

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

Monday November 10, 2014

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday November 10, 2014 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Solicitor Haas 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:

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|------------------|--|
| Kevin W. Johnson | 1 st Ward |
| Rich Saddler | 2 nd Ward |
| Kevin E. Johnson | 3 rd Ward |
| Jim Kalb | 4 th Ward (Absent) |
| 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.

Solicitor Haas called for nominations for a presiding Acting Mayor due to the absence of Acting Mayor Kalb. Councilman Rich Saddler motion for Councilman Kevin W. Johnson to preside over the meeting, there were no other nominations. The role was called. **VOTE: 5 ayes – 0 nays**

Councilman Jim Kalb's absence was excused on a motion by Councilman Rich Saddler.

The motion carried viva voce: **VOTE: ayes 5 – nays 0**

Council dispensed with the reading of the Journal for the regular session of October 27, 2014 on a motion by Councilman Rich Saddler.

There was no Public Hearing.

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

Judge Steve Mowery - 728 2nd Street - He spoke on behalf of the establishment of Fund #202, the Municipal Court Fund. He stated that he would like to keep the lines of communication open and trusts Mr. Allen and the discussion that they had regarding this topic. He asked if all departments in the city were going to be experiencing similar cuts to those being proposed to the Courts and the Health Department and would like Council to be mindful of sections of the law 1901.36 that require that the courts be funded and able to operate and the needs be met. He added that with regard to the transfer of funds into a separate account, he's not aware of the exact rationale except that it was presented in the Five Year Plan. He understood the logic, but pointed out that the funds had to be defined, qualified and identified for items being paid from that fund. He used the example that indigent Counsel had been paid separately in the past and now is paid through the Courts; the Courts also are paying for vehicle maintenance due to changes in the service department. He also stated that he doesn't believe the courts are currently paying for their own phones because that is under the entire umbrella of the city. He said that if those items are identified, then they are close to what Mr. Allen had suggested and he believed that the courts could operate under those terms as long as it was determined that everyone was being treated similarly and that they would be able to enhance it somewhat so that they can meet their funds and continue to do what they've been doing. He concluded by saying that there would be 3 readings and he'd like those questions answered.

LEGISLATION

The clerk gave a **third 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 E. Johnson moved the Ordinance be passed.

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **third 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.

**Ord. #45-14
Written
Agreement
with SOPA**

**Ord. #46-14
Creation of a
Police
Impound
Facility**

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

Councilman Kevin W. Johnson stated that he received an inquiry via facebook inviting the public to give their input at the Council meetings regarding an impound facility and none have come forward.

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **first reading**, to an Ordinance authorizing the establishment of Fund No. 220 Indigent Drivers Alcohol Monitoring for the purpose of tracking these funds separate from the indigent alcohol treatment fund.

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

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the establishment of Fund No. 202 Municipal Court Subsidy Fund as part of the Five Year Recovery Plan submitted to the State of Ohio.

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

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the establishment of Fund No. 250 Health Department Subsidy Fund as part of the Five Year Recovery Plan submitted to the State of Ohio.

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

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance to levy a municipal motor vehicle license fee pursuant to Section 4505.17 Ohio Revised Code. Now, therefore,

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

Councilman Kevin W. Johnson asked the City Manager if we currently had \$5.00 fee regarding 7f & 7g on the agenda and if so does that mean the fee will triple. City Manager Allen confirmed that it is currently \$5.00, item 7f will make it \$10 and item 7g will make it \$15.00. Councilman Kevin W. Johnson asked him to confirm that the purpose for the legislation was that he was provided with incorrect documentation regarding the budgeting for this department. Manager Allen stated that the revenues were not what they had been previously reported and in order to maintain the street department they had to increase the revenues as it was their only avenue. The account will still fall short but as people leave the departments, the positions are being re-evaluated to determine if they should be filled.

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance to levy a municipal motor vehicle license fee pursuant to Section 4505.17 Ohio Revised Code. Now, therefore,

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

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance authoring the City Manager to sign an agreement with SmartBill for the mailing of invoices for city utility services in an amount not to exceed \$81,000 to be paid from Water Service Contract Fund No. 604.774.5238. **Consent Agenda**

Councilman Kevin E. Johnson moved that the three reading rule be waived.

