

Manager's Conference Minutes
Portsmouth City Council
July 28, 2014
7:00 p.m.

1. Disposal of Surplus Property Fire Engine 189

CM-14-28

Councilman Kevin W. Johnson motioned to accept alternative #1 – Legislation be prepared to direct the City Manager to donate the vehicle to another governmental jurisdiction.

Councilman Saddler stated that he stands by previous statement to scrap it due to our fiscal situation. Councilman Meadows echoed Councilman Saddler said, it's \$2,132.00 that we don't have right now and we could use it and it's not a lot but it will help. Councilman Kevin E. Johnson stated that he's still learning the situation and stands by his statement about our relationship with SOCF. If we have a working relationship with SOCF we may someday need them for mutual aid and donating a fire truck is small in comparison to putting a price on lives. Chief Raison stated that they have responded to our emergencies in the past. If you're weighing the value of the truck to what we get from SOCF and they have repeatedly come to the city's aid. Councilman Kleha asked how SOCF could use it if it wasn't in working order. Chief Raison said that would be for them to decide, but they have a limited response on their campus, whereas in the city ours are run more frequently. Acting Mayor Kalb stated that he felt it would be a goodwill gesture. Councilman Kevin W. Johnson stated that he had a number of issues with this, he hates getting blasted in the press by anyone on issues that we haven't gotten to discuss and he was ticked. Chief Raison said "so was I", not that you didn't want to give the truck away more so over some of the statements that were made toward the State of Ohio. KWJ said he would address that too. In 2008-2012 we are short \$1,806,000 in funds that we would have normally gotten from the State of Ohio which is approximately 9.6% of our budget and that is from the Estate Tax and Revenue sharing and that's a huge cut for us and every one of us here has a right to be ticked at the State and a job loss of 25,000 throughout the State including Fire Fighters due to those state cuts. They tell us we need to live within our means and then the Auditor office comes along and tells us we need to raise the taxes, there are so many mixed messages. With all that being said, he believes \$2,000 is not going to make a difference and this would be a goodwill gesture. Acting Mayor Kalb stated that a few years back SOCF

was in the same state that we are in now. City Manager Allen feels that it would be a goodwill gesture.

VOTE: 4 Ayes - 2 Nays (R. Saddler, G. Meadows)

2. Transfer of Unclaimed Monies

CM-14-29

Councilman Kevin W. Johnson motioned to accept alternative #3 - Take no Action.

Councilman Kevin W. Johnson asked what steps the city takes to notify of unclaimed funds. City Manager Allen stated he did not have the answer to that and that we would have to ask the City Auditor. He gave some examples of unclaimed funds. KWJ - stated he hates to take action on this until we make some attempt to return these monies to people who might be owed the money and ask if this could be delayed for two more weeks. Solicitor Haas made a suggestion that when an issue like this comes up during the week after you have your packet and before the meeting it would be helpful if you called him during the week so that he could iron out any issues before we come to a meeting. Just so legislation can be moved along.

VOTE: 6 Ayes - 0 Nays

3. Transfer of FEMA Reimbursement Fund

CM-14-30

City Manager stated that we had received monies from FEMA over the years during crisis and the monies were never redistributed to account where expenses were incurred. The State Auditors were the ones to bring this to our attention, we need to make a good faith effort to put this money where it belongs.

Councilman Kevin W. Johnson motioned to accept alternative #1 - Legislation be prepared to make the above transfers from the #261 FEMA Fund to the above listed funds.

VOTE: 6 Ayes - 0 Nays

4. Additional Vacation City Manager

CM-14-31

City Manager Allen stated he did not ask for the vacation but it was offered.

Councilman Kevin W. Johnson stated that he made the offer to the Manager when he was Acting Mayor. When he was in a previous job he was head of a committee that was responsible for compensation and one of the things they watched for was the health and wellbeing of their CEO and when they were putting in 70-80 hours a

week and they would offer them extra time off in lieu of payment, but the contract was never amended. In this case the City Manager has been working long hours and he suggested that the City Manager take some extra vacation to rest, he also mentioned to the City Manager about applying for Key Man insurance for the City Manager position as it is a nominal fee. Councilman Kevin W. Johnson motioned to modify the request to add one additional week without changing the contract. Would be for 2014 only.

