

**MANAGER’S CONFERENCE MINUTES**  
**Portsmouth City Council Meeting on**  
**June 28, 2021 – 8:11 p.m.**

Members present:

Sean Dunne	1 <sup>st</sup> Ward
Charlotte Gordon	2 <sup>nd</sup> Ward
Kevin E. Johnson	3 <sup>rd</sup> Ward
Lyvette Mosley	4 <sup>th</sup> Ward
Edwin Martell	5 <sup>th</sup> Ward
Dennis Packard	6 <sup>th</sup> Ward

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

**1. WATCH ME GROW SOLAR PANELS**

**CM-21-53**

Manager Sutherland stated that this request was for solar panels for the 14<sup>th</sup> Street Community Center Fellowship Garden. He said that he had read through the incentives but those weren’t guaranteed, so he requested the full price for the solar panels. Vice President Dunne had spoken with Power Clean Future Ohio and one of the things he liked about the project was that when doing larger projects down the road, he would like to be able to use this as a first step, showing our commitment. Councilwoman Gordon said that philosophically she like the idea of growing an urban garden that was into growing and harvesting food which was energy for our bodies, then growing and harvesting their own energy in which to yield produce. and felt it was forward thinking. Drew Carter was also working with a lot of kids and it was a really cool project to apply different technologies and she doesn’t see any downside to this at all.

Vice President Dunne motioned to accept alternative #1.

There were no questions or comments: **VOTE: 6 Ayes – 0 Nay**

**2. AMENDMENT TO 1319.02 AND 1319.03 CODIFIED ORDINANCE**

**CM-21-54**

Manager Sutherland said that Mr. Gedeon was looking for some changes to allow for the interior of some of the homes for code enforcement issues. Councilman Martell asked if Andy would be allowed to go into the home. Mr. Gedeon gave an example of where he was called out to a property on Gallia Street by the Police Department and Child Protective Services had also been called, and normally when he was called out to house, he could not enter the dwelling unless he but had permission from the property owners or the tenants. The way the code reads, there was no internal way to cite a property owner because it was all external (they must maintain their external property areas in a clean, safe and sanitary condition, free from the accumulation of trash and garbage). There was nothing to allow for citing on the inside of the dwelling. He had been doing public health for 20 years and would put the Gallia Street property as one of the top three worst ones that he had seen. The children had to be removed because of the horrible conditions and the only thing he could do was cite the tenant with external property errors and this legislation would give more teeth to cite for internal conditions as they must maintain it in a clean and sanitary condition. This was not saying that if he goes into a home and there’s a bag of garbage on the floor, he obviously would not cite them for that, but when there are human and animal feces that the children were walking through, as well as roaches, decayed food, obviously that would deserve a citation, but currently the city could not cite for internal conditions.

Councilman Martell asked if the property owner would be cited for any structural issues, such as walls missing, giant holes in the walls etc. Mr. Gedeon said for structural issues it would vary, but nine times out of ten, it’s the property owner, but for internal issues it would be the tenant, especially if there were unsanitary conditions such as feces in the house not being cleaned up, trash and garbage that causes infestations but it all depended on the situation. Mr. Martell said if the tenant said “no, you can’t come in”, can you still get permission from the property owner? Mr. Gedeon said “yes” and if the property owner said no, then he would petition the court for a warrant to inspect.

Councilman Packard asked if there were any other conditions where any other entity could cite people for such a thing, such as the Health Department? Mr. Gedeon said that the City Health Department had two individuals that had been sworn in and had the legal right to issue citations. The city ordinances have been changed to where his position was the only one that could issue condemnations, but anyone sworn in could issue citations for city ordinances. However, it's easier if he was the one to do it because he was the one to run it through the court process. Mr. Packard had never known of a time when a resident had been cited for interior violations and asked if it had ever happened? Mr. Gedeon replied "no" because there weren't ordinances that allowed for that type of citation. Mr. Martell stated that code enforcement could go into any restaurant and deem it unsanitary and cite them for having rats etc. Mr. Packard replied that it was because the public went into those types of places. Mr. Martell stated that the example given by Mr. Gedeon was more for the health and safety of the children that were in the house.

