

**MINUTES – REGULAR SESSION**

PORTSMOUTH CITY COUNCIL MEETING  
Monday February 12, 2018  
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday February 12, 2018 at 6:00 p.m., at the Shawnee State University Center in the Sodexo Ballroom.

Mayor James D. Kalb 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 <sup>st</sup> Ward
Jo Ann Aeh	2 <sup>nd</sup> Ward
Kevin E. Johnson	3 <sup>rd</sup> Ward
Jim Kalb	4 <sup>th</sup> Ward
Gene Meadows	5 <sup>th</sup> Ward
Thomas K. Lowe	6 <sup>th</sup> Ward

Also present was City Manager Derek K. Allen, Solicitor John Haas, Auditor M. Trent Williams and City Clerk Diana Ratliff.

Council dispensed with the reading of the Journal for the Special Session January 20, 2018, Regular Session of January 22, 2017, Special Sessions of January 27, 2018, January 30, 2018 and February 5, 2018 on a motion by Councilman Johnson. The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

There was no public hearing scheduled.

Councilwoman Aeh moved to adjourn into Executive Session with Attorney Mark McCown and his associate Brian Cremeans to discuss pending litigation, an investigation or complaint against public employees or officials.

**Executive  
Session**

The roll was called and the motion carried: **VOTE: 6 ayes – 0 nays, Council recessed into Executive Session at 6:05 p.m.**

Councilman Johnson moved that Council reconvene from Executive Session.

The roll was called and the motion carried. **VOTE: ayes 6 – nays 0, Council reconvened with all still in attendance at 6:59 p.m.**

Councilwoman Aeh moved to add two items to the agenda. The first item as **7(m)** An Ordinance repealing a motion taken December 18, 2017 and repealing Ordinance 2018-01, regarding certain actions taken concerning the City Manager. Pursuant to Council Rule 5, this legislation is considered to be an emergency in accordance with Section 12 of the Charter for the City of Portsmouth. The motion carried viva voce: **VOTE: ayes 6–nays 0.**

**Item  
Added**

The second item as **7(n)** An Ordinance authorizing and directing an inquiry into the conduct of the City Manager. Pursuant to Council Rule 5, this legislation is requested to be an emergency in accordance with Section 12 of the Charter. The motion carried viva voce: **VOTE: ayes 6–nays 0.**

**Item  
Added**

**STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA**

**Matthew Seifert 615 3<sup>rd</sup> Street Portsmouth, OH** – He thanked Council for introducing two items at the last minute rather than publicizing them before the meeting to the general population which would have been more appropriate. He thanked Council for introducing legislation to reverse the faulty decision that was made in December. He was impressed with Mr. Meadows who was an attorney and on his advice Council went forward with the actions on the 18<sup>th</sup>, it was big of him to admit he made a mistake. He thanked Council for paying someone they attempted to terminate while he was wrongfully terminated and using the tax payers dollars; he thanked them for paying someone almost double their salary to fill in for Mr. Allen while his was supposedly terminated. He thanked Council for spending \$3,500 in Mediation without the intent to honor in a noble way. He thanked for choosing to spend money on outside Counsel because Council took an action which was inappropriate, rather than utilizing the City’s Counsel Mr. Haas. Congratulations to Council for initiating an investigation into Derek Allen and the long list of charges which were without merit, if they had merit there would be no reason to launch a further investigation. He thanked them for confirming that Council did things the wrong way, that you violated the law, the charter and the Sunshine laws and colluded before meetings rather than doing things in the public eye as you’re supposed to do and he thanked them for continuing to misuse tax payers money and focusing on petty issues.

**Amy Partlow – 1538 Charles Street Portsmouth, OH** – She said there was an acknowledgement of guilt by Council and she asked what the legal ramification were for not following the Charter or the laws. She asked that Council set aside personal feelings and do what’s right for the city. She added that Mr. Allen had done

a fantastic job and was moving the city forward, she requested that Council stop wasting the tax payer’s money and let Mr. Allen do his job.

**Sharon Bender – 1666 Highland Avenue Portsmouth, OH** – She agreed with Ms. Partlow in that the city needed to move forward and put this behind them and people with their personal agenda’s need to get over it because it was costing the city a fortune which could be spent fixing potholes, cleaning the alleys and lots of things instead of being spent on wastefulness and she considered paying outside attorneys as a waste of money. Mr. Allen had done a good job over all and Council needed to get over the pettiness and let him run the city. He said people that have been in charge before have done things that weren’t exactly things that other people liked but now we have a professional running our city for a change. She hoped that Council doesn’t go backwards and try to terminate him the right way. She asked that they get over it and move on and let the city move on.

