

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING
Monday, February 23, 2009
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday, February 23, 2009 at 6:00 p.m., in the Council Chambers of the Municipal Building.

The Acting President welcomed and recognized Susan Lee and her National Government Students from Shawnee State University who were in attendance this evening.

Acting 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:

Mike Mearan	1 st Ward
David Malone	2 nd Ward
Bob Mollette	3 rd Ward
Jerrold Albrecht	4 th Ward
John Haas	5 th Ward
Richard Noel	6 th Ward

Also present were Mayor, James D. Kalb; City Solicitor, Michael L. Jones and City Auditor, M. Trent Williams.

Council dispensed with the reading of the Journal for the regular session of February 9, 2009, on a motion by Councilman Albrecht.

STATEMENTS FROM CITIZENS ON ITEMS ON THE AGENDA

Teresa Mollette – 1705 Franklin Blvd. felt Council needed to “look at” the 2009 budget before it is passed, claiming it to not be ready for passage.

LEGISLATION

The Clerk gave a **third reading** to an ordinance to amend the Salary Ordinance as amended by Ordinance No. 72 of 2008, to reflect wage increases to the AFSCME 1039 C as a result of a new contract, to reflect wage increases for non-union employees and to make changes to reflect the minimum wage amount as outlined in the constitutional amendment passed by voters in November 2006 to be effective January 1, 2009 and to repeal Ordinance No. 72 of 2008.

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 4 (Mearan; Malone; Albrecht; Haas) – nays 2 (Mollette; Noel) The ordinance was passed. ORD. #13-09**

The Clerk gave a **third reading** to an ordinance amending Section 169.10 of the Codified Ordinances of the City of Portsmouth, Ohio – Health Insurance Premiums.

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 5 (Malone; Albrecht; Haas; Mearan) – nays 2 (Mollette; Noel) The ordinance was passed. ORD. #14-09**

The Clerk gave a **second reading** to an ordinance amending Section 169.20 of the Codified Ordinances of the City of Portsmouth, Ohio – Life Insurance.

Councilman Albrecht moved this constitute a second reading.

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

The Clerk gave a **second reading** to a Resolution approving and ordering for certain eligible non-bargaining employees of the City of Portsmouth, Ohio, in the following departments: Legal, Legislative, Finance, Executive, Engineering, Public Utilities, Public Service, Police, Community Development, Fire, Health and Municipal Court, that an additional one percent (1%) of the total of the statutorily required employee contribution of the Ohio Public Employees Retirement System shall be “picked-up” (assumed and paid to the Ohio Public Employees Retirement System on behalf of its eligible member employees) by the City of Portsmouth, Ohio.

Councilman Albrecht moved this constitute a second reading.

There were no questions or comments. The roll was called. **VOTE: ayes 5 (Albrecht; Haas; Noel; Mearan; Malone) – nays 1 (Mollette) A second reading was declared.**

The Clerk gave a **first reading** to an ordinance to make appropriation for the current expenses and other expenditures of the City of Portsmouth, Ohio, beginning January 1, 2009 and ending December 31, 2009, as provided for in Section 49 of the charter of the City of Portsmouth, Ohio.

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

The roll was called. **VOTE: ayes 4 (Haas; Mearan; Malone; Albrecht) – nays 2 (Noel; Mollette) 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 4 (Mearan; Malone; Albrecht; Haas) – nays 2 (Noel; Mollette) The ordinance was passed. ORD. #15-09**

The Clerk gave a **first reading** to a resolution to accept and adopt the updated Design Review Guidelines as accepted by the Ohio Historic Preservation Office.

