

**MANAGER'S CONFERENCE MINUTES**  
**Portsmouth City Council Meeting on**  
**May 9, 2016 – 7:35 p.m.**

All members of Council were present except Councilman Meadows who was excused, Solicitor Haas, Manager Allen, Auditor Williams and City Clerk Ratliff

**Agenda**

**1. Park Rules**

**CM-16-44**

Park Rules were moved to the #1. In 2014 the City recognized that there weren't good rules in the parks as rules were not identified. There was also a discussion last year about parks that were no longer City Parks, and one of those was Larry Hisle Park, he reminded Council that it had been in the news about how the City was using it as a dumping site which was untrue as it wasn't the City doing the dumping. When it was researched, the property was PMHA land and there was a lease obtained in the early 1990's to build ball diamonds and a boardwalk and it was all destroyed within a matter of months. In Bannon Park, the city owns half and PMHA owns the other half and it needs to be cleaned up and they've made request for some maintenance which we're not sure if it's on PMHA property of City property. The eight Parks listed (Alexandria Park, Labold Ball Fields, Mound Park, Tracy Park, Wehgorst Park, Martha Burton Grant Bridge Park, York Park and Cyndee Secrest Park) and the rules that were contained in the codified ordinances were a good starting point but one of the things that got deleted years ago were the park hours. The Police Department said they couldn't enforce the park hours because they were deleted out of the codified ordinances and to the best of everyone's memory it was when time restrictions were removed from parking lots. The Parks have signs that say 6:00 a.m. – 10:00 p.m. but there were no ordinances to back this up. Some of the signs actually referenced 945.04 of the codified ordinance, and that particular one does not talk about park hours at all. Many places utilize dawn to dusk which sometimes people think was better than set hours, however, there was questions about those who chose to use the park at night and that would prohibit that usage. There are lights out at the Cyndee Secrest Park but no one uses it at night. These were suggested rules for Council to accept or decline, but it was something to work with it to have rules. Mayor Kalb asked if there could be additional fines for littering in the parks. Councilman Kevin W. Johnson said he thought it was \$500.00 and Solicitor Haas said he's never seen a fine come through of that amount. Councilman Lowe referenced Cyndee Secrest Park and said Service Director Beaumont called him to see who was taking care of the Park and from his understanding someone had cut the wire to the lights. Manager Allen said that there was an agreement for Rose Street Park that was leased to Sciotoville Elementary School for \$1.00 per year, but no monies have been paid to date; the City should ask if they were still interested in leasing the Park. He would totally leave this up to Council to review because anything would be an improvement to what's there now. Councilman Kevin W. Johnson requested to add to **#11 of the Recommendations the word "trees" to "Damage, injury, or removal of facilities, plants, trees, or wildlife is not allowed. No person shall climb trees". Also #14 of the recommendation should read "Children under the age of 12 shall be accompanied by an adult"** Manager Allen ask if we could even say "12 year old" because of their constitutional rights and Solicitor Haas said 12 year olds don't have constitutional rights. Manager Allen stated that once these rules were passed that there would be signs posted at each park. There was discussion about changing the age to "8 years old" but the Solicitor said "12" is usually the age the Courts allow the child to make the choice of which parent to live with and "8" is very young and personally wouldn't let his 8 year old run around a park by themselves. Manager Allen discussed #6 – Any use of metal detectors are prohibited. He said that was on there because Former Mayor Malone had given someone permission to go digging. He told the man that he couldn't stop him until these rules get enacted. He said that if someone uses their metal detector and then digs a hole because their looking for treasure and they don't fill the hole back after they're done, someone could trip and fall in the hole, and then we're liable.

Councilman Kevin W. Johnson motioned to accept Alternative #2 with the above changes.

**There were no questions or comments. VOTE: 5 Ayes – 0 Nays**

Councilman Kevin W. Johnson stated that he would make one motion for the code cleanups that the Manager would be introducing from CM-16-38-CM16-47 with the exception of CM-16-41 which was removed and CM-16-44 which had already been discussed. Mayor Kalb asked if this was something everyone wanted to do three readings on, *Solicitor Haas said something but his microphone was not on and it was inaudible*. Manager Allen said there was no emergency to the legislation.

2. Code Clean-Up Chapter 903.02 – Street Cuts CM-16-38

Manager Allen said this changed Mayor to City Manager.

Councilman Kevin W. Johnson recommended alternative #1 as stated above.

**There were no questions or comments. VOTE: 5 Ayes – 0 Nays**

3. Code Clean-Up Chapter 907.02 – Parking Areas CM-16-39

Manager Allen said this changed Mayor to City Manager.

Councilman Kevin W. Johnson recommended alternative #1 as stated above.

