

MINUTES – REGULAR SESSION**PORTSMOUTH CITY COUNCIL MEETING**

Monday September 28, 2020

6:00 p.m.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday September 28, 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.

Councilman Lowe’s absence was not excused.

Council dispensed with the reading of the Journal for the Regular Session of September 14, 2020 on a motion by Vice President Dunne. **The motion carried viva voce: VOTE: 5 ayes –0 nays.**

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

Vincent Herman - vincentherman4554@gmail.com – In support of decriminalization

Krystal Hall - krys3191980@gmail.com – In support of decriminalization

Rev. Chad Garinger - 5402 Harrison Ave. Portsmouth, OH – “I write in strong opposition to the "decriminalization" of marijuana possession proposals in our city. I agree with the clear arguments previously stated by our mayor at the most recent council meeting. This proposal does NOT decriminalize the possession of marijuana. It is an attempt to weaken or reduce the traditional and logical moral and legal standards that have been in place for decades. Saying something like possession of marijuana is no longer illegal will NOT change the fact that using illegal drugs of any kind is still morally irresponsible and wrong. Those who choose to vote in favor of decriminalization of the possession of illegal substances may mean well in their intentions, but fail to fully understand the unintended consequences of this move. Too many of our young children already are facing moral dilemmas and difficult ethical choices. They don't need to be further confused by a local council's decision to say that possession of marijuana is no longer wrong. IT IS STILL WRONG. To vote for this proposal is to oppose the moral teachings of parents, grandparents, teachers, coaches, school administrators, faith leaders, law enforcement officers, government officials at all levels and others who are doing our best to raise children good ethics. This proposal is in direct conflict with state and federal laws. To say locally that it is no longer wrong/illegal will foster a culture of moral relativism (what's wrong for you may not be wrong for me). In fact, anything (including the possession and/or use or misuse of illegal or controlled substances) will have no positive effect on our already struggling community. This proposal is counterproductive towards the stated goals of council members restore the morality, safety, health and productivity of members of our recovering neighborhoods. I beg the council to vote against this proposal for the sake of the soul our city and the families that call this community home.”

Pamela Anderson - 3117 Walnut St. Portsmouth, OH – “Hello my name is Pamela Anderson. I'm contacting you as a resident to support the Portsmouth Sensible Marijuana decriminalization. I'm asking you to vote yes on sensible decrim. This will help our city for multiple reasons. It helps reduce addiction / overdose rates, saves tax- payer dollars & resources and allows the police to focus on higher priority crime.”

Don Eubank - eubank_donald@icloud.com - In support of decriminalization

David Thoroughman, Sheriff-Elect of Scioto County, Ohio – “As the Sheriff-Elect and a retired member of the Portsmouth Police Department. I would like to address the Portsmouth City Council’s proposal to amend ordinance section 513.03 (c) (2) of the City of Portsmouth. The section number listed is what was written in the Portsmouth Daily Times article dated September 15, 2020. The section dealing with marijuana as a 4th degree misdemeanor is 513.03(c)(2)(B). This section states “If the amount of the drug

involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.” For those who are unaware, this is a lot of marijuana. In 32 years of law enforcement, the only persons that I have seen with these amounts are dealing in marijuana, not possession for their use. Therefore, a fourth-degree misdemeanor is not a harsh fine. Personally, I am unaware of one juvenile that has been charged with this amount. If there has been, this certainly would not be their first offense acting as the “catalyst” for them to get “caught up in the system” as stated in the article. I would like to commend Kevin Johnson, Mayor, for contacting me, reference this proposal. Mayor Johnson, wishing to make an “informed” decision sought out facts, which we should all do. The news article lists a few comments received from commenters, one stating that “Families aren’t broken because of weed, alcohol is more dangerous”. I personally have seen many family tragedies due to the use of drugs. Yes, the abuse of alcohol is a problem within our society. That is one of the reasons that underage possession is a first-degree misdemeanor. We want to protect our youth from the dangers of alcohol and drugs. In the article dated August 11, 2020 a councilperson is quoted as saying “I think long term this will be a very positive thing for our youth.” And, another stated “We find a lot of people make mistakes and get this criminal label, which leads to the “destruction of lives.”. I have seen and witnessed more than my share of children forgotten and abused due to the use of drugs. I have not seen one “positive thing for our youth” with the use of drugs. I have witnessed parents thinking only of themselves, spending what they have on drugs, leaving their children with no food and much more. What should we do with every other law that is violated, because someone “makes a mistake”? Should we do away with those as well? I know that if I violate the law there are consequences for my actions, and there should be. That is how a free society exists, by enacting laws that help protect and keep us safe. Laws are not enacted to ruin lives; they are enacted to ensure society prospers. The articles also use, in my opinion, hate and fear by indicating that your law enforcement are racists in the performance of their duties. I would encourage the council to ride with their officers to witness first-hand their job performance instead of citing an organization that is biased. You will see that your men and women in law enforcement are good. You will witness first-hand the tragedies that they respond to, most involving or as the result of drugs. Ohio Constitution, section XVIII.03 states” Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.” This proposal is in conflict with state law. We should be working to better our community, using our effort to increase economic and community development. Not wasting our time on items that violate the Ohio Constitution and will harm our families. I am happy to work with council on ways that will protect our youth and help them prosper. Thank you for your time and please let me know if you have any questions.”

