

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday, August 9, 2010

6:00 p.m.

The City Council of the City of Portsmouth, Ohio met in regular session on, Monday, August 9, 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 City Auditor, M. Trent Williams and, on behalf of the Solicitor, Jerry Buckler, Assistant Prosecutor.

Council dispensed with the reading of the Journal for the regular session of August 9, 2010, on a motion by Councilman Albrecht.

Councilman Albrecht made a motion to add to the agenda those items regarding ratification of Memorandums of Understanding that were tabled on July 12, 2010 and were identified on that agenda as “Items 7i; j; k; l; and m”.

The motion carried. The items were brought from the table and added to the agenda as Item 7c; d; e; f; and g.

Councilman Johnson made a motion to add to the agenda an ordinance appropriating \$10,787.50 to make a moral obligation payment to Vetter Builders Inc. for work performed in the Mayor’s office.

Vice President Haas, noting the absence of the Mayor, questioned whether or not Council should even put this item back on the agenda. He further stated it to be a “bit odd” that Council is being asked to pay for something that was not submitted through the proper channels originally, when we are having so many issues with the CIP and General Fund budgets. Mr. Haas noted that the Mayor has repeatedly attacked Council publicly calling their budget faulty, thus he has a real problem with her asking Council to spend money on her office, noting the same arguments are being used that go back to January. Councilman Johnson claimed it to be a little bit different in January and claiming Council’s primary concern was that she had spent money that was not budgeted. Mr. Johnson noted there to now be a budget and claimed that it is not only the Mayor’s responsibility to pay but (*not discernible*) to meet this obligation. Mr. Johnson felt that the Solicitor has made it “real clear” that he wishes to avoid any further action from the builder and it would be in the best interest of Council (*not discernible*) to look at this (*not discernible*). Vice President Haas noted whether or not this was something that was in the budget is not relevant. He pointed out the relevance to be that the Mayor entered into a contract without following the proper procedures. He further pointed out that the contractor has contracted with the City before and is aware of what the procedures are. Mr. Haas noted this to go back to what Council discussed in January when this was voted down in the first place. He said he felt the problem has only been made worse since then given the nature of the budget and the issues that (*could not be discerned due to someone coughing*)with respect to the budget.

Councilman Noel, noting this work has already been done, said there will be a lawsuit if it is not paid. In response, Councilman Basham said he does not understand how as a charter city we can violate the Ohio Revised Code. He continued by reading ORC Section 3.12 and pointed out that he did not see how our charter or Council sitting here can violate the ORC by paying for something that was not approved. Councilman Albrecht reported several people have called him because they are upset about the possible closing of the hilltop fire station and with that possibility do not want this bill being paid. He said the question put to him was, “what is more important, a persons house or their life or the Mayor’s office”. Councilman Haas reminded everyone that most of Council, including himself, not so long ago wasn’t really familiar with how the budget process worked and noted the various funds and how certain funds are expended from different “pots”. He continued by noting a grant that was approved that would replace the server in the Police Department, however the Mayor has yet to sign off on the grant even though the funds are available through the Law Enforcement Fund, at no cost to the City. For the purpose of clarification, the Chief of Police advised that the Mayor actually signed the grant in March and also signed a second modification to that grant in June. He advised that it was only when he turned the purchase order into her to actually make the purchase that she declined to sign. Mr. Haas noted it to be his understanding that the grants were all approved but the purchase orders were not signed off on by the Mayor and acknowledging that to be what is being dealt with in this ordinance. Mr. Haas questioned why, when given an opportunity to do something, for some reason it isn’t being approved while the

Mayor is asking that payment for repairs to her office be approved., noting that we are not getting the benefit of something that is basically going to be paid for at very little or no expense to the taxpayer. (*response from the Chief of Police was not discernible enough to be transcribed.* Councilman Noel contended that a letter from the Solicitor gave the Council orders to pay for the work that was done in the Mayor's office. The President pointed out that the letter from the Solicitor only made a recommendation and was not a mandate. He noted that the Solicitor requested Council to consider making the payment and further noted that while the Solicitor might make a recommendation it does not obligate Council to follow those recommendations. Mr. Buckler, on behalf of the Solicitor, said he has reviewed the Solicitor's memos to City Council and advised Mr. Jones to not have issued a mandate but rather recommended that Council entertain this ordinance as a moral obligation to a man who completed the services. He said he understands the importance of the fire department and other things that have been discussed this evening but felt those to be separate issues compared to what the Solicitor stated as a thought that Council entertain this notion. Mr. Buckler acknowledged that the City could be facing a lawsuit by not paying for the work.

