

**MINUTES – REGULAR SESSION**

**PORTSMOUTH CITY COUNCIL MEETING**

Monday, April 13, 2009

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday, April 13, 2009 at 6:00 p.m., in the Council Chambers of the Municipal Building.

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 <sup>st</sup> Ward
David Malone	2 <sup>nd</sup> Ward
Bob Mollette	3 <sup>rd</sup> Ward
Jerrold Albrecht	4 <sup>th</sup> Ward
John Haas	5 <sup>th</sup> Ward
Richard Noel	6 <sup>th</sup> Ward

Also present were Mayor James D. Kalb and City Solicitor, Michael L. Jones

Council dispensed with the reading of the Journal for the regular session of March 23, 2009, on a motion by Councilman Albrecht.

**STATEMENTS FROM CITIZENS ON ITEMS ON THE AGENDA**

Dee Penix – 1708 Hutchins inquired as to how the City will pay for the two additional employees in the Health Department and from where the money would come to purchase supplies to fix up properties before they can be sold. She requested Council check to see if there is an ordinance giving the Mayor the authority to direct these employees. Mrs. Penix referred to the one section in the Charter (Section 86) that addresses “public health” and proceeded to read that section. She felt there is a need for this section to be clarified before creating this new position.

Wayne Nichols 2018-8<sup>th</sup> Street said he did not recall a position of Code Enforcement Officer being in the budget and was not even sure “the entire physical budget” has been approved.

Teresa Mollette – 1705 Franklin Blvd. referring to a “flow chart and the Portsmouth tree”, she claimed it to show that the Health Department is under Council not under the Mayor. She felt, if the money is available, the newly created position “should be in the right organization and should be used for the proper purposes”.

Mrs. Mollette also expressed concern with the CIP budget. She disagreed with the purchase of five police cruiser plus three additional vehicles for other departments “within the City”. She claimed “everyone else in the State and in the United States” was “downsizing” and felt al the City of Portsmouth knows is how to spend money. She felt the City’s way of spending would not bring people into the community. She felt the CIP funds should be spent on roads and infrastructure, specifically on Grandview Avenue, which she felt would bring money back into the community and that would encourage people to move into the City. She felt the money should be spent to encourage growth, saying she hoped she did not have to spell out “growth” she proceeded to list those things which she felt would promote growth. She reiterated previous remarks she has made with regard to a “plan”, which she spelled for Council.

Harald Daub – 1221-22<sup>nd</sup> Street objected to he proposed purchase of police cruiser and cautioned Council, claiming that previous approval for the purchase of cruisers resulted in the purchase of Ford Expeditions.

With regard to the union contracts and wage increases, Mr. Daub said, “I personally witnessed sweetheart deals in this City” Noting there to be an upcoming election, he said he hoped Council will give these ordinances at least three readings and claimed Council “usually” “jump in” and suspend the rules and pass ordinances on one reading. Mr. Daub claimed the Mayor to have negotiated these contracts and noted him to “be up for election” and expressed his hope that other candidates take notice of that. Stating that at the last election the unions endorsed Mr. Kalb, Mr. Daub said, “I wonder why, was it because they got such a good contracts.” He claimed come of the pay increases to be “kind of overboard for our economy right now”. He said he personally witnessed City Managers giving “sweetheart deals to union – on union contracts in exchange for favoritism”. Mr. Daub continued, saying, “If that’s what we’ve got going here, I hope Council takes a good look at it”.

## LEGISLATION

The Clerk gave a **first reading** to an ordinance authorizing the acceptance of a check from Allstate Insurance Company in the amount of \$1,025.58 for damages to a City vehicle into General Fund No. 101.4931 and the appropriation of same into Garage Maintenance of Licensed Vehicles Line Item No. 101.117.5264 for needed body shop repairs.

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

The roll was called. **VOTE: ayes 6 – nays 0 The rule was suspended.**

Councilman Albrecht made a motion to pass the ordinance.

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed. ORD. #18-09**

The Clerk gave a **first reading** to an ordinance authorizing the intent to apply for and the acceptance of grant funds from the U.S. Department of Justice, Bureau of Justice, into Revenue Account No. 215.000.4320 and the appropriation, as received, into Police Payroll Line Item and Police Equipment Line Item, as required by terms and conditions of the grant, for the duration period of the grant.

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

The roll was called. **VOTE: ayes 6 – nays 0 The rule was suspended.**

There were no questions or comments. The roll was called. **VOTE: ayes 6 – nays 0 The ordinance was passed.**

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. #19-09**

The Clerk gave a **first reading** to an ordinance authorizing the addition of a full time position, Code Enforcement Officer II, and a seasonal (6 month) position to aid in the success of the Land Reutilization Program as well as hold responsibilities in other areas.

Councilman Albrecht moved this constitute a first reading.

Councilman Mollette expressed his hope that before the next meeting the answer to the questions as to where in the budget this cost will be located and whether or not it will require a change in the budget or “equalize the funds out”. He noted the other issue to be the “applicability” of for whom this individual will work, whether it is the Mayor or the Board of Health.

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

The Clerk gave a **first reading** to an ordinance approving the 2009 Income Tax Capital Budget and appropriating funds for same from the Capital Improvement Fund No. 301, for items listed only.

Councilman Albrecht moved this constitute a first reading.

The Mayor advised Council that departments are in attendance and can answer any questions.

The Acting President asked for an explanation for the request of \$20,000 for “web site improvements”. Jennifer Hanlon, Community Development Director, stated that the City is actually in the process of hiring a company to actually do the total redesign of the site, noting the original design was done in about 1999. She reported the plans are to not just update the material but to give the site a whole new appearance. She explained that this project is a little behind because of staffing and other issues that have occurred over the past year, which, she said, were a little more important than upgrading the web site. She advised that the City will still be maintaining the site, however the company with whom the City will be involved already focuses on small municipal governments. She explained that the site will be data base driven and instead of one person keeping the site updated, each department will have the capacity to update their specific pages. Ms. Hanlon further explained that one of the features that is being considered is called a “request tracker”, which means, that if someone is driving home from work and sees a pothole they would not have to wait until the next morning when the City offices are open because the pot hole can be reported by logging on to the City’s website and file the concern. She said this concern can also be tracked as to its disposition.