Lynn Brewer – 1522 7th Street Portsmouth, OH – Totally opposed

Justin DeLong - 1010 24th Street Portsmouth, OH – “I am writing to city council to express my support for the decriminalization of marijuana in the City of Portsmouth. I think it is important for the citizens of Portsmouth to express their opinions in this matter but it is equally important to look at research and data surrounding the racist war on drugs and unequal enforcement of drug laws in communities of color compared to other communities. According to the ACLU, African Americans are four times more likely to be charged for marijuana possession than Caucasian people; in some states they are seven to eight times more likely to be charged, despite equal usage rates. This is a direct symptom of the racist war on drugs that continues to create a system of racial and economic inequality as marijuana charges threaten one’s job and eligibility to receive certain government benefits for their daily needs. Research conducted by The National Organization for the Reform of Marijuana Laws reveal that the local availability of [low-THC, high CBD] cannabis [products] led to a significant decrease in the number of dispensed boxes of anxiolytics by approximately 11.5%, a reduction of dispensed sedatives by 10% and a reduction of dispensed anti-psychotics by 4.8%. Decriminalizing and legalizing marijuana can provide safer alternatives to prescription drugs. I would urge council to take these thoughts into consideration as they continue their discussion and vote on this ordinance. I will close with this quote “Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself; and where they are, they should be changed. Nowhere is this clearer than in the laws against possession of marijuana in private for personal use.” – Former President Jimmy Carter”

Debby Brewer – Portsmouth Chief of Police – 728 2nd Street Portsmouth, OH – “I would like to express my displeasure at City Council’s proposal to decriminalize marijuana. I don’t know why this became an issue all of the sudden. Most of the citations that are issued by the department are minor misdemeanor citations. To get the amount of marijuana that you have listed (100-200 grams) you would most likely be selling it. No one keeps that amount around for personal use. This would not be a “mistake.” This would be intentional possession. If any of you remember when we had all the pill mills in the area, that should be enough for you to vote this proposal down. When the pill mills came to town so did the population that follows those sorts of places. I feel that we will be giving the wrong impression of Portsmouth. We do not want to be known as the place that marijuana is legal. This is going to be what people see. Portsmouth decriminalized marijuana, we can’t get arrested for it there. That is completely wrong. Ohio Law says that it is still illegal. Police will continue to arrest and cite under the state section if the charge is appropriate. At what point do we make individuals accountable for their actions? Everyone over the age of 18 has choices to make. No one can make decisions for you. That is still your own choosing. Making life easier is not making it better. City Council members are supposed to follow state law, enhance the community in which they serve and protect the citizens from harm. Voting for this proposal is not protecting the citizens that you were elected to serve.”

Mark S Hunter - 1551 Beechwood Heights Portsmouth, OH – “Honorable City Council Members, I am addressing you in opposition to the City of Portsmouth decriminalizing possession of marijuana in amounts up to under 200 grams. First, this is not a small amount. It is just under a pound. My next objection is using this method to advance what is a controversial position.” A Councilmember had stated that this is to send a message to the state of Ohio to change state law. In his position that it was not proper for a council of 6 members to take it upon themselves to use the City of Portsmouth to push this agenda. The council members in favor of this change should start a petition if they feel so inclined and send it to the state. Or, they should work to place the issue on the ballot for citizens to vote on its merits. He also disagreed with some of the arguments that have been put forward as fact. Studies researching evidence of marijuana usage, particularly among our youth, as a gateway drug to harder drugs were varied as to their conclusions. Even those recent studies that seem to be trending against that premise conclude that more study was needed. The NIDA report that was cited drew conflicting conclusions as to jurisdictions with relaxed marijuana laws having higher or lower rates of opioid related overdose rates. Again, this study concluded that more research was required and this was not the time to consider this legislation. He added that there were missing facts or statistics for some of their concerns. How many youths have been arrested under the current ordinance in the last 12 to 24 months by Portsmouth City Police officers? That data was not released, but he had been told possibly only one. A Councilmember had been aggressive in circulating data supporting their position to other council members and the studies and data of course supported that position. He urged Council to be aware that there were numerous studies supporting both sides of this issue, and they should refrain from “picking and choosing” from only those studies that supported a certain position. He also objected to this serious legislation being presented during a time when Council knew that citizens were forbidden from attending Council meetings. A Councilmember suggested that the public has had plenty of time to comment in writing. He pointed out that there were many in the community who did not have the ability to “stream” Council meetings or could not otherwise communicate their objections in writing. He pointed out that “in reality this changes nothing” as Portsmouth Police could still charge individuals under the Ohio Revised Code, and likely would. This legislation if passed would undoubtedly give some the impression “it is OK to pose these quantities”. This could lead to more arrests, not fewer. In conclusion he took exception to comments attributed by a Councilmember in a recent edition of the Scioto Voice stating “Those in opposition included Jay Hash (Clinical Director of the Drug Treatment Center Hopesource) and Mark Craycraft (Publisher of Scioto County Daily News) and a Councilmember had indirectly targeted both as having a vested interest with keeping marijuana on the books as a criminal offense.” He has known Jay Hash for many years and know him to be a man of integrity and find it offensive that anyone would question his motives in order to discredit his professional opinion on this subject to advance an agenda. Decriminalization of marijuana appears to be a personal agenda for some council members. “Please do not use the City of Portsmouth as your vehicle to pursue those beliefs. You are not speaking for the entire City of Portsmouth.”