**There were no questions or comments. VOTE: 5 Ayes – 0 Nays**

4. Code Clean-Up Chapter 941.07 – Sanitation Officer CM-16-40

Manager Allen said this changed from Mayor to City Manager.

Councilman Kevin W. Johnson motioned to accept Alternative #1 as stated above.

**There were no further questions or comments. VOTE: 5 Ayes – 0 Nays**

5. Code Clean-Up Chapter 941.20 – Weeds CM-16-42

Manager Allen reviewed the following changes.

Changes as follows:

Changed Mayor to City Manager.

Changed height of weeds/grass from 10 inches to 6 inches.

**Removing** Standard City Lot @ 35 ft. x 120 ft. \$100, Other City Lots \$175.00, Disposal and Hauling Fee \$75.00, Administrative Fee \$100.00

**Adding** The cost of labor shall be \$200.00 for the first hour and \$100.00 per hour for each additional hour thereafter. If debris or material are hauled from the site in order to take care of the noxious weeds there would be a \$75.00 disposal and hauling fee.

In subsection (b) on page 3 the codified reads “The Mayor and/or Director of Public Service determines that such weeds or grass, as described in subsection (a) hereof, exists ~~on one of the days set forth in subsection (a) hereof.~~” When looking at the codified ordinances there were no dates listed. So that section had been deleted.

When researching this section, it was found that they used to publish on May 1<sup>st</sup>, May 15<sup>th</sup>, June 1<sup>st</sup>, and June 15<sup>th</sup> in the newspaper. In Delta, it was published one time to give warning at the beginning of summer, so if there was a violation, he wouldn’t have to go through the (10) day process each time. The Violators would get notified once and then they would have to keep it up or the City would mow the grass and the property would be assessed. Mayor Kalb ask what the procedure was once a complaint had been received, for instance if the grass was over 6 inches. Manager Allen stated that Director Beaumont would send a certified notice to the owner and if they fail to respond within the 10 days given to them, then it would be considered a non-response but due process must be given, however, there’s a lot of time involved in mailing out a certified letter and then waiting the 10 days. *Solicitor Haas said something but wasn’t wearing his microphone*. Manager Allen estimated that if the letter were sent out in Portsmouth that there would be a 95% non-compliance rate because they don’t care about their property or they’re abandoned and there shouldn’t be an expectation of being reimbursed. *Solicitor Haas said something but wasn’t wearing his microphone*. Mayor Kalb asked Solicitor Haas what the timeline was for starting the process on a delinquent piece of property that has back taxes. Manager Allen said the list was over 2,000 pieces of property that were delinquent. *Solicitor Haas said something but wasn’t wearing his*

*microphone*. Manager Allen said that if we start the enforcement, everyone in violation would be assessed, but when you review the violator's tax status, most of the violator's don't pay their taxes. Manager Allen said if the County proceeds with the Land Bank, there would be money for maintaining. *Solicitor Haas said something but wasn't wearing his microphone*. Councilman Lowe ask what the timeframe was before the City would take action on the offender's and Manager Allen said that it would be the County that would have to start the procedure, because the County was the one to do all the foreclosures and they would talk to the City and if there's an area that the City was focused on, the County was willing to help prioritize. If there's an issue that comes before the Health Department where a house needs to be torn down and the neighbor was interested in buying the property, then that property would become a priority.

Councilman Kevin W. Johnson motioned to accept Alternative #1 as stated above.

**There were no questions or comments. VOTE: 5 Ayes – 0 Nays**

**6. Code Clean-Up Chapter 945.01 – Parks Responsibility CM-16-43**

Manager Allen said this changed Mayor to City Manager.

Councilman Kevin W. Johnson motioned to accept Alternative #1 as stated above.

**There were no questions or comments. VOTE: 5 Ayes – 0 Nays**

**7. Code Cleanup Chapter 947.02 – Responsibility of Service Director CM-16-45**

Manager Allen said that we sold Allard Park to Sciotoville Community School dba East High School in 2007 for \$1.00 but the references were never deleted from the codified ordinances.

Councilman Kevin W. Johnson motioned to accept Alternative #1 as stated above.

**There were no questions or comments. VOTE: 5 Ayes – 0 Nays**

**8. Code Cleanup Chapter 947.03 – Use of Stadium and Parks CM-16-46**

Manager Allen said again that this references Allard Park.

Councilman Kevin W. Johnson motioned to accept Alternative #1 as stated above.