Councilman Mollette acknowledged having already submitting several pages of questions and noting that perhaps not all members of Council would have the same questions, he said he would not want to tie up Council, therefore he would accept a response in writing that would convince him that “we’ve looked into this”. Mr. Mollette said the main reason he reviews the budget is not to be critical or negative but rather “to use this process to gain support from the public so the people are confident that the money is being well spent and that there is no questions as to the reason why”. Mr. Mollette noted a lot of his questions are due to a lack of description with the requests. With regard to the \$50,000 in matching funds being requested by the Community Development Department, Mr. Mollette wanted to know what is trying to be accomplished with this request, saying “This way we will win people over when these items are being approached”. Mr. Mollette felt it would be a “good plan” to track where we are with regard to projects that have not materialized.

With regard to the Community Development’s request for CIP funds for Historic Preservation and as CDBG matching funds, Ms. Hanlon said she would like to hire an historic architect to look at both Branch Rickey and Spartan Stadiums and help the City to decide if either or both of those would be eligible to go on the National Register. If so, she would like to actually be able to create and application to get that accomplished. She said that would also open up some future grant money for the facilities and explained “the other” is for a preservation and maintenance plan for those items. She stated the school system had previously brought in an engineer who did a “walk through” of the facilities; however the present plans are to have an historic architect, who is familiar with historic sites and that type of infrastructure, to provide the City with, not just a preservation plan for historic structures, and a maintenance plan. With regard to the matching CDBG funds, Ms. Hanlon stated that every year when applying for these grants she usually begs other department heads for matching funds, however, starting this year, she has actually put in money in her CIP so it will be easier for her to track the funds. Noting that some CDBG grants are multi-year, she said the problem is that at the end of each year she has to remind the Auditor and the department heads to carry-over any matching funds. She further noted that if a department holding matching funds has an emergency they may have to spend that money, which creates a problem in trying to replace it once the grant is awarded. Ms. Hanlon said she is just requesting that all the matching funds be placed under her supervision this time around. She reported that the City is going to be applying for two CDBG Grants and will also need to bring in an engineer on board at the beginning for some preliminary engineering and noted some of the matching funds will be used for those services. With regard to her request for a vehicle, Ms. Hanlon pointed out that every year for the past five years she has requested a vehicle but it is always pulled because there are suppose to be other vehicles that will be available. She said by the time a vehicle is ready for the auction they already have a lot of wear and tear on them as well as a lot of mileage, therefore there has not been a suitable hand-me-down available for her use. Ms. Hanlon advised that for the past 5 ½ years she and her grants technician have used their personal vehicles for City business. She noted that if she has to make five trips to the City Building I one day it is her money that pays for the gas. She estimated to have averaged, during the past five years, anywhere from 5,000 to 7,000 miles a year on her personal vehicle. In response to Mr. Mollette suggesting that Ms. Hanlon apply for mileage and that he would expect the Mayor to evaluate whether or not this would off set the cost of her using her personal vehicle, Ms. Hanlon said she is looking at an SUV hybrid the Ford Escape. She noted that it is necessary for her to carry a lot of materials with her for presentations as well as transporting four or five people. She reported that most of her driving is in town, which she felt made sense to purchase a hybrid.

With regard to matching funds, Ms. Hanlon noted funds will be needed for the actual application as well as to hire an engineer to provide preliminary engineering. She explained “matching funds” are dollars that the City must put into a project to match the grant funds. In response to being asked why she did not file for more than \$350,000.00 in funds for curb cuts, Ms. Hanlon explained that \$350,000.00 is the maximum and felt that if a grant is received, \$50,000.00 should be adequate as a match.

The Mayor advised that he has written responses from various departments to questions posed by Councilman Mollette and will make them available to him before the next meeting. Mr. Mollette reiterated remarks he has previously made with regard to a “five-year plan” saying “where are we in perspective of our Capital Improvements Budget and if we had a five-year outlook then we would know what we would give up this year in order to accomplish something in next year or what we’re giving up next year to accomplish something this year”. Noting the amount of expenses proposed for Fund #301, Mr. Mollette inquired as to the amount of proposed collections for 2009 and how much is suppose to be carried over, saying he is looking at next year with regard to “what kind of items do we need to carry over to next year?”. The Mayor stated that he believed most of the requests will be covered in the current year and that he had discussed this with the Auditor and he did not seem to have any problems with the requested amount.

In response to Councilman Noel inquiring with regard to Rose Street Park in Sciotoville, the Mayor another organization is interested in taking care of the park. He said no announcement has yet been made but the City is formulating terms with a group that will utilize and maintain the park. In response to Mr. Noel expressing concern about the deterioration of the park, the Mayor said he believes this is due to the fact that the park hasn’t being secluded and not being utilized. He also felt a lot of the traffic comes in through the woods and are not noticed by neighbors because they are not entering by the front gate. He said this also makes it difficult to be noticed by a patrolling officer. The Mayor acknowledged the damage and the condition of the park, saying that is why the City is trying to make other arrangements to utilize the park at less expense to the taxpayers and to provide an opportunity for someone to use the park for a specific purpose.

