

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING
 Monday February 10, 2020
 6:00 p.m.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday February 10, 2020 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Mayor Kevin E. Johnson called the meeting to order. A moment of silent prayer was observed followed by The Pledge of Allegiance to the Flag.

Roll Call showed the following members to be present:

Sean Dunne	1 st Ward
Charlotte Gordon	2 nd Ward
Kevin E. Johnson	3 rd Ward
Andrew McManus	4 th Ward
Edwin Martell	5 th Ward
Thomas K. Lowe	6 th Ward

Also present was, City Manager Sam Sutherland, Solicitor John Haas, Auditor M. Trent Williams and City Clerk Diana Ratliff.

Council dispensed with the reading of the Journal for the Regular Session of January 27, 2020 on a motion by Vice President Dunne. The motion carried viva voce: **VOTE: 6 ayes –0 nays.**

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

There was no one present that wished to address Council pertaining to items on the agenda.

LEGISLATION

The clerk gave a **third reading**, to an Ordinance repealing Ordinance No. 63 of 2019 to decline the acceptance of the SAFER Grant to hire six new firefighters as it is not economically feasible to do so.

Vice President Dunne moved that the Ordinance be passed.

**Ord. #05 – 2020
 Repeal of the
 SAFER grant
 for Fire Dept**

Councilman Lowe stated that he had heard that this grant was available every year. Mayor Johnson said that he’s read somewhere that grants were offered every year, but wasn’t sure if it was this particular one. Vice President Dunne stated that it was funded for another three years. He said that he spoke with Jason at Homeland Security at 1-866-274-0960 and email was firegrants@dhs.gov and asked for background on the grants. He explained that when the grant process first started it was for expanding fire into certain services. In 2008 some cities used it to essentially keep numbers because of budget cuts and now it had moved more into why it was designed. He said that it was funded for another three years and he didn’t envision it going away, but there could be differences in the amounts funded. Mayor Johnson asked if Councilman Dunne was speaking about the same SAFER grant and Mr. Dunne replied “yes” and elaborated a little more. He said that 1710 and 1720 were the standards to help determine what people could apply for. He added that if this legislation gets repealed a few things would happen – 1) Monies that were made available or allocated for this grant would return directly to the Treasury and not reallocated to another city. 2) The city could re-apply again. He asked Jason if a city was in a financial situation like Portsmouth, could they apply again and he (Jason) said that they could apply again and that subsequent applications would be considered on a case by case situation. They do try to avoid situations of grants being repealed by asking for political permission of some sort such as a signature or signed letter etc. He asked what they would require when re-applying in the future and if a letter explaining what happened and he (Jason) said “that wouldn’t hurt” and reiterated the decision would be on a case by case basis. Mr. Dunne asked if FEMA wouldn’t talk to Portsmouth if the grant was repealed and he (Jason) said that wouldn’t be the case.

Councilwoman Gordon thanked Manager Sutherland and Auditor Williams for reviewing all of the numbers; she knew it had taken a copious number of hours. She explained that according to the Charter, the city had to have 44 firefighters and she questioned if our Fire Department had 44 employees, Vice President Dunne said that the Charter stated firefighters and staff. Councilman Lowe stated that he thought that we were meeting that standard and he asked who would know that answer and Solicitor Haas stated that he thought everyone present should know the answer to that question. Manager Sutherland replied that the Charter doesn’t say 44 firefighters, it reads, the Chief, firefighters and support staff and Solicitor Haas replied that there was only one person in the support staff. Mr. Sutherland stated that the budget had been passed for the 30 plus years that he’s been employed and they’ve never had 44 employees. Mayor Johnson asked Solicitor Haas about the question of the Dispatchers and if they fall under the Fire Department, he (Haas) replied that Dispatch was hired, fired and