The role was called. **VOTE: 4 ayes – 1 nays (G. Meadows), the rule was suspended.**

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

Councilman Meadows stated that he was not against the Ordinance but against it as a Consent Agenda. He understood the need for this to be processed timely but believed that it could have been started earlier to afford the citizens an opportunity to voice their concerns. Councilman Kleha asked if the monthly billing had already

begun and Manager Allen responded that it had not, but if Council wished to require all 3 readings it would not be a problem. Manager Allen stated that it is not fully funded out of water but from water, sewage and trash; he believed that starting it at the beginning of the year would be the best. There are some issues with the date on the billing cycle that will need to be reviewed and possibly adjusted and he also was inquiring if the City had a set of rules on how to handle disputes on the utility bills as he had not seen a set of such rules. Councilman Meadows asked Manager Allen if the rate increase will take place at the same time the monthly billing cycle begins since the rates have not yet been determined. Manager Allen answered in the affirmative. Councilman Meadows stated that he had some concerns about issuing a rate increase until we know the amount of delinquencies and how to handle them. Manager Allen stated that absent delinquencies the City is still severely short at -\$416,000 and there are going to be bills deemed uncollectable, whether or not there's an excessive amount of delinquencies, we hope the monthly billing will motivate people to pay. Councilman Meadows stated that if he didn't pay his gas bill, the gas company would shut off his service and he doesn't believe that it's fair for those who pay on time and that will be paying the increase for Commercial users to not fall under the same guidelines for paying on time. Councilman Kevin W. Johnson asked if commercial users get a break by not paying on time and if residential customers are turned off much quicker if they fail to pay. Manager Allen responded that he would have to look into it but as far as he knew the only business was a church but he will look into it. Councilman Meadows commented that "the bottom line is that if you're not paying, it doesn't matter what the rates are". Councilman Kevin W. Johnson asked Manager Allen if he would be getting a report from that department that would show the delinquent accounts, Manager Allen responded by saying that he had requested the reports but there has been difficulty in providing them. Manager Allen stated that the "hole" here is much deeper than anyone realized; the disfunction in getting reports and he referred to previous places he had worked where you ask for the percentage of delinquencies and it was printed and delivered and that is not the case here and that those are all legitimate concerns that will need to be addressed. He's currently working on the budget and it would be fine if Council wanted to have three readings.

Councilman Saddler stated he typically agreed with Councilman Meadows but on this particular issue, he believed that we should move forward with waiving the three readings and get this part of the task completed. This will free up Manager Allen to do what needs to be done. Councilman Kevin W. Johnson agreed. Councilman Kevin E. Johnson stated he would like to see this implemented at the first of the year but on the other topic of delinquencies, he's had constituents complain of the same matter; he addressed Manager Allen and told him that he was the boss and he should be able to get these reports. Manager Allen said that he doesn't believe that there's a hidden gem waiting to solve all of our problems and he doesn't know what the delinquency rate is but he will find out how much is uncollected and he is the boss and he will find out. He added that there are days in his office that Ms. Matiz is at Worker's Compensation meetings and there's no one there to answer the phones, he said there's a lot going on that he's having trouble keeping up with, but he will find out the delinquencies and report back to Council.

Councilman Saddler added that maybe once the information is received, we could possibly list the delinquencies in the paper like they do the delinquent taxes. Manager Allen stated that typically people have left town and not paid their bill, you could put a lien on a property but more than likely the taxes haven't been paid and typically businesses have declared bankruptcy. Auditor Williams stated that he had seen the list and these people are no longer around, they've either left town or are deceased.

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **first reading**, to a Resolution of the City of Portsmouth, Ohio, in support of H.R. 3997, the Social Security Administration Accountability Act of 2014, to advocate for the retention of local Social Security Administration (SSA) Offices; and in support of H.R. 4964, the Seniors Access to Social Security Act of 2014, and to require the continuation of social security number printouts; and support of S. 2742 the Transparency of Social Security Office Closures, continuation of required services, reduction of online fraud potential, reduction of fees, and assistance to the public regarding conducting business online.

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

Councilman Kevin W. Johnson stated that they anticipate the roll out to be 2025 and this would seriously impact seniors. He reference a recent report that showed the average person retiring had a total net savings of \$20,000 and that 50% of those people would fall below \$20,000 as most seniors are retiring without good savings due to the economy. Most are not internet savvy and by 2025 social security is recommending that everything be done via internet which would make it difficult for the predominant amount of people that need to use that service. He thanked Portsmouth Daily Times reporter Frank Lewis for the background piece he wrote in the paper. He ask the City Clerk to get the message out to our In-State Senators and our local U.S. representatives, Columbus Representatives and Members of Congress.

Councilman Saddler voiced that the federal government wants smaller government and this is how they create a smaller government, but if a poll was taken of every citizen you would have a large amount of people that want these services to stay intact. He believes that this will hurt the economy in Portsmouth and people will leave because they've been forced out of a job. Councilman Meadows fears that this will fall on deaf ears and suggested everyone contact their National Legislators, but agreed that we need to pass the resolution.

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, the Resolution was adopted.**

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Preston Smith -1115 15th Street – He is a resident of Portsmouth and questioned whether he had to use the City’s garbage services or if he could have his own service. The city is raising the rates and he remembered a time when the garbage wasn’t attached to the water bill and he would like to have his garbage bill removed from the water so that he can get his own garbage service. Manager Allen stated that all residents of Portsmouth must remain on the city’s garbage system, if you are a commercial business or apartment owner then they are under a different code. He doesn’t know why commercial businesses were exempted from the city collection. Mr. Smith stated that it wasn’t fair to the resident to have to go through the city and that the commercial business should have to abide by the same laws as the residents.