In response, Councilman Basham said he felt if Council is going to look at a moral obligation, he felt that the hazardous working environment in the Police Department to be a much more pertinent issue to deal with and noted that has yet to be brought to Council. Mr. Noel claimed that on the first day, the Mayor's assistant ended up in the hospital due to mold issues in the Mayor's office. He further claimed this to be the main reason the Mayor had the work done on her office. To clarify the time frame, the Auditor pointed out the fact that the person in the Mayor's office, to whom Mr. Noel referred to did not work in this building on the first day of the Mayor's administration. Mr. Noel claimed the day he was referring to was the first day the assistant worked. Mr. Williams acknowledged that but further pointed out that the work being discussed was done prior to the Mayor's assistant working here.

There being no further questions or comments the roll was called on the motion to add the legislation to the agenda. **VOTE: ayes 2 (Johnson; Noel) – nays 4 (Malone; Basham; Albrecht; Haas) The motion failed the item was not added to the agenda.**

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

LEGISLATION

The Clerk gave a **third reading** to an ordinance authorizing the appropriation of CDBG monies Fund NO. 243 Grant No. A-F-09-167-1 in the amount of \$10,424.00 to Personal Services Costs and \$7,767.00 to Others for a total of \$18,100.00.

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. #39-10**

The Clerk gave a **second 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 moved this constitute a second reading.

Councilman Haas said he would like for either the Mayor or someone from her office indicates why this is being done at this time. He acknowledged this to be an administrative position but felt he would have a better comfort level if he knew more about the background of the person being proposed to hold this position. Mr. Haas requested input as to why she should be approved and the reason behind it. Councilman Johnson stated that, as far as financially, in the original package the transfer of funds and the timing was a (*not discernible*) \$7,000.00 less than what would have been spent. He could not remember "the exact accounting but the way it was budgeted vs. how it is going to be spent was going to be \$7,000.00 less than what the budget as first (*not discernible*). Mr. Johnson stated, "the (*not discernible*) question has been, doing these grants that help the department for years and years and been very successful". He further noted the Health Department to be so "budgeted with grants" that the percentage provided them by the General Fund to be only a small percentage of their overall operating budget. He also felt that "due the ramp up in both Federal and State grants" it is "highly important" that the City has someone who dedicates their full time to doing (*could not hear over someone sneezing*). He claimed the Mayor to have dedicated a lot of time with United States Senators and managed to get \$500,000.00 towards our sewage problems and \$152,000.00 for US 52. He felt these efforts to take a lot of time and, as a small city, we need someone in the Community Development Department to go after these grants as has been done at the Health Department. He claimed this to be the primary reason for the Mayor who looked internally within our City to find someone who could really do the job and is qualified to do so. Councilman Albrecht, noting his absence last meeting apologized for not being very familiar with this requested legislation. He inquired as to whether or not the City will now have to hire someone to take the place of the Health Department Employee who the Mayor wants to hire as the Community Development Director. The Health Director, Mrs. Burton, advised that it would be necessary to hire a replacement for Mrs. Steele. Mrs. Burton confirmed that there would be a need to replace her since her position if that of a sanitarian. She stated it to be her understanding that part of the reason for filling this position was there was some time frames that had to be met and that the City was in jeopardy of losing some grants that have already been put in place. Mrs. Burton advised that the employee being considered has been