Solicitor Haas stated that the way it should be phrased was that it was a health and safety issue and if someone had a house that was dirty enough that it was attracting roaches, rats etc. the whole neighborhood would be affected. He gave an example of a house on Grandview where the house was a disaster and they had been stock piling dog food in the garage and the rats were running throughout the neighborhood. This would be something that if the city enforced, it would be for the health, safety and welfare type issue to protect the neighbors and he doesn't see a problem with it; he wasn't saying that it couldn't be challenged, we would just have to see how the court would handle it and the worst thing they would do, would be tell the city they couldn't do it.

Mr. Martell asked Mr. Packard if he was against it because it would be like the Government trying to enforce more penalties to residents. Mr. Packard said that on the surface it would seem that it would be an intrusion of private property, but it wasn't intrusion if you're invited inside the home and he also agreed that if you endanger the health, safety or life of a child or other human or elderly person that would be an ongoing citation that would be seen a lot. Mr. Gedeon said that the citation would only be issued when it adversely affected the health of children or adults that were bedridden where the house warrants a condemnation and wasn't safe to be inhabited. Mr. Martell said that the main thing was that he was called by the Police Department and Child Protective Services was on site. Councilwoman Gordon commented that certainly we would not be the first city to have this issue, and asked if there were other cities? Solicitor Haas stated that he could look before the next meeting. He said that the city had the Rental Licensing Program, that permits us to go into homes to issue citations for code violations. Councilwoman Mosley stated that this incident was in the 4<sup>th</sup> Ward and she had seen pictures and there wasn't a spot on the wall that didn't have feces on it, all over the house and in every room. She had asked Mr. Gedeon if it was mental illness, by looking at the parents with the 6 kids, however it was not mental illness but trifling, laziness and children diapers that shouldn't be in diapers.

Vice President Dunne motioned to accept alternative #1.

There were no questions or comments: **VOTE: 6 Ayes – 0 Nay**

3. **ODOT SMALL CITIES GRANT APPLICATION**

**CM-21-55**

Manager Sutherland said this was a small city grant through ODOT and that Engineer Nathan Prosch had been reviewing the issues on Coles Boulevard from Scioto Trail to Dorman Drive which had a lot of issues and had devised a plan; it would stretch out a few years to get it done but would be a plan of about \$5,500,000 when completed. It would have great improvements to the storm sewer issues, the traffic signals, establishing safer cross walks and he would like to start the phases with this project. Mr. Prosch said that when he spoke with the consultant, they asked about taking away the on-street parking and he told them "No" that would be a bad idea because they had thought about putting in a bike path but he didn't feel that that should be done. Mr. Sutherland said that there had been an issue with pipe shortages and would like the folks to be patient

Vice President Dunne motioned to accept alternative #1.

There were no questions or comments: **VOTE: 6 Ayes – 0 Nay**

4. **LAND MANAGEMENT PLAN SCHERER HOLLOW PROPERTY**

**CM-21-56**

Manager Sutherland said there had been discussion about acquiring some land in this area for the development of a nature preserve, park or whatever we wanted to do with it. In order to obtain it, the city had to apply for some grant funding and with that grant funding was the land management plan.

Vice President motioned to accept alternative #1.

