on and on. The potential financial ramifications that the City now faces are frightening, in my opinion.

I and many others are constantly in a state of crisis management. I find it necessary to point out that prior to the Mayor officially taking office on January 4, 2010, our Water filtration and Wastewater Treatment Plants were both in compliance with the Ohio EPA as it related to having a qualified and certified operator of record for each facility. It was only after the Mayor took office on January 4, 2010 and terminated the employment of the Wastewater Director that we fell out of compliance with the Ohio EPA. By falling out of compliance, the City now faces fines of up to \$10,000 per day, with possible fines being made retroactive to January 4th. Now, it appears the Mayor is willing to place the best interests of the City at risk by refusing to place a qualified person in the position of Director/Assistant Director of Wastewater. Quite frankly, I am at a loss for words as to why she would make such a decision.

In my opinion, the Mayor has demonstrated that she is unwilling or unable to work with city council, other elected officials, unions and business leaders in this community, and a whole host of others. Our city cannot afford to continue in this direction and this continued path of destruction. This must stop. As the City Solicitor, I must render my opinions and advise as to what is in the best interests of the City of Portsmouth,

As such, I am respectfully requesting that the Mayor resign her position immediately.

The meeting adjourned at 7:05 p.m., on a motion by Vice President Haas.

City Clerk

President of Council