doing both the job of a sanitarian and that of Community Development Director. In response to Councilman Albrecht asking how this request would save the City money, Mr. Johnson said he was talking about budgeted versus (*not discernible*). In response to Councilman Basham asking if Mr. Johnson had stated that Community Development had been fully budgeted, Mr. Johnson said, "They do have a budget". It was determined that the only salary budgeted for Community Development was that of a Grant's Technician and the balance of that salary remains in the Community Development Department's budget. Mrs. Burton said she felt that to be from where the thinking is that money could be saved by approving this request. She further explained that the balance of the salary for a Grant's Technician would be moved into a salary line for a Community Development Director and since the position is not going to be funded for an entire year it would therefore be saving money. Councilman Haas acknowledged that to be the thinking, in accordance with what he has been told. He noted that while we may be saving money over the next four months we would in fact not save anything in the upcoming year. Mrs. Burton noted that next year there would still only be one position to fund, which would be that of a Community Development Director. She said money would be saved by just paying the director instead of paying for a technician. Councilman Albrecht inquired as to whether or not granting this request would in any way violate the Memorandums of Understanding with the bargaining units. The President did not feel that it would because the Grant's Technician position was approved in the budget but not the position of director. For purposes of clarification, the Auditor noted the way in which the council letter was worded it reads that there would be a transfer of \$17,000 from the General Fund into the Community Development Fund. Mr. Williams said he assumes the Mayor means to take advantage of Community Development grant funds for this position because the Grant's Technician position was also funded by the grant. He said he felt too many times Mayors like to use that word "transfer from the General Fund" when that is not what they actually mean. He said he felt they mean to transfer the funds and appropriate it from the "funding fund", which, in this case, happens to be the CDBG grant fund. The Auditor reviewed the council letter and determined that it did not actually say what he had thought it said. The President recalled that the Mayor did state the money would come from the grant fund. Mr. Williams acknowledged that to have actually been her intent, in which case, he said, the legislation would have to be amended to include authorizing the appropriation from the CDBG grant fund or by striking the word "the General Fund into". Mr. Williams read how the sentence would be constructed with this amendment. The President suggested, since this is the second reading, to wait until the Mayor was present to make an amendment.

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

The Clerk gave a **second reading** to an ordinance to ratify a Memorandum of Understanding entered into the 24th day of May, 2010, by and between M. Jane Murray, Mayor of the City of Portsmouth, and the Fraternal Order of Police, Ohio Labor Council, Inc. representing the supervisor and patrol officers bargaining units of the Portsmouth Police Department dealing with budgetary issues and annual pay issues.

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

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

Vice President Haas made a motion to pass the ordinance.

Councilman Johnson, noting his concerns have been conveyed through the press, stated one of his primary concerns to be the requirement of no layoffs. Mr. Johnson felt there to be a difference "between a Gentleman's agreement", which he claimed to be what this began as, but felt formalizing this agreement, in this sense, amends Section 32 of the charter. Mr. Johnson felt the MOUs prevent the City from laying-off employees covered by a bargaining unit. He felt the Police Department to be the only MOU being discussed tonight that allows the union and the City to renegotiate the original contract. The Auditor reminded Councilman Johnson that the Memorandum of Understanding makes an agreement for these union members to forego the raises, to which they were entitled, in exchange for not being laid off. Mr. Williams pointed out the fact that the Mayor can still lay employees off at any time from now to the end of the year but it would negate the agreement. He also advised that the Memorandums do not supersede the charter, saying the Mayor still has the authority but there would involve consequences of which everyone is aware. He again emphasized the fact that the MUOs do not supersede the charter. With regard to the Fire Department's Memorandum of Understanding, Councilman Noel said he did not like the way it was handled during the City's meetings on the budget. He claimed that at the meetings he attended with the firemen he was "badgered" and that people were treated disrespectful by the "President of the meeting". He also claimed that at a meeting the City was given an alternative if (*not discernible*). Mr. Noel claimed the firemen wanted Mr. Peck fired and he felt that was out of line and when he disagreed with it the President of the Union became disrespectful to him and his position as a member of Council. Mr. Noel further claimed he only attended two meetings and did not attend any meetings with the AFSCME unit. He claimed the issue to have been mishandled and he did not like that. Vice President Haas said he felt it to be extremely unfortunate that there are two members of Council who are more upset about the way the matter was handled and would vote against this. He said he gives great kudos, especially to the AFSCME union who this last week have filed numerous grievances, which include unfair labor practices, gag orders on employees, hostile work environment directly coming from the Mayor's office and yet those members still decide to do the right thing in the best interest of the City, by forfeiting their raises in an effort to help with the budget crisis. He said he was shocked that anyone would vote against this when it is clearly a benefit to the City. In response, Councilman Johnson said he would like to remind Council that they are the deliberative body that has to review those things that are recommended and presented to them