Councilman Mollette, with regard to resurfacing projects, asked, “Do we need to spend more money on resurfacing in order to maintain our infrastructure?” and asked, “Do we have an overall plan on for a feel for are we keeping up with maintaining our streets or is it just slowly slipping out of our hands that we’re not

able to maintain our streets and alleys". He noted that alleys have not been taken care of and expressed concern as to whether or not \$181,000.00 would be enough to maintain the streets. The Mayor advised there to be a total of \$200,000.00, noting there to have been a \$19,000.00 carryover. He further noted \$200,000.00 is the amount that is allotted to streets each year. The Mayor acknowledged that to not be enough to fix the streets because they "took a beating" over this past year. He also acknowledged that street repairs has gotten a little behind due to the fact that last year the entire street budget was almost all spent on Harding Avenue in the 6<sup>th</sup> ward because the residence of Sciotoville had been promised for a long time, by the state, that street would be paved. He noted the state to have twice delayed the paving of Harding Avenue, which would make it another three years before it would be paved. The Mayor felt that by that time the condition of the street would be "way out of hand" had the City not intervened and paved it last year. He also noted the freezing and thawing that was experienced this past winter has contributed to street deterioration and reported an attempt to catch up is being done with some patching at the present time. The Mayor said the City will see what it can accomplish with the \$200,000.00 this year by stretching it as far as possible. He again acknowledged the need for more money but felt a "big dent" can be made with the funds that are available. Councilman Noel noted that Milldale Road is possibly longer than Harding Avenue and inquired about it being paved, saying he did not think it would hold up during the winter and feel the City will be lucky if it makes it through the summer. He acknowledged that it would take as much money to resurface Milldale Road as it took to resurface Harding Avenue and felt that if there is not going to be enough money to do the job then something needs to be done to get the money that is needed, saying "take from someplace else or whatever we have to do". He felt the road to be unsafe for those who have to use Milldale. In response the Mayor said he understood and acknowledged the City to have a lot of roads throughout the City that are just as bad or worse than Milldale. He said, at the present time with patching, the City is trying to take care of some of the really bad spots. The Mayor noted this to not be unique to Portsmouth and pointed out the fact that neighboring cities have also taken a beating on their roads and none of them are any better than what we have here. He noted that if Council wants to adjust the requests, the City can certainly use more money for roads but felt we are working within a program where some serious improvements can be made and needs are being addressed as they are identified. In response to Mr. Noel saying he was for doing something to Milldale Road this year, the Mayor asked if he were suggesting that all the money budgeted for street resurfacing is spent in the 6<sup>th</sup> ward again. Mr. Noel stated, "If that's your option to have that amount of money in there, yes". The Mayor noted that was something that he (Mr. Noel) might want to discuss with the rest of Council who have problems in their wards too. Mr. Noel said he was in favor of putting enough money in the budget to do the job, saying this is not something that can be put off nor can the road be closed. Mr. Noel said he checked with engineers in Columbus this past week and was told that the state highway between New Boston and Sciotoville will not be widened until next year. Mr. Noel claimed that if there is an accident on that stretch of road traffic is tied up and traffic detours around it by going over Milldale Road, which is like driving over an obstacle course because of the washed out berm and loss of asphalt. He claimed the County's portion of the road to be in "good shape". In response to the Mayor suggesting that Mr. Noel speak with other members of Council, Mr. Noel said he did not feel that to be his job. The Mayor said he did not think it to be his job to take all the resurfacing money and use it to improve just one road when there are so many that also needs attention. Mr. Noel said he would not argue that point and he would not want to take anything from any of the other streets but noted Milldale Road to be a street in the City of Portsmouth just the same as other streets and felt it should be "kept up so that it can be passable", claiming that at the present time it is not safe to pass on that road. The Mayor said he would have the Service Department take a look at the road to see if there is something that can be done until such time as it can be resurfaced.

In response to Councilman Haas asking if there is a list of streets that are going to be resurfaced, the Mayor advised that there is but at this point it is just a preliminary list.

Councilman Mollette felt that he, along with the rest of Council, wants to make the best of the funds that are available and felt there to be other items being considered for purchase that need to be weighed against needs versus wants. Mr. Mollette said we have to do the best with what we have and it creates a struggle for him and is the reason why he has requested an overall plan. He felt paving to be a safety issue and felt that purchasing a vehicle as opposed to doing more paving is something that should be given some consideration. He said he felt this would gain confidence from the public that we're spending money wisely if done in an "organized, planed manner". Mr. Mollette inquired as to what special projects are being considered for a budgeted amount of \$120,000.00 and suggested that perhaps some of that money could be used for maintaining infrastructure. The Mayor advised the \$120,000.00 along with funds from last year for the development of the Wi-Fi and widening of a section of Grandview Avenue where there has been a lot of accidents. He said some other projects could include bridge repair, building maintenance and other small projects none of which are frivolous. With regard to devising a plan, the Mayor reported that to be exactly what he and the department heads do when they sit down together to determine what is really needed and what is needed to continue to provide safe services for the citizens. He pointed out the fact that this budget is what they felt is needed and advised Council that if they want to review it and suggest changes then they could look at those but if they are thinking of cutting vehicles they would be cutting into the services provided by the Police Department. He reiterated remarks made by Jennifer Hanlon with regard to using her own vehicle. The Mayor said he has already weighed the City's needs and he would not support any changes to the budget. Councilman Mollette felt the Mayor was asking Council to "get on board" with regard to his plan and while Mr. Mollette was willing to do that he wanted to be convinced that these items that are "in the proper order" and it is "well within Council's request to get information in to be assured that these are the best items that we are operating in the most efficient manner". He said Council is not seeking to find fault but rather "to find items that win me over, that will convince me that this is the best plan". He noted some listed line items to be nondescript such as the \$15,000 in Engineering for "building repairs" and felt it would have been preferable to have left this particular