Emily Nickell - 2217 Argonne Road - Portsmouth, OH – (This was emailed to Councilman McManus who forwarded it to the City Clerk) – “Hello Councilman McManus, I am a resident of Scioto County and I was hoping to speak with you in more detail about Monday's vote to decriminalize Marijuana. I left a voicemail and hope to hear back from you sometime tomorrow, but I wanted to follow up by text as well to reiterate the importance of decriminalizing marijuana here in Portsmouth. Why you should vote, Yes, to decriminalize marijuana here in Portsmouth:

1. Prohibition hasn't worked — marijuana use is mainstream and widespread. Relatively few Americans had heard of marijuana when the federal government first effectively prohibited it in 1937. Today, government data shows more than 118 million Americans admit to having tried it (24 million in the last month), and every year, the Monitoring the Future survey finds that four out of five high school seniors say marijuana is easy to obtain.

2. Prohibition wastes public resources, while marijuana taxation brings in much-needed revenue. A sample estimate by the Congressional Research Service projected that replacing marijuana prohibition with taxation and regulation would yield \$6.8 billion in excise taxes alone. In Washington State, taxes on cannabis sales brought in \$440 million in FY 2019.

3. Arresting marijuana offenders prevents police from focusing on real crime. In 2018 alone, the FBI reported more than 660,000 marijuana arrests and citations — more arrests than for all violent crimes combined. Meanwhile, FBI data showed that police only cleared 33 percent of rapes, 30 percent of robberies, and 14 percent of burglaries by making an arrest. Data published in Police Quarterly showed a higher percentage of some crimes were solved after legalization in both Colorado and Washington.

4. Prohibition sends an incredible number of Americans through the criminal justice system, ruining countless lives. According to the FBI, there have been more than 15 million marijuana arrests in the U.S. since 1995. While marijuana consumers who were not convicted have gone on to be president or Supreme Court justice, a criminal conviction can stand in the way of securing a job, getting housing, or receiving a professional license, student loan, food assistance, driver's license, or firearms permit.

5. Marijuana laws are disproportionately enforced. According to the ACLU, African Americans are more than 3.5 times as likely to be arrested for marijuana possession than whites nationwide, despite similar rates of use.

6. Replacing marijuana prohibition with regulation does not increase rates of teen marijuana use. According to the most comprehensive government surveys in each state, no state that legalized marijuana for adults has seen an overall increase in teens' rates of marijuana use outside of the confidence interval. Most of the data indicates slight decreases within the confidence intervals.

7. Marijuana prohibition breeds violence. As was the case during alcohol prohibition, driving this lucrative market underground results in violence. Both buyers and sellers are vulnerable to assault when disputes cannot be solved lawfully, in courts.

8. Regulation allows for control. Unlike licensed businesses in states that regulate cannabis, illicit marijuana sellers operate virtually anywhere and have no incentive not to sell to minors. Prohibition guarantees that marijuana will not be tested for purity and potency, creating the risk of contamination by dangerous pesticides, molds, bacteria, or even lacing.

9. Prohibition is bad for the environment. Illicit marijuana growers sometimes use banned pesticides, divert waterways, and leave hazardous waste in state and national parks. Regulated cannabis businesses are monitored to ensure compliance with zoning and environmental laws.

10. Marijuana is safer than alcohol. Researchers have consistently concluded that marijuana is less toxic than alcohol, it has less potential for addiction, and it is less likely to contribute to serious medical problems. The U.S. Centers for Disease Control and Prevention reports more than 30,000 alcohol-induced deaths per year, including more than 2,000 from acute overdose. It reports zero marijuana-induced deaths each year and there has never been a verified marijuana overdose death in history.

I really hope you take the time to consider the statistical research that clearly shows that our community would only benefit from marijuana decriminalization, and resist the urge to be swayed by misinformed opinions and myths surrounding marijuana use. Please, use your power and influence in our community to make thoughtful, researched backed decisions that could improve the lives of many and actually benefit our local economy.”

Kacey Hampton - kaceyhamptonn@icloud.com – In support of decriminalization.

John Koze - kozeegoodwill68@gmail.com – In support of decriminalization.