There were no questions or comments: **VOTE: 6 Ayes – 0 Nay**

5. **JUNETEENTH HOLIDAY LEGISLATION**

**CM-21-57**

Manager Sutherland said that as most were aware the state and federal legislatures adopted Juneteenth last week and it blind sided the city and the county. He asked Council to authorize legislation to negotiate MOU's to get this fixed in place and for the balance of this year adopt a floating holiday to take care of what happen this year at the last minute. Mayor Johnson asked Solicitor Haas if it was a state or federal holiday and does the city have to adopt it? Solicitor Haas said 'yes' we don't have a choice. Mayor Johnson said that we now have 12 holiday's and this will make 13 holiday's and when there was a paid holiday within the city, it cost anywhere from \$42,000 to \$84,000. Councilman Packard stated that many contracts for public employees would allow them to choose 10 holidays regardless of the amount and were not always locked into the exact number of federal holidays and Manager Sutherland would be negotiating on how it would be handled. but the floating idea for this one seemed to be the National remedy. Mr. Sutherland stated that that would be for this year only and next year it would be honored on the day it was celebrated. Mr. Packard asked Manager Sutherland if we as a city in the negotiations offer up all of the federal holidays, Mr. Sutherland stated that if they weren't offered up, the Union would ask for it as it was part of the negotiations. Vice President Dunne said that in comparison to other advanced western countries, "we still work too damn much", he believed that we were moving forward and one of the things we should aim to do with technological advances would be to do less work, whatever type of work that would be, he said when you look at the United States in comparison to other countries as far as devoting time to their families, religion, hobbies or activities etc., we're getting our butts kicked by other countries and hoped we would get more holidays. He advised that this was a result of an incredible amount of work by social movements in our country and it represented a long overdue step and he hoped more steps in that direction were taken. He said other countries have a month banked holiday in June to celebrate a part of their history, which was basically victories by working people that recognize that they need things like weekends, holidays and to spend time with friends or families. Councilwoman Gordon said that we do work to hard as a country and it had been proven time and time again that we're more productive when we have time off.

Vice President Dunne motioned to accept alternative #1.

There were no questions or comments: **VOTE: 6 Ayes – 0 Nay**

**Discussion**

1. **Yard Sale Permits** – Mayor Johnson stated that the way the ordinance currently reads was that a person could have two-yard sales per year and he believed that the city could offer more, but agreed that the merchandise shouldn't be sitting on porches or in the yard for weeks at a time. Councilman Martell said that in some places they were getting two sales per month from March to September or October. Currently the permits cover a three-day sale. Councilwoman Gordon stated that in some neighborhoods parking was an issue and in a previous city that she lived in, there was an issue with people having continuous yard sales and parking was an issue and the stuff was in the yard constantly. Mr. Martell stated that maybe we should look more into the current ordinance to see what it says.

**Michael Sparks – 2055 Charles Street Portsmouth** – He had read extensively and Ms. Ratliff had helped him with the ordinances and it doesn't mention that you have to take anything in or out. Yard Sales were currently permitted twice a year, three days each time and if it rained it was still counted as one of the days. He would like to see this changed to two-yard sales per month instead of two-yard sales per year. The other

thing he would like changed is the current ordinance reads that a person could not sell new items at yard sales in Portsmouth, he wasn't sure of the reasoning. Solicitor Haas stated it was for shoplifting because people steal stuff and then sell it in their front yard and if this was changed and allowed, people would start stealing stuff and put them into a yard sale. Mr. Sparks said he hadn't thought of it like that, Mr. Sutherland stated that basically they should have a business license if they are selling new items. Ms. Gordon mentioned zoning laws as this would be a business in a residential area. Mr. Dunne stated that the city wasn't collecting a sales tax and Mr. Sparks advised that he paid the sales tax up front when he purchased the items. Ms. Gordon asked if there were sales taxes collected at yard sales, Mr. Sparks said "no". She asked if he had a vendor's license, he would not be paying the sales tax, but would be conducting business and the city had no way of enforcing or knowing it. Mr. Dunne said another fair thing was on one hand we don't want a bunch of yard sales undercutting the possibility of a place opening up a brick-and-mortar store and a locally owned place and another part of it was that he would rather the yard sales get the money than WalMart. Mr. Dunne state that the fair thing to do was to research how other cities handle their yard sales. Mr. Martell said he didn't see a problem with getting two sales a month for \$10.00. Mr. Sparks said he wouldn't mind paying \$10.00 per sale. Ms. Gordon stated that two per month was 6 days and was a lot; would you want to live next door to that and she felt that was a business. Mr. Dunne suggested one per month from March 1<sup>st</sup> to November 15<sup>th</sup> from 8:00 a.m. until dusk, and we could use this as a trial run and if neighbors start complaining, they would need to revisit it.