ordinance in the work/conference session where questions and the transfer of information back and forth could have taken place instead of moving forward and trying to just get it passed, saying "It's important to gain the confidence of the public". The Acting President inquired as to other items in the Engineering including a central computer. He noted that Council, as well as the public, has been waiting for the meetings to be televised and felt Council should know what it needs to do to get that to happen. The Mayor advised that, due to its age, the central computer needs to be replaced. He acknowledged Mike Penn; the City's GIS Adm/Systems Analyst, to be present and turned the floor over to Mr. Penn to explain the items budgeted for the Engineering Department. Mr. Penn explained that the City currently has several old servers that maintain a variety of applications, including all the payroll and water accounts. He said they are all currently approaching their "end of life" (3 to 5 yrs). He reported most of the servers are at 5 years with the exception of the main server, which is on its 6<sup>th</sup> year. Mr. Penn explained the plan to be that instead of spending \$47,000.00, as was done last time, is to spend about \$12,000.00 and change everything over to a Window's Base server, which is what has been recommended by CMI. The Mayor noted that the computer itself will be cheaper than the maintenance agreement on the present server. He also noted that the new purchase will include a three-year service warranty. In response to the Acting President asking what could Council do to get the meetings televised, Mr. Penn said he has been talking with a couple of people regarding the audio, which has been our only issue. He reported the video look "really good", however the audio pops, distorts and echoes. He said he has been working through all the things in a set that might be causing the problem but as soon as one cause is eliminated more pop up making it necessary to back track. He acknowledged it to have been a long process but assured everyone that it would get done. In response to Councilman Mearan, Mr. Penn explained how they edit the video from each of the three cameras with the audio. He explained the distortion that occur and noted one of the things causing the interference is the cell phones. Mr. Mearan noted that the court does video depositions all the time using one camera and have no problems with the audio. He said he would rather have a single camera that works than three cameras that don't work. Mr. Penn pointed out the fact that the City does not have a single camera that can take in the entire Council with one shot, however, Mr. Mearan felt that something was better than nothing and noted the citizens who take videos to put on the Internet. The Mayor pointed out that the City does not have anyone to man the camera and do the necessary panning and focusing, which is why the City was looking for a permanent system for broadcasting the meetings. Mr. Mearan acknowledged that but felt something else needs to be done in the meantime. It being noted that the manager of Eagle Broadcasting, Mr. Jones, is willing to put the meetings on the air as soon as someone drops off a disc to his station, Mr. Penn stated him to be one of the people to whom he has been discussing the sound issues. In response to Mr. Mearan asking if we have a deadline on when the audio will be corrected so we can, if necessary, choose an alternative method, Mr. Penn said the problem will be corrected just as soon as possible. For clarification, Mr. Mollette gave a synopsis of the efforts that have been made to try to get the meetings televised and claimed the issue to be that Council needed to pass an ordinance that provided approval to do the telecasting and this is something that Council has never done even when he went to Adelpia to get an ordinance that could be passed. Mr. Mollette continued, saying he felt we are over complicating the issue, noting that the original concept was to put one stationary camera on the wall, thus there would be no question as to where the camera was being directed, then a disc would be taken to the cable company. He said if keeping it that simple to get it started then he is in favor of doing it that way, saying, "if it's too complicated for three, lets get back to the original idea of putting one up, record it and take it because at least it would give some information to the public that couldn't make it here, who want to participate, just because they are not here doesn't mean they don't want to participate". In response to the Mayor asking Mr. Mollette if he understood him to say that not having the meetings on video was the fault of Council, Mr. Mollette said, "I would say that its Council's meeting and by Council not having it up there, I would take it that Councils not pushing it to make it happen because we could say 'we've appropriated the money and we've got the equipment so why isn't it happening' Council's not following up". He felt that asking questions about why it is not happening, why are we waiting, and when is it going to be done will make it happen. In response the Mayor asked Mr. Mollette if he were proposing a resolution to televise the video we have. Mr. Mollette said he has tried that in the past without success. The Mayor asked if it then was not Council's decision to not broadcast the video, to which, Mr. Mollette stated that he was not sure from where it came. The Acting President asked Mr. Penn if he could do what needs to be done using one camera for the near future and then whenever possible extend the taping to include the other cameras. He said he felt televising the meetings needs to be prioritized.

Councilman Mollette, in order to simplify matters, said he would not mind concluding this discussion if the Mayor has written answers to the questions he posed in writing. He said he would post those answers on his website and if he has any further questions he will pose them at the next meeting.

There being no further discussion the roll was called on Councilman Albrecht's motion for a first reading. **VOTE: ayes 6 – nay 0 A first reading was declared.**

The Clerk gave a **first reading** to an ordinance approving the 2009 Capital Outlay Budget, designating and appropriating \$50,650.00 in the Street Maintenance Capital Outlay Fund No. 233, designating and appropriating \$205,000.00 in the Flood Defense Capital Outlay Fund No. 265 and designating and appropriating \$100,000.00 in the Sanitation Capital Outlay Fund No. 631 and designating and appropriating \$10,300.00 in the Cemetery Trust Capital Outlay Fund No. 851 for listed items only.

Councilman Albrecht moved this constitute a first reading.

Councilman Noel asked if this ordinance was for routine maintenance. The Acting President did not believe these requests were for routine maintenance and posed the question to the Mayor. The Mayor

explained that the request includes some truck purchases but other items are things that have to be addressed, noting that part of the request are for routine maintenance and are generally year to year requests. In response to Mr. Noel referring to these requests as being “normal operating expenses”, the Mayor advised that they are actually capital improvement requests. Councilman Mollette reviewed this request with regard to Mr. Duncan’s five-year plan and expressed Council’s hope of maintaining a \$500,000.00 reserve and asked if these are requests that were in the five-year plan, noting that items are being addressed “as we go from year to year” without “getting into” the \$500,000.00 reserve. The Mayor confirmed that these requests are a part of the five-year plan and that none of the 500,000.00 will be used. Mr. Mollette continued explaining the five-year plan and asked where we were in regard to the amount of money being spent versus the taxes that are being received plus the operating expenses and whether or not “we are staying within our projected limits to maintain the \$500,000.00 in funds that we may need for emergency purposes”. Mr. Richard Duncan, Public Utilities Director of Waste Water, stated that in the last four years there has been about an \$8,000 to \$9,000 carryover in Flood Defense every year. He noted the figure at this time is close to a million dollars even with the requests from the 2009 budget.

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

The Clerk gave a **first reading** to an ordinance approving the 2009 enterprise Funds Capital Budget, designating and appropriating \$920,000.00 in the Waterworks C.I.P. Fund No. 606, designating and appropriating \$100,000.00 in the Waste Water Fund No. 621, and designating and appropriating \$70,000.00 in the Waste Water Capital Outlay Fund No. 622 for listed items only.

Councilman Albrecht moved this constitute a first reading.

The Mayor advised Council that he will provide them with copies of the answers to the questions submitted by Councilman Mollette. He also asked that if any other members of Council had any specific questions he would appreciate them submitting them to his office so he could provide the answers prior to the next meeting. He expressed his hope that the CIP budgets would be passed at that time, noting there to be pending projects that need to move forward.