Drew Carter - 1990 Shela Blvd Portsmouth, OH – “The criminalization of marijuana is rooted in a deeply racist history and continues to devastate low-income and minority communities. Recent studies show that while marijuana usage is consistent across racial groups, minority populations are three times as likely to be arrested for possession than white offenders and ten times more likely to be incarcerated. The benefits of decriminalizing marijuana include substantial reductions in possession arrests for low and fixed-income populations, and by extension, a reduction in the consequences that follow such as extensive fines, loss of employment, criminal records resulting in difficult job placements, etc. Decriminalizing marijuana allows local governments to free up resources typically spent on arresting, processing and jailing offenders, as well as freeing up taxpayer-funded legal counsel and probation. Decriminalization is a fairly modest proposal that does not increase access to marijuana nor advertise its use. Rather, it can provide resource allocation for many local economic and social improvements. I encourage this city council to decriminalize marijuana.”

Clerk Ratliff stated that the next two were from the same person and/or organization (Sensible Movement Coalition) and had 12 sheets of petitions signed by people from Scioto County which included the City and the County in support of decriminalizing. Mayor Johnson asked if the petitions included the telephone number of the signee’s and Clerk Ratliff replied that a few had phone numbers but most do not. Vice President Dunne stated that the majority of the signatures were Portsmouth City residents

Pricilla Harris – 4th Ward Portsmouth, OH – “On behalf of Portsmouth residents and Ward 4 we kindly ask you to please vote yes to decriminalize marijuana. We are not criminals for small misdemeanor possession amounts please stop sending people of our communities to jail & fined. It is ruining lives of individuals. Your vote has a big impact at tonight’s meeting. Let’s save a life, plants over pills are working in cities just like Portsmouth. Ohio has 18 cities that has successfully passed by ballot votes & council votes. Protecting over 2 million people in Ohio. Think progressive please for your residents.”

Mary Smith – Sensible Movement Coalition – In support of decriminalization.

Jay Hash - 2213 Timlin Road, Portsmouth, OH – “Again, thank you for the hard and difficult work each of you do for the citizens of Portsmouth. I encourage each member of council to vote ‘no’ on the proposed marijuana decriminalization city ordinance. Please reference my previous email of September 12th, 2020 for supplemental information. While there are the beginnings of qualitative/quantitative studies indicating a minimal correlation between decriminalizing marijuana and reduced opioid hospitalizations and deaths, the studies are not conclusive and fall well short of any proof of cause and effect. And, as such, have not impacted legislation in federal laws and in the majority of state laws (including Ohio). We are in the middle of a pandemic and a drug crisis. In my opinion, it is a slippery slope with too many unanswered questions about the pros and cons of such an ordinance. Additionally, I definitely do not believe it is time sensitive enough to vote on in a pandemic when compared to the huge negative fallout that I predict would occur. This negative fallout would include, but not be limited to an increase in access to a controlled substance, a decrease in workplace activity, an increase in impaired drivers and accidents, and a decrease in people eligible to work due to failed drug tests. The ordinance will ideally be tabled or voted against at this time. Additional arguments against the marijuana ordinance are:

1. 200 grams is a large amount and is enough for a person to remain under the influence all day for 6 months.
2. 200 grams is suitable for drug trafficking.
3. A person in possession of marijuana must have broken a state law (cultivation or purchasing/trafficking) to possess the drug.
4. The proposed ordinance is in conflict with state and federal law.

5. As far as I was able to discern, there were no age limits on the proposed marijuana ordinance. An underage person who possess or drinks alcohol is charged with the appropriate misdemeanor. I'm certain it is a misdemeanor. What happens to the underage person who possesses or uses marijuana? Does this motivate people to smoke marijuana versus alcohol? I believe it would.

6. The ordinance will be confusing to many (for example "it is legal here. I can have it on me and smoke it"), when in actuality, it will still be illegal and enforced as such under the Ohio Revised Code. This actually may lead to more marijuana arrests and consequences.

7. I also believe that this proposed ordinance is not supported by the voters of the City of Portsmouth. Other than in council, I have not heard of a single citizen in favor of the ordinance.

I appreciate the opportunity to email. If I believed this proposal was for the greater good of our city and its citizens, I would be all for it. However, for the reasons cited above, I'm asking each council person to vote no."

Vice President Dunne asked how many signatures were on the petitions, he had counted 170 signatures and there was an online petition of approximately 200 in support, Clerk Ratliff stated she wasn't aware of an online poll and asked where the poll was conducted and he replied he thought it was "move on", he added that the vast majority were city residents.

Mayor Johnson stated there was another item on the agenda and asked Chief Debby Brewer to address Council. Chief Brewer stated that Axon was the company in which tasers were purchased and they contacted Nick Shepherd who was handling the purchase and they advised him today that if The City of Portsmouth could sign the contract by September 30th, they will deduct another \$3,000 from the total and give an extra taser to have on hand. She added that it would take the total cost of \$105,000 down to \$102,000. She appreciated Council's time.

LEGISLATION

The clerk gave a **third 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 Ordinance be passed.

