

MANAGER’S CONFERENCE MINUTES
Portsmouth City Council Meeting on
August 8, 2016 – 6:58 p.m.

All members of Council were present, Manager Allen, Solicitor Haas, Auditor Williams and City Clerk Ratliff

1. Deletion of 125.03 Local Workforce Agreement CM-16-91

Manager Allen stated that he had been speaking with Solicitor Haas concerning the deletion of the chapter and Solicitor Haas felt there were some items in the chapter worth saving and suggested that it should read “bring into compliance” so that we’re not in violation of the State law. Solicitor Haas elaborated and said he had two positions on the matter: 1. His understanding from speaking with some other people who believe that the State statute which was signed by the Governor would be challenged in court because something similar had been passed in the past and it was deemed unconstitutional by the Ohio Supreme Court. 2. If we want to comply with the State statute, one of the provision was where you go down the list of items to determine whether it’s the lowest and best bid and at the end of it says “any one of these items would be enough to cause that bid to be the best and lowest bid” and of the items listed, it questions how many local employees do they have. If this section were amended and those paragraphs taken out of the running of items that would cause it not to be the best and lowest, we would be in compliance with the State statute. Some of the other items listed he felt needed to be left in there because they were important for the city’s protection. He would like to work on some language to bring it into compliance.

Councilman Kevin W. Johnson recommended alternative #2 amend the request to bring it into compliance..

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

Councilman Kevin W. Johnson suggested introducing one motion for CM-16-92 through CM-16-104 because they were code cleanups. Councilwoman Aeh said she wasn’t in favor of deleting all of the licensing. Councilman Kevin W. Johnson withdrew his recommendation and said that we would go through them one by one.

2. Code Cleanup 705.02 Application and Issuance CM-16-92

Manager Allen stated that this was changing Mayor to City Manager.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

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

3. Code Cleanup 705.05 Transferability CM-16-93

Manager Allen stated that this was changing Mayor to City Manager

Councilman Kevin W. Johnson recommended alternative #1 as requested.

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

4. Code Cleanup 705.09 Renewal Armed Forces CM-16-94

Manager Allen thought that the section could be removed but didn’t want it to be viewed as being non-supportive of the men and women in the U.S. military. The ordinance was from 1951 during the Korean War and was very outdated as it referred to people who enlisted or were drafted.

Councilman Kevin W. Johnson recommended alternative #1

Councilman Meadows asked if there was a conflict or any issues with the U.S.A.R.A Federal Act that protects service men and women as they have all of the protections under federal statute. Solicitor Haas said this was for business license and if a person was deployed and then returned the business license would still be intact.

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

5. Code Cleanup 705.10 Revocation

CM-16-95

Manager Allen stated this was changing Mayor to City Manager.

Councilman Kevin W. Johnson recommended alternative #1.