Councilman Albrecht made a motion to adopt the resolution.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 The resolution was adopted. RES. #02-09**

STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Ray Mitchell – 2460 Michlethwaite Road said that about a month ago he spoke with a fireman and was told that the City already had a 100 foot ladder truck. Mr. Mitchell claimed the purchase of another ladder truck was a waste of money. Mr. Mitchell claimed the number of buildings in Portsmouth that are over 100 feet tall could be counted on one hand. He suggested that if Council did not believe him they could do the math and proceeded to mathematically demonstrate his opinion. He also claimed to have searched the Internet and he found “all kinds of ladder trucks” ranging from \$70,000.00 to \$400,000.00 plus. Acknowledging the ladder truck that was traded in by the City to be a 1985 model, Mr. Mitchell questioned the number of miles that would be put on a ladder truck. He said if he were given the name, make and serial of the ladder truck that he would get on the Internet and call all over the United States and bet he could save the City \$100,000.00, if the truck has not already been purchased. He asked if anybody had checked this out on the Internet. He felt there was “one out there” now claimed the City could save \$50,000.00. Mr. Mitchell claimed the bottom line to be that the City does not need a new truck, claiming that the City has “two 100 foot ladder trucks” and only four or five buildings that warrant it. He said, “This is why we had to pass something to keep this spending under control” and asked if members of Council could understand why the citizens wanted to pass “something like that”.

Wayne Nichols – 2018-8th Street, noting Mr. Mitchell must have missed a few meetings; he advised him that he had already suggested that the City check the Internet for a ladder truck, saying, “Which, obviously they did not bother to do”. He surmised that the check had already been written for the truck, “since it went over thirty days without a referendum”, which, he said, “I suggested I agreed to do but they didn’t want to do that”. He said he also suggested a recall of one of the Councilmen, if they would have done that. Mr. Nichols stated it to be his understanding that when there was a recent fire on Summit Street, there was no water in the fire hydrant and when they tried the one at High Street there was not enough pressure. He recalled a suit against the City in the late 60s or early 70s when his mother’s antique shop burned because there was not adequate water, saying “He got a big lick of money out of it”. He acknowledged that he did not know who owned the property on Summit Street, saying “they said it’s not occupied but I know better but that’s alright, I got a story for somebody, if they want to hear that”. He also claimed citizens to have been carrying hoses down the hill for the fire department in order to get enough water and called it “a disgrace”.

Rita Haider- 3355 Indian Drive suggested starting a community garden. Mrs. Haider provided Council and the Mayor with a fact sheet, which was designed to give many different groups the basic information they need to get their gardening project off the ground. Mrs. Haider, reading from the fact sheet, provided information on forming a planning committee; choosing a site; preparing and developing the site; organizing the garden; insurance; setting up a new gardening organization; organizational considerations; what goes into formal Bylaws; how to manage your community garden; troubleshooting; children’s plots; people problems and solutions; resources; seeds; bedding plants and websites.

Preston Smith – 1115-15th Street said he thought it was a good thing that the federal government may provide funds for a new City building if local people are going to be used for the construction/rehabilitation work. He said the money is to generate jobs where there are none. He claimed the official’s first concern to be about a City building and not about the citizens. He said if citizens cannot be put to work on a new building then the City should take that money and use it for creating jobs somewhere else. He claimed the problem to

be “a new City building”, which he claimed to be only for “officials the elected officials and so forth working”. He further stated, “The City doesn’t have that much, they may come in here to pay a bill, come in here for a meeting and they gone”. He accused Council of wanting something for themselves, saying “the City has gotten along without it so far”, saying “you’ve got enough buildings around here now – every time you turn around it’s a building for this and a building for that”.

Janie Book – 1540 Jackson Street complained about property at 1536 Jackson and the problems she said she has faced for the past nine years. She said this particular piece of property was full of vermin – rats, possums, snakes, raccoons. Mrs. Book said she keeps her property in good shape but still has rats and told of watching them “jump and play” during the day. She said the only time she has received any help with this situation is when she goes to the Mayor. She acknowledged having received some assistance from Becky Steele of the Health Department but claimed Ms. Steele’s supervisor claims it to be a conflict of interest for him since he resides in the same neighborhood and he doesn’t want the neighbors to be mad at him. She threatened to report the problem to the state because she did not feel she should have to live this way. She also accused the Health Director of not addressing this problem. She acknowledged that she had tried to buy the property under the land reutilization program but was not able to do so and has accepted that fact. Mrs. Book’s five minute time limit having expire, she took her seat and promised to return for Council’s next scheduled meeting.