Vice President Dunne stated that there was a misquote in the Scioto Voice and mistakenly stated that he spoke about Rehabilitation Centers wanting to keep marijuana criminal, but that was a mistake and the Scioto Voice would be running a correction. He emphasized his point on who endorsed and supported the criminalization of marijuana and who financed campaigns against it. He reiterated that it was the Pharmaceutical companies which was clearly documented, Private Prisons clearly documented and Alcohol companies.

Councilman McManus stated that in going over all of the emails, there was a majority to decriminalize but his concern was that he was also seeing the word legalization and was worried that there was a misconception that this legislation would do both. He said that if this legislation passed, Council was saying that it was okay to have up to 200 grams of marijuana; but then how do you get it to Portsmouth? He said there were four cities this year that had this on the ballot for the decriminalization, Enon, Glouster, Jacksonville and Trimble. He wished that this could be taken to the citizens to be voted on. He said that he had seen the petitions and had listened to the emails but wanted to hear from the voters; he added that not everyone uses FaceBook, Social Media and don't have internet and some people truly received news from the newspaper. He pointed out that the Sheriff-Elect and Police Chief both oppose this and it was also up to Congress to debate with the MORE Act (Marijuana Opportunity, Reinvestment and Expungement), he encouraged all to look up the MORE Act regardless if this passed so that the conversation could be continued.

Councilwoman Gordon would like to clear up the language that "yes" this would be for decriminalization, it was not legalization which was a world of difference. She said that Council wasn't saying that there weren't consequences, they would be giving the Police the option to not have such a greater offense and "yes" the State laws would still be in place and if the Police choose to charge someone criminally they have that option, but this would give them the option not to under the city ordinance. She said that there would be other consequences that if you do break the law, there were consequences and she had telephoned people and spoke to people that she knew to ask their opinion. She said there was a compilation of a lot of other ideas rolled into this, like a lot of confusing issues and you would need to parse them apart and distil it out to the issue at hand. She said that Mayor Johnson had brought up the fact that to obtain marijuana it would be an illegal transaction, however, if you sit on any Jury you need to again separate out the issues; the act of getting a substance was different than the actual charge of a person who was in possession of a small amount of marijuana, not LSD, not Cocaine, not Opioids, not Heroine, not any other substance but only marijuana. She knew that several letters had lumped it together with other drugs and the City of Portsmouth does have an issue with drugs as do many towns. She added that some of the comments that she did receive from people were about witnessing a lot of drug activity going on in their backyards, in their streets or street corners and again this decriminalization does not deal with

those transactions or all other drugs and only deals with one measured amount of one drug. A “yes” vote does not condone the use, a “yes” was saying “let the consequence fit the crime, this was not a crime that would warrant criminalization or a criminal record and having someone start out in the criminal justice system with a marijuana charge. This decriminalization would not absolve them from any consequence. She encouraged her fellow Councilmen to take this apart issue by issue and look at all of the issues.

Councilman Martell said that one of the things that he kept hearing was that the Officers have a choice and don't normally take a lot of people to jail for marijuana possession. He asked Chief Brewer and if people were being taken to jail and being charged? Chief Brewer gave an example of a minor misdemeanor possession: If people have a joint in their possession, the joint would get destroyed and they are not charged, but if they have 100-200 grams of marijuana on them, they would be going to jail because it was a lot of marijuana. Mr. Martell asked her if the amount could be changed, Chief Brewer stated that she thought that would have to be a State law. Mr. Martell said the thing he was trying to say was that if were not taking people to jail and he understood that the amount was an issue but if it was a minimal amount and Council passed this legislation, that would be putting the statement that the Police don't really enforce it anyway and it put it on the books and would give Officers an opportunity. Chief Brewer stated that a person doesn't go to jail if it was a minor misdemeanor, it would just be a citation, but it would get a person into the court system. He said that there was an issue with the amount listed and the decriminalizing of the marijuana. He heard that the City was going against State law, but went against State law concerning alcohol because Council just passed the DORA (Designated Outdoor Refreshment Area) and the majority of Council was in favor with the exception of one Councilmember. He stated that the DORA program made an area for people to drink with an open container, wasn't that going against State law? Chief Brewer stated that was correct, but the exception was that it was a designated area and was permissible in that area only, but if they went outside of the area they would be hit with the enforcement of open container. Mr. Martell asked why there was an issue with this compared to the DORA in which no one complained about his “Oath of Office” because an open container was a State law, but Council just passed an ordinance which said a person could drink in a particular open area, but it was still going against State law. Chief Brewer stated that the difference was that alcohol was legal and marijuana was illegal.

Solicitor Haas stated that if this legislation was adopted, it wasn't going against State law, but the fact that the City had an ordinance would not have anything to do with the State. He said doing away with the current ordinance doesn't affect the State law at all and wouldn't affect the outcome of any of the criminal cases that someone might be charged under State law. He said that because it was a State law, our city wouldn't even have to have the current ordinance and there were probably cities out there that don't have this type of ordinance.