from others. Mr. Johnson noted there to not have been a public forum prior to now to even discuss these Memorandums of Understanding. He felt it had taken a long time to go through these and claimed to still not have a copy of the fifth one. Mr. Johnson felt this to be Council's responsibility to report those things they find to be wrong or conflicting. He said he actually compared these MOUs against the "master contracts" for each union and was shocked to learn that at least three of the bargaining agreements forbid them from renegotiating their agreements. He noted the one being discussed at this time was not one of those. He reiterated what he thought was Council's responsibility to discuss this openly and again noted this to be the first opportunity to do so. He also pointed out that the FOP agreement requests Council to set up an insurance committee. Mr. Johnson stated that the insurance committee is not a part of the original bargaining unit agreement. He further stated that this MOU amends a collective bargaining agreement that was passed by ordinance by previous Councils. Referring to Section 10 of the City's charter, Mr. Johnson said legislative procedure requires that each ordinance be about one subject only. He claimed this ordinance to have two subjects – approval of the MOU and to set up an insurance committee, saying, "again violating our procedures". Vice President Haas stated that one of the terms he learned during this negotiation process is that a Memorandum of Understanding is not a renegotiation of the contract. He advised that every union with which he dealt, throughout this period of time, specifically stated that they were not reopening their contract for negotiation. He further advised that throughout this process it was pointed out numerous times that this is the process that had to be followed. The Auditor advised that he was at the meeting, referred to by Councilman Noel, and he did not remember that anyone in particular was ordered to be fired. He said he did remember that conditions were that would be no new positions created and that was made clear throughout all of the meetings – not just the one with the fire department. Mr. Williams also respectfully disagreed with Mr. Johnson in regard to the ordinance covering more than one subject. He pointed out that the ordinance is simply to ratify a Memorandum of Understanding, noting that the Memorandum may have multiple items. Councilman Johnson disagreed saying they were "slicing the apple awfully thin" when Mr. Williams says that they "need an attachment that they are passing on to this ordinance" that contains multiple issues. Mr. Williams pointed out the fact that the contract itself contains fifty some but there is only one request for ratification of that contract. Councilman Basham asked the Chief of Police if there were more than 43 officers, patrolmen and employees attached to the Police Department. He noted that Section 87 of the charter says the City has to keep 43 officers, patrolmen and employees "as may otherwise be fixed in accordance with the provisions of Section 38 of the charter". Mr. Basham conclude that if the charter states that we have to keep a certain number of employees on staff then there is really no issue of lay offs – we have to keep a number of people on staff. The Chief of Police, Charles Horner advised Mr. Basham that would be his interpretation of that section of the charter. In response to the Chief asking Mr. Johnson if he were familiar with SERB, Mr. Johnson stated that he was. The Chief noted that Memorandums of Understanding are entered into contracts in mid term to modify contracts by an agreement with all parties involved and further noted that contrary to Mr. Johnson saying this can't be done it, in fact can be done. He advised Mr. Johnson that there is a long history in SERB of Memorandums of Understanding and modification of contracts. Mr. Johnson advised the Chief that the FOP contract does not have that specifically but it will be an issue when the other MOUs are discussed. He said, "they wanted to make it clear they wouldn't have read it or written the contract to the extent that it says 'whether or not its in the contract or not'" and claimed it went further than just talking about the contract. The Chief said he did not think they can simplify contracts that have been developed and extended over the past thirty-four years to say we can't do these things. The Chief said he felt that statement would be very misleading. Mr. Johnson then read the exact quote, which he said was called "The integrity of the agreement", which stated that the parties waive the right to bargain with respect to any matter whatsoever whether or not such matter is contained in the agreement. The Chief asked Mr. Johnson if he had obtained a legal opinion from the Solicitor with regard to this matter, to which Mr. Johnson stated, "I sent this, I haven't gotten a feedback". The Chief recommended that a legal opinion be obtained before making statements that are all encompassing and simplified to where (*not discernible*) Memorandums of Understanding. Mr. Johnson expressed his understanding of the situation and acknowledged that we do have to depend on the City Solicitor, however he felt himself to be like most of the people in the audience who read this just as any other contract is read. He felt what he has read tells him that he cannot do anything but noted there to be "side clauses" that says they really don't mean what is in the contract and questioned if this were so why would the contract contain such strict language. The Chief advised Mr. Johnson to contact the people who represent the various bargaining units, noting them to be experts in contract language and are the ones who developed the language. The Auditor noted a second issue on this matter and is one reason he was led to believe this is probably in the City's best interest to now agree to these MOUs so that if it comes to a point where people need to be laid off the situation will have to be looked at realistically. He said when laying off you have to look at where the bulk of the cost is and that would be the Police and Fire, but at the moment we are not above the minimum staffing in those departments that is dictated by charter, therefore there cannot be layoffs in those departments even if it comes to pass that lay offs have to happen. He noted that since those 88 people cannot be laid off the lay offs would fall to the next set of employees, which would realistically mean that the rest of the employees would have to be laid off in order to make a dent because we do not pay into unemployment insurance but rather we would end up paying those laid off employees from City funds at a rate of 65% to 70% and the only thing the City would be saving is a small percent on their wages and hospitalization. Mr. Williams said to think the City could lay off employees and solve the budget is not realistic. Councilman Johnson stated, "I have never assumed and the Mayor has told me specifically she is not considering and will not consider lay offs", saying "she knows the charter as well" and that they know there are limitations. He said lay offs is not his focus and is not a consideration noting that he is looking at the details of the MOUs and is having a very difficult time about giving up the rights to renegotiate pension costs, insurance costs and to look at things that the City can do. He felt that all management options are being eliminated but acknowledged the one thing the MUOs is giving the City is about \$150,000.00 off the 1.2 million dollar deficit, but he did not feel it to be a great deal, even as much as he appreciated this being done by the employees. Mr. Johnson said he figured that to just be a start and noted