Councilman Saddler asked the City Manager how many vacation weeks the Department Heads get and the reply was 6 weeks depending on how long they've been with the city. Acting Mayor Kalb stated that he felt that the City Manager was doing a good job but he feels that after only 6 months we shouldn't be offering additional vacation time when we've asked other within the city to take concessions. Councilman Meadows asked the City Manager to not take offense on what he is about to say. #1. He remembers a letter that come out a couple of weeks ago that said that the City Manager works for all of Council, no offense to Councilman KWJ but he didn't have the authority to make the offer. #2. This is not the route to go about getting this, it should've been done in Executive Session perhaps under a personnel matter regarding time issues, stress issues, because things happen. #3. Going along with what Acting Mayor Kalb said, the City Manager has only been here 6 months, this is not the right time to do this. Again this should have been done in Executive Session and not brought straight to the floor. The Manager's contract was negotiated between the City Manager and 6 Council Members. Manager Allen stated again that "he did not ask for this, it was offered". Councilman Saddler asked to finish his comment. He asked the Manager Allen if the leave he took to go to Honduras was vacation and he replied in the affirmative. He stated then that 2 weeks' vacation was not enough time off. He agrees with what everyone is saying about this isn't the appropriate time but it's out there now, so it needs addressed. He believes that he deserves more time off. Manager Allen asked Acting Mayor Kalb "if the time off were offered to you, wouldn't you take it". Acting Mayor Kalb said as Councilman Meadows stated, it shouldn't have been offered in the first place. Councilman Saddler motioned to accept alternative #1 to amend the contract for the additional 2 weeks. Councilman Kleha stated that he understands all points on the goodwill gesture and he also brought to highlight all the reports that Manager Allen gives to Council to keep them up to date on what's going on and also he took a week of his vacation to do for others through mission work in Honduras and he knows that he probably didn't get any rest from it and now he needs some rest. Solicitor Haas ask for a point of clarification as the contract says two weeks per year, are we amending the contract in perpetuity or are we talking about 2014 only. Councilman Saddler said he feels it should be written into the contract and called for Question. Councilman KWJ stated that he motioned long before Councilman Saddler so his motion is on the floor. Acting Mayor Kalb said bottom line is, the City Manager just

said he didn't ask for it and who's going to tell the State Auditor that we're handing out stuff that wasn't even asked for. Acting Mayor Kalb asked Councilman KWJ how he wanted to modify the request. KWJ replied to allow one extra week for a total of 3 weeks without amending the contract.

VOTE: 2 Ayes - 4 Nays (R. Saddler, G. Meadows, J. Kalb, KEJ)

5. Brady Alley Vacation

CM-14-32

Councilman Kevin E. Johnson motioned to accept alternative #1 - Authorize legislation to vacate Brady Alley. Councilman KEJ stated that he sees no reason why Council wouldn't pass this as the property is owned by the same person and the expansion is for the daycare. Councilman Saddler thanked Ms. Keaton for bringing forward the information unfortunately he will be opposed to giving property away, because of the City's fiscal condition. Councilman Meadows stated that we need to set up rules, we need to stop now. Acting Mayor Kalb stated that we need to set up some kind of guidelines for vacating property. Solicitor Haas stated that is what the City Planning Commission does, the rules are set. You bring the request to the City Planning Commission reviews it and makes the recommendation to Council. Acting Mayor Kalb said yes but then it comes to Council and if there are rules in place that say we set a certain price. Solicitor Haas believes you can't put a price on it and it would have to be auctioned, you can just set a number out of the blue because we could all sell city property to our friends. City Manager stated that if you're vacating property that is not owned on both sides by the same person then by State law half goes to one person and the other half to the other owner. If you start selling the properties, you have to have it appraised and then it would be auctioned off. Acting Mayor Kalb stated that the cost of the appraisal and auction would probably be more than the cost of the land. Councilman Meadows stated that the property is of value to someone and it's of value to someone they will pay for it. We keep talking about changing in mid-stream when are we not mid-stream at some point we need to stand up and say enough is enough.

