

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday September 14, 2020

6:00 p.m.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday September 14, 2020 at 6:00 p.m., at Shawnee State University Center. Council held the meeting at Shawnee State University in order to comply with the Governor’s order to social distance at least 6 feet apart.

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 (Absent)

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

Councilman Lowe’s absence was excused on a motion by Vice President Dunne. The motion carried viva voce: **VOTE: 5 ayes – 0 nays.**

Council dispensed with the reading of the Journal for the Regular Session of August 24, 2020 on a motion by Vice President Dunne. **The motion carried viva voce: VOTE: 5 ayes –0 nays.**

Vice President Dunne motioned to add as 7(F) An Ordinance authorizing the acceptance of funds from the Coronavirus Aid, Relief and Economic Security (CARES) Act Funds in the amount of \$1,258,665.30 and requesting that the readings be waived due to time restraints. **The motion carried viva voce: VOTE: 5 ayes –0 nays.**

Item Added

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

Due to the Governor’s mandate of only 10 persons in a meeting, the meeting was not open to the public – Statements and Remarks were emailed ahead of time and read by Clerk Ratliff

Phyllis Hock – 1610 2^{8th} Street, Apt. 3117 Portsmouth, Ohio – In her note, she asked that Council do all that they could to stop the illegal use of marijuana and to do all they could to protect our citizens, especially the young people. She asked that Council make it harder, not easier, to obtain marijuana and for Council to do whatever it takes to stop this plague.

Jay Hash - 2213 Timlin Road, Portsmouth, Ohio - He encouraged each member of council to vote ‘no’ on this proposed marijuana decriminalization agenda item, as it proposed to decriminalize the possession of marijuana which was in legal conflict with federal and state laws. 200 grams of marijuana was enough for an individual to smoke 3 marijuana cigarettes a day for over 6 months (basically staying high on marijuana all day for 6 months). While the problematic use of alcohol presents more severe physical, social, and violence problems and it is legal but that this was not the time to introduce another drug of abuse as legal in our community. Despite any perceived societal advantages to decriminalization, he encouraged Council to examine the illegal activities that must occur for a person to legally possess the 200 grams of “decriminalized” marijuana. Cultivation of marijuana and trafficking marijuana were both federal and state crimes. He also wanted Council to be aware that 200 grams was a quantity suitable for lucrative dealing in marijuana. This proposed ordinance would be in conflict with state and federal possession laws. The proposed ordinance also disregards the fact that illegal activities would occur to ‘legally possess’ the marijuana. Medical marijuana had already been legalized in Ohio with a recommendation by a physician and there was no need to further decriminalize marijuana as people can already get a ‘card’ granting them access to medical marijuana. He would also like to ask each councilperson to examine whether voting ‘yes’ on this proposed ordinance was truly representative of their constituency. He believed that, if the constituency was polled, there would be overwhelming disapproval and definitely wouldn’t be encouraged. He had not seen or heard of any grassroots movements among the Portsmouth citizenry asking our council to make possession of marijuana legal. He additionally believed that an ordinance decriminalizing possession of 200 grams of marijuana would create additional impaired drivers, more problems with workplace productivity, an increase in workplace accidents, and less consideration by prospective businesses considering locating in Portsmouth. This all being said, he appreciated each Councilmember for stepping up and helping to make our city a better place for citizens to live and businesses to prosper and that “while we will never agree on everything, he appreciated your efforts to make our city better.”

Mark Craycraft – www.sciotocountydailynews.com – He would like to address Council as a proud resident of the 4th Ward and not in his capacity as a publisher for a local news organization. He wrote that it was beyond his capacity to understand how the proposal for amending Section 513.03(C) (2) of the Codified Ordinances was still up for discussion, because in the last meeting, Solicitor Haas made it very clear that the Portsmouth City Police would charge under the Ohio Revised Code and not the City Ordinance. Mayor Johnson made an excellent observation that in order for marijuana to make it into the city limits, other crimes would have had to be committed which would include trafficking and distribution. He added that this was not a discussion about the health benefits of medical marijuana, nor a discussion about expunging records or people having trouble getting jobs because of a simple possession charge. Unfortunately, this has become a discussion about feelings and you can't govern based on feelings. He gave the following example: "If I'm sitting at a stoplight and there are no cars coming, I feel like it would be safe to proceed on my way. However, the law states that I wait until the light turns green." He said this was the same council that pushed through a city-wide mask mandate that had no basis in law. However, you seriously want to decriminalize an action that had both State and Federal laws on the matter. He said that he would rather be around a few people who have smoked marijuana than a group of drunks, however, the laws were already written and on the books and Council doesn't have the authority to re-write them. He requested that the matter be dropped and to move on to the business of running the city. Thank you for your time to hear his thoughts.

