

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday, August 23, 2010

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, August 23, 2010 at 6:00 p.m., in the Council Chambers of the Municipal Building.

President of Council, 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 Jane Murray and City Solicitor, Michael L. Jones.

On a motion by Councilman Albrecht, Council dispensed with the reading of the Journal for the regular session of July 26, 2010.

Councilman Basham moved to add to the agenda legislation to create an advisory committee for the renewal of the 2011 health insurance and continued by reading the proposed legislation. The motion carried viva voce. **VOTE: ayes 6 – nays 0 The legislation was added to the agenda as Item “7f”**

Councilman Johnson made a motion to add to the agenda legislation “emergency legislation” to make repairs to Spartan Stadium as requested in a memo from the Mayor. The motion carried viva voce. **VOTE: ayes 6 – nays 0 The legislation was added to the agenda as Item “7g”.**

STATEMENTS FROM CITIZENS ON ITEMS ON THE AGENDA

Harald Daub – 1221-22nd Street suggested Spartan Stadium be put up for sale .

LEGISLATION

The Clerk gave a **third reading** to an ordinance authorizing the appropriation of \$17,020.00 from General Fund into Community Development Fund No 243 to fund the established position of Director Of Community Development.

Councilman Albrecht made a motion to pass the ordinance.

Councilman Basham said he had no problem with the individual being considered for this position but due to the budget problems and the Memorandums of Understanding asked the Mayor if there was any way this position could be filled by the Grant’s Technician position and consider the director’s position in the new budget for Community Development. The Mayor claimed that funding the Director’s position through the end of this year instead of the technician’s position would be a savings of a little over \$1,000.00. In response to Councilman Basham asking how we get that savings, the Mayor said that we get it by not funding the technician’s position from June 7th to the end of the year, She stated that funding the director’s position from August 1st to the end of the year is about a gross savings of a little over \$1,000.00. Vice President Haas felt there would be an even bigger savings by keeping the position of Grant’s Technician. He noted that most of the grants we qualify for have already been applied for this year and the work that needs to be accomplished between now and the end of the year can be done by a Grant’s Technician at a much lower rate of pay than that of a Community Development Director.

Councilman Albrecht, referring to a note from the Auditor, advised Council that there cannot be a transfer of funds between the General Fund #101 and CDBG Fund #243. The note also conveyed the fact that there are no additional funds available in the General Fund to support any additional salary. The Auditor’s note also stated that if additional CDBG Fund appropriations, can’t support both the amounts already appropriated for a Grant’s Technician and an additional appropriation for a director – it can support one or the other but not both. Mr. Albrecht said he did not know if there is a need to amend the ordinance. The Mayor suggested that there may have been an unintentional error in the drafting of the ordinance. The Solicitor inquired as to from where she intended the money for this to come. The Mayor stated that in both cases, the Director and the Grant’s Technician are paid from Community Development 101 and from grant funds. She noted the position of Director was not filled until August 1st, therefore the salary will come from both funds just as they did for the Grant’s Technician for the first five months. The Solicitor said he cannot speak for the Auditor, however he obviously has some questions to ask if the Auditor were here. He stated it to be his understanding that this ordinance is on the agenda for a third reading and he wished this issue had been brought

up before tonight. The Solicitor felt the intent is to fill the Director's position – not the position of Grant's Technician. The Mayor confirmed that as true. She noted this to be the third reading and that it was originally introduced at a conference meeting. She noted this to be a time frame of six to eight weeks and claimed this action to be an overall savings of over \$1,000. She also claimed Mr. Haas to be in error saying, "we are working on other grants and foundation work". She also said they were having a public meeting in Sciotoville in September where they will be working on some plans for submitting additional proposals as well as working with the Fire Department on additional grants. She said there were other grants but that they were just in the beginning stages. She also said they had been busy "cleaning up past record problems that we have had in the department".

Councilman Albrecht stated that in the light of this he did not want to do this wrong, therefore he withdrew his motion for passage and made a motion to table the ordinance until the next meeting, when the Auditor can be present.

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

The Clerk gave a **first reading** to an ordinance authorizing the acceptance and appropriation of funds in the amount of \$6, 230.76 from the Portsmouth Eagles into the Police Department and Fire Department contingency line item accounts, said funds to be divided equally between the two funds.

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. #45-10**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance of a direct deposit from the Attorney General in the amount of \$800 into Law Enforcement Trust Account 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 6 – nays 0 The rules were 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. #46-10**

The Clerk gave a **first reading** to an ordinance authorizing the acceptance and the appropriation of check no. 4468 in the amount of \$4,046.68 received from HCC Insurance Company into Police Department Vehicle Maintenance Line Item No. 101.221.5264 in order to pay repair costs for a police department vehicle.