under the supervision of the Police Chief. Mr. Haas said that in 2008 when he was on City Council, the city was going through financial issues. He said they had to do budgets and the Firefighters were very helpful with not enforcing or threatening to sue the city over not having the Charter mandated numbers in their department, because they knew there was a financial situation in the city, whether that remained the case, he doesn't know. Vice President Dunne asked Solicitor Haas about his time on Council and if the firefighters ever had that full number when he was voting on the budget and if he voted to support the budget, Mr. Haas replied "no" they were not fully staffed and "yes" he voted to support the budget. Councilman Lowe asked when the 44-number was placed in the Charter and if it was based on the population of the city? Solicitor Haas said it was based on the fact that every time there were budget cuts in the past, they took an axe to the Police and Fire, so when there was an income tax necessary, Police and Fire made a deal for the city to put in the Charter that there would be 44 Fire and 44 Police so that they wouldn't be on the chopping block every time there was a financial situation. This was passed in 1987 and the year prior to that, they tried to pass a tax increase and it went down in flames.

Vice President Dunne stated that when the SAFER legislation was presented and passed, he was the lone vote of "no" because the city was in fiscal watch and Solicitor Haas had just mentioned that earlier budgets were discussed when there was serious financial issues with the city and unfortunately that remains the case. He said that after speaking with FEMA, one of the things he was considering were the repercussions if the grant was repealed. He referred back to why he was elected and the shape of certain parts of the city that previous administrations have in many ways destroyed with savage cuts to those departments. He said some of the things he had done was transform certain spaces and improve certain activities etc. He said theoretically he shouldn't be doing that as a member of City Council, but he does it as a volunteer, which included writing grants, following up on grants and organizing different groups etc. He's doing that because we do not have full staffing for Parks & Recreation. He said according to the Carpenter's Union – we are losing large amounts of money in their view because there's not enough code enforcement with construction. He said the income tax the city could be collecting simply is not collected along with a host of other problems. He said with the savage cuts to the Engineering Department that many were worried about the safety of the towns buildings because we do not have an official head of an Engineering Department or a licensed Engineer. He said we also do not have a rental licensing program in which previous administrations had attempted; it was on the books, but had never been put in place which was unacceptable and having a staff to do that was important to the people living in these places and also collecting revenue for the city. He said his vote wasn't against the fire department or fire chief who in Executive Session made a very good case for the grant. His vote doesn't reflect on the Auditor, even though at different times, some of the Auditor's colleagues criticized him, and he thanked him for not returning fire for those comments that were made against him and that were out of line. He said the Auditor's projections were given to Council and were also affirmed by the State Auditor, and they've also been given information by the City Manager. At the last Council meeting he went through about 10 bullet points of what we all agree on, because there were certain parts of this grant that we all agree on and afterwards you could interpret things such as timing, prioritization over other things and at the end of the day that's where we all will have to make our decisions. We are in a situation where the Fire Department and Department of Health are responding to the immediate need of issues surrounding the opioid epidemic and other medical emergencies and as a Council, we asked ourselves "what are we doing as preemptive or preventative measures for more of a long-term plan". He said "if you don't have a city that was trying to provide particularly young kids things to do, we fail". He added his view of the grant, and understood the pros to it being able to help cover the cost of the transition and liked the idea of revisiting it when the city was off fiscal watch, and the city was able to hire an Engineer for the Engineering Department and a Parks & Rec person who could also bring in revenue to the city. He said that it doesn't reflect the performance of the Fire Chief, City Auditor or City Manager, it was the timing of the city being on fiscal watch.

Auditor Williams stated that he never heard an answer to Councilwoman Gordon's question being if the city had 44 firefighters. He said that if you could give him five-minutes he would pull the reports or they could ask the Fire Chief who may know. Fire Chief Raison replied that there were 38 uniformed firefighters and 1 assistant. He said Dispatch had always been the issue because back in the 1980's Dispatch was hired and fired by the Fire Department, but changed sometime in the early 2000's. Councilman Lowe asked if there was a scale on how many firefighters were needed for a city our size or was there a comparison to another city close to our population? Chief Raison replied that there were different ways to look at staffing levels and what FEMA looked at was how many firefighters it took to meet the standards of NFPA which for a typical residential structure fire, they want 14 firefighters and the grant would help them meet that requirement. When you start talking about the size of the community that becomes relevant in larger cities for instance in the city of Columbus, they have to consider the geographic size of the city in which they have to cover and the potential for multiple incidents. He believed that everyone agreed that we need more firefighters, but the issue was whether we could pay for them and believed Council was in a difficult position with the 5-year forecast, which created a fair amount of uncertainty on where things were headed.