there to not have been any discussions since about cutting cost anywhere else. Mr. Johnson, acknowledged understanding what the Chief of Police was explaining about the acceptance of MOUs Mr. Johnson felt it to be sort of coming in the back door violating what the charter requires that an ordinance be one issue only. He inquired as to what kind of a committee the insurance committee would be and who would make the appointments. Councilman Noel said he wanted to make it clear to everyone here that he would put his union record up against anyone and again referred to the disrespect he felt he received from the President of the Fire Fighters Local and related an incident regarding a conversation about Mr. Peck. Vice President Haas said he was at that meeting and saw things from a different perspective. He noted that the issue being raised here tonight is something that should have been raised months ago when the MUOs were being discussed. He said all the benefit issues were discussed and they arrived at a Memorandum of Understanding with which the union members could live. He further noted that the Mayor signed all the agreements and therefore must have been in favor of them. Mr. Haas said he had a bit of a difficult time understanding why this discussion is occurring at this point in time, when this is something that has been in the works for months and were negotiated in good faith. He felt the City received the best agreement it could get and felt the members of the union were not happy that they had to give up their raises but everyone was working together for the benefit of the City and it now seems like, for some reason now, a wrench is trying to be thrown into the works to stop what he felt to be progress. The Auditor, to Mr. Johnson, stated that some of his argument about this limiting the City for the rest of this year as far as renegotiating any part of the bargaining unit contracts, is, as far as his feelings are concerned is that the City already had no right to renegotiate this contract. He advised the contracts to be locked in and the only way they could even be discussed is if the union's agreed to do so. Mr. Williams noted that the City still has that option and the members, even with having signed the MOUs, still can agree or not agree to a discussion regarding, for example, pension pickup. Mr. Williams advised that either way the City has no right, whether the ordinance is passed or not passed, to demand that they renegotiate. He reiterated the fact that the City cannot touch any union contract unless its members are willing to do so voluntarily. Mr. Williams thinks what the City got was better than the unions saying "no".

Councilman Albrecht called for the question. The roll was called. **VOTE: ayes 5 (Haas; Johnson; Malone; Basham; Albrecht) – nays 1 (Noel) Debate ceased.**

The roll was called on the motion for passage of the ordinance. **VOTE: ayes 4 (Malone; Basham; Albrecht; Haas) – nays 2 (Noel; Johnson) The ordinance was passed ORD. #40-10**

The Clerk gave a **second reading** to an ordinance to ratify a Memorandum of Understanding entered into the 24th day of May, 2010, by and between M. Jane Murray, Mayor of the City of Portsmouth and the Fraternal Order of Police, Ohio Labor Council, Inc. representing Police/Fire Dispatcher Bargaining Unit dealing with budgetary issues and annual pay issues.