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 rules were 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. #47-10**

The Clerk gave a **first reading** to an ordinance authorizing the appropriation of \$4,000 from the CIP Fund No. 301 for state mandated underwater bridge inspection.

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 an ordinance to create an advisory committee for the renewal of the 2011 City Health Insurance.

Councilman Basham said he had been thinking about this for a while and felt it to be a good way for Council to work together with all members of City government by bringing the face of the stakeholders to the

same table. He said this will not be a decision making nor will it usurp anyone's authority. Mr. Basham advised the purpose of this committee is to bring everybody together for the purpose of communication and to be proactive in the matter health insurance for next year. He felt this would also allow the City to better budget for this expense. He further noted this would eliminate any misinformation by letting the union leaders know up front what is going to happen and what is available. Councilman Johnson asked if this is the result of the MOU and is separate from the present committee. The Solicitor said he felt this would satisfy the language in the MOU.

There being no further questions or comments the roll was called. **VOTE: ayes 5 (Basham; Albrecht; Haas; Johnson; Malone) – nays 1 (Noel) A first reading was declared.**

The Clerk gave a **first reading** to an ordinance authorizing the appropriation of \$24,707.69 into CIP Building Renovations Fund No. 301.115.5513 to pay for various safety and health/sanitary issues with Spartan Stadium.

Councilman Albrecht moved this constitute a first reading.

Councilman Johnson, noting the time frame for the beginning of football season, moved to dispense with the three readings. The President advised Mr. Johnson that there is already a motion on the floor. Councilman Albrecht inquired as to what needs to be done that makes this an emergency, noting that Council has very little information. At the Mayor's request, Bill Beaumont, the City's Service Director acknowledged Notre Dame High School to be the only football team that plays in the stadium and advised their first game to be September 4th. Mr. Beaumont reported toilets and stalls that need to be replaced/repared as well as walls and floors that need to be painted. He also reported the need for a water valve replacement in one of the concession stands and described these items as emergencies based on the first day of football season. The Mayor interrupted Mr. Beaumont to remind him of "broken concrete trip hazards". Mr. Beaumont described those areas where there was a difference of about ½ inch where one area of paved surface met another area of paved surface. Mr. Beaumont advised the locker rooms themselves to not be in bad shape and noting the public restrooms to be the biggest concern. In response to Councilman Albrecht asking if this was the lowest estimate received Mr. Beaumont stated the price, excluding removing the trip hazards, to be \$10,000.00 and advised the only estimate to come from Vetter Builders and acknowledged that to be the only contractor from whom an estimate was requested, saying they felt it was an emergency because football season will begin in two weeks. In response to Vice President Haas inquiring as to how many home games Notre Dame has, Mr. Beaumont advised him there are six home games. The Mayor reminded Council that there are other public uses of that facility while acknowledging this to be Notre Dame's home field. She advised that the Sciotoville Community School has a "huge band concert" at the stadium "every year", which she claimed to be "widely attended". She also claimed there to be a "lot of" non profit organizations that use the stadium for various activities. Mr. Beaumont, in response to a citizen who earlier made remarks about the nonuse of the stadium, advised that there to have been five Kentucky Warrior games there this year, noting that for each game the City is paid \$500.00. He further noted the City will also receive \$500.00 each for the six Notre Dame games. Mr. Beaumont said these fees will cover the cost of electric, plumbing and "whatever we need". He advised Council of the various activities that have taken place or will take place in the stadium this year and estimated the total to be about 15 to 16 events. He reiterated the urgency for the repairs to the restrooms and concession stand saying he insured officials at Notre Dame that the restrooms would be ready. Councilman Basham said the 2010 season for Notre Dame only lists four games and inquired as to whether the other two were scrimmages. Mr. Beaumont said there are six games plus two scrimmages. Mr. Basham advised that to not be what Notre Dame's posted schedule shows. Mr. Basham also advised that the Sciotoville Charter School's band contest has not been performed at Spartan Stadium for the past four to five years. The Mayor responded, "Well the last I saw it, it was there, so".

Councilman Albrecht reluctantly withdrew his motion for a first reading, saying he was highly disappointed that there was no other estimate from other contractors for the work. He felt that as tight as money an effort would have been made to get the work done at as little cost as possible. Vice President Haas expressed concern about contracting with someone who is involved in a dispute with the City regarding work that he has done in the Mayor's office. Mr. Haas reported having received a phone call from the contractor's lawyer this week who is threatening the City with a lawsuit. He was further concerned that this person is the only one from whom an estimate was requested.