Vice President Dunne addressed the context of one of the emails that was received asking “where did this come from?” He said for further clarification this was one of what he had hoped to be several discussions about criminal justice reform and this started at the beginning of June. He said there were multiple reasons why different groups or cities in Ohio and in different states, decriminalized marijuana and it started with issues around racial injustice. He stressed about the comments criticizing the motion, and that he had only heard one mention of race or racism and it was trying to imply that the study was biased against the organization which had no evidence whatsoever. He said this would be asking Police forces to act in opposition to certain individuals and put them in a war-like setting “War on Drugs” and it was unfair to Police. He said what was started in the discussions was that we don't want confrontational attitudes or arrangements between Police and members of the community, they wanted to help address issues and this was where this legislation was formed. He reiterated what several members of Council had said “that they would be part of the efforts to improve that relationship”. He said this reminded him of the “masks” ordinance in which they looked at issues faced by racial minorities in this country, it's racially segregated because some people just don't know the experiences of a community and in the mask mandate some of us knew people that had gotten sick and Council acted with scientific research. In the days following that mandate there were changes in the State that made it mandatory to wear masks and he was proud of that vote because they used science and empathy for others. He said that he kept bringing it up but the absolute ignorance or avoidance of talking about issues of racial injustice not only from letters to Council and of Council themselves and it showed the challenges that we face with racial inequality. He said that himself, he had never been racially profiled, but we want to show empathy for those that have been profiled and let people know that we do not support circumstances that reproduce racial inequalities and this would be one step forward. He complemented one of the emails that had addressed those issues, but it shouldn't be racial minorities that were the only ones talking about problems with racial injustices, it has to be those that were in the racial majority to talk about this problem. In Council meetings we unanimously defined racism as a toxic threat to democracy and if we truly believe those words, then what are we doing to address the toxic threat to democracy? In June he asked people if they had questions about problems with race or mass incarceration to read the work of Michelle Alexander “The new Jim Crow” and no one in opposition to this resolution had asked him for a copy of that book. He said when he ran for office, he told people he wanted to get a Skate Park for the city but during that time he was faced with ignorance of the issues, complete laziness of people not wanting to do any work, a complete lack of transparency, and in one case there was dishonesty. He regretted what had happen here in the past two months

in the discussion of the research that was presented to City Council that showed there was a national decline in teenage marijuana use and that research was presented that showed there was no increase in teenage use of marijuana in areas that had decriminalized or legalized. Research had shown that marijuana was not a gateway drug and more research was coming out showing that marijuana could be used as a suppressant for desires of stronger drugs. No one on this Council had disputed those findings and no one on this Council had said that the methodologies employed in those studies were somehow wrong and were not disputed. Research was also presented that showed racial disparities with the application and sentencing of these laws and no one on Council disputed those findings. In Ohio, eighteen other cities had passed this type of legislation through their City Council. He said no one that he knew of had contacted those other cities with the common-sense question such as “I’m worried about what might happen here, what has happened in your city? Has there been chaos, has there been a zombie apocalypse of some sort?” Mr. Dunne gave an example that if Council had tasked this as a job to an employee and for two-months they were asked to research the issue, we would see that there was a lack of research in peer review journals, and a lack of research in the cities that had already passed this legislation. He compared the research that was conducted with the Dog Park, the DORA, and the antidiscrimination legislation and all were done through due diligence and an avoidance of laziness. He believed that it was lazy to vote in opposition if a person hadn’t bothered to look at what had happened in other cities or if you haven’t looked at research in a way that’s even in one-way critical. He said that when he first proposed the Skate Park in Portsmouth, there were all of these allegations that kids/skaters were terrible people and they would vandalize the neighborhood and that was atrocious. He would get comments like, “we like the skate park idea but we don’t know where to put it.” He reiterated that it was a complete sense of laziness and was shocked because it cost our city money, but once those people were gone, the City was able to move forward with a \$340,000 Skate Park. He said it’s better for the community and what it did was challenge people that were: 1. Ignorant on the issues. 2. That were too lazy to do anything about it because he had offered to write the grants for free. 3. Lack of transparency. What was seen was a lack of research and if you were hiring someone to investigate this issue and vote on it and after two months, they did not find anything wrong with the research presented and didn’t bother to contact other cities and you were the boss of that person, he doesn’t know anyone who wouldn’t fire those people because that wasn’t doing due diligence. When he looked at some of the responses and excuses such as, a lot of people were getting phone calls and as the person that proposed this legislation, he had only received one phone call that was against it. He offered his October salary to a project that would affect the Third or Fourth Ward, if they were willing to name fifty people that have called them because there was no way that he believed that they even got close to fifty phone calls on this ordinance in opposition, he simply did not believe it. When you look at the number of people that signed the petitions and the Statewide and National surveys, you see that the majority of people support this and they were doing that in a very credible way of understanding public opinion. When you site things such as “I get a bunch of phone calls” that simply wasn’t verifiable and that wasn’t how business should be conducted in City Council and this was why people get angry at local government or government in general. Pledges were made to people to support measures to improve issues about racial inequality and to site things like “some people are upset about it or being labeled the bad guy” or something like that, the simple questions was, “who labels someone that was trying to fight for racial equality, who was it that labeled that person the bad guy and why would we care what they think? There were issues on procedures that for two months lacked research and no effort was made to research but instead it was just about phone calls and at the last meeting the Mayor questioned if we were being dishonest or violating the Oath of Office and he said that was a shocking thing to say in public. He reviewed the legislation procedure: It first was a discussion item and the person that was witness to that discussion was the City Solicitor; it then moved to the City Manager Conference Agenda and again, the City Solicitor witnessed the discussion; it then was written up as legislation by the City Solicitor, so in multiple instances the City Solicitor witnessed every step, but despite that, some were accused of violating an Oath. “That was one of the craziest tactics he’s seen in his over two and a half years on Council and to do something like that by attacking people’s reputations in public is unfounded and baseless and you just shouldn’t do.” He understood why some people were terrified of certain people on Council voting on things like this because they haven’t read about or even bother to look at other cities which he found infuriating. He added that members of the African American community were given pledges that there would be support for efforts to improve relationships with the criminal justice system but those pledges were completely forgotten. He was disappointed and didn’t have an illusion that he would change anyone’s vote, but wanted to document the process that had taken place. He said that all of their research was verifiable and people who trust in government, had a right to be angry about this because we’ve seen the majority of people that have commented in support of this. He was frustrated several years ago when he found that he had lost to those that voted out of ignorance, laziness and lack of transparency, that was an ongoing fight in every city. He concluded that since his time on Council, he had researched and would continue to use research and took a lot of initiative in researching the All-American City application and working with Councilman Martell and Councilwoman Gordon and would continue to work like that, you can be frustrated and be screaming how can people vote without doing research, but we push forward.

