

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

Monday October 12, 2015

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday October 12, 2015 at 6:05 p.m., in the Council Chambers of the Municipal Building.

Acting Mayor Jim 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:

Kevin W. Johnson	1 st Ward
Rich Saddler	2 nd Ward
Kevin E. Johnson	3 rd Ward
Jim Kalb	4 th Ward
Gene Meadows	5 th Ward
Jeff Kleha	6 th Ward

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

Council dispensed with the reading of the Journal for the regular session of September 28, 2015 on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

There was no Public Hearing.

Councilman Kevin W. Johnson motioned to move item 8e Resolution for the new Civil Service rules to the beginning of the legislation making it 8 a-1 and item 8a will be 8 a-2 for the purpose of giving the members from the Civil Service Commission that were present a chance to answer questions.

The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

Councilman Kevin W. Johnson stated that he had e-mailed all of Council a copy of the defeated Resolution from the last meeting. He stated that there were only 4 members in attendance and he would like Council to reconsider the resolution to exempt sales tax from college textbooks. He motioned to add it to the agenda as 8f.

The motion was defeated viva voce: **VOTE: ayes 3 – nays 3 (J. Kalb, G. Meadows, J. Kleha)**

Acting Mayor Kalb called for questions for the review of the City Manager's evaluation form. Councilman Kevin W. Johnson stated that he provided one correction to the form to the City Clerk and he moved to accept the form. City Clerk Ratliff stated the error was on page 3 of the form under Policy Execution "la should have been law" and advised that it had been corrected. Solicitor Haas stated that under the contract there was supposed to be an agreement between Council and the City Manager on the form. Clerk Ratliff stated that Manager Allen has had the form the same amount of time as Council. Manager Allen stated the he suggested putting "not observed" into the form. Acting Mayor Kalb requested that a vote be taken and ask for the City Manager's acceptance and Manager Allen said "sure".

There were no questions or comments. The role was called. **VOTE: 6 ayes – 0 nays the motion to adopt the evaluation form was accepted.**

Solicitor Haas stated that the appropriate place for the City Manager to agree to the form would be during his report.

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

There was no one present that wished to address Council on items on the agenda.

LEGISLATION

The clerk gave a **first reading**, to a Resolution authorizing the approval of the revised Civil Services Rules and Regulations for the City of Portsmouth as per attached Exhibit "A".

Councilman Kevin E. Johnson motioned that this Resolution be adopted.

Councilman Kevin W. Johnson stated that he would like to get an overview of specifically what had changed. Solicitor Haas stated that some of the significant changes were as follows:

1. Removed references to the Chinese expedition and some other things that were in the rules that were enacted in the 1960's. He stated that it had been modernized and worked closer with the State rules and other cities that were similar to Portsmouth.
2. The hiring and promotional process would be clearer, as the process and procedures were not very clear on how to hire and promote and what steps needed to be followed.
3. Promotions and hiring would not be as reliant on the civil service exam, other skills for the position would be taken into consideration and the goal was to promote and hire the best people for the positions.
4. Changed from hiring from within for the Chief position and opened hiring up to outside qualified candidates. The Captains from those departments would still be able to apply and compete for the Chief position.
5. The age limit was raised from 18 to 21 years of age and applicants for original appointment examinations in Police and Fire Departments must not have attained the age of 41 years on or before the date of appointment.
6. Those were the main changes in the rules but if there was anything specific that anyone had questions about, he would be happy to try to answer them.

Solicitor Haas thanked the Fire and Police Chiefs and the Civil Service Commission for all their input as the commission had spent a lot of time going over the rules and the help was really appreciated.

Councilman Kevin E. Johnson referred to page 48 regarding the "Veterans Credit" which was an additional credit of 20% and asked if it had always existed. Solicitor Haas replied "yes", the score would be added after the exam. Councilman Kevin E. Johnson stated that he had reviewed the rules and regulations and thanked all the members on the commission and Solicitor Haas for all the work that they put into the new rules. Acting Mayor Kalb stated that he felt that was the sentiment of all of Council as all the hard work was very much appreciated.

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

The clerk gave a **third reading**, to an Ordinance authorizing the appropriation of \$8,000 to the Health Department CIP Mach 7 Equip Line Item No. 301.440.5533 for the purchase of a Canon copier for the third floor.

Councilman Kevin E. Johnson motioned that this Ordinance be passed.

Councilman Meadows stated that at the last meeting he had raised some issues regarding the Health Department (pay raises, additional employees etc.) and he requested to have someone answer questions.