**LEGISLATION**

The clerk gave a **third reading**, to an Ordinance authorizing the Acting City Manager to enter into a lease agreement for the Sunrise cell tower property.

**Ord #05-2018  
Lease  
agreement for  
Sunrise Cell  
Tower**

Councilwoman Aeh motioned that the Ordinance be amended in the preamble and in Section I to remove the word “Acting”.

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was amended.**

Councilman Johnson motioned that the Ordinance be passed.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **third reading**, to an Ordinance authorizing approval of the preliminary legislation submitted by the Ohio Department of Transportation (ODOT) proposing to utilize a TAP Grant for the construction of approximately 1.25 mile of paved shared use path along Front Street in central Portsmouth and the Shawnee State University campus.

Councilwoman Aeh motioned that the Ordinance be amended in Section IV paragraph 1 and 2 by removing the word “Acting”.

**Ord #06-2018  
ODOT Tap  
Grant for  
construction  
of paved  
shared use  
path**

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was amended.**

Councilman Johnson motioned that the Ordinance be passed.

Mayor Kalb asked Manager Allen about the city being responsible for the cost of the entire project less the grant and added that there were no figures in the legislation such as what the cost would be and what the city’s portion would be. Manager Allen stated that he believed it was a \$600,000 project and it was either a 90/10 or 95/5 split. He thought it would be around \$50,000. Mayor Kalb asked if those figures were in the agreement and if not, should they be included, Manager Allen said he believed this happened in his absence and he wasn’t sure.

There were no further questions or comments. **The role was called. VOTE: 5 ayes – 0 nays – 1 abstain (S. Dunne), the Ordinance was passed.**

The clerk gave a **third reading**, to an Ordinance Amending Section 505.04 – Abandoning Animals of the Codified Ordinances of the City of Portsmouth, Ohio.

**Ord #07-2018  
Amending  
Section 505.04  
Abandoning  
Animals**

Councilman Johnson motioned that the Ordinance be passed.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **third reading**, to an Ordinance authorizing the Acting City Manager to execute an agreement with Main Street Portsmouth for an additional three calendar years being 2018, 2019 and 2020 that would include supplementing an additional \$5,000 to the annual contribution of \$50,000 previously made by the City in years 2015, 2016 and 2017.

Councilwoman Aeh motioned that the Ordinance be amended in the preamble and in Section I to remove the word “Acting”.

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was amended.**

Councilman Johnson motioned that the Ordinance be passed.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **second reading**, to an Ordinance authorizing Acting City Manager Sam Sutherland to enter into an agreement to contribute \$80,000 to Access Scioto County Public Transit in 2018.

Councilwoman Aeh motioned that the Ordinance be amended in the preamble and Section I to remove the word “Acting and replace it with “the” and remove the name Sam Sutherland.

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was amended.**

Councilman Johnson motioned that this constitute a second reading.

Councilman Dunne asked if there were any long term plans that they might have or any additional information. Councilman Johnson stated that he could not speak regarding long term but he knew that they would be receiving additional help which was unexpected.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance authorizing the transfer of \$15,028 from General Fund No. 101 to Compensated Absences Fund No. 102.

Councilman Johnson motioned that this constitute a second reading.

Auditor Williams stated that he had mentioned to Council that there may be a change because of a retirement figure. He said the new amount was \$21,298.

Councilwoman Aeh motioned that the Ordinance be amended accordingly.

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was amended.**

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance authorizing Acting City Manager Sam Sutherland to enter into an agreement with Portsmouth Connex for Mound Park.

Councilwoman Aeh motioned that the Ordinance be amended in the preamble and Section I to remove the word “Acting and replace it with “the” and remove the name Sam Sutherland.

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was amended.**

Councilman Johnson motioned that this constitute a second reading.

Councilman Johnson commented that it would be nice if someone from Connex could be present at the next meeting as it would be nice to ask some questions regarding this project. He had heard different stories about the paths and that they were going to be asphalt, then he heard concrete but he would like to hear from Connex. Gina Chabot spoke up that she would relay that to Wendi Waugh, and that everything they do would be coordinated with archeological surveying so that they were respectful to what’s there.

Auditor Williams stated there was a typo in the Ordinance and that it should be a “501c3” in lieu of a “5013c”. Mayor Kalb stated that there were no type of monetary figures within the legislation and asked what the cost were and if it was a joint venture. He asked to have what the actual cost to the city was and would like that information by the next meeting.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the City Manager to enter into a twenty-five (25) year easement agreement with the State of Ohio of Real-Estate and Planning, representing Shawnee State University.