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

The Clerk gave a **first reading** to an ordinance ratifying the agreement entered into by the City of Portsmouth, Ohio, with the American Federation of State, County and Municipal Employees (AFSCME), Ohio Council 8, AFL-CIO, Local 1039 for the period of May 1, 2009 through April 30, 2012.

Councilman Albrecht moved this constitute a first reading.

The Mayor acknowledged that this wasn’t a “payback” or a “bribe” or anything that was insinuated earlier, with regard to settling the contract. He reported that all the contracts that have been settled are all pretty much in the area of each other. The Mayor pointed out that, in these contracts, the City did, for the first time ever, negotiate a co-pay for the insurance. He said he felt large steps have been taken and he felt the employees have given as much as they have taken.

Councilman Mollette felt the negotiation was done in good faith and felt it to be Council’s approval that the Mayor is now expecting. Mr. Mollette questioned Article 13 regarding seniority, saying he is wandering what the change is and also wanted to know what the pros and cons are with regard to a change from City-wide seniority to departmental seniority. He again expressed his concern with regard to pay increases and questioned whether or not, as Council, they can make a promise to meet these increases “without have any forecasting ahead of us to tell us what next year’s budget or the year after that or what information used when you negotiated these increases”. In response the Mayor pointed out that before this ordinance was requested Council had been provided with a budget that showed there to be sufficient funds to provide the raises that were being negotiated. In response to the Mayor asking if that answered his question, Mr. Mollette replied in the negative and noted that the letter given to him by the Mayor provided him with an insufficient answer. He claimed the Mayor had provided a total cost of his projected expenses for 2009 and his response was that the City would meet those expenses. Mr. Mollette stated that nothing was said about whether or not it would be necessary to pass a tax increase to meet those expenses or whether cuts would have to be made in other places to meet those expenses. The Mayor stated that the proposed budget was not based on an income tax increase. He explained that at the time the budget was prepared it was done so with funds that were estimated to be available and felt they were sufficient to implement a contract that included these wage increases. Mr. Mollette, stated that this just addressed this year’s budget and called that the problem because we are not looking at the budget for the next two years and inquired as to what our estimates would be for the next two years. The Mayor pointed out that the City could possibly have to make some serious adjustments to the budget six months from now or we may be “flushed” and not have a need for an increase in the income tax. He advised Mr. Mollette that if he had insight on either one of those he would sincerely appreciate him sharing that with him. The Mayor pointed out the fact that the budget is based on best knowledge and information that is available. Councilman Noel inquired as to whether or not a one-year contract was proposed and how many more contracts need to be negotiated. the Mayor advised there to be one more contract to be negotiated. With regard to negotiating a one-year contract, Mr. Noel said he would rather negotiate a contract every year for three years than to agree to a three-year contract during these poor economic times. Councilman Mollette, with

regard to seniority, asked if “city-wide” seniority meant that employees could “jump” from one department to another. The Mayor advised that this would basically eliminate classification seniority. He explained that the way it has been set up if there was a person on the back of a garbage truck with ten years seniority and another person in wastewater with one year seniority, the person in wastewater would be able to take advantage of a promotion in wastewater ahead of the person on the garbage truck who has ten years seniority. The Mayor said he did not feel that a person with more seniority in another department should not lose out on a better position because that position is in a different department. Councilman Mollette expressed his concern as being that someone in the water department, who has gone through a lot of training, which makes him very proficient at his job, could be bumped from a promotion by someone in the sanitation department, then that person would require a lot of training in order to get to the position that was already attained by the employee of the water department. The Mayor explained that this is not about “bumping someone out” but is about job postings and employees bidding on those openings. He said he believed part of the stipulation for bidding on a position is that the position goes to the most senior, most qualified person. Mr. Mollette interpreted that to mean in a division or department and felt to extend the bidding to other departments could create the need to spend more money for training, noting that someone from the department may not have the most seniority but might have the best training. The Mayor explained that there are operators in training for most of the specialty jobs. He explained this as a required program from which an employee has to graduate before occupying certain position or to become an operator. He said a person who is most qualified may get the job but the person with the most seniority in a different division or department would have the opportunity to do the job and if he passed the qualifications for becoming an operator in training than he would be the next person with the knowledge to take that job. In response to the Acting President asking if there were OIT’s in all the departments, the Mayor explained that these positions are primarily in the water and wastewater departments. The Mayor pointed out the fact the Service Director has a hard job because his employees are most often in a training mode because the Service Department has most of the entry level positions and it is from there that most employees bid out to other departments. Councilman Mollette expressing his concern that someone with training would lose out on a job because someone in another department has more seniority and would have to meet the OIT qualifications, asked if there were other cities that had similar contracts. The Mayor explained that if there were an employee who had already successfully completed the OIT phase they would be qualified to take the position of operator – they would not still be an OIT. At the request of the Mayor, Sam Sutherland, Director of Utilities – Water, explained that a license is required to work in the plants, saying if there is a layoff, unless someone working in that plant has a water or wastewater license, they cannot bump an operator out of the plant. He stated, however, that an OIT could possibly be bumped, because they are not yet fully qualified to be an operator. The Mayor explained that an OIT is a non specialized position. Mr. Sutherland acknowledged that it would be possible for a clerical worker with twenty years of service could bump an OIT as long as that person could meet the initial qualifications. He noted that there is language spelled out in the contract now that will help union employees get specialized training and provide them an advantage. He further acknowledged that if he or Mr. Duncan want a licensed operator and can find one that is probably the route they will take. Mr. Sutherland said the contract language now states “senior city-wide seniority” but it also says it will be based on qualifications. He reiterated the fact that in order to work at the plant a person must have a license but acknowledged that they do allow OITs train in order to get their license but they are not even locked into a position until they get that license. He noted it to be a 24 month program and anyone who does not obtain their license within that time frame will go back to the position from whence they came. The Mayor stated, and Mr. Sutherland confirms, this to be a way for employees to get into the OIT training program.