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

6. Deletion of 705.11 Billiards and Pool

CM-16-96

Manager Allen stated the ordinance refers to an annual fee for any establishment that had two or more billiards or pool tables. \$20.00 for the first table and \$5.00 each thereafter. It also stated that no license shall be issued unless the Mayor was satisfied that the owner was of good moral character. He said this was written at a time when pool tables were looked at causing social ills and problems. He added that in checking with staff and the Auditor's office, the fees have not been collected in the last 16 years. He said part of the reason you issue a business license was not to generate revenue but to control behavior and business activity of a certain nature in the community. In today's world he's not sure why we would be worried about trying to regulate pool tables. Mayor Kalb stated that this was the first of the deletions and was against removing anything just because we're not currently collecting them and added that it didn't mean we shouldn't be collecting them. He said there were a lot of other businesses that he believed should have a licensing fee and the business regulated. Councilwoman Aeh said there were lots of pool tables in these places because she asked her son and he said they had a mechanism on them where you insert a quarter in order to play and she added that they were collecting money. She said she was in favor of increasing the fees but not getting rid of them. Mayor Kalb agreed that the fees should be increased and brought up the next proposed legislation and said that should it be deleted and then someone wanted to open a roller skating rink, it would appear that we're creating a license just for that roller skating rink. He said he estimated approximately 25 pool tables around town at \$50.00 each would be \$1,250. Mrs. Aeh stated that there were at least 10 dance floors. Manager Allen asked how he was to explain the purpose of the business license charge on a pool table to any of these business owners and what would he be regulating. Mayor Kalb said that they were doing business in the city of Portsmouth and making money. Councilman Kevin W. Johnson said that they were paying income and property tax and being licensed by the State. Mrs. Aeh asked if the State gave out licenses for billiards halls and Mr. Johnson replied it was for their business in general and he agreed with the City Manager that it was a moral issue at the time because it was frowned upon. Councilman Kevin E. Johnson said that most of these businesses were struggling and he didn't believe that pool tables were a big money maker for them. Mrs. Aeh stated that we weren't enforcing it now and it should be left alone and at some point if we need it then we could enforce it. Manager Allen stated that if it stayed, it would need to be enforced. Mrs. Aeh repeated what the Manager said and then said that the city had all kinds of ordinances on the books that were not being enforced and one of them were the blatantly placed yard sale signs on post and if this had to be enforced, then those should be enforced as well. Solicitor Haas stated that it had to be amended regardless because it cannot read that it was up to the Mayor to determine whether an owner is of good moral character. Mrs. Aeh said to remove that part and Mayor Kalb said that he believed they were outdated and there were businesses that weren't required to have a license and he listed the following: Porta Potts's – Trash Haulers – Lawn Care Services – Lottery Ticket Sales – Gas Convenient Marts. Councilman Meadows stated that the lottery would fall under a state regulation.

Councilman Kevin E. Johnson recommended alternative #1 to delete the chapter.

There were no questions or comments. VOTE: 3 Ayes (K. W. Johnson, K.E. Johnson, G. Meadows) – 3 Nays (T. Lowe, J. Kalb, J. Aeh)

Manager Allen stated that he would be sending letters out notifying each business that had a pool table and Mrs. Aeh stated that she also wanted to see notices going out to people that put yard sale signs on poles.

Councilman Kevin E. Johnson recommended alternative #2 to change the wording to remove “Mayor is satisfied that the owner is of good moral character”.

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

There was much more discussion and it was decided to move on to the next issue. Mayor Kalb asked the City Manager why 705.12 Pool rooms was addressed within his agenda and Manager Allen said that it probably should have been.

7. Deletion of 705.13 Roller Skating

CM-16-97

Manager Allen said this would be up to Council. Mrs. Aeh said that we could have a roller skating rink and Mr. Meadows said he didn't foresee anyone moving a roller skating rink to Portsmouth. Mayor Kalb reiterated that even though we don't have a skating rink, doesn't mean we couldn't have one and if we did want to regulate it, that would be the wrong time to do it. He said that it should also include skate parks. Manager Allen stated that you could not charge for skate parks because you assume liability. Councilman Kevin E. Johnson asked why we would want to charge someone an annual fee of \$100 because if they would hypothetically bring a skating rink to Portsmouth, hire people, and have something for young people to do, people would frown upon City Council wanting to legislate a \$100 fee against them because we want businesses to come in. Mayor Kalb said we can't pick and choose, we either regulate them all or don't regulate any of them. Councilman Kevin W. Johnson said that we're not regulating them, they receive a license from the State. Mrs. Aeh asked if the State regulated any of these and Mr. Johnson replied “all of them” especially the ones that have liquor. Mr. Meadows stated that they also regulate the businesses that have vending and gaming type machines as well.

Councilman Kevin W. Johnson recommended alternative #1 to delete the section.

There were no questions or comments. VOTE: 3 Ayes (K. W. Johnson, K.E. Johnson, G. Meadows) – 3 Nays (T. Lowe, J. Kalb, J. Aeh)

Mayor Kalb asked if anyone wanted to make a motion to combine the rest of the proposed legislation or continue to go through them individually. Manager Allen and Solicitor Haas both stated that they wanted the vote on the record because if he was going to invoice people, he wanted the vote on the record.