Councilman Johnson motioned that this constitute a first reading.

Mayor Kalb asked if this was for construction of a new sewer line. Manager Allen said that when it was constructed it was for twenty-five years which had expired and the city was entering into another 25 years. It was located between parking lots, not under buildings or parking lots.

There were no further questions or comments. **The role was called. VOTE: 5 ayes – 0 nays – 1 abstain (S. Dunne), a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the vacation of the alley between 3rd St. and Farney Ave. as requested by Steve Falls and Mike Stapleton on behalf of Sciotoville Christian Church. The Church has had the land surveyed in order to get a legal description, and will deliver it as soon as they receive it.

Councilman Johnson motioned that this constitute a first reading.

Councilman Johnson asked Councilman Lowe if he was alright with the request and he replied that he was good with it considering nobody came to him about any of it.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the transfer of \$21,739.00 from the City of Portsmouth General Fund No. 101 to Municipal Court Subsidy Fund No. 202.

Councilman Johnson motioned that this constitute a first reading.

Mayor Kalb asked if this was a transfer to cover what the courts have spent providing the retroactive pay. Auditor Williams stated that it wasn't the exact amount but the courts ended up with a deficit at the end of 2017 as a result of the retroactive pay. Mayor Kalb asked if there was an additional amount that needed to be budgeted in the 2018 operating budget, and went on to say that in the 2018 budget there would be a difference of 1% because only 9% was budgeted for 2018 and a 10% was awarded. Manager Allen spoke up to say that the non-union employees (court, health and 8 individuals from other departments) salaries were off by 1% for 2018. Mayor Kalb asked if the 2018 budget would need amended to reflect the 1% difference. Auditor Williams recommended bringing the 2018 operating budget off the table and he would give figures for the 1% and anything that might have changed since the November budget was released.

Solicitor Haas asked Auditor Williams if the fund that ended up in a deficit for the year 2017, will result in an audit finding by the State Auditor against the city. Auditor Williams replied “yes”, he went on to advise that he had spoken to the Courts and Health Departments in December and advised them that they would need to take care of their 202 fund and 250 fund (subsidy funds) in order to cover their raises that Council authorized and the Health Department was the only one that came forward with a request to cover the raises which resulted in the Court having a deficit in their fund for 2017 in the amount of approximately \$21,000 which will be an audit citation. Mayor Kalb asked how the differences came about between the 9% and 10% regarding the raises, Auditor Williams stated that the Manager budgeted 9% and he wasn't sure why Council had approved a 10% increase. Mayor Kalb asked Councilman Meadows if he motioned for the 10% raise and he replied “yes, and nobody opposed it”.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing appropriations necessary for the implementation of agreed upon reclassification equity adjustments for members of AFSCME Local 1039-C per the Collective Bargaining Agreement ratified in 2017. 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.

Councilman Johnson motioned to suspend the three reading rule.

**The role was called. VOTE: 6 ayes – 0 nays, the rule was suspended.**

Councilman Johnson motioned that the Ordinance be passed.

Mayor Kalb asked if he was missing something, he never received the wage study which was mentioned in the Memorandum of Understanding. Auditor Williams stated that these were the rates recommended from the wage study committee for AFSCME 1039C and the next Ordinance would be authorizing appropriations for the difference. Councilwoman Aeh stated that she had a copy of the Memorandum of Understanding but there was no wage study and the only thing approved was a wage study. She asked if that had changed without Council approval and Auditor Williams stated that was correct. Mayor Kalb stated that there was a \$2.00 figure that was made as an offer which he believed never passed or it was removed and now they're being told there was a wage study completed. Auditor Williams stated that he wasn't saying that but there was a meeting with the City Manager and the Labor Consultant and an agreement was made in lieu of the wage study and the wage study would be sent out at a later time which was what Council was informed of at the last meeting in Executive Session and the City Manager had stated that "he had other things that were more pressing and didn't have the time, that in lieu of the wage study being completed at that time, that there would be an agreed upon amount that would be offered and agreed upon". Councilwoman Aeh said that Council only agreed to the wage study and there was a change made and now Council was being asked to accept that change. Auditor Williams replied that was correct. Mayor Kalb asked about the \$2.00 increase that was offered, he remembered something that there was not a valid vote because one of the members wasn't supposed to vote. Auditor Williams said that after the meeting at the Fire Department with the wage study committee, there was an agreement of \$2.00 taken back to the Union and it was rejected and then Auditor Williams asked the City Manager to respond because the email didn't come to the Auditor's office, it went to Mr. Allen's. Mr. Allen said there was a meeting at the Fire Department as it was obvious that a wage study wouldn't be completed before the end of the year, there were comments and rumors that he would be fired at the beginning of the year, so he recommended the Auditor's office (Union) settle the contract, write the proposal and consider it to be a wage study, they were counting on doing a full blown wage study into the next year and if he wasn't there, then he didn't know if someone else would follow through or approve of it. The Union considered it and approved a \$2.00 wage adjustment to remedy the inadequacies, however it did not ratify and he was emailed that they had withdrew their proposal and was submitting a different proposal of \$3.50 per hour at which time he called the Labor Attorney and told him to reject all and that Union could do their wage study and if it doesn't get completed until Spring and there's another City Manager that would be on them.