Elizabeth Williams Toombs – **3110 Sheridan Road, Portsmouth, Ohio** – She stated that she was a Christian woman, the daughter of a Pastor, a mother, a grandmother, and a retired Teacher whose entire career was with the Portsmouth City School District. She said that during her teaching career and her years as a mother, she worked hard to instill in the young people that she loved, that drugs were not only dangerous but that they were the last avenue to travel toward a rewarding life. She was a head Teacher in an anti-drug curriculum during the 1980's called "Operation Aware," which was recognized by the media in several states as a leading technique to combat the lure of drugs in the lives of middle school children. She stated that Portsmouth City Council had chosen to present a new law that would decriminalize marijuana and acknowledged that councilmembers have various reasons for their thoughts, such as the possession of a small amount of marijuana could keep a young person from military service or disallow that person from decent housing. However, this new law has the effect of telling each young person that their parents, their teachers, and their churches, have been deceiving them. When a parent begs a child to refuse drugs, or a Pastor preaches that "If you give the devil an inch, he'll become your ruler" this new law makes a mockery of that sermon. She said that if you believe as she does that it was time for THE Church of Jesus Christ to speak out against sin disguised as the new morality, and she asked that church members sign petitions against the decriminalization of marijuana. (She submitted seven petitions with 32 signatures from people within the City and 41 signatures from people in the County all opposing the decriminalization of marijuana) She acknowledged that there were Christian members of this Council but felt that the church community needed a voice to support what was right in God's eyes. She understood that some of the signatures were from the county, but all these signatures were collected at churches within the Portsmouth city limits, and the signees were members of these churches which make them members of the "Portsmouth community " as the petition stated. This decriminalization of marijuana impacts the people who attend church, who work, shop and spend money inside the city limits the same as it those who live in Portsmouth. She believed that Council needed to hear and think of this before they vote and if they do not, they would be failing everyone.

LEGISLATION

The clerk gave a **second reading**, to an Ordinance amending Section 513.03(C) (2) Drug Abuse: Controlled Substance possession or use of the Codified Ordinances of the City of Portsmouth, Ohio.

Vice President Dunne motioned that this constitute a second reading.

Vice President Dunne stated that he would send to Council a series of fact sheets about studies that had been done in the passage of various changes to the marijuana legislation. This would also give background to marijuana legislation and enforcement of certain drug laws which had been previously discussed and noted to be racist in their enforcement of the law nationwide. As far as decriminalization leading to encouragement "square dancing was legal but he had no encouragement to go square dancing", we make our own minds and don't need the government telling us what we should or shouldn't do. Decriminalization was highlighting an issue with the enforcement of the law and sends an overall message about the war on drugs and its affects on a variety of issues in society including things like our civil liberties. He said there were approximately 17 other cities throughout the state of Ohio that have passed this exact legislation and he believed that 3 other cities had it on the ballot. He said the groups that have come out to oppose the decriminalization were private prisons that have quotas for the number of prisoners and have lobbied heavily against any changes to the marijuana legislation. He said websites that make a lot of their money by publishing people's mugshots, were against this legislation and believed it important to look at the facts. Councilwoman Gordon stated that she had received communications both for and against the decriminalization of marijuana and stressed that this legislation only decriminalizes marijuana, it was not changing the laws and she believed that it certainly warranted going forward for a third reading. Mayor Johnson said he won't argue whether marijuana should be legalized or even express his personal feelings about adults using marijuana, but would like to state some of the facts. He's spoken with law enforcement in our community, the Chief of Police, the new Sheriff, Attorneys, Drug Counselors and many other community leaders to get their feelings regarding the issue. He asked Solicitor Haas if in the State of Ohio marijuana was still illegal