Teresa Mollette – 1705 Franklin Blvd., referring to the Special Meeting held by Council on February 11th, said there was an attempt to get 100% support on a vote for submission of an application for funding through the stimulus package for a new municipal building. Mrs. Mollette expressed her opinion of what she felt needs to happen in this community, which was “we need to get together and vote to support working our infrastructure”. She did not feel the community needs “a position or a place for City offices”. Mrs. Mollette felt that it has never been proven that there is anything wrong with the present building. She said, “This building was put up and was suppose to house a government for a population of anywhere from 40,000, 50,000, 60,000 people” and estimated today’s population at less than 20,000. Noting that some of these numbers are children, which leaves fewer people to support construction and renovation, she suggested that we “live within our means”. Mrs. Mollette suggested that Council “bring up an ordinance or resolution to support stimulus money or grant money to support infrastructure”. She also reported having heard a “rumor” about the fire department not having water. She reported having passed by the burning house and said, “we saw them dragging hoses trying to find a fire hydrant that would put the fire out in that house”. She said that, since that time, she has noticed the fire hydrants are painted, saying, “I guess I’m under the understanding that green means you’re good, orange means you’ve got low pressure and black means your house is going to go because there is no water”. She said “I’m paying taxes and I’m paying my money to make sure that my house is safe but all this Council seems to be worry about is a building for them to go into”. She described the present building as being “a nice building” saying, “I think this building can be taken care of, I think this building can be worked on”. Noting this to be an election year “for certain ones”, Mrs. Mollette said she thinks “people need to ask who they are going to vote on, how they feel about the Marting’s building. I feel if they support the Marting’s building they should be voted out of office.” However, she felt “If they say ‘we’re here for the infrastructure, infrastructure for our City is what we need and what will interest people to come to our community’ I say ‘vote on em’”. She further claimed the Mayor to be cognizant of the work that goes on on Jackson Street because he has family who lives there, saying, “I think that has a lot to do with it”. She continued saying, “Maybe it has to do with who you are or what you know but if you’re nobody in this town they could care less”. She said she was getting tired of the “care less” and felt everybody in this community is equal and “everybody in the community no matter where they live, what they make or what they do for a living is equal – they have equal rights for protection, safety, security, a home that they know when they retire they can count on that being their home”. She continued, saying, “So far I have not seen a whole lot out of several of these Councilmen wanting to protect the community – we need somebody that will protect the citizens of this community and be concerned about food”. She claimed there to be a lot of people who want to be involved in the community but all she sees is “you driving and driving people out of this community because of your wasteful, inconsiderate spending”.

Dee Penix – 1708 Hutchins Street inquired as to why a four-way stop has suddenly been erected at 19th and Franklin. She claimed there to not be enough traffic at that intersection to warrant a four-way stop, however she felt one is needed at 19th and Hutchins.

Eileen Perry – 1410-16th Street, with regard to the stimulus package, said she hoped the City was not applying for funds for the Marting’s Building because the people have voted against it twice. She suggested the building be used for “new storage and other things like that”. She asked if Council were “going to make EPA come in here again and make everybody from the City come to a meeting like they’re concerned”. She continued saying “What’s up? Spend money wisely and smartly, okay?” She claimed that her cousins ages 4 and 5, could “run this City better than what you guys are doing now – some of you”. She continued, saying “Some of you vote ‘yes’ on everything and then you make it look as though ‘no’ looks like they’re the dummies but it don’t go that away and please don’t be stuck on stupid”.

The Mayor called a point of order, saying he wanted to make a comment. Noting the last remarks, he said he did not feel that was addressing Council and elected officials with respect or dignity. The Acting President noted it to be “a point well taken”.