Mayor Kalb asked what authorizing document does Council have that there wasn't a Memorandum of Understanding or that it wasn't part of the contract for the \$2.00 per hour. Auditor Williams said that Council should have a copy of the agreement that was made at the wage study committee meeting where both parties agreed to the \$2.00. Mayor Kalb asked if that was what was proposed to Council as far as ratifying the contract and was it part of the contract. Auditor Williams stated that the contract included the recommendation of a wage study committee and whatever they came up with it would be effective January 1, 2018 without further action of City Council but that didn't happen because the Union rejected the \$2.00 and came back with an alternative offer of \$3.50 and it was rejected by the City Manager. The Union then came back with the claim that their vote rejecting the \$2.00 was not legal because one of the members wasn't actually a member and at that point it was understood that the AFSCME representative had gone to the City Manager and got a verbal approval of the \$2.00 per hour raise.

Councilman Johnson asked if there was anyway there could be a wage study preformed after Council agrees to this tonight and it comes back with a higher amount, would we have to honor that amount. Auditor Williams said he doesn't believe so and that all of this was discussed and answered in Executive Session at the last meeting and he wasn't sure why they had the Executive Session if it was going to be brought out on the floor. Councilman Johnson replied that sometimes Council had additional questions and doesn't just want to okay something. Auditor Williams said that was the reason for Executive Session so that negotiation issues weren't discussed on the floor. He said the Labor Consultant Mr. Albrecht had indicated that this would end the contract negotiations until a possible wage reopener in 2019 but to answer the question, it ends capped at that rate. Mayor Kalb asked Auditor Williams if he would agree that all of this had been quite confusing and Auditor Williams replied that it did not start out that way.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **first reading**, to an Ordinance to amend the Salary Ordinance as amended by Ordinance No. 2 of 2018 to reflect the reclassification equity adjustment agreement within the AFSCME 1039C Collective Bargaining Agreement to be effective January 1, 2018, and to repeal Ordinance No. 2 of 2018.

Councilman Johnson motioned to suspend the three reading rule.

**The role was called. VOTE: 5 ayes – 1 nays (J. Aeh), the rule was suspended.**

Councilman Johnson motioned that the Ordinance be passed.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **first reading**, to an Ordinance repealing a motion taken December 18, 2017 and repealing Ordinance 2018-01, regarding certain actions taken concerning the City Manager. Pursuant to Council Rule 5, this legislation is requested to be passed as an emergency in accordance with Section 12 of the Charter for the City of Portsmouth in order to facilitate administration, daily operation and avoid practical and legal entanglements.

Councilman Johnson motioned to suspend the three reading rule.

**The role was called. VOTE: 6 ayes – 0 nays, the rule was suspended.**

Councilman Johnson motioned that the Ordinance be passed.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **first reading**, to an Ordinance authorizing and directing an inquiry into the conduct of the City Manager. Pursuant to Council Rule 5, this legislation is requested to be passed as an emergency in accordance with Section 12 of the Charter for the City of Portsmouth in order to facilitate administration, daily operations and avoid practical and legal entanglements, as it is directing an investigation of City affairs.

Councilman Johnson motioned to suspend the three reading rule.