2. **City Clerk Annual Review** – Ms. Gordon said when they were talking Mayor Johnson had said he would put something in place. Mr. Johnson said that he was still working on it and it was similar to the City Manager's. Ms. Gordon said that a lot of people cringe at the thought of an annual review, but she felt they could be very positive and a time to talk about all of the positive attributes an employee had, but when you look at the whole structure in place, Council appoints two people and there was no opportunity for Council to tell you your strengths and it would be nice to have that in place. Mayor Johnson said that would be his homework assignment.
3. **Spartan Stadium Sign** – Manager Sutherland said that Randy Yohe, Steve Hayes and Will Mault approached him about raising funds to put a nice historical sign at Spartan Stadium. Councilman Martell said this would be to glorify the individuals that played on the Spartan team and made it to the National Championship and to preserve our history. He felt that it was a good addition to what was trying to be done at Spartan Stadium. Councilwoman Gordon asked where the new sign would be placed, Mr. Martell said they were still working on the design and believed they just wanted the city's blessing. Councilman Packard said that many people were not aware that the year they sold to Detroit, eleven of the players were on the team that won the National Championship.
4. **DORA Review** – Manager Sutherland said that Vice President Dunne wanted him to bring the topic back for a review. Mr. Dunne said that opening day of DORA was also the opening day for the Cincinnati Reds. He said on one hand people wanted more and on the other people were apprehensive. The review asked "is it working so far, is there issues with enforcement, are there issues with either the vendors or the stores, are there problems that people have encountered by people that aren't in it and don't like it, what the customers think of it, what the Police think of it, what do the schools think of it." He said that it needed to be a public review and do people want to see it extended an extra day or two or throughout the week like in other places, do people want to see the zone extended. He said they made a bit of a mistake in moving from 2<sup>nd</sup> Street to the Riverfront because you have to go all the way around. He's been asked about making an island at Buffalo Wild Wings and Ollies because they would like to have a car show and others have wanted to extend it further down Chillicothe Street and down Gallia Street. He said before we moved to preparing legislation to change it, he would like to have a public hearing. Councilwoman Gordon asked if there had been any complaints or issues, Manager Sutherland said that he and the Police Department had heard of none. Ms. Gordon said that the Museum would be interested in hosting more outdoor events, Solicitor Haas said that if you have it in the outdoor area that used to be an alley, it could be done there. Ms. Gordon said they currently do that but would like to spread out to the Esplanade. She said they will be hosting a concert this summer with the Roy Rogers Museum on the Esplanade and Mr. Haas said that would be an individual permit. Mr. Dunne stated that there will be incidents, something will happen but thus far as a Council we were very cautious about how to roll it out. The vendors that have it are more restaurants than bars and the culture around it was more of a leisurely stroll with a beer because it's not like their doing keg stands on Chillicothe Street. He would like others to think about what were some of the activities that could be added for people having a DORA cup. He said he would send an email out to local businesses, Stem school and try to find a date for that public review.