Peggy Burton, City Health Commissioner said she would like to address Mrs. Book’s issue and asked that Mrs. Book be given additional time to finish her remarks, saying this is an issue that she would really like

to conclude. Ms. Burton stated that as far as her involvement in her situation, she took umbrage to the accusations she made with regard to Ms. Burton not doing her job. Ms. Burton explained that she had gone to the property and saw that the Service Department had cut all the weeds. She said she had the property fully exterminated by a professional and after going back to check the property it was reported that the rodent problem had been corrected, however Mrs. Book has called to say the rats are back. Ms. Burton said she sent the exterminator back to the property and he reported there were no rats. Ms. Burton stated that Mr. Book agreed that the rats were not back; therefore she felt that the problem had been corrected. With regard to another issue, the land reutilization program, Ms. Burton said Becky Steele from the Health Department is present this evening and advised Council that Mrs. Steele has worked on this program for about one and a half years and was recently instrumental in actually getting the program started. Ms. Burton further advised that Mrs. Steel was the person who actually went to the Courthouse and physically wrote down the 1,500 properties that have been foreclosed. Ms. Burton said that if Council would let Mrs. Book speak again she felt Mrs. Steele would be able to clear up her other issues.

Janie Book – 1540 Jackson Street, upon Council's approval, continued her remarks. Mrs. Book reiterated the fact that she was trying to obtain the property located at 1536 Jackson and acknowledged that she did receive assistance from Ms. Burton but she felt the problem was not resolved. With regard to her husband, she said she would let him speak for himself. She maintained that the rat problem still exists and offered to take pictures. Mrs. Book said she was not trying to get anyone in trouble but she wants everyone to do their job and she felt citizen should be able to have their problems resolved through the correct department. Mrs. Book continued by reiterating the problems she has had with the property located at 1536 Jackson. She claimed that a face to face conversation with Chris Murphy resulted in the Service Department immediately clearing 90% of the property of weeds and trash. She said, upon reporting this to the Director of the Service Department, the employees returned and finished the job. Mrs. Book credited Mrs. Steele with helping her "tremendously". Mrs. Book said Mrs. Steele has been the only contact, other than the Mayor's office, that she has had in the past nine years. She invited everyone to drive down the 1500 block of Jackson to witness the problems for themselves. Mrs. Book advised everyone that she has just been told that the Health Department "is no longer allowed to issue citations for barking dogs without have two neighbors record the start time of the barking and the stop time of the barking for three consecutive times". She questioned why and then returned to her complaint with regard to rats, noting that all citations must be delivered directly to the offender and cannot be left at the door or sent through the mail. Mrs. Book's time having run out for a second time she was granted more time by Council. She said when she inquired about why citizens could no longer be cited for trash on their property she was told, "the Judges, Kegley and Schisler, will not let them do that because it ties up their court". Mrs. Book expressed her problems with them and wanted to know how the City can be run and employees deal with their jobs if this is what is happening. She suggested setting up a separate time or separate court or conduct court on Saturday. She asked if the whole town should be allowed to become full of trash and therefore she must live in filth. She wanted to know why she should have to give up her home because some rental property has decided they are going to trash it and live in filth. She said she did not think this to be fair and said it to be her biggest problem. She said she understands and has come to terms with the fact that she was unable to purchase the property at 1536 Jackson but felt it to be "a let down" on the part of a lot of people and claimed it to be because "of just half way doing your job". She acknowledged that Council has no administrative authority but she wanted everyone to be aware of the type of things that are happening and questioned the Judges' decision.

Becky Steele, Sanitarian for the City's Health Department said she was not here to rebut Mrs. Book's remarks but her purpose for being here tonight was to report on the Land Reutilization Program. Mrs. Steel, noting she has been working on this program for the past one and one-half years, said she was happy to report that of the ten test cases – four of them were sold at the Sheriff's Sale, which, she said includes the property at 1536 Jackson. She noted that the man who purchased the property is aware that the property had been condemned and he is more than willing to revitalize that property from top to bottom. She also reported on other previously condemned property that is going to be revitalized by the new owners. Mrs. Steele reported two other properties that are presently going through the process of a Sheriff's Sale and in thirty days deeds to four of the ten properties will be transferred to the City because no one purchased them after being offered at two Sheriff Sales. She noted this to be in accordance with the ORC. She acknowledged that these properties will be published to the community for anyone to purchase, however, the City will determine what is to happen to those properties and if it is determined that a structure shall be razed, that would have to be agreed to by the purchaser before the sale. Mrs. Steele announced that Mr. Chad Sayre, a prosecutor for the County who does the City's foreclosures, advised her that on Wednesday HB 138 has passed; therefore it is no longer necessary for these properties to go through a Sheriff's Sale anymore. She acknowledged this came too late to help Mrs. Book. She said properties that have already gone through a Sheriff's Sale in accordance with the ORC would not be covered by the passage of this new legislation. Mrs. Steele noted that the upcoming cases will be covered under the new law.