Commissioner Chris Smith from Portsmouth City Health Department reminded Council that they had capped the Health Departments budget at \$640,000 and that the Health Department brought in \$200,000 worth of revenue and the actual cost to the city was around \$400,000 from the General Fund. He stated that they had not overspent from the general fund. He added that sometimes there was confusion regarding their grant funds but these do not have anything to do with the city funds. Approximately 5 years ago when the city started doing the lay-offs, the city health department had approximately 33 employees and now they are down 6 employees to only having 27 employees and explained that they have grants come and go; they have had people retire and those positions would be filled. He believed that some of the confusion lately were two positions where one person retired and one quit back in November or December and they were just now refilling the positions. There are no generalized raises happening, but there were times when people have an increase in salary and most of the time that would be when someone takes on a new position. He stated that he had moved some people from hourly to salary which would save the city money and anyone that worked 60 hours a week knew that was not a raise. There were times when they combine positions in order to save the city money; he used the example of an Animal Control officer and a Code Enforcement officer. The Code Enforcement officer moved to another position and instead of refilling that position he combined it with the Animal Control officer and now the Animal Control officer is receiving the pay of the Code Enforcement officer which may have been a slight raise but the Animal Control officer does both of those jobs and no General Fund money was used for that, but it saved the city about \$50,000. The Health Department kept up with its services and no services were cut. In fact, the employee based health care clinic was doing quite well and there are approximately 35 city employees utilizing the clinic. He reminded Council that two years ago they stated that each department would have to cut back to save money and not to ask for things unless they are truly needed. He had known for a couple of years that the copier was going to die but instead of asking for one they chose to wait until it collapsed and the same goes for the vehicles they use. Solicitor Haas asked what the Health Departments total budget was and Mr. Smith replied around \$2,000,000 and he said about 75% of that was grant funded. He recommended that Council come to the Board of Health meetings which are held every 4th Wednesday of each month.

Councilman Kleha asked the City Manager if departments wanting CIP funds had to submit their request to the City Manager and then it had to be approve by City Council and the Manager stated that that was correct. Manager Allen added that there have been times when emergency items had to be added to the CIP and some had to be removed in order for the City to maintain its fiscal responsibilities. The items removed are pushed back to the following year. He wanted to make clear that he had no authority with the Health Department and never had

told Mr. Smith how to run his department. Acting Mayor Kalb stated that the Health Department was a separate entity and he had always found them to be very receptive to any suggestions or criticisms. Councilman Meadows asked Auditor Williams if the money was available and his reply was “yes”. Mr. Meadows said that when he brought this to the forefront he wasn’t trying to get it defeated, but he wanted to be able to answer his constituent’s answers. Auditor Williams stated that the City always tried to keep an informal minimum balance of that fund in the reserve and typically it was around \$500,000, the City Manager stated that the current balance is \$1,100,000.

There were no 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 approval of the preliminary legislation submitted by the Ohio Department of Transportation (ODOT) proposing the need for an overlay project on the US 23 Grant Bridge.

Councilman Kevin E. Johnson motioned that this constitute a second reading.

Councilman Saddler stated that he was abstaining was the conversation and vote. Manager Allen wanted to make clear that ODOT cannot allow the deck of the bridge to deteriorate and there are some minor cracks from water and salt. They will mill off part of the deck and use an epoxy base covering; he had not been told whether they were going to close the bridge or have it remain open with maintained traffic. Portsmouth Daily Times writer Frank Lewis stated that he had been told one lane in one direction on the Grant Bridge and the other lane will be re-routed to the Carl Perkins Bridge.

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays – 1 Abstain (R. Saddler), a second reading was declared**

The clerk gave a **second reading**, to an Ordinance authorizing the appropriation of \$2,500 from Community Agencies Line Item No. 101.119.5291 to support the Buckeye Elite Event Management Holiday Classic Basketball Tournament.

Councilman Kevin E. Johnson motioned that this constitute a second reading.

There were no 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 to amend Chapter 181 of the Codified Ordinances of the City of Portsmouth regarding Municipal Income Tax per H.B. 5 and Chapter 718 of the Ohio Revised Code.

Councilman Kevin E. Johnson motioned that this constitute a first reading.