Mayor Johnson asked if NFPA set a guideline on how many firefighters should be on a ladder truck when it goes out? Chief Raison replied that "yes" NFPA liked to see 4 firefighters on every engine, the city has 3 engines, so

12 firefighters would be needed to cover the engines and the ladder truck was requested to have at least 5 firefighters per NFPA. He asked if the State of Ohio or local government adopted the NFPA standards and he (Raison) replied that the city adopted it years ago. Mayor Johnson asked how many firefighters are on the ladder trucks when it goes on a call, Chief Raison said there were only two firefighters that go out because when they're at minimum staffing which was a lot of the time, there were only two to every truck. Mayor Johnson said "so we're sending ladder trucks out with two people?" The reply from Chief Raison was "yes". Mayor Johnson asked if this grant passed and you were able to hire six new firefighters, would that change the amount of people sent out on the trucks, Chief Raison said that wouldn't change the amount on the ladder truck. Councilman Lowe asked how many structure fires does the city average per year, Chief Raison stated that it generally runs between 30-50 structure fires per year. Councilman Lowe asked Chief Raison if there were any grants available to the city for a new fire department because they need a new fire station in Sciotoville, theirs was outdated and built in 1962. He said this had been the toughest decision since he's been on Council. Councilman McManus asked what happens in two or three years when we look at the numbers and we're just "dead in the water". Chief Raison stated that after the three-year grant period there was no obligation, but if it became an issue within the three-year period, the city could apply for hardship through FEMA and ask to waive the maintenance level to let the city attrition people out, but FEMA would have to approve it.

Councilwoman Gordon asked Solicitor Haas hypothetically, if there was a fire and someone was harmed in a fire and we've not met our own charter specifications of 44 firefighters, would there be exposure and could the city be held liable? Solicitor Haas stated that the city could be sued but the city could be sued anyway and the issue would be, were they short staffed because there weren't enough workers to cover vacations etc., but it would be a high burden of proof to show that not having the 44 was the approximate cause of injury. His biggest concern would be the Union wanting to enforce the charter which would stand to have more exposure. Vice President Dunne said that didn't change Solicitor Haas' mind when he was on Council and Solicitor Haas said "no" because he had spoken with the firefighters and had spent so much time over there, he even eaten there when he was on Council because that was a perpetual issue, then in 2010 when the city had a Mayor for a short period of time, Council was doing budgets because the one submitted by the Administration was useless. He and Nik Basham spent hours meeting with the firefighters who understood the problems and it was a good working relationship. Councilman Lowe asked Solicitor Haas if he had relatives that work in the Fire Department, Mr. Haas said that his brother-in-law works there. Vice President Dunne said the exposure was very similar but he doesn't eat there, but the city was in fiscal watch and Council should never vote out of fear. Solicitor Haas said that he felt that it was something that should be factored in, but it should not control Council's decision. Councilman Dunne felt that it was great that we have a fire department that goes on the medical responses, but there were others in the city that felt they should not which he disagrees with, but also knows that "others" felt the current number of 44 was too many and that the charter should be changed, again he said he disagreed with that, and different scenarios could be used.

Auditor Williams asked Chief Raison if he was concerned that the program would not make it after the third year, because he didn't see the feasibility after the third-year. He also asked if there were any firefighters retiring because unemployment for 6 firefighters would be very expensive in that 4th and 5th year which had not been included in the 5-year forecast. Chief Raison said that there were people that would reach their eligibility to retire over the next five-years. Auditor Williams wanted to know if the Chief knew for certain that certain firefighters would be retiring and the reason he asked was because that would reduce the unemployment claims which the city pays. The City doesn't pay into unemployment, the city pays the full cost of unemployment, but his hope was that if this happened that the fire department make so much money that we can't afford not to keep the program, but based on the current and projected numbers, he doesn't see it. Mr. Williams asked about the overtime savings and how the figures went from \$54,000 in the first year (which he felt was completely achievable) to \$130,000 and progresses every year. Chief Raison stated that he researched last June, July and August because summer was the worst time of year for overtime; he went through each shift schedule to see if they had two more people per shift, how much of that overtime could have been eliminated and the answer was 91%. They spent over \$250,000 on overtime in 2019 and that does not forecast a 90% decrease in overtime because that wouldn't be realistic at all, but that would account for the 50% reduction in overtime.

