

MINUTES – SPECIAL SESSION

PORTSMOUTH CITY COUNCIL MEETING
Monday, August 10, 2010
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in special session on, Thursday, August 26, 2010 at 6:00 p.m., in the Council Chambers of the Municipal Building.

President, David Malone called the meeting to order followed by the Pledge of Allegiance to the Flag.

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 was City Solicitor, Michael L. Jones.

Clerk's Report

1. During the legislative meeting of August 23, 2010 the President of Council, in accordance with Section 4 of the City Charter, called for a special meeting of Council to be held on Thursday, August 26th, at 6:00 pm, in the Council Chambers to consider legislation to place on the November 2, 2010 ballot the question of recall of M. Jane Murray as Mayor of the City of Portsmouth, Ohio.
2. Notices were delivered to the members of Council and placed in the mailboxes of the Mayor, the Solicitor and the Auditor.
3. Returned receipts were received from all members of Council being served.

The Clerk's report was accepted, on a motion by Councilman Albrecht.

STATEMENTS FROM CITIZENS ON THE SUBJECT OF THE SPECIAL MEETING

Ray Mitchell – 2660 Micklethwaite Road accused Councilman Haas of participating in the recall of the Mayor by being present at Tracy Park when citizens were signing petitions. He claimed Mr. Haas had violated the charter, which prohibits an employee of participating in a political campaign. Mr. Mitchell said he addressed this in a letter to the Solicitor but the reply he received was “bogus” and did not come from the court. He noted that he was retired with a lot of time on his hands and that he would take this matter to a higher court. He claimed there to be a “conflict of interest” and he was going to go over the Solicitor's head.

James Wilson – 1394-16th Street reported having spent time checking the charter over the past couple of weeks, saying it should be followed. He claimed to have been accused of *****

Linda Switzer – 319 Front Street spoke in favor of the Mayor and questioned how so many signatures could be checked in such a short amount of time. She also felt that with several people looking at the petitions there would be no way to be able to determine how many people might have signed more than once. She claimed that Councilman Basham was also seen at Tracy Park where people were signing the recall petitions and felt that both Mr. Basham and Mr. Haas should abstain from voting on this ordinance. She further claimed that while at the courthouse awaiting the results of the last election, people were overheard talking about planning a recall of the Mayor.

Austin Leedom – 1521-5th Street said he has been following recall elections for early 15 years and claimed to have found all kinds of violations. He gave his recollection of previous petitions and his claim of tampering and mutilation of petitions.

Harald Daub – 1221-22nd Street related past experience with passing petitions that resulted in the police investigating. He felt that any complaints should have been filed with the Board of Elections not the police.

Grant Stephan – 2831 Sherman Road noted that the petitions is only the means by which the issue will be put on the ballot and that those signing the petitions are signing for the matter to be put to a vote. He pointed out the fact that this process does not recall anyone, only the vote at the polls can do that.

Eileen Perry – 1410-15th Street spoke in support of the Mayor and informed those at the table that a recall can be done on them. She expressed her hope that the effort will fail and the Mayor will not be recalled.

She claimed members of Council to be inconsiderate when they read their papers when someone is talking and also felt disrespect has been shown to the Mayor and should not be allowed.

LEGISLATION

The Clerk gave a **first reading** to an ordinance to submit to the electors of the City of Portsmouth, Ohio, at the General Election to be held on the 2nd day of November, 2010, the question of recall of M. Jane Murray as Mayor of the City of Portsmouth, Ohio.

Vice President Haas moved to suspend the rule requiring an ordinance be read on three separate dates.

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

Vice President Haas made a motion to pass the ordinance.

Councilman Johnson, saying he hated starting first, acknowledged that he has found working with the Mayor, at times, can be difficult; however, he has learned to work with her. Mr. Johnson said he thinks she has great ideas but acknowledged that she made “some big mistakes” early on and he felt her to be learning from them. He said he did not personally see a logical or even close to a legal reason for recall. However, Mr. Johnson noted the recall has been submitted. Noting that he may have problems with the recall process, he said he had a problem with the fact that a department head signed the petition and that, ethically, he had a problem with there being participation from elected officials. However, he acknowledged such activity has been declared legal. He felt this is best for the courts to decide noting that Council’s decision is to adjudicate upon the fact that the City Clerk has adjudged these signatures as being valid. Mr. Johnson stated that, according to the charter, he had no choice but to vote for presenting the issue to the voters. However, he wanted to express his public disgust at having to do so for numerous reasons. He said he did not only believe in the letter of the law, he believed in the spirit of the law and felt that it was unfortunate that there is a tendency to ignore the spirit and intent of why many portion of our charter and our constitution were written. He felt we have gotten to the point of debating what the words “it”, “and”, “or” means, and called it to sometimes be outrageous. Mr. Johnson felt the reason there is no confidence in government is because we “parse everything to death in order to get away with things we want to have accomplished”. He felt this to not be the way to run government.

Councilman Noel said he received copies of all the petition papers and he reviewed all 68 pages and claimed to have found “quite a few” irregularities, possibility some that could have the entire petition thrown out. He said, “I will vote ‘no’ on this because I do believe in the public having a say but I do not think our Mayor has had a reasonable opportunity to be the Mayor here and take on the obligations that she inherited”. He further felt “she hasn’t been given a chance to really fulfill her talents in this job”, saying he will vote against this for many other reasons that he will not go into tonight but will if it gets to court.

The Solicitor, noted a couple of issues to have been raised tonight one of which is the issue with Section 82 of the charter. Mr. Jones said he believed he would address that with regard to Mr. Mitchell and his complaint and advised that anyone is welcome to a copy of his response. He said there is a distinction, not only in his opinion but that of various other individuals who have been in his position, between elected officials and employees of the government. With respect to employees, Mr. Jones said his job is not to question law all the time but to inform Council what the law is and interpret it, if necessary. Referring to Section 123-1-46-02 of the Ohio Administrative Code, specifically under Section B6, the Solicitor read aloud the content, which provided examples of permissible activity for employees in the classified service, which he said would include employees of the City of Portsmouth. He noted that under Section 6, signing petitions is one of the specific indications of permissible activities. Mr. Jones said he wanted to make sure that’s clear to the electorate.

Councilman Basham noted that it is sometimes interesting when you look back at the big picture. He noted the City Clerk to have several comments tonight and according to WSAZ and the Mayor we have now a 4 million dollar deficit. Mr. Basham said he did not know from where that number came but that was the quote. He acknowledged that by the City Clerk actually working hard at getting this done and not having a special election, she saved the City around \$30,000.00. Mr. Basham thanked the Clerk for that.

Councilman Albrecht said he voted for putting on the ballot every recall that has come before him as the result of a qualified petition. He said he did not care who the person is, if there are a qualified number of signatures, all Council is doing is placing it on the ballot for the voters to decide.

The President noted that he also voted to put recall issue on the ballot simply because, as stated by Mr. Austin Leedom, “we should do what we were told”. Mr. Malone stated that Council is doing exactly what they have been told to do by almost 1,400 citizens. He said for that reason, as a Council, they do not have a choice because the citizens have spoken and the decision will be made by the citizens in November.

There being no further questions or comments the roll was called. **VOTE: ayes 5 (Malone; Basham; Albrecht; Haas; Johnson) – nays 1 (Noel) The ordinance was passed. ORD. # 49-10**

The meeting adjourned, on a motion by Vice President Haas.

City Clerk

President of Council