**There were no questions or comments. VOTE: 5 Ayes – 0 Nays**

**9. Code Cleanup Chapter 947.04 – Application for Permit for Spartan Stadium and Branch Rickey CM-16-47**

Manager Allen said again that Allard Park was referenced also it referenced Portsmouth High School being given preference to Spartan Stadium but they have their own field now and no longer use Spartan Stadium so that reference should be removed. \$1,000 deposit was removed because we don't charge that anymore but we added that they must show proof of insurance in the amount of \$1,000,000 and name the City of Portsmouth as an additional named insured. He also said that a question had come up about someone using the field and he explained that "Warriors" were delinquent in their rent in the amount of \$2,500 and they had some internal struggles, however the bill has been paid and they've met all the requirements. Notre Dame also had some work done to the field and it was completed and they approved for the Warriors team to use the field. They also said they would not be flying a helicopter into the stadium or letting off fireworks.

Councilman Kevin W. Johnson motioned to accept Alternative #1 as stated above.

**There were no further questions or comments. VOTE: 5 Ayes – 0 Nays**

**DISCUSSION**

Councilwoman Aeh stated that if you go back to the Park Ordinance and people building on the right-of-way, she said if you look at how PHS built the new facilities, they built in the right of way and moved the City sidewalks. There used to be a property line, sidewalk and grassy area and they took over the sidewalk and moved the sidewalk out to the curb and there's no longer a grassy area. The area was around the Football field on Gallia Street and the Softball field on 9<sup>th</sup> Street, the Track on 9<sup>th</sup> and Finley Streets, every field over there was built in the right-of-way. Mayor Kalb said that they took out the "Devil's Strip" and made it their own. Mrs. Aeh also said that we're making a gentleman down on 2<sup>nd</sup> Street lease because he built in the right-of-way and believed that the City should make the schools lease or they could trade us their practice field by the stadium. Manager Allen said that he would look into their encroachment but he believed that there was something tied to the deed of that property by the football stadium. Mrs. Aeh said that the sidewalk by the Softball Field on the East side Waller Street does not line up with the sidewalk on the West side of Waller Street. She said the schools do not pay taxes and part of this was the City's fault because we vacated Alley's and Streets for them and we lost one property owner who was paying \$125,000 per year in property taxes. He not only got to sell his properties, but he no longer pays \$125,000 property taxes and the City was on the losing end. She said that it's been 21 years but adverse possession. ***Solicitor Haas again said something but his microphone was turned off.*** Mrs. Aeh said that she read it and it said in the ORC any public property that was built on that in 21 years they could claim as their own and it said public property. ***Solicitor Haas again said something but his microphone was turned off.*** Mrs. Aeh read the section she was discussing "Real Estate dedicated to public use, if a street or alley or any part thereof laid out and shown the recorded plat of a Municipal Corporation has not been open to the public use and occupancy of the citizens thereof or other persons and has been enclosed with a fence by the owners of the inlots, lots or outlots lying on adjacent to or along such street or alley or part thereof and has remained in the open uninterrupted use adverse possession and occupancy of such owners for the period of 21 years and if such street, alley and inlot or outlot is a part of the tract of land so laid out by the original proprietors the public easement therein shall be extinguished and the right of such Municipal Corporation, the citizens thereof or other persons and the legislative authority of such Municipal Corporation and the legal authorities thereof to use, control or occupy so much of such street or alley as has been fenced and used possessed and occupied shall be barred except to the owners of such inlots and outlots, lying on adjacent to or along such street or alley who have occupied them in the manner mentioned in this section. ***Solicitor Haas again said something but his microphone was turned off.*** Mrs. Aeh said that the school wanted to sell the practice field to the City for \$200,000 after we vacated streets and alleys for them. Solicitor Haas said he thought someone should look at the Engineering plans that were submitted. Mrs. Aeh said that it should have gone to the City Planning Commission and to City Council. Solicitor Haas said again, we would have to look at the plans. Mrs. Aeh said she was working here then and it never came before City Council. Councilman Kevin W. Johnson said that if you look at 7<sup>th</sup> Street on either side of Ruthann Brush's property, the City never followed through on how they submitted their plans and the new properties totally eliminated all the green space, they took out all the trees and made it solid sidewalk which was a total violation. *Lots of people talking.* Councilman Kevin E. Johnson said that with everything that our city was facing and he means no disrespect but if you took the top 5 sites in the City and of course the Murals would be right up there, but one of the sites would be the PHS complex/coliseum and he doesn't know why when we're facing so many things that we would be worried about the sidewalks. Mrs. Aeh said it wasn't that, but how can we make one person pay and not the other. She said just because it looked nice doesn't mean we shouldn't ask them to pay and another thing that people may not know is that they didn't want to fill in the sewers that went through there and now there were sinkholes. Mayor Kalb said he thought that was why the Kennelodge was removed from the Agenda because it was found that they used the property for so long and Manager Allen said that they will be back because the bank won't recognize that paper that the owner has. Mayor Kalb ask Solicitor Haas to review that in ORC 2305.05

The meeting adjourned at 8:17 p.m. on a motion by Councilman Kevin W. Johnson.

Submitted by: *Diana Ratliff* — City Clerk