VOTE: 4 Ayes - 2 Nays (R. Saddler, G. Meadows)

6. ODOT Master Utility Reimbursement Agreement

CM-14-33

Councilman KWJ asked the Solicitor if this would be an Ordinance or Resolution, if Ordinance he would request that it be a Consent agenda item. Solicitor Haas stated that he believes that it will be a Resolution. Councilman Saddler stated that due to his employment he will be abstaining from the vote. Acting Mayor Kalb asked Solicitor Haas, in all due respect to Councilman Saddler is this something that would require him to abstain his vote. Councilman Saddler stated that we've had this question before, regardless of what it is if it has anything to do with his employer he will be abstaining. Whatever the rules are he doesn't know, but it's been questioned before. Acting Mayor Kalb stated that he questions it again because we have a lot legislation regarding ODOT and should it come down to a tight vote. Councilman Saddler stated that his job is more important too. Solicitor Haas stated he doesn't believe that it's a conflict, however we've not run into this in the past where his vote counted one way or the other, but when it comes down to a particular situation, he will have to rule that Councilman Saddler must vote. City Manager Allen stated to Mr. Saddler that he had no personal interest in this particular item so he would not have to abstain. According to the Chief legal State of Ohio states that he cannot vote or converse on any type of contract and that's what his employer goes by. He will submit a copy to the City Clerk and the Solicitor. City Manager Allen said "we don't want him to lose his job, we need his taxes" (Lots of Laughter)

Councilman Kevin W. Johnson motioned to accept alternative #2 to modify the request. Would like this to be a Resolution and not an Ordinance.

VOTE: 5 Ayes - 0 Nays - 1 Abstain (R. Saddler)

7. Skate Park Report

CM-14-34

City Manager Allen provided all of Council with information regarding the Skate Park. He's not against it, it just cannot be done before September 1, 2014 deadline. City Manager stated that a site needed to be selected and approved and a public hearing held. Councilman Saddler stated that it doesn't need to come back to the Parks & Recreation Committee as Mr. Dunne is the Sub-Committee chairperson and he needs to contact the City Manager to further discuss the steps that need to be taken. City Manager stated that there has been objections to the Mary Ann Street site and the Mound Park site and the sub-committee cannot assume that there would not be any objections until a Public Hearing is held. Councilman Meadows stated that he read an email that stated that no one on Council is opposed to the Skate Park and he said that there are a lot of questions that need answered and he hasn't said he's for it or against it. He also said this is City owned property and again are we going

to give this property away, big red flag there. If we don't give it away and it remains with the city and a Skate Park is put on it, who assumes the liability for all of this, will it be on the City? This proposal is too far advance to where Council is at on the issue, we've just scratched the surface and he doesn't see any way that we can have information collected, site selected, surveys done, public hearings by September 1, 2014 which is the deadline for the grant application. City Manager Allen stated that as far as the liability, if it is not fenced in or we charge admission, there would be no liability against the city.

General Discussion

1. Councilman KWJ stated that back on April 28, 2014 City Solicitor Haas admonished Council for alleged violations and advised Council to hire outside Counsel and as you all know he did hire outside Counsel and he attached an invoice for the attorney fees and requested Council to authorize the payment. Solicitor Haas stated that typically this is done prior to the bill being incurred, but Council has to vote to add it to the Agenda as a Conference discussion item. Manager Allen stated that it would have to be approved by Council and would come out of Council budget and he doesn't believe that it needs legislation just needs Council vote. Acting Mayor Kalb asked where the money comes from, would it be from the Solicitor's account; Solicitor Haas stated it would be from Council's budget. Councilman Kleha stated that this is the first time he has seen it and requested to be allowed more time to decide before he votes. Acting Mayor Kalb asked to be given another two weeks to look it over before the vote. City Manager Allen suggested selling an alley to pay for it. (Lots of Laughter)
2. There is going to be an upgrade in the software in the Auditor's office. Acting Mayor Kalb asked if Council will have access to look at the accounts online and he answered in the affirmative.
3. Councilman Kevin E. Johnson reminded everyone about Western Days/Roy Rogers Festival this weekend - 30th through 2nd. Also the Boat Races on the River.

Motion to adjourn by Councilman Kevin W. Johnson was accepted and the meeting adjourn at 8:15 p.m.