Auditor Williams stated that House Bill 5 requested Municipal Income Tax authorities to amend their ordinances to fall in line with section 718 of the Ohio Revised Code and to be effective January 2016. The basis for the changes was to make Uniform Tax applicable across the board for municipal corporations and he gave a list of examples of the changes. Solicitor Haas stated that something they are discussing about doing away with the city’s ability to tax individuals that do not live in the city. If this passes and a person lives outside of the city but works within the city, the city would not be able to tax them. Auditor Williams reminded Council that that was not the issue being discussed.

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

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

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

MISCELLANEOUS BUSINESS AND REPORTS:

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

1. She received the Oath of Office from the following:
Ben Figlestahler - Firefighter
Christine Pennywitt – Traffic Committee
Carrie Massie – Shade Tree Commission
2. She attended the Main Street Portsmouth “Coffee Networking Presentation” with a Social Networking as the topic.
3. She met with the Scioto County Engineers office along with Solicitor Haas to go over updating the wording for each Ward and reminded Council that the Wards were not changing.
4. She attended the SOPA Annual Stakeholder’s Breakfast.

Oath of Office
Ben
Figlestahler,
Christine
Pennywitt,
Carrie Massie

5. She prepared and attended the reading of the Proclamation for Breast Cancer Awareness.
6. She attended and assisted with the Annual City Employee Picnic. A big thank you to Lisa Carver of the Chamber of Commerce for the donations.
7. She received from the Auditor via e-mail on October 9, 2015, the following Combined MTD/YTD reports for the period ending September 30, 2015: Expense, Revenue and Fund.
8. She attended the Tree Commission Academy
9. She attended the unveiling ceremony for the new Bicentennial Riverfront Sign.
10. She requested that City Council along with the City Manager, City Auditor and City Solicitor get an updated picture for 2015, it was discussed and agreed that October 26, 2015 would be the date.

The City Clerk's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson.

City Manager's Report – Written report only.

1. His written report can be found on the City's website.
2. He spoke about an article in the paper regarding the work for the sinkhole for Pump Station #2, he understood that the contractor was in town and that is the last step to getting the levee certified.
3. Every couple of years the Corps of Engineers does an evaluation of the city's flood defenses. He had staff addressing issues such as trees growing into the levee which will need to come out. Concerns about guide wires for electrical poles, possibly may relocate those but must first contact AEP. There's been an infestation of Ground Hogs burrowing holes into the levee. The city will be conducting training on an annual basis for installing the flood gates and this year all the gates are to be installed and checked.
4. There was an article regarding the \$42,000 that had been spent. He clarified that the money had been spent on public records request that were made and they city had complied with every one of the requests. Pieces of the documents were then taken and misrepresented and sent off to the U.S. E.P.A. in Chicago and then the Chicago EPA contacted us and wanted to know why we were violating the Consent Order. There were other allegations and that the city was required to document and provide evidence that we were in compliance and that took calculations from an Engineer and an Environmental Attorney.
5. He had requested the "not observed" be added and giving it a "zero" as long as that zero is not incorporated into the average of the score. It was proper to use when you haven't observed something instead of giving a score for something you haven't observed. He requested that Council take the evaluation seriously.
6. He had three items of real estate that would need to be discussed during an Executive Session.
7. He had asked the Auditor and the Income Tax Department for the possible impact and loss of revenues that the A-Plant would have on the City of Portsmouth and the response that he received was the impact would be a loss of \$40,000 annual revenue if the Centrifuge site goes down. The loss would be \$100,000 of annual income tax if the Decontamination and Decommissioning (D&D) does not move forward.
8. Acting Mayor Kalb ask if he accepted the evaluation form and Manager Allen replied "yes".
9. Councilman Kevin E. Johnson asked about the \$42,000, accusations and questions. There was an indicator on Grandview and now it is gone, he wanted to know where it went as this was a question that kept being asked of him and he would also like to know. Manager Allen stated that it was moved to the rear of the retention sight off of Grandview and it was removed. There is a new one being ordered and it would be moved to a different location because the pipes have been changed. He said that it would be somewhere in that area but not the exact same spot and it won't be monitoring the exact same manhole that it was previously monitoring.
10. Councilman Kevin E. Johnson stated that he thought the city should pay for some of the expenses that the Manager incurred while attending the ICMA conference in Washington. Manager Allen stated that since he received a vehicle allowance, he was able to cover those expenses. He mentioned that one of the classes was about the legalization of marijuana and there were a lot of City Manager's in attendance.

The City Manager's written report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson.

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

1. He stated that he attended most of all the events and meetings that the City Clerk reported.
2. He thanked Councilman Saddler, Councilman Kevin E. Johnson and the City Clerk who handled most of the hard work for having a successful employee picnic. He stated that most of Council was present and the City Manager and he took care of lifting the lid (laughter), Manager Allen said "we all had our roles" (more laughter).