Solicitor Haas called for a Point of Order and stated that the Ordinance should say Section 10 instead of Section 12 with respect to the emergency language and Council placed this item on the agenda without notice and waiving the three readings and passing the ordinance without any input from citizens. He asked what the emergency was as set forth in Section 10 of the Charter. Mayor Kalb asked Solicitor Haas if the document had been given to him for approval and Solicitor Haas stated the form was fine but needed a reason for the emergency measure. Mayor Kalb ask why Section 10 wasn't noticed prior to the meeting and Solicitor Haas said that was not the issue, and if Council wanted to leave it as Section 12 that would be fine because there was no language in Section 12 about waiving the three readings but Section 10 does and if you're going to do it, you should do it right. What part of Section 10 is stating that this was an emergency? Councilwoman Aeh said with all due respect, Mr. Haas does not represent Council as they have their own attorney now and their attorney had asked them to add the legislation and they were following his direction. She added that people have been wanting to know both sides of the story and the answer to these accusations and the sooner Council can provide that to them, the better. By expediting the process, Council tried to let the public know because they have a right to know what was done and why because Council cannot tell what was said in Executive Sessions or Mediations which would be reason for the emergency measure. Councilman Johnson concurred with Councilwoman Aeh, all the long Council had heard that there needed to be a Public Hearing, the City Manager said he wanted a Public Hearing and Councilman Johnson believed that it needed to be expedited instead of continuing to pay legal fees and special meetings, he wanted to let the public hear Council's side.

Mayor Kalb asked Solicitor Haas what his reason was for wanting to delay the passage. Solicitor Haas said that the Charter needed to be followed with the reason to waive the three reasons for emergency purposes and he doesn't believed those reasons have been met. The fact that you want to expedite something doesn't create an emergency and Council had this issue in front of them since litigation was filed if not before. By passing the Ordinance Council would be admitting that the charter wasn't followed. He asked that Council put it off for another meeting and advise the citizens that the readings may be waived at the next meeting which would

Ord #09-2018  
 Reclassification  
 of AFSCME  
 1039C \$2.00  
 raise

Ord #10-2018  
 Salary  
 Ordinance for  
 1039c  
 reclassification

give people an opportunity to look at the legislation and make their comments prior to enacting the legislation. He added that he was afraid that the public would see this as Council jamming something through by adding it to the agenda and then passing it the same night instead of doing it in the sunlight when everyone knows what is going on. Mayor Kalb stated that Council had made every effort after speaking with their attorney and they found out that this legislation needed added to the agenda; they made a special point to make sure that the additional two ordinances were sent to the media and that they were going to be proposed to be added to the agenda and passed as an emergency. He said that so many times in the recent past, there's been items that have been added to the agenda and passed as an emergency and now Mr. Haas was saying that the section of the Charter doesn't provide for the reasoning for this being passed as an emergency. Solicitor Haas stated that Section 10 and Section 12 of the Charter deals with emergencies, Section 10 dealt with three readings and Section 12 defines an emergency measure as "an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, in which the emergency claimed is set forth and defined in a preamble." He questioned the legislation and what part would cover preservation of public peace, property, health or safety. He added that there were times that Council passed Ordinances after they had been on the Conference Agenda and after everybody was put on notice that the three reading rule may be waived, however under Council rules based upon the fact that there was an acceptance of a check, or there have been instances where grants were due and that would be classified as an emergency. Mayor Kalb asked Solicitor Haas how this differed from the previous ordinance that was added but wasn't objected to, Solicitor Haas stated that would save the citizens money because once that ordinance was passed, Council basically admitted that all of the allegations in the complaint that was filed, that case was now moot, there won't be a hearing, that case was over for all intents and purposes but for the filing of a dismissal because all the allegations that were obtained in that complaint have now been omitted or deemed null and void because you've undid everything that was done wrong back in December which saves the city money and he's sure the citizens of Portsmouth would consider paying attorney fees for a hearing that could be avoided was an emergency. Mayor Kalb stated that it seemed that we've missed the opportunity to have a public hearing so that both sides of the whole issue could be heard. He asked if Council's Attorney Mr. McCown presented this document to Solicitor Haas for approval as to form, Solicitor Haas stated yes he had; Mayor Kalb ask why he didn't have a problem with it then and notify Council before now, Solicitor Haas stated that Council had their own attorney now and he did speak with Mr. McCown regarding these items. Mayor Kalb stated that Solicitor Haas had a conversation with the City Clerk and the Solicitor advised her that it would be best to have this on the City Manager's agenda and Solicitor Haas said that he stood by that statement. Mayor Kalb said that Solicitor Haas said we have an attorney but yet he put in his opinion because he was worried about Council's perception to the public and for some reason he believed that Solicitor Haas was delaying or postponing and doing everything he could to prevent moving forward to have a public hearing. Councilwoman Aeh called for the Question.

**The role was called. VOTE: 6 ayes – 0 nays, the rule was suspended.**

Councilman Johnson motioned that the Ordinance be passed.

There was some confusion about the waiving of the readings. Councilwoman Aeh asked Clerk Ratliff if the rules had already been suspended. Clerk Ratliff stated "no" that Solicitor Haas had called for a Point of Order.