5. **Stray Cats** – Manager Sutherland said that he and Councilman Packard had a meeting with a couple of ladies and got some information but couldn't lock in a date to meet with the lady from Ashland. The gentlemen he had spoken with about the Coyotes said that he could help with the stray cat issue. Mr. Packard gave the acronym that was used across the country "T.N.R.M. - Trap, Neuter, Release, Monitor" and what most cities use to deal with the problem. This program allowed cats to live out their lives, this way it would give them their shots and keep them safe and in the long run the problem would be solved because they cannot reproduce. Mayor Johnson said that about 5-6 years ago, this was actually brought before Council someone had the idea in the Boneyfiddle area about trapping cats, having them neutered and releasing them. Clerk Ratliff said she recalled that when Councilman Albrecht was on Council, he had an issue with feral cats and the lady that she had spoken with said "if you take them out of the neighborhood, there will be another cat that will replace the one that was removed because it was like "king of the hill" once the dominating cat left, another would replace it, but if you removed, spay and neuter and release back into the neighborhood, they won't be able to reproduce. Mr. Packard said that also, once they're neutered, they don't fight as much, spray as much or destroy people's property as much, which was a big problem. He added that he hoped to have some students from OSU to volunteer.
6. **Outdoor Dining – Leases** – Manager Sutherland said that he and Councilman Dunne had spoken about the outdoor leases. Mr. Dunne said that with coronavirus, the city was pushing for more outdoor dining and drinking and giving space to be outside. He said that the city had allowed the Scioto Ribber to expand across the entire street and just a few years ago when Patties & Pints moved out onto a sidewalk, an ordinance charged them an annual fee and rather than do that, we should encourage places to have outdoor drinking and dining not just for people to be outside for health reasons but it would add atmosphere to the city. He said there were two different business owners that want to develop restaurants in Boneyfiddle that would like to have outdoor dining. He would like the ordinance to be reviewed and not charge Patties & Pints or anywhere else for outdoor dining. Solicitor Haas said the difference with Patties & Pints was that they built that big patio in concrete out on the sidewalk into the right of way which was the problem. He said that the Royal had a lease that they paid maybe \$1.00 per year to have an area outside and they had to put a fence up so that they could do things outside. He recommended having a lease, so the city had some say because with the Royal when they closed down, that area went into severe disrepair and the city revoked the lease and made them take the fence down and clean it up. He said that regardless what was charged there needed to be a lease with rules. Councilwoman Gordon said that the sidewalks need to remain ADA acceptable and as a city we need to make sure that a wheelchair could get down the sidewalk.
7. **Improvements on Recovery Housing** – Manager Sutherland said that Councilman Martell asked to have this brought out. Mr. Martell said that he had been involved with some meetings from constituents that had brought to his attention the issue about recovery housing formerly known as transitional homes sprouting up all over the place in our city. He said that the zoning update would help to alleviate some of the issues, but the other aspect was the fly by night people buying a house and calling it a recovery house and collecting money and not really giving the clients and patients the type of care that their supposed to be giving them. The other way to look at it was that there was an organization that was a state affiliate which was not mandatory yet but soon it would probably be mandatory. This company assesses and inspects the property and would register and certify it if it passed inspection. He said that this would set a standard for recovery houses and would provide the city with data on where the transitional homes were located, who owns it, who's supposed to running it and how many people live in the home. It would be at no cost to the city. He and Solicitor Haas talked about how to make it mandatory in the city to have to register with the affiliate, pay the fees, once it's been inspected and approved the owners would receive a certificate and the affiliate would keep the data and be able to share it with the city. This affiliate said that there were no other cities doing this but it would be one way to monitor so that not just anyone was putting up a recovery house. The rights would be made known to the tenants which would fall under the Fair Housing Act. Councilwoman Gordon asked Councilman Martell if the city could prevent existing recovery homes from being grandfathered in and Mr. Martell replied "yes". Councilman Packard said that some were federally qualified non-profits in the city and doing the utmost and even more than the standard. Ms. Gordon said "yes" but there's a lot that might not be. Mr. Martell said this would help weed out those that weren't doing the things that they're supposed to be doing compared to the ones doing everything they possibly can to do help these people. Vice President Dunn said that the non-profits that were doing a very comprehensive housing and treatment, had concerns about these types of "cowboy counseling places". The concern was that their houses cause problems in neighborhoods and everyone blames the non-profit when it's not them, it's the ones not

taking these conditions seriously enough. He felt that the places that took this seriously, would certainly support this legislation. Councilwoman Mosley said that she had been a part of the ADAMAS Board for eight years and whenever the director and some employees hear of a new house being established, they go to them and offer their services, as far as guidelines with the federal government. Solicitor Haas stated that if they're in a residential neighborhood, they could not provide care, the people that he was aware of that were in residential neighborhoods had already made it through a program and now they're working their way back into the community. The facilities around Portsmouth had come in to speak with him on several different occasions and had him lay out "what they can and can't do and where they could do what" and a lot of them took the time to get educated on what needed to be done. Councilwoman Gordon said that this was one of the largest industries in Portsmouth at this point and time, and felt that just like Andy Gedeon going into houses to protect children and if our city was accepting so many people from outside of Portsmouth to come here for recovery, part of the recovery would be to then enter transitional housing, she thought that there needed to be some kind of check and balance system in these houses. Mr. Martell said that was what the affiliate would be doing and there was a fee for the recovery business and he thought that it was \$1,500 for the first house and \$75.00 for every other house. Ms. Gordon asked where the city was with zoning, Manager Sutherland said that it had begun. Mr. Martell asked for this to be on the Conference Agenda.

The meeting adjourned at 9:26 p.m. on a motion by Vice President Dunne.

Submitted by: *Diana Ratliff* – City Clerk

For the full audio version of the Manager's Meeting, please go to [www.portsmouthoh.org](http://www.portsmouthoh.org) under City Manager 2021 "Audio".