The Acting Mayor's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson.

City Solicitor – Solicitor Haas reported the following:

1. He thanked Council for passing the Resolution for the new Civil Service rules and again thanked the Commission and the Chiefs for their hard work.
2. He said the Clerk mentioned the Ward Ordinance and he believed that it came about because of the 2016 Presidential election, the County was required to make sure their voting districts are all mapped out. There were a couple of places on the Ordinance that didn't quite match up to the Engineering terms, but when it was drawn out it did not change anyone's voting ward. He requested that the proposed Ordinance be Tabled for now to allow the County Engineers to use the wording they need which will also match up with the G.I.S. system. They also will provide the City with maps of the outlined Wards.
3. He explained the decision of the rental licensing program and it was found that the old ordinance was unconstitutional and also requested an Executive Session to discuss the litigation for the rental licensing program. He would like to invite Commissioner Chris Smith to the session.

The City Solicitor's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson.

Auditor Williams – Auditor Williams reported the following:

1. He reviewed the written report he distributed to Council.

The Auditor's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson.

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

1st Ward – Councilman Kevin W. Johnson reported the following:

1. He advised that he had read the minutes from the last meeting regarding the sales tax and the reasoning for it being voted down. He had asked Ms. Ratliff for Resolutions that have been passed and wanted to remind Council that we need to be involved in State Legislation as Mr. Haas eluded to that there would be more legislation coming our way. Legislators rarely ask for local opinion but they need to know our opinions. He reviewed the past resolutions:
 - a. Resolution for endorsement to the General Assembly to review the Ohio Historic preservation tax credit.
 - b. Resolution opposing the closure of the Ohio River Valley Youth Center.
 - c. Resolution opposing a bill allowing a permit holder to carry concealed guns into bars and restaurants that serve alcohol.
 - d. Resolution opposing legislature's gag order for the office of Ohio Consumer Council.
 - e. Resolution requesting the United States Congress pass the Return to Prudent Banking Act of 2011.
 - f. Resolution requiring the State of Ohio enforcement board to avoid any semblance of gerrymandering.
 - g. Resolution to support Amendment 212 which was opposing citizens united.
 - h. Resolution opposing H.B. 5
 - i. Resolution in support of the Social Security Administration Accountability Act.
2. He attended the PALS and Bicentennial event of the repainted Welcome to Portsmouth and logo "Where Southern hospitality begins", it was very impressive.
3. He knew that the Employee Picnic had already been mentioned, but also thanked Clerk Ratliff, Councilman Kevin E. Johnson and Council Saddler. It was a great event.
4. He thanked the City Manager for arranging to have the holes from the remains of trees at Bannon Park filled.
5. He thanked Bill Beaumont for having his employees cut up the tree that fell a couple of winters ago at the corner of Kinneys Lane and Scioto Trail. It was a terrible eye-sore.
6. The railroad crossing at Waller Street had been clean up and was much better.

2nd Ward – Councilman Saddler had no report.

3rd Ward – Councilman Kevin E. Johnson reported the following:

1. He thanked all who were involved in the Employee Picnic, Councilman Saddler on the grill, the City Clerk instead of taking her work home she took onions home and chopped those up. Lisa at The Chamber of Commerce and all that donated their time.
2. He also attended with the City Clerk a portion of the Tree Commission Academy. Ann Bonner from the State did a remarkable job. If you haven't looked at the trees within our city, please take time to look at them as we have some very beautiful trees and programs that help to purchase more trees.

4th Ward – Councilman Kalb reported the following:

1. He commented to Councilman Kevin W. Johnson that the reason why he voted against bringing that Resolution back before Council was that there was no one that came forward that requested this of Council and it in no way affected the operation or benefit to the City.

5th Ward – Councilman Meadows thanked the Auditor for getting the figures showing the impact the A-Plant will have on our community.

6th Ward – Councilman Kleha had no report.

Councilman Kevin W. Johnson moved that Council go into Executive Session for the purpose of the following:

**Executive
Session**

- 1. To discuss property.
- 2. To discuss the legal issues regarding Health.

The roll was called. **VOTE: ayes 6 – nays 0 - The motion carried. Council recessed into Executive Session at approximately 7:15 p.m.**

Council reconvened at 7:57 p.m. The roll call showed all those previously in attendance were still present except for Auditor Williams.

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

City Clerk

Acting Mayor