Mayor Johnson stated that he originally had no comments, but would like to address some of the comments made by a very passionate Councilman Dunne. He said that he was born in Portsmouth, went to school

in Portsmouth, made his 55-year career here and will probably be buried here someday. He's heard it said that our law enforcement had unfairly charged some throughout history due to economic environment, race etc. he was one of those that grew up in government housing, he knew, respected and looked up to the Officers such as: Thompson, Sommers, Leonard, Bihl, Shipley, Brewer, Cassidy, Potts, Kegley, Freeman, Diamond etc. these people were our heroes and men of character and he can't believe that anyone was unfairly charged due to their economic environment, race etc. he had more faith in our law enforcement, yesterday, today and tomorrow. He would say that we have different feelings about this and that's what makes us a unique body, and as always once a decision was made, they walk away from it and continue to work together on decisions that affect our city.

Ord. was
defeated

There were no further questions or comments. **The role was called. VOTE: 3 ayes – 2 nays (K.E. Johnson, A. McManus), the Ordinance was defeated.**

The clerk gave a **third 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.

Ord.#52 2020
Police
Department
tasers

Vice President Dunne motioned 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 **second 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 second reading.

Councilman Martell motioned to amend the legislation in Section .02 Creation – Membership Terms. He would like to add after the words consist of "one Councilmember", then in the same paragraph after the word Councilpersons add "one Councilmember elected by Council". Also, add after (2) for three (3) years, Councilmember's term shall be for the length of their term".

Ordinance
was amended

The role was called. VOTE: 5 ayes – 0 nays, the legislation was amended.

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 \$160,000.00 from Wastewater Fund No. 621 in order to increase appropriations for certain projects.

Vice President Dunne motioned that this constitute a first reading.

Councilwoman Gordon asked if this were an emergency? Manager Sutherland referred that to the City Auditor who responded that it wasn't an emergency, but would like to see it passed at the next meeting.

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 appropriation of \$110,000.00 from Water Works Fund No. 606 for the design of a water pumping station for the area east of St. Rt. 522 in the Franklin Furnace area. 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.

Ord.#53 2020
Appropriation
for design of
new water
pumping
station in
Franklin
Furnace

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 City Manager to apply for the Ohio Department of Natural Resources, Land and Water Conservation Fund grant to construct new stage seating at the riverfront.

Vice President Dunne moved that this constitute a first reading.

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

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

There was no one present that wished to address Council pertaining to items not on the agenda.

MISCELLANEOUS BUSINESS AND REPORTS:

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

1. She stated that she had met with the owner of the 2nd Street property where Columbia Gas had remediated old gas pipes and materials to notarize the final paperwork to complete the project. She stated that the property had been cleaned up, paved and looked very nice.

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 reported the following:

1. He stated that there was some interest expressed to him about sitting on Community Actions Board of Directors for a three-year term. He believed it to be an advantage to have a city member on that board and if Council had any questions, they could contact Steve Sturgill. The term would begin October 5, 2020 and end October 5, 2023.

The City Manager’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.**

Mayor’s Report – Mayor Johnson reported the following:

1. He chaired the Health Department meeting on September 23, 2020.
2. He wished a happy belated birthday to our City Clerk.