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

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

Councilman Noel made a motion to pass the ordinance.

Councilman Basham stated that, as a person who goes to 10 football games every season, there have been many stadiums where porta johns have been provided for the public in many high schools across the area. He noted money to be tight at the present and acknowledged it is not the best idea for six games but it is a way to get through the situation.

There being no further questions or comments the roll was called. **VOTE: ayes 4 (Noel; Johnson; Malone; Albrecht) – nays 2 (Haas; Basham) The ordinance was passed. ORD. #48-10**

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Tim Hartlage – 1558 Jackson Avenue expressed his frustration with the number of thefts that are occurring in his neighborhood and throughout the city. Mr. Hartlage noted copper from his HVAC unit to have been stolen in May as well as a leaf rake. He reported a neighbor having \$2,500 in tools stolen and noted a nearby sidewalk sale of tools occurring on a regular basis. He reported copper from 40 HVAC units to have been stolen in three weeks, noting one of those to have belonged to the City Clerk. Mr. Hartlage felt there to be a need for more officers on duty during the night time hours.

Dave Huff – 2634 Shawnee Road followed up on Mr. Triplett's remarks at a previous meeting by reiterating the problems the neighbors are having with employees of the hospital parking in the nearby neighborhood. He said this began when construction workers were parking there but has gotten worse now that employees are doing so. He said in conversations with the hospital, they have indicated there is a designated place for employees to park. Mr. Huff said he went before the Traffic Committee and showed them pictures of motorist trying to maneuver through the many parked cars, some of which were blocking driveways. He acknowledged Mr. Haas' assistance saying he had attempted to communicate with the CEO at SOMC and expressed his appreciation of the Mayor mentioning the problem during an interview on channel 24. Mr. Huff said the neighbor's patience in beginning to run thin as they did not feel there was a positive response from the hospital with regard to their concerns. On behalf of his neighbors, Mr. Huff urged Council to listen to the Traffic Committee's input from residents like himself. He said that he and Mr. Triplett are representing their neighbors and would like to see something happen via the Traffic Committee.

Harald Daub – 1221-22nd Street claimed Mr. Haas was given misinformation about the mall that was supposed to have been developed in the City's downtown area. Mr. Daub, acknowledging that he was on Council in 1980, claimed the grant was delayed due to the death of one of the developers. He further claimed the mall was a "hoax" and the real purpose was to obtain the property then give it to the college and that there was never any intent to build a mall. He further claimed the college to now be sitting on that very property.

Debra Doll – 155 Primrose Lane, Cincinnati, Ohio said she wanted to discuss the aesthetics of this town and decisions Council might make in the future. She felt that if the City is presented in an unkempt fashion, no one is going to take us seriously. She described the area as being beautiful with a positive aspect that should be valued and cherished. Ms. Doll said a lack of pride will keep the City from progressing and will keep us from having anything of which we can be proud.

Teresa Mollette – 359 Meadows Lane, Wheelersburg, Ohio claimed the main thing we have in our City is "corruption". She claimed there to be corruption, drugs, stealing and theft in our public office, saying, "we have that amongst our Councilmen and our public areas". She then claimed these to be her opinion, of which she feels very strong. She reiterated her claim that executive sessions are against the law and reiterated previous claims she has made that the Sunshine Laws and charter have been violated. Mrs. Mollette advised Council that she is going to make a public records request for 1,500 records as well as a copy of the City's retention schedule. She threatened the City with litigation if her requests are not met. She claimed the City Clerk to have "blocked everything in the past except when it suited her needs". She further claimed that "we pick and choose who we do things for and who we don't do things for".

With regard to the recall, Mrs. Mollette felt that to be the people's prerogative but felt everyone needed to be treated equally. She claimed it has taken twenty days to check previous recall petitions, saying, it was "mandated to the very end" and questioned the three days it took to check the 1,400 signatures on the petitions to recall this Mayor, saying "that is corruption that is violation of the law". She claimed these to be laws that are on the books. She said if the Mayor is recalled that will not change the situation the City is in and claimed the City to be over 1.3 million dollars "in the red". She claimed there to be individuals who are really responsible that passed an unbalanced budget and again claimed this to also be "against the law". Mrs. Mollette's time having expired she returned to her seat.

Austin Leedom - 1521-5th Street claimed freedom of information is being ignored. He claimed it took seven months to get information from the Auditor and stated that he had read an editorial in the Columbus dispatch regarding other cities failure to provide public records. Mr. Leedom suggested our citizens file law suits.