8. Deletion of 705.14 Bowling Alleys

CM-16-98

Manager Allen said that the city was supposed to be charging \$15.00 per lane which hasn't been done since 2000. He went on the record as saying he had no idea why he would charge someone \$15.00 a lane for a bowling alley.

Councilman Kevin W. Johnson recommended alternative #1 to delete the chapter.

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

Mayor Kalb said he gives up and ask for another vote on the previous proposed legislation. Councilwoman Aeh stated that they could go back and consider any motion after you've already done another piece of business and since we have done that, the others can be reconsidered. **Council agreed to reconsider CM-16-96 and CM-16-97 before proceeding.**

9. Deletion of 705.13 Roller Skating CM-16-97

Councilman Kevin W. Johnson recommended to reconsider alternative #1 to delete the section.

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

10. Deletion of 705.11 Billiards and Pool CM-16-96

Councilman Kevin E. Johnson recommended to reconsider alternative #1 to delete the section.

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

11. Deletion of 705.15 Shooting Galleries CM-16-99

Manager Allen stated at first he thought this had to do with gun ranges but after researching he found that it was for BB guns for carnival games.

Councilman Kevin W. Johnson recommended alternative #1 to delete the section.

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

12. Deletion of 705.16 Dance Halls CM-16-100

Councilman Kevin W. Johnson recommended alternative #1 to delete the section.

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

13. Deletion of 705.17 Night Clubs CM-16-101

Manager Allen stated that Night Club was defined as a place operating between the hours of 8:00 p.m. and 8:00 a.m. where food and drink was served. He wasn't sure about the new place "Sloppy Seconds" that's opening on Chillicothe Street.

Councilman Kevin W. Johnson recommended alternative #1 to delete the section.

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

14. Deletion of 705.18 Street Musicians CM-16-102

Manager Allen said that he's supposed to charge \$10.00 per instrument, per year.

Councilman Kevin W. Johnson recommended alternative #1 to delete the section.

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

15. Amending of 705.19 Pushcarts Junk CM-16-103

Manager Allen said this was the one section that was actually enforced. He advised that the homeless people that scrap must get a license for their shopping cart and the purpose of this section was to regulate and prevent the ongoing theft of anything metal in town. He's proposing changing it from \$4.00 to \$20.00 per year. Councilman Meadows said \$20.00 wasn't enough. Manager Allen said that he saw a value in this section because the Police can approach someone to ask for their permit and to inspect the contents of their shopping cart; he also said he'd be alright increasing the amount higher than the \$20.00. Mr. Meadows recommended \$500 (laughter) Manager Allen said "that's a lot of tin cans". Councilman Kevin W. Johnson asked the Manager how he came up with \$20.00 fee and Manager Allen said he figured that they would pay the \$20.00 fee.

Councilman Kevin W. Johnson recommended alternative #1 to delete the section.

Councilman Meadows recommended alternative #2 and motioned to amend the fee to \$50.00

There were no questions or comments. VOTE: 4 Ayes – 2 Nay (K.W. Johnson and K.E. Johnson)

16. Deletion of 705.20 Household Movers

CM-16-104

Manager Allen said that movers were to pay \$10.00 for each wagon and spoke of a railroad depot which we no longer have and that every Monday they were to give to the Police Department information on who they moved, where they moved and what was moved.

Councilman Kevin W. Johnson recommended alternative #1 to delete the section.

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

17. Litter Ordinance

Councilman Kevin W. Johnson stated that he wanted to make Council aware of ORC 723.011 which gave authority to have ordinance 521.06. The State was very clear when it gave legislative authority to Municipal Corporations to pass its own laws regarding and keeping sidewalks, curbs and gutter in repair and free from snow or any nuisance. He said that given the fact the way the Daily Times wrote the article and someone considered it unconstitutional, which in reading the ORC, Council could do anything they thought was a nuisance to take care of our curbs and gutters. He said he would not pursue it any further.

The meeting adjourned at 8:00 p.m. on a motion by Councilman Kevin W. Johnson

Submitted by: *Diana Ratliff* – City Clerk