Carlton Cave – 1521 Waller Street reported a rodent problem at property located at 16th and Waller Street. He said this property has many large rodents of another variety. He said he would also like to hear someone speak to or be directed to the proper department with regard to the traffic problem at the underpass at 16th and Waller that he reported at the last Council meeting.

Miscellaneous business and reports:

City Clerk's Report

1. Received from the Ohio Division of Liquor Control a notice of a request to transfer a C1 & C2 permit:

From: Hicks Wholesale Co.
DBA Hicks Wholesale Co.
1910 Scioto Trail

To: Hicks Wholesale Co.
DBA Hicks Wholesale Co.
249 – 2nd Street

2. Received a notice from Horizon House, Community Properties of Ohio Development LLC advising that they will be the General Partner in the renovation and rehabilitation of the Horizon House. Once the proposed rehabilitation is complete, Horizon House will retain its HUD Section 8 rental assistance contract and will also operate under the Low Income Housing Tax Credit program. The project will utilize funding from the Housing Credit Program, Housing Credit Gap Financing, Housing Development Assistance Program and Housing Development Loan Program.

The City has the right to submit comments to the OHFA regarding the development's impact on the community. A statement of disapproval or objection must be submitted as a written statement that is signed by a majority of the voting members of the legislative body governing our jurisdiction and must be forwarded, by certified mail, to the Executive Director of the OHFA

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

Mayor's Report

1. Reiterated the fact that applying for funds from the Stimulus Package for a City Building **does not** exclude any other project.
2. Pointed out the fact that the City did, in fact, need a new ladder truck and reported the ladder truck that the City traded for the new truck, blew its engine in the same week that it was traded.
3. With regard to Mr. Cave's concerns about traffic at the 16th and Waller underpass, the Mayor suggested he contact the Police Chief's Assistant in the Police Department and request this concern be addressed at the next Traffic Committee meeting.
4. Described Mrs. Steel's report regarding HB138 to be "great news" he expressed his sympathy to Mrs. Book that the bill was not passed by the Ohio Legislature in time to assist her. He noted, however, that it will help in future with the City's Reutilization Program. He also cited Mrs. Book's problem as being a fine example of the need for a rental licensing program, which he noted he has presented to Council on three occasions with no action being taken.
5. The Mayor described the idea for a vegetable garden to be something that a lot of people might be interested in doing and suggested Mrs. Haider get in contact with his office to see what kind of arrangements can be made.

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

The Acting President had nothing to report.

Miscellaneous business from City Council:

6th Ward Councilman Noel said problems that have occurred since the last meeting have been addressed and reported to have received good cooperation from the Mayor's office.

5th Ward Councilman Haas had nothing to report from his ward.

4th Ward Councilman Albrecht had nothing to report from his ward.

3rd Ward

Councilman Mollette encouraged the students in attendance to continue their interest by attending future meetings.

Mr. Mollette reported having prepared several letters that he has given to the City Clerk to copy and distribute to Council and others. He reported on the contents of the first three, which dealt with (1) "Citizens Problems and Seeking Strategic Solutions" suggesting a "plan" and citizen involvement. (2) "Compliance with Ordinances and Regulations for New Construction Permit", which involves construction above Seneca Drive. (3) "Proposed Requirement for Petitions prior to Tax Levies on the Ballot". Mr. Mollette was seeking discussion and support to establish new requirements prior to placing a tax levy on the ballot for the voters. Mr. Mollette's time having expired he requested additional time to explain the other two letters. Mr. Mollette having confirmed that copies of the letters were being copied to Council was advised by the Acting President that Council could read those for themselves. Upon Mr. Mollette continuing to speak about the next letter, the Mayor called for a point of order. The Acting President reminded the Councilman that his time had expired, however Mr. Mollette continued to speak until gavelled down by the Acting President. (note: copies of all the letters referenced by Councilman Mollette are public record and, for the next five years, will be on file in the Clerk's office for the public's review).