Mayor Johnson said that he knew the previous Council and the current Council had been very supportive of the Portsmouth Fire Department. He added that since 2013 when he started on Council, he remembered approving the CBA bottles, weights for conditioning because it's important for the firefighters to be in good physical shape, the new truck from two-years ago and the new squads for the new program; Council had been very supportive and no matter how the vote turned out, the fire department needed to know that Council had been supportive. However, with the City being on fiscal watch and the numbers given to Council which was what they were using according to the report:

- 1) In 2024, if Council does not include 6 new firefighters, the ending balance would be \$3.8 million.
- 2) If they approve it for three-years and then remove the firefighters, it would be \$3.5 million.

- 3) If they include 6 new firefighters for all five-years, it would drop down to \$2.5 million.
- 4) If Council decided to move forward, it would cost \$1.3 million dollars, according to the numbers given.

He said that the city was on fiscal watch and had to give a five-year forecast plan which weighs heavy on the decision-making process. Councilwoman Gordon asked if the numbers that were just read included the unemployment and Mayor Johnson said that unemployment had not been figured into the equation. Councilman Martell asked Chief Raison about the savings in overtime which would be great, however, if someone were to get hurt on the job, another employee would have to cover that job. He added that right now the overtime could be one thing, but who knew what would happen in the future.

There were no further questions or comments. **The role was called. VOTE: 4 ayes – 2 nays (C. Gordon and A. McManus), the Ordinance was passed.**

The clerk gave a **second reading**, to an Ordinance amending Section 175.07 (c) of the Codified Ordinances of the City of Portsmouth, Ohio – Licensing; Insurance.

Vice President Dunne moved that this constitute a second reading.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Rich Scarberry – 4803 Wilson Avenue, Portsmouth, OH – He proposed archery hunting within the city limits. He said there were 11.07 square miles in the City of Portsmouth which equated into 7,084 acres of land, which was 44% or 3,500 acres of uninhabited land. He proposed a \$10 fee to every archer that would have to purchase a license to hunt within the city limits, which was free money that could be used as renewable resource. He said that there must be 4 acres or more of continuous land. He presented firearm statistics only because he was not able to find any archery data where there was a fatality. Archers to Archers simply do not shoot one another, but there were fatalities with firearms, but he wasn't asking for firearms, this would be for archery only. In 2009 this was brought before the city because of the serious concern of lyme disease being transported into our city by these animals. There were an increasing number of predators in our area and hunters kill coyotes. The maximum range for an experienced archer was 40 yards. He requested that Council get in touch with ODNR before a decision was made because he had contacted them, and they said they welcomed Council to contact them. The city needs help in controlling some of the deer and coyotes.

MISCELLANEOUS BUSINESS AND REPORTS:

City Clerk's Report – Clerk Ratliff reported the following:

1. She received the Oaths of Office for the Cultural Affairs Committee as follows:
Elsie Shabazz, Mary Sanford, Monique Harmon, Samantha Hoskins
2. She received via email on February 4, 2020 from the Auditor's office, the following summary statements of the Combined MTD/YTD reports for the period ending January 31, 2020:
Expense, Revenue and Fund reports.
3. She reminded Council about the Newly Elected Council Training Seminar. She stated that Councilmen McManus and Martell have signed up for March 21st. If anyone else interested in attending, please let me know by Friday.
4. She received a financial request from the Northend Reunion Group requesting \$4,000 for their Northend Super Reunion which will be held July 3rd through July 5th.
5. She and Mayor Johnson were interviewed on WNXT's Community Corner and they spoke about what a City Clerk does and some of the items on Council's agenda.

The City Clerk's report was received, filed and made part of the record, on a motion by Vice President Dunne. The motion carried viva voce: **VOTE: 6 ayes– 0 nays.**

City Manager's Report – Manager Sutherland had no report.