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

The Clerk gave a **first reading** to an ordinance to amend the Salary Ordinance as amended by Ordinance No. 13 of 2009, to reflect wage increases to the AFSCME 1039 as a result of a new contract, to eliminate grade X as the position no longer exists and to amend the job title within the Fire Department listed as Secretary to Administrative Assistant to be effective May 1, 2009 and to repeal Ordinance No. 13 of 2009.

Councilman Albrecht moved this constitute a first reading.

Councilman Mollette noting this to be a first reading, said , “If between now and the next meeting the Mayor is able to forecast where our revenues are going to be, he will be able to gain my support with the contract that’s on this agenda”.

There being no other comments the roll was called. **VOTE: ayes 6 – nays 0 A first reading was declared.**

#### **STATEMENTS FROM CITIZENS ON ITEMS NOT ON THE AGENDA**

Wayne Nichols – 2018-8<sup>th</sup> Street claimed that Chuck Jones of Eagle Broadcasting could have the cameras in the Council Chambers manned by his personnel at a cost of \$150.00 per Council meeting.

Mr. Nichols accused the 5<sup>th</sup> Ward Councilman of trying to eliminate free speech by asking citizens to submit their comments in writing prior to the meeting. He felt this would cause people to have to think ahead about what they wanted to say. He again threatened recall.

Allison Kalb – 2234 Vinton Avenue, in response to remarks made by a citizen at the last meeting with regard to the Mayor being absent, explained that she had called him five minutes before the meeting to tell him that his dog had been seriously injured. Through tears she said she felt her husband would want to be with his best friend during his last few minutes of life. She explained that the Mayor took his dog to the vet but unfortunately the dog died and the Mayor returned to the Council meeting. She felt a lot of people to be judgmental and speak before knowing the facts. She asked all the candidates for Mayor to run a clean campaign and not try to drag someone else down. Mrs. Kalb said she knows and likes most of the people running and ask that everyone show respect for each other.

Dee Penix – 1708 Hutchins Street acknowledged that new rules with regard to speaking about items not on the agenda are not new a new suggestion. Mrs. Penix disagreed with having to submit remarks in writing prior to the meeting saying sometimes she has no idea on Friday what she will speak about at the meeting on Monday. She noted that if something happened over the weekend there would be times that she would have to wait for three weeks before addressing the issue before Council. Mrs. Penix stated that members of Council were elected to work for the public and should be given every opportunity to speak. She felt this should be done in a respectful manner from both sides. She claimed citizens to have lost confidence in government at every level. Noting that sometimes legislation is added to the agenda at the last minute asked why then should more be expected from citizens.

Teresa Mollette – 1705 Franklin Blvd. noting Council meeting was previously televised using just one camera said she was stopped by Council when she offered to provide a disc that could be broadcast on the government channel.

She also objected to consideration being given to changing the rules with regard to citizens speaking about items not on the agenda. She felt this would violate citizen's right to speak, saying "you work for us" and they had a right to address Council. She felt that as long as there is no cussing, demeanor doesn't matter. She reported that she and her husband, Councilman Mollette, testified in Columbus "before the House of Representatives through a committee" for HB 9. She acknowledged that they were requested to submit their topic early or submit paperwork but it was not necessary. She said, "If we attended that day and decided at the last minute to go, we were requested to come to the podium and speak", saying "we were not hindered in anyway to give our opinion and for them to hear us". She said she was really surprised that they "talked back". She objected to members of this City Council not conversing with the public during a legislative session. He also objected to Council members being told that they are only allowed to speak twice "when they are giving their dissertation or whatever it is here". She asked, "How are we, as public, suppose to know what is going on, if you restrict your own Council, saying "they work for the people, they work for the people, they need these questions answered before legislations ever passed". She claimed to have seen nothing out of Council except them trying to "restrict communication, accountability". She further claimed this was what is needed in Portsmouth to move us forward. She accused Council of working against the public and could not understand that, saying "you are voted to work for the public, to work for bringing our City forward, to work for making us progressive". She claimed our city to be "the laughing stock" of the area. Her time having expired, Mrs. Mollette returned to her place in the audience.

Preston Smith – 1115-15<sup>th</sup> Street, noting school will be out in thirty days, asked if the pool has been checked to see what needs to be done to have it opened on time and expressed his doubt that it would be. He claimed the City did not know what repairs are needed and that the Service Director had no idea what has to be done and that he does what he thinks needs to be done instead of getting input from the public. He predicted that there would be another delay in opening the pool. He also claimed the Mayor to not know what is needed. Mr. Smith also claimed the Council didn't know what was happening and objected to anyone begin charged to use the pool, saying "it should be free". He claimed the grass needed to be cut and listed various other things he felt was wrong with the pool.

Harald Daub – 1221-22<sup>nd</sup> Street also felt the meetings could and should be taped with just one camera but felt it should be delayed since there were several officials who are candidates for public office. He believed that if these officials were seen on camera during the Council meetings then opposing candidates would have to be given equal air time. He felt the Council meetings could be used to promote some person.

Mr. Daub inquired as to how much it was costing to defend the City with regard to "the rock". He claimed the Solicitor to have spent many hours defending the Mayor on this issue and he objected to these funds being spent. He suggested rolling the rock back into the river and did not know why it had to be kept at the City garage.

Austin Leedom – 1521-5<sup>th</sup> Street also objected to requiring citizens to submit there remarks on items not on the agenda prior to the meeting would be against citizen's freedom of speech and it should not be taken away. He felt that people should not be hostile to one another. He felt some feel they are "special people" who have some type of divine right because they were elected and in many cases appointed to their positions, saying "an appointment doesn't give you special permission from the great Almighty and doesn't give you a place above anyone else, we're all children of God, brothers and sisters".

He objected to an increase in income taxes saying people are already upset with fee increases. He wanted to know what the City was doing with the money and noted the Police chief to have had a plan that was reasonable but was rejected by the people. He also claimed the swimming pool to not have opened on time since the last Mayor was in office.

Reiterated previous remarks he has made with regard to the infrastructure, the removal of certain traffic signals and stripping of the streets and the City not being clean. He felt there were some programs that needed to be reinstated and felt the income tax increase would not pass.