other than medical marijuana and if the Ohio Constitution was still in effect. Solicitor Haas responded that was correct. Mr. Johnson read a portion of the constitution “The Ohio Constitution ratified in 1851 set up the frame work for the State Government, the document provided the rights for Ohio citizens and was the basic law of the state.” He said the Ohio Constitution 1803 powers stated that municipalities shall have the authority to exercise all powers of local self-government and to adopt and enforce within their wills such as local Police, Sanitary and other similar regulations as were not in conflict with general laws. Would general law consider marijuana as illegal? Solicitor Haas stated that he believed that this would fall under home-rule. Mr. Johnson stated that he carries a binder that had agendas, notes and his Oath of Office and all of Council swore an Oath before taking the job as a Councilmember. His reads “I Kevin E. Johnson solemnly swear that I will obey the constitution and laws of the United States and of the State of Ohio. This was the Oath that all Councilmembers took which was to obey all laws including the laws of the State of Ohio and since it is still illegal, he wasn’t sure how Council could decriminalize marijuana. Solicitor Haas stated that Council wasn’t affecting State law, this would be City law and falls well within the City Council’s purview and was not in contradiction to the Oath. This legislation would not violate Ohio law by passing this law for the city, this would basically do away with the law regarding marijuana if it passed for the city. Council would not be violating Ohio law as it would still be illegal. Mr. Johnson asked what would keep Council from decriminalizing other things that were still laws, Mr. Haas stated that City Council could decriminalize anything within the city they wanted and it wouldn’t affect the State laws and City Council would not be doing anything illegal. Mr. Johnson asked other Councilmembers if this was what they wanted to be known for? He pleaded for other Councilmembers to talk with local law enforcement and asked them how they feel about decriminalizing marijuana. Mr. Dunne repeated Mr. Johnson’s question “is this what we want to be known for?” and his answer was “yes” absolutely. He said that since his time on Council, he had looked through different things that had been passed or not passed and he felt guilty that we hadn’t done enough toward the opioid epidemic that had attacked this area in a lot of ways. He said when you look at the groups that had lobbied against changes in marijuana legislation it was the pharmaceutical industry that had been so destructive to this area and to the lives of many in our area. He too encouraged people to speak with anybody about this that live in Portsmouth but he wouldn’t limit it to Police, he encouraged others to speak to those who have had a record for marijuana or had issues or arrests for marijuana and listen to their stories as well and listen to people who have had criticism with the war on drugs specifically with the war on civil liberties in this country. He said for him it wasn’t a question of if we should do this, it would be what more can we do to ensure that civil liberties were not trampled on and what more can we do to ensure that we do more for those who have been affected by the opioid epidemic and encouraged others to speak with anyone about this issue. He said there was a comment in a letter about not being aware of a grassroots movement to do anything about this and in fact in Portsmouth, there was a grassroots movement and he ask the City Clerk how many signatures were on the original petitions that was submitted two years ago. Clerk Ratliff wasn’t sure but stated that they couldn’t be accepted because the signatures were from everywhere and not just the City of Portsmouth and the correct procedure was not followed. Mr. Johnson said that when you witness the impact that the opioid epidemic has had on families and the destruction and chaos it has caused, could marijuana be a gateway to other drugs. It doesn’t matter how he personally feels about marijuana, what matters to him was the Oath that he took to obey the law and marijuana was still illegal in this State. Mr. Dunne stated that study after study proved marijuana not to be a gateway drug and suggested to explore other cities in which marijuana had been decriminalized, and if it showed a positive effect, why wouldn’t we do it? Mr. Johnson said those were very valid points but there was one option opened to Council and that would be a Public Hearing and suggested to Table this item for the time being until we could have a public hearing, he understood that we couldn’t have a public hearing right now because of COVID-19. Mr. Dunne felt that they had taken their time (cautiously so) and believed that other members of Council had spoken to people and done their research and had done their due diligence as Council was about 6 weeks into this legislation and he wasn’t sure how much more time was needed to do the research. Mr. Johnson replied as long as it takes, and requested to Table the legislation until the meetings were open to the public and people could have their say and to hear from others who were more knowledgeable. Councilwoman Gordon stated that Mayor Johnson used swearing an Oath as part of his argument and way back when they were arguing about the Fire Department and receiving a grant in order to raise the number of Firemen to 44 and that number 44 was also in the Charter and to swear an oath to follow and uphold the charter they should’ve in fact passed it. Mr. Johnson said that he believed there was a dispute on where to count the Dispatch, Mrs. Gordon stated that the Dispatch counted towards the Police, but the way she saw it and the way she voted for it was because she was upholding the Charter. Did she think that the city could afford it “no” but it was in the Charter and Council cannot pick and choose when to follow the Charter.

There were no questions or comments. **The role was called. VOTE: 3 ayes – 2 nays (K.E. Johnson, A. McManus), a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance authorizing the appropriation of funds from Police Department CIP Miscellaneous Fund No. 301.221.5529 to participate in a five-year program for the replacement of Tasers in the police department as outlined in the attached Exhibit A.

Vice President Dunne motioned that this constitute a second reading.

There were no questions or comments. **The role was called. VOTE: 5 ayes – 0 nays, a second reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the appropriation of an additional \$18,000.00 from Capital Improvement Fund No. 301 to be paid from CIP PS-STRC Fund No. 301.114.5512 for the Service Department Roof Replacement project. Pursuant to Council Rule 5, this legislation is requested to be passed as an emergency in accordance with Section 10 of the Charter for the City of Portsmouth in order to facilitate administration, daily operation and avoid practical and legal entanglements.

