

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

Monday October 27, 2014

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday October 27, 2014 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Acting Mayor 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 <sup>st</sup> Ward
Rich Saddler	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
Jeff Kleha	6 <sup>th</sup> 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 October 13, 2014 on a motion by Councilman Kevin W. Johnson.

There was no Public Hearing.

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

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

**LEGISLATION**

The clerk gave a **second reading**, to an Ordinance authorizing the City Manager to enter into an agreement between the City of Portsmouth and the Southern Ohio Port Authority (SOPA) as per attached Exhibit A that details the City joining the SOPA for three years with the use of a city owned vehicle as the 2014 contribution and \$25,000 per year for calendar years 2015 and 2016 and the City of Portsmouth receiving a seat on the board.

Councilman Kevin W. Johnson moved 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 **second reading**, to an Ordinance amending Chapter 303 of the Codified Ordinances of the City of Portsmouth, Ohio – Enforcement, Impounding and Penalty by repealing Sections 303.08, 303.081, 303.082, 303.083, 303.084, 303.085, 303.086, 303.087, 303.088, 303.09, 303.10, and 303.11 and adding new sections with language reflecting the creation of a Police Impound Facility.

Councilman Kevin W. Johnson moved that this constitute a second reading.

Councilman Kevin E. Johnson stated that it looked like the city was going to be in the impound business and he was in favor, however he had a problem with the wording in 303.088 (I-1&2). He takes issue with the fact that if your vehicle is stolen that a person would have to pay impound fees to get the vehicle back. If your vehicle is stolen while you're away on vacation and you're unable to retrieve the vehicle within the designated hour deadline, he understands that the Police Chief has the right to waive the fees depending on the circumstance. If you consider hypothetically 20 years down the road and we're not the ones at the table and the Police Chief has changed, would it be remembered what was discussed and agreed to since it was not in writing. He would like to have wording that states the Police Chief has authorization to waive the fees.

Solicitor Haas stated that there is an appeals procedure (303.084) that people will need to follow. It is aimed to eliminate people using the impound facility as a storage facility and the insurance company would be charged the impound fees. If someone doesn't have insurance coverage, they can file an appeal and request a hearing. Councilman Kevin E. Johnson stated that most insurance companies have a deductible that had to be paid first and hated to have something bad happen to a citizen and then they still end up paying to get their vehicle back. Solicitor Haas stated that Section 303.085 (B) says that "The Chief of Police, or his designee, shall then affirm, reverse or modify the order. If a person wanted to file an appeal because they were on vacation, they can present evidence at a hearing and the Police Chief at that time can modify the order to waive those fees. City Manager Allen stated that this is an appeals process that they don't currently have through the impound facility being used currently. Solicitor Haas stated that if we add it to this section, it will need to be put in every section.

Councilman Meadows stated that hypothetically 20 years from now we could have a Police Chief that waived fees for all his/her facebook friends and not for everyone else and at least with the appeals process there is a documentation system that would guide us through the process. At least with this process the Police Chief's superior can review the process to monitor whether there is an abuse of that discretion and with the appeals process you have a check and balance and we don't leave it open for that discretion. Councilman Kleha spoke but it was inaudible. Acting Mayor Kalb stated that if an exemption is done there should be a time frame included otherwise you would have people using impound for storage. Councilman Kevin W. Johnson stated there are many hypotheticals that could be used but the legislation provides an appeals process and he would prefer to stick to the wording in the legislation. Acting Mayor Kalb stated that he agreed with the majority that the wording in the proposed Ordinance should stand. Solicitor Haas stated that he doesn't believe the purpose of the Ordinance is to penalize someone that had their vehicle stolen and is on vacation or otherwise unavailable to come retrieve it. City Manager Allen added that the intent is not a "gotcha" as right now it's being handled by a private company making the money off of it and the City wants to move it in-house and as Mr. Johnson said, we cannot come up with every possible scenario and that's why there's an appeal process. Everyone will be treated in an equal and fair manner and it will be rational and if there's still a situation where someone feels they weren't treated well, then they can come and speak to Council.

There were no 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 accepting easements from Henry J. Miller; and James M. McGinnis; and Robert H. Staker, Jr. and Debra I. Staker, acquired for right of way needed for ingress and egress. **Consent Agenda**

Ord. #44-14  
Easement for  
Beechmont  
Heights

Councilman Kevin W. Johnson motioned for the three reading rules to be suspended and Councilman Meadows added that the waiving of the three readings is being proposed because it needs to be done prior to winter weather.

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

Councilman Kevin W. Johnson motioned that the Ordinance be passed.

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

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

There was no one present who 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 an Oath of Office on Jim Johnson for the Traffic Committee.
2. She received the certified affidavit of publication from the Portsmouth Daily Times for the advertisement of the "Repealing Limitations of Taxing Authority Charter Section "47g".