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.**

Councilman Haas made a motion to pass the ordinance.

Councilman Johnson and Noel stated that they had not received a copy of this MOU>

There being no further discussion the roll was called. **VOTE: ayes 4 (Malone; Basham; Albrecht; Haas;) – nays 2 (Noel; Johnson) The ordinance was passed. ORD. #41-10**

The Clerk gave a **second reading** to an ordinance to ratify a Memorandum of Understanding entered into the 25th day of May, 2010, by and between M. Jane Murray, Mayor of the City of Portsmouth, and the Portsmouth Firefighters, I.A.F.F. Local 512 dealing with budgetary issues and annual pay issues.

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

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

Vice President Haas made a motion to pass the ordinance.

Councilman Johnson read part 8 of the MOU regarding notification to the bargaining unit of any pay increases that are given to any employee and referring Council to the employee handbook, Mr. Johnson questioned why this bargaining unit wanted this information, saying he had a problem with divulging, what he described as "personal information" to this one unit.

There being no further comments the roll was called. **VOTE: ayes 4 (Albrecht; Haas; Malone; Basham) – nays 2 (Noel; Johnson) The ordinance was passed. ORD. #42-10**

The Clerk gave a **second reading** to an ordinance to ratify a Memorandum of Understanding entered into the 27th day of May, 2010, by and between M. Trent Williams, Auditor of the City of Portsmouth, and AFSCME Local 1039C and Ohio Council 8 of the American Federation of State, County and Municipal Employees, AFL-CIO dealing with budgetary issues and annual pay issues.

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

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

Vice President Haas made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 4 (Malone; Basham; Albrecht; Haas) – nays 2 (Noel; Johnson)** **The ordinance was passed. ORD. #43-10**

The Clerk gave a **second reading** to an ordinance to ratify a Memorandum of Understanding entered into the 14th day of June, 2010, by and between M. Jane Murray, Mayor of the City of Portsmouth and AFSCME Local 1039 and Ohio Council 8 of the American Federation of State, County and Municipal Employees, AFL-CIO dealing with budgetary issues and annual pay issues.

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.

There were no questions or comments. The roll was called. **VOTE: ayes 4 (Malone; Basham; Albrecht; Haas) – nays 2 (Johnson; Noel)** **The ordinance was passed ORD. #44-10**

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Lee Scott – 936-9th Street advised Council that he is rehabbing the old Clod Grill – 936-9th Street but not sure how it will be used. He further advised that the Columbia Theater will be used for entertainment and he has leased that structure to Jim Kalb. Mr. Scott spoke against the recall effort taking place with regard to the Mayor but acknowledged his part in the recall of former Mayor Bauer. Mr. Scott objected to the person who would become Mayor if the present Mayor is recalled and made various allegations with regard to the individual's previous attempts to be elected to the position.

Bill Cole – 1133-28th Street, President of the Portsmouth Motorcycle Club, spoke with regard to the Mayor's statement regarding stopping organized benefit rides conducted by motorcyclist in the City. Mr. Cole reported these rides have generated more money for charities than any other organization in the City. A recent ride, involving 150 motorcyclists, paying an entry fee of \$25.00 each, generated money for Hospice. He advised a 4th annual run has already been scheduled for the Southern Ohio Autism Project and he was concerned that the Mayor's directive would attempt to stop their activity. He stated that if no parade permit is issued the run will occur without the permit. Mr. Cole cited the Codified Ordinances and read the section regarding the issuing of a permit for parades and noted the authority to issue the permit was the Chief of Police and he did not see anything that gives that authority to the Mayor.

Troy Triplett – 2340 Micklethwaite came to the podium with a bag full of trash. He reported a problem with hospital personnel parking on streets in a residential area as well as hospital personnel and patients with their IV poles and wearing hospital gowns visiting their street to smoke cigarettes. He advised everyone that the trash in the bag he was carrying is litter left by these individuals. Mr. Triplett requested signs be erected designating this area for residential parking only and "no loitering". He said he has reported this to the hospital administration but with no results. He felt the hospital should keep their guests on their property.

Linda Switzer – 319 Front Street felt Mr. Vetter should be paid for the work he performed on the Mayor's office. She felt it to be a moral obligation and noted the Mayor's office to look better and cleaner. She felt Mr. Vetter does "nice work" and expressed her appreciation to Councilmen Johnson and Noel for doing their research.