Councilman Johnson stated that his whole reason for supporting this as it was pretty well known per his recent vote. He wanted to get everything out there, have a public hearing and move on past this issue. We've spent a lot of money on attorney fees, mediation etc, and he wanted the public/voters to know everything.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

**Mayor Kalb announced a meeting for Wednesday February 14, 2018 at 3:00 p.m. in Council Chambers. The meeting will be for the investigative committee as a whole at which time they will meet and vote to go into Executive Session to discuss how to move forward.**

#### **STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA**

**Sue Burke – 2110 Brookwood Drive Portsmouth, OH** – She advised that she was the Chairperson of the Portsmouth Shade Tree Commission and gave an annual report.

They held 10 meetings in 2017 with an annual budget of \$5,000 granted by City Council. In January, Will Burke distributed shade tree brochures, cover letters and permits to businesses on Chillicothe and Second Streets. He had outlined what was permitted and what was not permitted with respect to city trees in front of property owners.

In February, trees were pruned on Sixth Street north of Marting's. On April 20, 2017 Diana Ratliff attended the Southeast Ohio Tree City Program in Marietta to represent Portsmouth. In April, Kevin E. Johnson also made several appearances on Pulse 98.3 to discuss the purpose of the tree commission. Hilda Drake also resigned from the shade tree commission in April 2017.

An Arbor Day celebration was held in Tracy Park on Saturday, April 29, 2017. It was very well attended. Kate Sowards (SSWCD) created a flyer for the event. More than 20 vendors participated. SOMC donated an orange maple tree to plant in Tracy Park. American Savings Bank purchased trees from SSWCD for distribution at the celebration. Entertainers included Steve Free, Drum Circle and Portsmouth Elementary Choir. SSWCD provided 10 reusable signs with insightful messages about the importance of trees.

In May the Corinthian Linden was moved to the list of approved medium trees from the list of approved large trees in Portsmouth. This month, a SIGNATURE & AGREEMENT SECTION was added to the tree permit for tracking purposes. Will Burke also sent 17 informational letters, brochures and tree permits to tree service/landscaping businesses in May and in September, City Council appointed Dan Gower to the tree commission and Will Burke attended the Southeast Ohio Tree Care Conference in Athens on the 28<sup>th</sup>.

In October, the Tree Commission agreed to host the 2018 Tree City USA Celebration in Portsmouth and this will be the first time this has been held in Portsmouth. Joseph Pratt submitted a grant to the Scioto Foundation for 60 trees in hopes of starting a program for adopting a tree within our community. The following work was also completed in October: several small trees in the 4<sup>th</sup> Street West parking lot were removed as were 2 on 7<sup>th</sup> Street. 13 trees on 6<sup>th</sup> between Chillicothe and Gay were also limbed up.

In November the 4<sup>th</sup> Street West parking lot trees were trimmed, a damaged tree on the corner of Market and Third was removed as was a dead one in Tracy Park. Also in November, 3 Linden trees were planted at the 4<sup>th</sup> Street parking lot and 3 more were planted on 7<sup>th</sup> Street between Chillicothe and Washington Streets.

To summarize: 8 dead or dangerous trees were removed, 7 new trees were planted on city property and 22 city trees were trimmed. The funds were from the tree commission budget plus some from Main Street Portsmouth. In addition, volunteers also trimmed some of the trees.

**Vina Colley – P.O. Box 136 Portsmouth, OH** – She stated that she had been coming to a lot of meetings and trying to get on the agenda to help the citizens of Pike and Scioto County to stop the Nuclear Dump in Piketon. She reiterated what she had said in previous meetings.

**Amy Partlow 1538 Charles Street Portsmouth, OH** – She would like to know how the process was determined and believed that the attorney was terminated this evening and we're no longer retaining them. The city had their own attorney.

**Paul O'Neill – 607 Harding Avenue Sciotoville, OH** – He spoke regarding the ordinance that Council passed this evening which would be investigating and trying to move it through the proper channels. He said he wanted the ones that voted to fire Derek Allen to look in the mirror and think of what you had done to contribute to whatever friction there was and have an open mind. The best thing that could happen to this city would be to get Derek Allen back. Work it out and take the approach to move the city forward.

**Robert Black – 2229 Micklethwait Portsmouth, OH** – He said that it had been a long cold winter and spring would soon be here. He said he was tired of this whole thing of getting rid of Derek Allen; the way he suspected the year-end bookkeeping and decisions that were made and not followed through because he wasn't present. The worse thing Council could do would be to hire a Manager and then micro manage him. He said that the "he said – she said" wouldn't help a thing, but if that's what she need to get out of her system, she needed to go ahead as he was sure it would be contested by the lawyers. He would like to see this put behind us and get the city back on track. He said personalities clash and there was friction, but now Council was under a microscope and everything Council does would be watched and broadcast, you are city leaders and we as citizens don't want you to fire this gentleman. He said that Council had seen that with the Business Leaders that have shown up. He believed that no one person was at fault and ask Council to get back on track.