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 had no report.

Auditor Williams Report – Mr. Williams reported the following:

1. He advised via email that the August income tax revenue collections were the highest of this year and one of the highest that we’ve had in many years. He said as a result there would probably be a decline in the September 2020 revenue which so far has been down, but there were still two days of collections and they do tend to pick up electronic collections in those last few days, however, he advised in August that income tax collections were up \$515,000 total, \$454,000 for just the General Fund and for now we’re down -\$431,000 in the General Fund which still left us at \$23,000 above last year. Total collections were down -\$490,000 plus \$26,000 for the year. He does expect that to increase between \$100,000-\$150,000 and possibly even \$200,000 by the next couple of days, but he doesn’t think it would get us up to the \$431,000 that we’re down right now.

The Auditor’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.**

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

1st Ward – Councilman Dunne reported the following:

1. He said that he took part in Constitution Day at Shawnee State University and featured a number of interesting panelists who spoke about the constitution in different formats and levels. They heard from people that worked at the University, City Services, a Judge and he spoke from his perspective on City Council. Expressing that the work that we do could be seen through the lens of working in

relation to the U.S. constitution. He added that Council was comprised of individuals that had been chosen to represent the ideas of each ward in the city and represent those ideas at the legislative level which made them representatives. In theory that was the way democracy should be working. He was able to speak at length about the antidiscrimination legislation as well as the work that he had done with Councilman Martell on the efforts to fight racism in High School sports.

2. He's been in touch with the Ohio History fund about McKinley Pool and they have a bricks and mortar grant with a deadline of October 1st which was fast approaching. It would provide 60% funding for a maximum of \$20,000 for a project and believed that it would be a great benefit for McKinley Pool. Since McKinley Pool was placed on the National Register last year it would make it eligible for that funding. He would like to see it pursued and looked forward to placing orders for the bathrooms and ladders at McKinley Pool.

2nd Ward – Councilwoman Charlotte Gordon reported the following:

1. She congratulated Portsmouth Unity Arts Project on Emancipation Day in Tracy Park which was phenomenal and a lot of work had been done by many, many people and was a wonderful day of tours throughout the city.
2. She thanked Main Street Portsmouth for the gardens and flowers which were really fabulous.
3. She thanked Manager Sutherland and Andy Gedeon on some calls that she had received.
4. She spoke with a lot of the residents around the Gallia Street area about the Arts, Culture and Innovation District that will be discussed in the City Manager's meeting.

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

4th Ward – Councilman McManus reported the following:

1. He thanked Manager Sutherland and the City Workers.
2. He wished Clerk Ratliff a happy birthday.
3. He stated that he doesn't vote on a whim and does read a lot. He said that last week he went camping and was able to do some reading. Unfortunately, there were not 50 calls, but he did receive 6 calls on Friday, a text message that read "don't be a flip-flopper Andrew, vote yes for marijuana decriminalization, do something positive for the community". He received a lot of calls, maybe not 50, but he wanted people to know that he supported this but he would like to see it on the ballot and for everyone to be able to vote on it.

5th Ward – Councilman Martell reported the following:

1. He thanked the Portsmouth Unity Arts Project for putting on Emancipation Day and bring it back to life because it was once something that the city used to do, but dwindled out and now the new banners "Stand here Portsmouth – Stand here Together" which were awesome. He enjoyed volunteering his time, taking pictures of people beside the Charlie Haskins mural on Market Street.
2. He said that Councilman Dunne had mentioned about him doing some legwork concerning racism in High School Sports. He's been emailing Councilmembers in every city in the State of Ohio to bring forth some effort into changing some policies and guidelines pertaining to racism in High School sports. He said so far, they have Akron, Ashtabula, Athens, Blue Ash, Bowling Green, Brunswick, City of Columbus, Fairborn and Euclid who had all expressed interest in partnering with Portsmouth to continue this work with getting the OHSAA to change some of their policies and guidelines addressing racism in high school sports. He has a Zoom meeting scheduled this Wednesday with Fairborn, Ohio and their diversity and inclusion committee to talk about a partnership and how to best continue this work. He received an email today from Columbus City Council President pro-tempore Elizabeth C. Brown and she wrote to us saying "Thank you for writing to bring the Resolution recently adopted by Portsmouth City Council to the attention of myself and my colleagues on Columbus City Council. I appreciate your outreach and would like to be a partner in this effort to address racism at High School athletic events. To that end, I will raise this issue with Columbus City School Superintendent CEO Dr. Dixon as well as other Districts and Superintendents in Central Ohio. With feedback from each district, we can determine how best to move forward locally with a specific focus on working with the OHSAA to develop Statewide policies to address racism at athletic events. I look forward to providing an update on the results of this outreach. Thank you again for initiating this important work." He said that he has a lot more work to do.

Clerk Ratliff asked for any copies of emails in which she could start a file and scan the documents. He will email them.

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

The meeting adjourned at approximately 7:40 p.m. on a motion by Vice President Dunne.