Mayor's Report – Mayor Johnson reported the following:

1. He made the following appointments:
Geoffery Addleman to the Zoning Board of Appeals, Pastor Chad Garringer of Sciotoville to the City Planning Commission and Sean Boldman to the Civil Service Commission. He has forwarded all contact information to each Councilmember and the City Clerk and he thanked all three individuals for their willingness to serve our city. He also gave a special mention to those that served prior to the newly appointed members: Dr. Wayne Wheeler and Juanita Jewett who both served these positions and the city very well.

**Appointed
Geoffery
Addleman to
Zoning Board
of Appeals,
Chad
Garringer to
City Planning
Commission,
Sean Boldman
to Civil Service**

2. He thanked Clerk Ratliff for joining him on WNXT's Community Corner today; they discussed Council legislation and the Clerk's Office and responsibilities. He gave a special thank you to Mistie Cook Spicer the host of community corner and to WNXT radio for promoting our community and for invitation to be on the show.
3. He asked if everyone received the letter from St. Mary Development Corporation, Clerk Ratliff stated that she had emailed it to all of Council. He asked that Council read the letter very well and if they had any questions to ask him.
4. He asked if everyone had received a copy of the letter from Mr. Albrecht concerning the new hotel that is being built. He asked Manager Sutherland if he had addressed those concerns, Mr. Sutherland replied that he had been in contact with Bill Toole to get some answers to some of the concerns that were raised in Mr. Albrecht's letter.

The Mayor's report was received, filed and made part of the record, on a motion by Vice President Dunne. The motion carried viva voce: **VOTE: 6 ayes– 0 nays.**

Solicitor Haas Report – Solicitor Haas had no report.

Auditor Williams Report – Mr. Williams stated that he had forwarded via email on February 5, 2020 his month-end report for December and 2019 year-end reports.

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

1st Ward – Councilman Dunne reported the following:

1. He met with Ohio PACE in Cincinnati which was a non-profit that worked as an administrator for PACE Districts throughout the State of Ohio. He said there had been some confusion with some that would like to apply for this and the meeting was helpful. He said that a PACE District once established in the most immediate level of government (City Council or Village Council), then any other municipality that borders it could opt to join that district. He said that he believed this was what would happen locally, the municipality could start a district for roughly \$7,000 by doing what was called a demonstration project; they could basically replace all of the City Building lights with LED lights which would work to establish the district and then eventually the municipality would have the option of joining with that district and expand throughout Scioto County. He said at that point, Council could make the decision whether to split the cost of establishing the district or move ahead and establish it without splitting the \$7,000 or a little more for paperwork, but \$8,000 maximum. He said that California created the legislation and it allowed those that want to do energy efficient projects to avoid the initial cost of a start up and instead make it a tax allocation and put it on a property tax bill and pay it off over a period of time depending upon the type of work that was done. He said that one thing that was problematic with these districts, it was somewhat cost prohibitive to small commercial businesses. He said that he was advised that residential would be coming soon and both residential and commercial would be able to take advantage of the program. He suggested the Revolving Loan as one option to explore and if there were some type of program that would encourage small commercial businesses or non-profits to do these energy efficient projects and suggested this for the city.
2. He said that he emailed the Solicitor in December about a district that allowed for certain times when people could have an outdoor alcoholic beverage. He said that other cities do this and it was explored last year and found that Portsmouth didn't have the minimum population, but local attorney Jeremy Burnside said that there was a clause within that where cities of our size could have four (4) sponsors within a 150-acre zone, and it could be accomplished in Portsmouth. He said he received a reply from the Solicitor that said, they need to make sure they have the sponsors and space zoned out. He believed that it would be a great addition.
3. He stated that he got some hints about the new audio and different types of options they could do because there were people at home that had issues hearing the City Council meetings.
4. He continues to work on the All-American City award and will be speaking with the Chamber of Commerce on Wednesday and hoped to submit it in about a week.
5. He received notification about an opportunity with AARP to apply for funding for a project that would have an immediate result this summer. He had a few ideas and will email Council and the City Manager.
6. He congratulated Shawnee State's Men's Basketball Team for receiving the highest ranking in the University's history. He watched some great games last week with Councilman Martell.
7. He was contacted by the Carpenter's Union and they were interested in organizing an information seminar for City Government. This would be to talk about code enforcement for new building practices as there had been concern that the city was losing quite a bit of revenue by lack of enforcement.