#### **MISCELLANEOUS BUSINESS AND REPORTS:**

**City Clerk's Report** – City Clerk Ratliff reported the following:

1. She received notification from the Ethics Commission regarding Elected Officials Financial Disclosure statements which will be due on Tuesday May 15, 2018. If any city elected official hasn't completed their statement, there is online access at: [disclosure.ethics.ohio.gov](http://disclosure.ethics.ohio.gov)
2. A Proclamation was prepared for School Choice Week for January 21st - January 27th.
3. She received the Bobby J. Burns Scholarship Fund statement from the Scioto Foundation.
4. She received on February 12, 2018, petitions for the Sensible Marijuana initiative.

The City Clerk's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: 6 ayes – 0 nays.**

**City Manager's Report** – City Manager Allen reported the following:

1. His report can be found on the city's website: [www.portsmouthoh.org](http://www.portsmouthoh.org)
2. The Fire Engine that was purchased was set to be delivered later in the month.
3. The Police Department vehicles have been ordered, with an expected delivery date of June.

4. Rehabilitation of the Sunrise water main was being advertised/pre-bid with an anticipated opening in approximately 4 weeks.
5. He reported the flood stages.

The City Manager's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: 6 ayes – 0 nays**

**Mayor's Report** – Mayor Kalb reported the following:

1. He re-appointed Eugene Collins to the Fair Housing Board
2. He appointed Dr. David S. Walker to fill an unexpired term on the Portsmouth City Health Department Board.
3. He appointed Juanita Jewett to fill a vacancy on the Zoning Board of Appeals.
4. He requested that letters be sent to all of the outgoing members expressing our appreciation of their service.
5. He reminded Council to review the 2018 Operating Budget as it would be brought from the table and action would need to be taken at the next meeting.
6. He thanked Shawnee State University for hosting the City Council meeting.
7. He stated that he and Vice President Johnson attended a meeting last week with the Scioto County Commissioners and their Economic Development Director in which he found to be a very productive meeting and he would like to see meetings like that continue.
8. He thanked the City Clerk for her extra-long hours that she's been putting in to organize all of these Special Sessions and Organizing different venues, preparing all of the advertising. He expressed that Council did appreciate all of the extra efforts.
9. He addressed those coming forward who were wanting to put these issues behind us and said that was exactly what Council was trying to do, move forward, put it all behind us and come to some kind of resolve. He appreciated everyone's passion, but was not sure if it was passion for the job, passion for the City or passion for the person. He assured them that he did not have any personal problems with Mr. Allen nor did he know of anyone on Council that had personal problems with Mr. Allen. This was an Employee/Employer problem which was being addressed. He said Mr. Allen had done a good job while in office but as far as being someone that walked on water, he hasn't witnessed it. The City had come a long way from where it had been, and compared it to before Mr. Allen was hired and when he was Mayor. He stated that he was Mayor for 6 years and when he went into office, he was thrown into it and had never had any experience, no administrative experience, but with the help of Council and all of the Departments, they made strides. When he went into office the City was in a \$1,000,000 deficit and was borrowing from the Capital Improvement Fund, there were people laid off, employees had not received raises for many years, there hadn't been any new jobs and they hadn't been able to hire seasonal workers because they had people laid off. He had a good relationship with all of the departments and was endorsed in his campaign by all of the Unions. He said together they put everybody back to work and everybody received a raise, they hired new positions and seasonal workers, had a balanced budget and gotten rid of the deficit. He stated that this was all done without the advantage of having an income tax increase. He thanked the citizens that passed the tax increase and added that we've had that to work with within the budget. He reiterated that it wasn't a personal agenda between Council and Derek Allen, instead it was an Employee/Employer situation and they were trying to work through it as quickly and cheaply as possible.

**Appt. Dr. David Walker to Board of Health and Juanita Jewett to Zoning Board of Appeals. Re-appt. Eugene Collins Fair Housing Board**

The Mayor's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: 6 ayes – 0 nays**

**City Solicitor** – Solicitor Haas reported the following:

1. He congratulated Notre Dame's girls High School Basketball team, they finished their season 42-0 this year.
2. He congratulated the swimmers from Notre Dame and Portsmouth High School for advancing to the District Finals.