Chief William Raison requested Council to appropriate funds to pay overtime in the Fire Department. He acknowledged awareness of the City's financial problems but felt this was a public safety issue.

Sam Sutherland, Director of Water, reading from a prepared statement, advised Council of his resignation effective in two weeks. Mr. Sutherland noted his time with the City and the "good people" with whom he has worked to keep the water system in compliance with Federal and State Regulations. However, Mr. Sutherland felt the current situation with the City to not be "at all good". He described the finances of the City to be "in a shambles" and it was his opinion that the City administration, city employees and our citizens are going to have to come to the reality that things cannot go on as they are and that concessions are going to have to come to fruition. Mr. Sutherland felt all parties involved should try to work together to solve this problem, stop flinging accusations and face the reality that no one set of people caused the problems nor can they fix them. He said the events of the first of the year have affected his life both physically and emotionally and he came to the reality that he could not continue on as he had set out to do some 21 years ago. Mr. Sutherland expressed his love for this city and always would but the thought of what happened and the thought of it happening again is not allowing him to perform as well as he is capable of doing. Mr. Sutherland thanked Richard Duncan for hiring him, former City Manager Eberhart, former Mayors Gerlach, Bauer and Kalb for

allowing him to do his job and being there when he needed them. He expressed his appreciation to all past and current department heads as well as past and current members of City Council for their efforts and for working with him. He personally thanked the Solicitor, Mike Jones, for his efforts to get him back to work after the aforementioned situation.

Austin Leedom – 1521-5th Street accused Council of quietly adding the ratification ordinances to the agenda then passing them as a emergency.

Jerry Conkel – 2719 Sherman Road again questioned why the cameras were not on this evening.

Harald Daub – 1221-22nd Street questioned the ordinance that did not receive enough votes to be added to the agenda and said he did not know what was on the agenda.

Mr. Daub acknowledged Council has the right to put items on the ballot but accused Council of operating on their own agenda and was trying to make the mayor look bad. He noted that Council swore to uphold the charter. With regard to the passage of the Memorandums of Understanding, Mr. Daub wanted to know from where the money is going to come to continue to operate the city. He claimed that Council will be asking for a tax increase and he hoped citizens will remember what went on and how Council operates. He said he hopes a threat of no garbage pickup would be used and that he will work against a tax increase.

Eileen Perry – 1410-16th Street suggested “you all” turn down your pay raises and cancel their hospitalization to save money. She claimed Council to have cut the Mayor’s pay. Ms. Perry also claimed that the way Council is voting they are trying to make two of their members “look bad”. She also accused “some” members of Council of not caring about Mr. Triplett’s problems with the trash being left in the area of his home by employees, patients and visitors to the hospital.

Beverly Van Cleave – 2530 Scioto Trail said she came to Portsmouth in 2003. She spoke of her sister’s threats of suicide and the fact that her husband was “sleeping” with their son. She told of her attempts to get her sister to go to the police but she refused and her attempts to get the child protection people involved. She further stated there to be teachers in the City and Valley school systems who know about corruption in the municipal building. She also claimed some people in the community to be corrupt and that she had never seen so many people racing to stick their heads in the sand. She called them all cowards.

Miscellaneous business and reports:

City Clerk’s Report

1. Received from the Auditor the following reports for the month ending 7/31/10:

Combined mtd/ytd expense report
Mtd/ytd revenue report
Mtd bank report
Combined mtd/ytd fund report
Appropriation transfer from transaction listing

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

The President had nothing to report.

Miscellaneous business from City Council:

1st Ward Councilman Johnson thanked Mr. Cole for his comments and acknowledged that he is not here to defend the Mayor and she is not here to discuss it. He said he believed what Mr. Cole heard was a rumor and there is no attempt to cut back on any parade permits and he thought he could guarantee that. He said he felt it is normal for the Mayor to be notified of major permits that are being issued that affect things in the downtown or in the community. He said he looked forward to Mr. Cole’s event that is coming up in Tracy Park and hope it is a great success.

Mr. Johnson said he would like to talk later with Mr. Haas about the hospital issues, noting the VA in Cincinnati to have had the same problem, which was resolved by them working with their City Council.