Eileen Perry – 1410-16<sup>th</sup> Street expressed her sympathy to the Mayor over the loss of his dog.

Reiterated previous remarks she made with regard to a four-way stop sign being erected at the intersection of Franklin Blvd. and 19<sup>th</sup> Street. Ms. Perry said she was told by a person on the Traffic Committee that the placing of the four-way stop sign was done at the request of one person and there were no other subsequent meeting to discuss the request. She objected to it being proposed that citizens submit their inquiries in writing prior to the meeting, saying that if the member of Council making this recommendation had done his research he would have known about the situation regarding this four-way stop sign. She then stated, “We did elect you all to represent us, the citizens”.

Mike Malone – 1731 Robinson Avenue noting someone commenting a few meeting ago about the City having surplus, commended City officials saying everyone should be thankful to our leaders. He pointed out the fact that many cities are facing bankruptcy or looking at a deficit.

With regard to the McKinley Pool, Mr. Malone acknowledged the Service Director, Chris Murphy, the Mayor and members of Council to have an open door policy and are willing to answer questions at any time. He said he did not think it necessary to approach the podium and address issue at an open microphone, without first discussing a problem with the appropriate department head or elected officials. He felt there to be a proper way to address these issue rather than doing so at a public meeting. He acknowledged Mr. Murphy to have a lot of things to address throughout the City and felt him to be on top of the McKinley Pool issue. He also advised that the admittance fee is not \$3.00 but has, in fact, been reduced. Mr. Malone made it known that several events were scheduled to help defray costs of operating the pool and to make it possible to decrease the cost of admittance. He said he sees basketball courts and everything else going on in the City under the direction of Chris Murphy and he wanted to extend his thanks to him. He noted that Mr. Murphy works under the direction of the Mayor and receives funding for his department through City Council and these things get addressed by the citizens. Mr. Malone said he wanted to thank of for working to provide activities for our young people.

#### **Miscellaneous business and reports:**

##### City Clerk’s Report

1. Received from the Auditor, on April 2<sup>nd</sup>, the following reports for the period ending/ 2/28/09:
  - Combined mtd/ytd expense report
  - Mtd/ytd revenue report
  - Combined mtd/ytd fund report
  - Mtd bank report
  - Appropriation transfer from transaction listing
- 2, Oaths of Office
  - Barbara Doyle for position of Tax Commissioner
  - Sherry Boling and Melanie Turull for positions of Finance Clerk I

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

##### Mayor’s Report

1. Thanked the last speaker for checking and making sure of his facts. He reported major repairs to have been made to the pool and it will be open on time. He said the cost of admission has been discussed with the Service Director and it will be \$1.00 this year. He said the City is not making any money on the pool at \$1.00 nor was it making any money at \$3.00.
2. Announced that on June 20<sup>th</sup> the Civic Forum will be hosting a Soap Box Derby again in the City and it appears that it will, once again, be held on Kendall Avenue.
3. With regard to remarks made about raises, fees, and income taxes, the Mayor reiterated the fact that our city has some of the lowest utility rates in the State of Ohio. He said he again asked engineers about the problems on Grandview Avenue and the possibility of receiving grants to help alleviate the issue and was again told that our water and sewer rates are not high enough. He said they do not feel the City is where it should be with regard to taking care of ourselves.
4. He acknowledged that times are hard all over the country in all states and cities but pointed out the fact that the City of Portsmouth had a record year with the highest

income tax collection ever in the history of the income tax. He reported it to be difficult to negotiate a union contract when we have had a record year. He said to not allow raises in a good year would result in the contract being taken to arbitration. The Mayor noted the employees in the City are underpaid when compared to other comparable cities.

5. With regard to a remark made about the “Clean and Green” Program, the Mayor agreed it was a great plan but did not work out as it should because people abused the program by spilling cans of paint on the street, leaving tires and wheels in the dumpsters, overflowing trash into the street causing a problem for traffic. He said he is looking at other options and possibly can have a similar program without putting dumpsters in the street.
6. In response to remarks made about the “rock”, the Mayor said it is times like this when he thinks it is not such a bad idea for people to think about what they are going to say and get the facts before speaking publicly. He said rolling the rock into the river would create some legal fees because the City is under orders from the Corps of Engineers to not move that rock. The Mayor said attempts have been made to move the rock because that space is needed by the Service Department. He said he did not think the City wants to “butt heads” with the Corps of Engineers. With regard to legal fees, the Mayor said he believed the City to have made only one court appearance with no charge for outside attorneys. He said he and the Solicitor have appeared in court once here and once in Kentucky and that has been the extent of the City’s court appearances with no costs involved. He acknowledged that everyone is tired of talking about the rock and he thought we should be done with it, however, we do not want to butt heads with the Federal Courts and agencies who say it is not over.
7. He suggested that people who speak with regard to fee increases should check their facts. He said he has previously provided figures and statistics and suggested those people who feel our fees are too high to check with other cities throughout the state. He said it is not a matter of trying to take away a person’s right to speak but felt it to be an attempt to encourage people to think about what they are going to say before they come to the microphone just to say they agree with someone who has already spoken. He said that is not addressing anything and felt Council, just as he, wants to hear citizens’ concerns. He said he does not turn away phone calls or visits to his office from concerned citizens and was sure Council members do not turn anyone away either. He commended the Service Director and other department heads for doing a good job. The Mayor said he felt Mr. Murphy has done an excellent job with the pool and noted him to have his hands full with all the recreation areas and other duties of his department.

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

#### President’s Report

1. Reported receiving a request from the League of Women Voters for a donation to help fund their service and educational projects they put together for citizens.
2. Reported also receiving a request for financial support for the North End Reunion to help defray some of the cost of hosting this event.
3. Reported the expiration of an appointment to the Board of Design and Review and his plan to make a recommendation soon. He also noted the 3<sup>rd</sup> and 5<sup>th</sup> ward appointments to the Traffic Committee to be expiring and that those members of Council will be making those appointments.
4. In response to a citizen’s comment about limiting members of Council to speaking twice on a single subject, Mr. Malone pointed out the fact that this is one of Council’s rules. He said if Council does not want to adhere to this rule then it needs to be changed. He also noted changing the rules with regarding citizen’s speaking is not an attempt to not allow citizens to speak but rather a matter of following a process. He encouraged citizens to contact their Council person or the appropriated department head for a quicker resolution to their concern. He said if the problem is not resolved after following this process than it could be brought before Council. He further noted that some of these issues do not have to be addressed at a Council meeting. Mr. Malone assured everyone that no one would be refused the opportunity to speak however there is a process that needs to be followed and asked that everyone work together.