Vice President Dunne motioned to suspend the three-reading rule.

The role was called. VOTE: 5 ayes– 0 nays, the rule was suspended.

Vice President Dunne moved that this Ordinance be passed.

There were no questions or comments. **The role was called. VOTE: 5 ayes – 0 nays, the Ordinance was passed**

The clerk gave a **first reading**, to an Ordinance enacting a new Chapter entitled Portsmouth Art Commission of the Codified Ordinances of the City of Portsmouth.

Vice President Dunne motioned that this constitute a first reading.

Councilman Martell asked if the Ordinance should include a Councilmember as part of the Board? Solicitor Haas replied that most of the Boards do not have Councilmembers on them. Mayor Johnson stated that it wasn't a bad idea to use a Councilmember or someone from the city for guidance purposes, because nothing in the Chapter states that once they make a decision Council needed to review it. Mr. Martell asked if he should request for an amendment and it was decided that it would be amended at the next reading. He added that he had been getting a lot of emails regarding the nominations for the floodwall stars and there will be an application process and then it would go before the Art Commission. Mr. Johnson stated that there needed to be a lot of work done to the floodwall as far as a new paint job and Mr. Martell stated that "2020" needed to be added to the All-American City.

There were no questions or comments. **The role was called. VOTE: 5 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the approval and acceptance of the dedication plat for the Multi-Use Path as described in the attached Exhibit A. Pursuant to Council Rule 5, this legislation is requested to be passed as an emergency in accordance with Section 10 of the Charter for the City of Portsmouth in order to facilitate administration, daily operation and avoid practical and legal entanglements.

Vice President Dunne motioned to suspend the three-reading rule.

The role was called. VOTE: 5 ayes– 0 nays, the rule was suspended.

Vice President Dunne moved that this Ordinance be passed.

There were no questions or comments. **The role was called. VOTE: 5 ayes – 0 nays, the Ordinance was passed**

The clerk gave a **first reading**, to an Ordinance authorizing the acceptance of funds from the Coronavirus Aid, Relief and Economic Security (CARES) Act Funds in the amount of \$1,258,665.30, establishing a dedicated account for the grant and authorizing appropriation of such funding as received. Pursuant to Council Rule 5, this legislation is requested to be passed as an emergency in accordance with Section 10 of the Charter for the City of Portsmouth in order to facilitate administration, daily operation and avoid practical and legal entanglements.

Vice President Dunne motioned to suspend the three-reading rule.

The role was called. VOTE: 4 ayes– 1 nay (K.E. Johnson), the rule was suspended.

Vice President Dunne moved that this Ordinance be passed.

Ord.#49 2020
Service Dept.
Roof
Replacement

Ord.#50 2020
Approval of
dedication plat
for Multi-Use
Path

Ord.#51 2020
Acceptance of
CARES grant

There were no questions or comments. **The role was called. VOTE: 5 ayes – 0 nays, the Ordinance was passed**

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Due to the Governor’s mandate of only 10 persons in a meeting, the meeting was not open to the public - Questions were sent in ahead of time via email and read by Clerk Ratliff

Cyn Mackley - Scioto County Daily News - The Scioto County Commissioners expressed a strong desire to have in-person trick-or-treating this year as usual at their meeting last Thursday. Where does the council stand on this? Can we expect to have trick-or-treating as usual this year? When will you decide?

MISCELLANEOUS BUSINESS AND REPORTS:

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

1. She prepared a Proclamation for Prostate Cancer awareness for the month of September.
2. She received via email on September 8, 2020 from the Auditor’s office, the following summary statements of the Combined MTD/YTD reports for the period ending August 31, 2020: Expense, Revenue and Fund.
3. She advised that there will be a Ribbon Cutting at Brightview at 1405 11th Street at 2:00 p.m. They would like any of Council that could attend.

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: 5 ayes– 0 nays.**

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

Mayor’s Report – Mayor Johnson reported the following:

1. He chaired the Board of Health meeting on August 26th and during that meeting Jenny LeMaster announced her plans to resign and on behalf of the city and the Board of Health he would like to thank Ms. LeMaster for her service. (He requested that Clerk Ratliff send a thank you letter)
2. He appointed Dr. Valerie L. DeCamp to the Board of Health and he had emailed all of Council her credentials.
3. He stated that this had been a very tough year for our local media family. He expressed his heart felt condolences to the Lewis family and the recent passing of Frank Lewis; he was a man of many talents and for many years he was the morning mouth of radio and he had the privilege of working with him in the 1980’s at WPAY. Later he showcased his writing skills at Portsmouth Daily Times and was a media fixture at Council meetings. He was a Veteran, a Father, a Husband, a Bible Teacher and a coffee drinking friend and he will be missed in our community.
4. He addressed the Trick or Treat issue and felt that the City should follow what the County does on the date and time.