2nd Ward President Malone had nothing to report from his ward.

3rd Ward Councilman Basham reported having a question posed to him yesterday by some residents regarding a 10% raise in water rates. He said he wanted everyone to know that this is not Council’s decision to raise water rates. He further advised that action comes from the Mayor’s office.

He inquired of the Police Chief about loitering ordinances. He reported a several residents reported being harassed when leaving the City Building following the last Council meeting by a group of people who had gathered at the side entrance of the building. He asked the police to take notice of that when citizens are leaving these meetings.

Reported being very disappointed to hear about the possibility of the Hilltop Fire Station being closed and said he would help in any way he can to see that the station stays open.

4th Ward

Councilman Albrecht reported having a meeting last Friday with Service Director, Bill Beaumont and four citizens regarding the condition of the playground in Mound Park. He reported the play equipment to be in disrepair and noted the funds to be available to make those repairs. He said he hoped this is done quickly so the children can go back there to play.

5th Ward

Vice President Haas noted at the last Council meeting a statement was made that the City had been awarded some grant money to deal with the combined sewer overflow problems, specifically in the Grandview Avenue area. He said he requested some information from the Mayor's office with respect to the time frame in which these funds can be expected and whether or not it requires matching funds. He said he has not yet received any response and apologized to the residents of his ward who have contacted him with respect to this issue. He said he heard tonight an amount of \$500,000.00 and requested any information with respect to that. He reported that late last week he did write to Senator's Voinovich and Brown's offices to inquire further because he could not receive an answer locally. He reported that as of this time he has not yet received a response from either Senator's office.

Mr. Haas said he also inquired as to when the dry basement program would be going forward and it is his understanding, from personal knowledge, a dry basement program has been put together but has heard nothing about it. He requested an update with regard to what might be expected with respect to that program.

He thanked the Motorcycle Club and he, along with other members of Council, appreciate what they do. He joined with Mr. Johnson and express his hope their upcoming event is a great success.

He thanked Mr. Sutherland for his years of service, especially this year given the circumstances he has had to deal with over the last eight months. He said he understands the environment under which he has had to work. He recalled the budget process and how Sam helped as much as he could. He asked department heads to please come back to Council if a need arises.

Mr. Haas expressed his shock at hearing about the possible closing of the Hilltop Fire Station.

He thanked the members of the unions who stood by the MOUs throughout this process. He said he thought they had jumped the last necessary hurdle since the Mayor had signed off on everyone of them. He expressed his appreciation and noted it to be his understanding that AFSCME voted last Friday on the issue of whether or not they were going to continue to support the Memorandum of Understanding due to the numerous grievances that have been filed by a number of union member, City employees against the administration for improper hiring, and unfair labor practices. He also understood there to be gag orders placed on several employees who are not allowed to discuss what is happening in their departments and the hostile working environment. He again expressed his appreciation to those members for their patience and expressed his hope that this MOUs works out for the City, saying he knows that is what the unions were interested in doing.

6th Ward

Councilman Noel said he sees work is being done on four condemned houses in his ward and felt the Mayor must be doing something to get something for these demolitions. He said he, for one, appreciates what she is trying to do under the handicap Council has provided for her. He expressed his hope that she will continue doing what she has been doing.

With regard to the Motorcycle Club, Mr. Noel said he spoke to her personally about this and she is not against the motorcyclist, saying a radio personality blew it out of proportion.

The Auditor, for purposes of clarification of some things that were stated earlier, said Council did not have the option of taking a raise or giving it up as their salaries are set by charter. He also noted the Auditor and Solicitor did give up any raises they might have been scheduled to receive this year in the original budget. However in contrast, the Mayor did get about an 8% raise this year.

The Auditor said he was a little too young to remember first hand exactly what happened but speaking of taking away citizens rights, it is his understanding that many years ago the citizens voted to pursue a mall development in this town but the Council, at that time, went against the wishes of the citizens and decided not to pursue that mall. Mr. Williams said it would be interesting to see where we would be today, if we had those kinds of developments. He said our City might not be in this situation now.

Mr. Buckler advised that the Solicitor was fulfilling his military obligations and that was the reason he could not be present this evening.

The meeting adjourned at 7:55 p.m., on a motion by Vice President Haas.

City Clerk

President of Council