James Wilson – 1394 – 16th Street claimed there to be recent items on the web sites indicating he made threats at the Portsmouth Daily Times. Mr. Wilson said he did not and never has made such threats. He said he works for what he believes to be right and felt "the web can be a dangerous thing".

Lee Scott – 936-9th Street claimed \$50,000 worth of merchandise had been stolen from his home. He further claimed the police to have returned a couple of recovered pieces to him but \$40,000 of his property was put in the police auction. He said he was advised that he had to identify the property and a detective said he did not claim the property. Mr. Scott claimed this kind of thing to happen every day. Mr. Scott advised that he is rebuilding the Columbia Theater and the Clock Grill. He further stated there to be corruption among the unelected leaders of our City and felt the Mayor form of government is not working. He claimed the money to be "three blocks down the street on the left" and suggested taking "power away from SOGP and Clay Johnson".

Miscellaneous business and reports:

City Clerk's Report

1. The Clerk certified, on August 18, 2010, petitions as sufficient for the recall of Mayor M. Jane Murray. Members of Council and the Mayor were notified of the sufficiency by e-mail on August 18, 2010.

The Clerk expressed her thanks to the ladies at the Board of Election (Teresa, Julia, Beth and Tammy) who all worked to help check the petitions. She advised that had these employees of the Board of Elections not assisted her it would have taken the full twenty days and made it necessary to have a special election. She also noted that had the petitioner taken his allotted thirty days to collect signatures that too would have made it necessary to hold a special election, which could have cost the City \$40,000.00. She again thanked the employees of the Board of Elections for their assistance.

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 announced that Sam Sutherland will be remaining with the City as the Director/Assistant Director of the Filtration Plant. She described him as a dedicated employee with more than 20 years of service. She announced Mr. Sutherland will be working on a 5 -10-10 year plan for water line replacement. She also reported a "major" break in New Boston at the former WalMart site.
2. She advised Steven's Construction will be doing some tuck pointing on the west and south walls of the building.
3. She reported mold problems in the Police Department, which will result in that department being moved into the Central Fire Department this week.
4. She announced work will begin this weekend to replace the playground structure in Mound Park.
5. The Mayor reported an interesting meeting occurred on Thursday where it was learned that "the City's funding for the long-term control plan and the requirement that the USEPA are going to amount to about sixty-eight million dollars". She advised that the City has "about 14 years that we will be required to comply with the requirements of USEPA". She also stated, "the first projects we will be working on are basement protection programs", which she said will begin next year and will cost "several millions of dollars". She announced that the grant writing has already begun and continues. She also stated that "our funding request to the United States Government and United States Congress will continue". She announced a required public hearing will be held in September and will be announced when the USEPA is able to attend. She also noted the public will be able to attend particularly those "folks who live in areas of the City all over the City who have had sewage back up into their homes repeatedly for decades now".
6. The Mayor reported the street resurfacing program has been delayed because of the delay in passing the CIP. She announced Cunningham will begin the program in three weeks and noted some streets will not be resurfaced due to the budget being cut from \$500,000.00 to \$250,000.00. She claimed our streets to not have been resurfaced for years and the amount allotted will "only be enough to do parts of three streets". She noted some drainage problems on Thomas Avenue and stated that she will be working with the Solicitor and the property owner since this problem has had "a very severe impact on that street". She noted that if the street is to be resurfaced we cannot have the erosion to continue to create problems.

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 expressed his pleasure in the fact that Mr. Sutherland will be staying.
2. He announced that he has been looking at Council's committees and noticed there are vacancies on some of them while others have ceased to function. Mr. Malone said he will proceed to fill the positions where needed and requested recommendations from members of Council.

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

Miscellaneous business from City Council:

1st Ward

Councilman Johnson wished the Mayor a "Happy Birthday".

Reported having taken the opportunity last week, on a miserable, hot afternoon, to spend an afternoon at McKinley Pool. He described the experience as being the best entertainment value in town for \$1.00. He said he had a great time, the people were friendly and the lifeguards were "obviously attentive" to everyone.

Reported our sister city of Zittau to have been hit by a 1,000 year flood, that devastated the surrounding areas. Mr. Johnson provided pictures and compared their flood to our 1937 flood. He said he was mentioning this tonight because before coming to this meeting he met with the board of the Sister City program and they voted to expend \$1,300 to help Zittau buy new toys or fix their playground. He continued by advising everyone of Zittau's economic plight and acknowledging that we, as a city, do not have the financial resources to assist them.