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: 5 ayes– 0 nays.**

Solicitor Haas Report – Solicitor Haas reported the following:

1. He gave his condolences to the family of Frank Lewis, he had gotten to know him pretty well over the time he was on Council and as a Solicitor and he will definitely be missed.

The Solicitor’s report was received, filed and made part of the record, on a motion by Vice President Dunne. The motion carried viva voce: **VOTE: 5 ayes– 0 nays.**

Auditor Williams Report – Mr. Williams had no report due to absence.

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

1st Ward – Councilman Dunne reported the following:

1. He’s been in touch with members of the Cincinnati School Board as well as Cleveland City Council with very positive feedback on those entities voting in support of the Resolution adopted by the Portsmouth City Council asking that OHSA develop policies to combat racism. He hoped that this was something that would move forward and something that Portsmouth would have led the way on.
2. He’s spoken with a variety of individuals in our area in trying to develop a Portsmouth Edition of Monopoly. He said other cities had their own customized Monopoly Board which let people know of what was going on and different Organizations in the downtown.

3. He's meeting with individuals of Shawnee State University about the development of a Social Research Lab which he thought would do great things in the area of collecting, organizing and visualize data and it would help everything from the public sector to the private sector. He will keep Council up to date.
4. He received a response back from NORML National Organization for the Reform of Marijuana Laws. He said it was very useful to hear from them and would forward what he had onto Council.

2nd Ward – Councilwoman Charlotte Gordon reported the following:

1. She's received a lot of calls from people on different problems that they had been having and thanked Manager Sutherland for his help.
2. She thanked Tracy Shearer from the Development office on the work she had done with MKSK who was hired by the city and the Scioto Foundation to come up with a Master Plan for some growth improvement and they have received the final draft. She thanked Tracy for the countless hours that she's put into this project and had really done a good job.
3. She's spent some time in the downtown talking with businesses that live and work around that area trying to cultivate an Arts, Cultural and Innovation District which we will be discussing further on the City Manager's Agenda. The feedback was very positive.
4. She thanked Main Street Portsmouth; the garden beds look awesome as well as the pocket park on 2nd Street.

3rd Ward – Councilman Kevin E. Johnson reported the following:

1. He said there was an issue with a paint job on a street, and also there was a residential complaint about an alley.
2. He mentioned our city workers and added that they were the best and thanked them for their service and Council does recognize their hard work and effort.

4th Ward – Councilman McManus reported the following:

1. He thanked Manager Sutherland for the 20 different items that were knocked out within the past two weeks. He too thanked the city workers for their help.
2. He agreed with Mayor Johnson on Trick or Treating in that it was mainly outdoors and people were walking from house to house and most kids wear masks anyway. He believed that COVID would be the hot costume of the year. He hoped that by October 31st we would be having different conversations.
3. He received a lot of calls, emails, text and facebook messages on the marijuana amendment. He said he was tired of being the bad guy and tired of getting flipped off while getting gas. He hears the public and the vast majority of people do not want this and he understood what Solicitor Haas had said in that it doesn't change the law. He felt that the public believed that it would change the law and if passed it would send a message that it was alright to buy some marijuana. He said that he doesn't believe that's what would happen, but at the same time he had to listen to his constituents.

5th Ward – Councilman Martell reported the following:

1. He thanked K.C. Printing and Promotions for donating the 1980 and 2020 All-American City signs. They donated three of the signs which will be at each entrance to the city.
2. He stated that there was a very bad accident on High Street and he had received an email regarding the speeding on that Street. He wondered if there was anything that could be done.
3. He had spoken to many cities regarding the Opposition to Racism Resolution that Council passed and trying to get the OHSAA to change some of their guidelines and policies. He had received quite a few emails from multiple cities which would include a Councilman from Akron who will introduce this to his Council, they also passed the Resolution onto a School Board in Akron. He received emails from Ashtabula and they will review it. The city of Athens who would be reviewing it and had also passed it onto their school board. Also, Blue Ash, Ohio, Bowling Green, Ohio, Brunswick, Ohio and Columbus, Ohio. He looked forward to continuing to work on this and getting more cities to talk about it.

6th Ward – Councilman Lowe had no report due to absence.

The meeting adjourned at approximately 7:00 p.m. on a motion by Vice President Dunne.

City Clerk

Mayor