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

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

1. His written report can be found on the City's website.
2. There were no substantial changes in the renewal for medical insurance except there was a decrease in the premium. The Union contract has been signed and he will be meeting with the Unions to go over the plan, since the plan is similar to prior years there was no controversy.
3. He has not heard anything from the State regarding the Recovery Plan.
4. The 2015 Budget should be delivered to Council at the next meeting.
5. The Arbitration for the Police grievance did not happen as the Arbitrator had health issues.
6. A grievance hearing was conducted for the Fire Department.
7. There will be a swearing in ceremony for the Police Department on Thursday at 11:00 a.m.
8. There were 2 separate water main breaks on 30 inch water mains. The second one occurred on Kinney's Lane and blew part of the road off; the road will be closed due to the severe damage until it can be repaired. The break blew the asphalt off the bricks and blew a lot of sand; it will require all the asphalt to be removed and temporary patch applied to get it back open within 2-3 weeks. The resurfacing job has been bid and the contract has been awarded. He added that there is technology that allows you to run a liner into the water line without having to completely tear up the street. The water main that blew is from the 1920's and every time it blows it does substantial damage. We will be looking at that for the future.
9. Relief Wells have been installed and the project is substantially complete.

10. Gallia Street in Sciotoville is on the resurfacing list. The Street Department scrapped off approximately 2 feet of dirt and prepped it for resurfacing, as the road had been somewhat buried under the hillside.
11. The downtown parking lots will be reconditioned and resurfaced. The 4<sup>th</sup> Street parking lot was re-sealed and re-striped.
12. Received notification of Riverview project from the National Church Residence in which the city wrote a letter of support stating that they are receiving \$1,000,000 in funding from the State for improvements.
13. He was asked to return to Honduras to assist in purchasing land as a follow up to his summer mission trip and he will be leaving Thursday and will return the following Thursday. He has appointed Captain Lynn Brewer to oversee the running of the city in his absence.

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

**Acting Mayor's Report** – Acting Mayor Kalb had no report but asked the City Manager if the paving job on Kinney's Lane and Beechwood Heights could be coordinated to save some money. The City Manager stated that it will be coordinated.

**City Solicitor** – Solicitor Haas stated that he has met with Director Duncan and Manager Allen regarding the floodwall certification which will be listed on the agenda very soon. It was recommended that the city place hundreds of relief wells along the levee, however AMEC came in and re-evaluated the situation and recommended only two relief wells and relief well project was awarded to them at a substantial savings. AMEC's part of the report is multifaceted given the delay that occurred since the original work was done on the certification. The company's that did the work will need to go back out and take another look at pump stations and the City will be charged for that follow up. There will be an additional cost approximately \$120,000 to have those reports consolidated into one report and submitted to the Army Corp of Engineers. Acting Mayor Kalb asked if New Boston had been certified and Solicitor Haas replied that New Boston cannot be certified until Portsmouth is complete. Manager Allen added that this was nothing to do with our staff that caused this delay.

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

**Auditor Williams** – Auditor Williams had no report.

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

**1<sup>st</sup> Ward** – Councilman Kevin W. Johnson reported the following:

1. He commented on what a difference the clean-up and paving job had on the 4<sup>th</sup> Street Parking Lot. He asked the City Manager what other lots were set to be paved. The Manager replied that he hoped to get to all of the City Parking lots.
2. There has been a number of accidents on Scioto Trail and most recently one involving a pedestrian. He has had some complaints about the lack of street lights on Scioto Trail and no cross walks between 28<sup>th</sup> Street and Kinney's Lane. There used to be a cross walk at Bertha Avenue that the community of Argonne Road used, in fact the lady that was injured was going to work and crossing the street in that area, as she works as a maid at Keys Inn. He also brought up the fact that the United States Post Office routes cross Scioto Trail in various places. This is a major issue and he would like this to be looked at.
3. The gas meter at 4<sup>th</sup> and Chillicothe Street that was replaced by Columbia Gas was covered back with asphalt in lieu of concrete which does not make the sidewalk look very nice. If you go by the "Lofts" and the repair work was done correctly with concrete. He would like this issue to be brought to their attention.

**2<sup>nd</sup> Ward** – Councilman Saddler had no report.

**3<sup>rd</sup> Ward** – Councilman Kevin E. Johnson had no report.

**4<sup>th</sup> Ward** – Councilman Kalb reported that there had been a couple of condemned houses that had been torn down in the 4<sup>th</sup> Ward and it looked much better.

**5<sup>th</sup> Ward** – Councilman Meadows had no report

**6<sup>th</sup> Ward** – Councilman Kleha reported that he had some complaints of criminal activity and related matters which have been reported to the proper departments.

The meeting adjourned at approximately 6:35 p.m. on a motion by Councilman Kevin W. Johnson.

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City Clerk

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Acting Mayor