The Solicitor's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: 6 ayes – 0 nays.**

**Auditor Williams** – Auditor Williams reported the following:

1. He distributed the Auditor's Financial report as follows::  
January's General Fund - \$3,922,640 which was \$2,374,019 more than the previous year. The new tax revenue collected was \$958,458. Total collection included in both General and Capital was \$1,089,260 which was \$105,951 more than last year and the accumulated total compared to last year was \$1,109,136. Major Fund Balances – General Fund \$3,922,640, Streets \$392,821, Water \$527,884, Sewer -\$1,207,458, Sanitation \$570,001 and Insurance \$1,805,543.
2. He stated that the annual appropriation ordinance needed to be passed by the end of February and would be sending recommendations to Council and the City Manager so that a permanent budget could be adopted.

Solicitor Haas asked about the sewer fund as Auditor Williams had indicated that the fund was in a deficit of about \$1.2 million dollars; he wanted to know how much the County had collected under the sewer contracts but refused to pay the city. Auditor Williams stated that he did not have that on hand but he could provide it. Solicitor Haas asked if collecting that would further reduce the sewer deficit and Auditor Williams stated that part of it in Fund #621 would reduce it and maybe part of it would be Fund #623 but the majority would be the sewer fund which was Fund #621, but it would lower that number.

The Auditor's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: 6 ayes – 0 nays.**

#### **MISCELLANEOUS BUSINESS FROM CITY COUNCIL**

**1<sup>st</sup> Ward** – Councilman Sean Dunne reported the following:

1. He recently met with individuals regarding a Skate Park in Portsmouth which would include designs, estimates and locations. He had also been in contact with a City Park Design Company in California that had been previously looking at a Skate Park in Portsmouth.
2. He had collected more information, estimates and was working with a number of people regarding a Dog Park and was quite confident that it would move forward.
3. He had been in touch with City Manager Derek Allen to discuss the benefits of Tableau Software and hoped that the City would adapt the Tableau Software.
4. He would like to see certain parts of McKinley Pool improved and they were exploring a variety of different options for funding for the pool.
5. He met with Portsmouth Area Arts Council which was an incredible group. They currently are doing a fund raising campaign called “#anythingforasong” and there were donations coming in not only locally but from other states. One of the things they're asking people to do was to upload a video of themselves singing for 30 seconds or donate \$10.00 or more or both. He added that in the video he nominated fellow Councilmembers, the City Clerk, the City Solicitor, the City Manager and the City Auditor.
6. He participated in the Main Street Portsmouth Chocolate Walk, and thought it was a great event which helped the local business owners. He believed it was a great success.
7. He said that his last representative meeting was at the Portsmouth Brewery and the next meeting would be a Penn Station.

**2<sup>nd</sup> Ward** – Councilwoman Aeh reported the following:

1. She appointed Curtis Shanks to fill the unexpired term of Janice Shanks in the Land Reutilization Committee.

**3<sup>rd</sup> Ward** – Councilman Kevin E. Johnson reported the following:

1. He had the opportunity to meet with Manager Allen to look at a residential issue on Layton Drive at the end of the cul-de-sac. There were a lot of ruts, people parking on city property, and problems that needed resolved.
2. He thanked Shawnee State University for allowing us to conduct the meeting.
3. He thanked the City Clerk for all that she had been doing recently. She's had a lot of paperwork and extra hours and it was appreciated by Council.
4. He thanked all of the citizens for coming out and getting involved.

**4<sup>th</sup> Ward** – Councilman Kalb had no report.

**5<sup>th</sup> Ward** – Councilman Meadows reported the following:

1. He said that a lot of things were said about him but that he had broad shoulders and it wasn't the first time people had said stuff about him and probably won't be the last. He added that when all this comes through and people hear what actually had transpired, people will see something different. He concluded that he believed people were giving him credit for having more power than he actually had as he was only 1 vote out of 6 members of Council and it took a vote of 4 to pass legislation. He does not give facebook interviews or to the press regarding the situation.

**6<sup>th</sup> Ward** – Councilman Lowe reported the following:

1. He thanked the Scioto County Landbank for tearing two houses down on Harrison as it was much appreciated. He had been working hard for the past two years and they were trying to get rid of all of the dilapidated houses.
2. He thanked Shawnee State University for allowing Council to have their meeting.
3. He sent a get well wish to Bob and Donna Workman, Bob was sick and in the hospital.
4. He gave condolences to Jim Mowery as his wife passed away, Mr. Mowery also lost his Father in the past month. Heart felt sorrow for the Mowery family.

The meeting adjourned at approximately 8:36 p.m. on a motion by Councilman Johnson.