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

Miscellaneous business from City Council:

1<sup>st</sup> Ward

Councilman Mearan reported the opening of DJ's Restaurant at the former Fergies location of 2<sup>nd</sup> Street. He said he visited the restaurant and found it to be busy. He encouraged everyone to patronize this business.

He announced a Celebration of Life for Paul Johnson will be held on Sunday and encouraged everyone to attend.

With regard to McKinley Pool, Mr. Mearan assured Mr. Smith that the pool would be open by Memorial Day.

With regard to televising the Council meetings, Mr. Mearan acknowledged it may be necessary to sacrifice quality to bring the meetings to the public.

With regard to Councilman Haas' suggestion regarding citizens speaking on items not on the agenda, Mr. Mearan felt Mr. Haas' has been subjected to unwarranted criticism. Mr. Mearan point out the fact that Mr. Haas felt that submission of citizen's concerns prior to the meeting would allow the appropriate person to research the matter and provide the citizen with a response at the meeting. With regard to having a back and forth conversation, he pointed out that the rules are not set up for that.

Councilman Mearan said he finds it strange that people come before Council wanting various services and a few months ago all he heard from the people was that they did not want these services provided through an increase in property taxes. It was noted that an income tax was the alternative if we want these services.

2<sup>nd</sup> Ward

Councilman Malone had nothing to report from his ward.

3<sup>rd</sup> Ward

Councilman Mollette reiterated his feelings with regard to communication and that with no discussion there is no opportunity to observe debate thus creating the assumption that no proper debate has occurred. He said he understood Mr. Smith's frustration because of the delays in opening the pool in the past. He encouraged everyone to speak to Council. He also reiterated his belief that Council rules should be changed to allow citizens to speak during the conference/work session and expressed his appreciation to Mr. Malone for his remarks and community service.

Mr. Mollette restated his opinion with regard to the removal of traffic lights and the fact that no public forum was held to allow citizens to discuss this issue. He reported the removal of the signals resulted in two traffic accidents on 12<sup>th</sup> Street at Lincoln and felt the need for feedback on the decision to remove the signals.

With regard to utility rates and the comment that we have to raise utility rates to be eligible for grants, Mr. Mollette stated it to be his impression and felt it to be that of many citizens, is that the enterprise funds are set up so we pay for what we need. He felt that we should be doing "proper planning" in order to be able to forecast the needed improvements and the amount it will cost then raise the fees accordingly. He again expressed his belief that updates on issues should be presented at each legislative meeting and opened for discussion until the issue is resolved. He claimed this would avoid the loss of the information.

With regard to an income tax increase, he said he was not in favor of placing this issue on the ballot because the felt there to not have been enough planning in order to justify the expenses. He acknowledged an income tax to be the proper way to raise income because it generated money from people who are still working.

4<sup>th</sup> Ward

Councilman Albrecht reported his ward's concerns to have been reported to the appropriate department and resolved.

He announced a Cruise-in this weekend at DJ's Restaurant on 2<sup>nd</sup> Street and invited everyone to attend. He noted that proceeds will be donated to charity.

5<sup>th</sup> Ward

Councilman Haas reported having been contacted by people with problems both inside and outside of the 5<sup>th</sup> ward. He said he has talked with those people and provided them with answers to their particular issue. He said he returns his phone calls and advised those with issues to give him a call. He said he will be happy to call the appropriate department in order to respond to a concern. He said he did not think he has been later than one or two days in responding to an issue.

With regard to an income tax increase, Mr. Haas said he is 100% in favor of the increase. He acknowledged the Mayor and Auditor's offices to have put forth sufficient information to indicate how the money will be used. He said one of the things he liked the best is the fact that some of the money will be spent for recreation and noted a new basketball court in Mound Park. He said he felt more things like that are needed to give children something to do.

With regard to his proposal to change the rules for people addressing Council on items not on the agenda, Mr. Haas pointed out that, as he has explained before, this was not intended as an effort to restrict what people say or not allowing people to speak on anything on which they want to speak. He said he just felt it would be nice to have some kind of idea what people are going to talk about before they approach the podium. He said, "At no time, during my posing this proposal at the last meeting, did I say that I would restrict anybody's ability to speak or come before Council".

6<sup>th</sup> Ward

Councilman Noel, noting this to have been a long meeting, said he appreciated it and noted that he has learned a lot about the budget and the he would hopefully learn more at the next meeting.

He reported having "quite a few calls" regarding springtime.

Mr. Noel expressed his appreciation to all the comments by the public.

With regard to "the rock", the Solicitor said he has remained silent on this case for a while now but acknowledged the reason the City of Portsmouth is involved in this case is because they have been sued by the State of Kentucky. He said he felt it needs to be made abundantly clear that before this law suit was ever filed, I specifically attempted to negotiate with the State of Kentucky officials to return the rock. He reported that the City of Portsmouth offered to return this rock, free of charge, if the State of Kentucky wanted to pick it up, however, they chose not to take that option. He said, they chose, instead, to ask the City of Portsmouth to pay upwards of \$90,000.00 to return this rock and to which, we said "no". Mr. Jones stated that the reason the rock is still in the City's garage is because the State of Kentucky chose to sue the City of Portsmouth not because the City of Portsmouth is refusing in any way, shape or form to return this rock. He said, "We will be happy to return this rock as long as the State of Kentucky wants to come and pick it up and go through the appropriate channels with the Corps of Engineers that has put an order on the City of Portsmouth not to remove that rock.

The meeting adjourned at 8:31 p.m., on a motion by Councilman Albrecht.

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City Clerk

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Acting President of Council