2nd Ward – Councilwoman Charlotte Gordon reported the following:

1. She thanked Manager Sutherland and Auditor Williams for going through all of those numbers. She said that she hadn't served on Council very long but the whole "fire" thing was exhausting and had made her appreciate the 3-reading rule because when it was first passed, the readings were waived and this had been difficult on everyone.
2. She attended the Health Department's consortium where they had a group from Columbus there which was very informative. She said that both Councilmen McManus and Martell were present.
3. She said that the SSU Athletic Facility had been rehabbed and was now opened. It was amazing and an asset to the community.

3rd Ward – Councilman Kevin E. Johnson had no report.

4th Ward – Councilman McManus reported the following:

1. He thanked Manager Sutherland and Auditor Williams for taking the time with the budgets and also thanked Chief Raison. He said that it was a very important vote and he had been a little nervous over it.
2. He and Councilman Martell attended the ribbon cutting for the new hotel. He liked it when Portsmouth got new businesses whether it be a new hotel, restaurant or whatever was being constructed because that meant more jobs for our area.
3. He thanked Manager Sutherland again for some issues that he had handled regarding an open hole by Spectrum Cable at Offnere & Robinson Streets and that was fixed within an hour.
4. He said that a constituent had come to him regarding some water account issues and he thanked Clerk Ratliff for forwarding that to the proper department and getting him the information needed.
5. He thanked Councilman Dunne for the endowment funds that he had been working on and all of the volunteer hours he devotes.
6. He thanked Manager Sutherland and the Health Department for taking care of the trash issue on High Street.

5th Ward – Councilman Martell reported the following:

1. He thanked Manager Sutherland and city workers for repairing some of the sewer drains and patching some holes the 5th Ward.
2. He thanked Manager Sutherland again for meeting with him on ways to improve certain areas in his ward and building relationships.
3. He thanked Councilwoman Gordon for giving him the grand tour of the Southern Ohio Museum, which was absolutely fantastic and his son loved it. He said that she updated him on all of the things that take place at the museum including some of the free events.
4. He attended the groundbreaking of the new hotel with Councilman McManus.
5. He was invited and attended a meeting with Abby Spears to discuss the healing communities grant and the partnership with the Scioto County collaborative opioid consortium. Councilwoman Gordon and Councilman McManus were also in attendance.

6th Ward – Councilman Lowe reported the following:

1. He appointed Jackie Enz to the Traffic Committee, he said that she did a good job during her last term and looked forward to having her on the committee again for the next 4-years.
2. He had a few complaints about the new bypass Rt. 823 and the trucks traveling down by Highland Bend and using their "jake brake" through that area. It was keeping people up with the annoying sound. He believed that there was an ordinance about "jake brakes" within the city limits. He thought possibly they could work with ODOT on signage.
3. He had received a request for "SLOW" signs on Farney Avenue, going to and past the High School.
4. He had received a request for the flashing speed signs and could use about 4 of them in Sciotoville; two on Gallia Street and two on Harding Avenue. He asked what the cost was and Manager Sutherland stated that they were portable, but he was looking into purchasing more.
5. He and Mayor Johnson had discussed receiving the agenda's earlier in the week because of the fire department issue when it was originally passed, there was no time to review it.
6. He asked about the slide on Dunlap Road. Manager Sutherland stated that the rock had been delivered and they were going to try to get it in this evening.
7. He asked about the culvert on Wilson Avenue. Manager Sutherland stated that they had cleaned the ditch and the culvert out and spoken with the resident and she was good with the job they had done; he said that they would put rock around it too.
8. He received a complaint about the burnt house on Marshall Avenue. He wasn't sure how long it took for the insurance, but he had people complaining about it and they want it gone.
9. He needs some patch work in Sciotoville.

Re-appointed
Jackie Enz to
Traffic
Committee

The meeting adjourned at approximately 7:20 p.m. on a motion by Vice President Dunne.

City Clerk

Mayor