2nd Ward

Acting President Malone had nothing to report from his ward.

1st Ward

Councilman Mearan welcomed the students from SSU and expressed his hope that their experience has been rewarding. He invited the students back to witness how the judicial system works.

He disagreed that this building is "a nice building" and described it as being "a disgrace" and it needs to be replaced. He expressed his hope that there will be new court rooms for citizens.

Expressed sympathy for Mrs. Book's problems and acknowledged them to be frustrating. He noted there to be 1,500 such properties in the City and questioned how, financially, these can be eliminated. He reported a resident in his ward to be having the same problems. He restated plans for members of the bar association to volunteer their time to help with the foreclosure process. In response to Mrs. Book's remarks regarding the Judges, Mr. Mearan explained the reason a complaint cannot just be left at a property is because the due process of law requires notice of a hearing, which is why the judges require personal service on matters of this type. He said it is sometimes hard to do but is a small price to pay to protect everyone's rights. He acknowledged this to be a major problem and expressed his hope will be dealt with through the stimulus package. He commended Mrs. Steele and Mr. Smith, saying they are doing a tremendous job and are looking for money that will assist them in dealing with these problems.

The Auditor, with regard to the cost of an aerial fire truck, said he did not feel it in the best interest of the City to purchase used equipment and pointed out that the fire truck the City traded for the new truck had the engine blow up in it within a week of being traded. He said he would hate to have seen the City buy a \$300,000.00 - \$400,000.00 used piece of equipment and have something like that happen to us. Mr. Williams felt that if the Fire Chief were present this evening he would be irate at some of the remarks that were made this evening. The Auditor reported the cost of the truck purchased by the City was approximately 1.1 million dollars and because it was a previous year model used as a demo, never in fire service the cost was reduced by about \$295,000.00. He noted the trade in value to be about \$125,000.00 bringing the cost to the City of about just under \$680,000.00. Acknowledging it to be neither here nor there, he invited anyone who wished to do so to see if they can find a practically brand new truck for less than \$700,000.00, to spend their time doing so. With regard to the remark, which was made twice, that the City has two aerial fire trucks, the Auditor said "we don't" and reiterated the fact that the old truck, whose engine blew up, was traded for one really good condition aerial truck. Acknowledging that he is not a firefighter nor was anyone in the audience a fire fighter, the Auditor said that doesn't make anyone here an expert but he has spent some time here at the City getting to know the different departments and he does know that you don't just use an aerial truck to reach up. He pointed out the fact that an aerial truck is used, most of the time, to reach out somewhere in between a 90 degree angle and flat. He noted the larger distance you have to serve you the better regardless of whether it is a six foot structure or a six story building. He further noted it to be quite obvious that there are no aerial trucks in New York City that are going to service any of those buildings, which, therefore, is obvious that aerial trucks are not made for reaching the top floor of any building. The Auditor pointed out that if there were a fire in this building right now the aerial truck is probably not going to reach much beyond the roof because it will be parked in the middle of the street. He also pointed out the fact that an aerial truck cannot just be pulled up along side of a burning building and extend the ladder straight up like an elevator. Instead, he said, the truck is parked in the middle of the street and reaches out and up as far as possible. With regard to the statement that was made about the fire truck just sitting in the fire house until River Days when it is brought out for the parade, the Auditor said he saw it used on a hay fire in Boneyfiddle several months ago. He pointed out that children could have been trapped inside the maze and the only way to get out over top of the hay was not with

a fire hose on the ground but rather with an aerial truck. He noted that it had a few extra feet to spare and he was glad that it did. He also noted there were two story homes in this City that would benefit from the same reach, noting that the fire truck is not parked in someone's carport to extinguish a fire in the next room. Mr. Williams said he was glad that members of City Council had the fortitude and cared enough about the employees of the fire department, as well as its citizens, to provide proper, new, good condition equipment even if some of the citizens who are being provided with the safety and security of that equipment, do not understand exactly why it is needed.