Mr. Johnson announced a Bi-centennial meeting has been scheduled for tomorrow at 4:00 pm at the Welcome Center, at which time a formal committee will be formed.

He reported the County Wellness Program will be conducted Monday at 10:00 am in the Courthouse Rotunda. He felt this would be a great opportunity to see what our insurance company can offer us. Mr. Johnson said he not only would like to see the city officials attend he would like to see the presence of our union leaders.

2nd Ward

The President said he did not have a report from his ward but wanted to thank Mr. Beaumont for taking care of a couple of issues he presented to him. He expressed his and his constituent's appreciation.

3rd Ward

Councilman Basham, in response to those who are accusing him of ruining this City for the past 30 years, advised his accusers, for purposes of clarification, that 30 years ago he was only two years old, therefore he could not have been ruining the City for 30 years.

Reported having received a call from the University Chronicle for an interview and for Mr. Conkel's information, advised him that the issues he rose with regard to the hospital opening a road onto Sherman Road in about 2001, was when he was in Wood County Ohio and had nothing to do with any decision regarding this opening. Mr. Basham provided Mr. Conkel with his phone number should he have any questions.

To the Mayor, Mr. Basham advised to have had some complaints from residents of Lawrence County who drive through and work here. He said those people want to know what is going on with regard to the "bagged traffic lights". He asked for information on that since these people are confused about what is happening with the lights.

4th Ward

Councilman Albrecht thanked the Engineering Department for their assistance in the removal of a building that has been an "eyesore" for several years.

Congratulated Mr. Sutherland for staying with the City, describing it as "a great thing".

5th Ward

Vice President Haas extended his congratulations to and happiness at Mr. Sutherland's decision to stay with the City. He said he guessed it can be assumed that the investigation into Mr. Sutherland's corruption must have been concluded and he has been exonerated.

Referring to an earlier discussion regarding the City's paving program and the money that was provided for it, Mr. Haas recalled that there was a budget that proposed \$2,000,000.00 from the CIP along with a \$1,000,000.00 transfer from the CIP to the General Fund. He noted that you can't spend \$3,000,000.00 when you only have \$2,000,000.00. Mr. Haas also noted that on WSAZ TV, it was reported that the City is now facing a \$4,000,000.00 deficit. He said he wished the Auditor was here tonight to explain that.

Mr. Haas, with regard to some remarks tonight about public records request, said he has a note where Council has requested of the Mayor the opinion from the Ethics Commission regarding the her personal lawsuit against the City. He wanted to know if the Mayor has obtained that information and if so, he would appreciate a copy of that opinion.

6th Ward

Councilman Noel said he listened “with emotions” when Ms. Doll spoke. He said he knew her father very well and he tried to clean up corruption in this City in the 1980s. Mr. Noel said he is one of a few that has been fighting this battle all these years. He claimed “we still have it” and said he sometimes wonders if it is not worse now than it was back then. Mr. Noel said, “If I live long enough, and I get on a federal jury or state in a position where an out of town attorneys judges rule, I will gladly divulge a lot of information I have”. He said he sympathizes with Mr. Scott because he has had similar situations. Mr. Noel further stated, “In 1980 I was appointed a City Council person and I was removed the following day because I wasn’t with the right group and my case went to the Ohio Supreme Court and I won six months after Bill Ogg had won a rigged special election and he is in a life-time job in the State of Ohio now. Not that I wanted a job with the State of Ohio, I did get one when they sold my job out at the mill”. He claimed this to just be life and he understands what the people here are talking about. He continued, saying “We do have a corrupt group still operating in the City of Portsmouth”. He again sympathized with Mr. Scott. saying “I’ve been a victim myself”.

Mr. Noel praised the Mayor “for standing up to what is right for the City”. He claimed she to have accomplished more in the “run down” districts of Portsmouth than has been done in the last fifteen years. He further stated that with all the “road blocks” that have been thrown in her way, during her short tenure, she has done more than has been done in the last “ten years maybe fifteen”. He commended the Health Department for the things they are doing and acknowledging the Mayor to be working with the Health Department. He felt we are lucky to have a person in the Mayor’s office that is willing to stand up for what is right, saying “we intend to keep her here”.

The Solicitor expressed his happiness with Mr. Sutherland’s decision to remain with the City.

The President of Council called for a special meeting of council for Thursday, at 6:00 p.m. in the Council Chambers to consider legislation to place on the ballot for November 2, 2010, the recall of Mayor M. Jane Murray.

The meeting adjourned on a motion by Councilman Johnson.

City Clerk

President of Council