With regard to the City Building, the Auditor noted that for many many years we had a City Building Annex located next door to this building. He further noted that building to have been in deplorable condition and it only stood for many many years longer than it should have because it was a City Building. Mr. Williams pointed out that if that building, Griffin Hall, been owned by any one else but the City, the former Health Commissioner would have shut it down. He said, "I would say, if Peggy were pressed today, Peggy would probably shut us down. She wouldn't let us work in this building". Mr. Williams said it was not for elected officials to have great offices, noting that the City has a responsibility to 300 employees and that responsibility is not being met. He acknowledged a better building is wanted and the thought is that people should not be visiting the building from out of town and calling our municipal building a "dump". Mr. Williams suggested that the people who worked in the building next door be asked what kind of condition it was in, noting they worked there for a lot of years. He said he hoped City Council and this administration will continue to work, not only on finding a new City Building, but work on the infrastructure remembering there are many different things that can be worked on at the same time. The Auditor pointed out that the Mayor, who supervises ten departments, is not just focused on one thing or one department at a time but in fact all the administration staff is working to get as many things accomplished as possible. He said he was glad that City Council is continuing to work toward all those efforts.

The Solicitor, acknowledging the recent election results to have been certified by the Board of Elections, said he has been approached by at least one member of Council, in terms of what is the legal effect of that particular vote. Mr. Jones said he believed, as the City's attorney, that there is an issue as to whether or not there were a sufficient number of votes actually cast to make that a valid ordinance to effectively change the City Charter. He said he has provided copies of pertinent sections of the Ohio Revised Code, of which he wants Council to be aware. Mr. Jones stated that, in his opinion, a question about the language of that particular petition that was put before the voters. He specifically noted the language that states, "Approval of the majority of the electors of the City of Portsmouth needed for passage" and further noted these words to actually appear in the caption of the official question issue that was put before the voters. Mr. Jones, referring to the actual text of the amendment, quoted the following "this amendment shall become effective immediately upon passage by a majority of the electors of the City of Portsmouth". He referred to the definitions under the Ohio Revised Code under Election Law Chapter 35, specifically pointing out Section 3501.01 and read the following definitions:

(N) "Elector" or "qualified elector" means a person having the qualifications provided by law to be entitled to vote.

(O) "Voter" means an elector who votes at an election.

The Solicitor's opinion was that the definition of "elector" are those people who have registered to vote and qualified to vote and felt there to be a key distinction between an "elector" and a "voter". Saying he has heard, during discussions, those who feel "elector" and "voter" to be synonymous, however he said he would argue that there is a clear distinction and noted that, in fact, our legislator in Ohio has made that distinction. Going back to the language in the proposed charter amendment, Mr. Jones read the following "approval of majority of the electors of the City of Portsmouth needed for passage". He pointed out again that "electors" means those that are registered to vote in the City of Portsmouth. Mr. Jones noted the registered voters in the City to be about 12,000 and pointed out the fact that the total vote was less than 1,500.00 and it was his opinion that the required number of people had not actually voted. The Solicitor pointed out prior ballot language, that has been put forth with regard to charter amendments or for votes such as for the City Center, states and has always been "a majority vote is necessary for passage". It was the Solicitor's opinion that this was a "key term", noting the reference is going back to those individuals who actually voted in the election. He stated this to be, in his opinion as City Solicitor, a complete contrast to what was requested on that particular ballot initiative. Having said all that an having been asked by at least on member of Council, the Solicitor said it was his opinion that the ballot initiative did not receive the required number of votes for passage. However, he felt there to be an issue and believed it to be something the City should ask a higher authority to interpret this for us. Mr. Jones said he has been informed by the Secretary of State's legal department that there roll is to only certify the "yes" votes and the "no" votes, which they have done. He said he has been told that they are not going to get into a discussion of whether or not the actual ballot initiative passed, which would amend the charter. Therefore, the Solicitor felt it to be in the best interest of Council and the City to resolve this issue by requesting the Court of Competent Jurisdiction to determine whether or not this ballot language issue, in fact, received the required number of votes to pass therefore, potentially, amending our charter.

The meeting adjourned at 7:19 p.m., on a motion by Councilman Albrecht.