MISCELLANEOUS BUSINESS AND REPORTS:

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

1. Received an Oath of Office on the following:
Debra Jenkins who was appointed to the Office of Captain of Police
Julian “Cory” Sommers who was appointed to the office of Lieutenant of Police
Andrew Dawes who was appointed to the office of Sergeant of Police
2. Received the Licensing Fee Distribution from the Ohio Division of Liquor Control.
3. Received from the Auditor via e-mail, the following Combined MTD/YTD reports for the period ending October 31, 2014: Expense, Revenue, Fund, Bank and Appropriation Transfer Report.
4. Received on November 10, 2014 the franchise fee from Time Warner Cable in the amount of \$54,975.43 and deposited in the Auditor’s office the same day.
5. She commented to Auditor Williams how nice the new forms were and easy to read.

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 – Manager Allen reported the following:

1. His written report can be found on the City’s website.
2. He said at the end of the report there is an update of the resurfacing project and that should be completed this week with the exception of sealing the parking lots.
3. Due to the onset of colder weather, the parking lots at 4th and Washington Street will be completed in the spring.
4. Kinney’s Lane was set to be opened on November 10, 2014.
5. The contractor is on-site on Oakland Boulevard and it is expected to be completed this week. The reason that a letter was not sent to the residents was because every time he was told that Columbia Gas would be up there, they would show.
6. PMHA has dropped trash service for an approximate loss of \$135,000 per year.
7. He reviewed statistics for trash service and they’re working with the EPA on issues regarding the transfer station being in the flood plain which restricts ability to haul large quantities.
8. He reviewed the Wastewater projects.
9. He asked Health Commissioner Chris Smith to speak regarding the syringe exchange as it has doubled. Mr. Smith stated that he wasn’t sure if it was an anomaly or if it’s due to the Soboxone clinics closing.
10. Police and Fire reports are included
11. Updated Council on the Capital Improvement Projects.

Council Kevin W. Johnson asked if Council could have a monthly comparison on the Police and Fire reports instead of month by month. Manager Allen stated that starting in January they will be asked to have reports filed as such.

The City Manager’s 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 had no report due to absence.

City Solicitor – Solicitor Haas stated that the Rental License program appears to be in-line to start back up in January. The litigation is still ongoing but they want to get it back up and running and they’ve tried to accommodate the Plaintiff’s with respect to their claims so those issues aren’t repeated and they’re working through that process with the Insurance Defense Counsel. He also hoped that the floodwall certification will be on the next Manager’s agenda.

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 continues to work to phase in the new computer system. The

software is quite a few steps above what they had since the last change and they will continue to work through the bugs and the different options. His office staff is currently getting accustomed and using the system before sending it out to all the offices. They intend to have the system up and citywide the first quarter of 2015. He handed out a couple of reports and reviewed them with Council, one of the items reviewed was Income Tax collections for October 2014 which was increased 22,333 over the previous October and at the end of October the General Fund stands at \$682,000, the Streets and Maintenance Fund \$20,000, Water Works \$378,000, Sewage Fund is (\$443,000), Sanitation Fund is maintaining itself at \$33,600 and the Insurance Fund had a \$362,000 balance which will change after the payment is made for the month.

The City 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 wished his fellow Marines a Happy Birthday, they were founded in 1775. It is a very special day for a lot of people.
2. He asked the City Manager about the status of the disposal of the Fire Truck. Manager Allen stated that SOCF came and picked up the Fire Engine approximately one month ago.
3. He asked the City Manager what happened to the ambulance the Fire Department purchased with what they called "extra money". City Manager Allen stated he did not know where it was, Councilman Saddler stated he thought it was a donation and Auditor Williams said that it was purchased for \$2,000 and the last place he saw it was at the Sciotoville Station.
4. He asked Solicitor Haas about the City Manager's chosen means of communication and he understood the reasons dealing with issues throughout the city. However he does not accept the management style that the Manager has chosen to be that of future City Manager's when things are hopefully better and Council improves. Under the legal opinion mailed on May 15, 2015, contained in section 40, it states the only way that Council is allowed to communicate with the department heads which in legal methodology is an Inquiry. On October 15th an email was received stating that it was required by the Charter and to refer questions to the City Manager; he believes that statement contradicts the opinion given on May 15th and in the email he also noted that Section 33 is the only section of the Charter that referred to the relationship between Council and the City Manager.

2nd Ward – Councilman Saddler reported the following:

1. He thanked the City Manager for paving some streets in the 2nd Ward.
2. He made a suggestion regarding speed bumps to slow traffic down on Offnere Street south of Charles Street due to the pedestrian traffic that walks along that street. He recalled the installation of speed bumps on 14th Street around the Community Center and was wanting something similar to slow traffic down.
3. He thanked all the Veterans and current service members of our United States Military and encouraged citizens to say thank you to any veterans or military members. He also advised of a Veterans Day service at Tracy Park at 10:00 a.m. which will last approximately one hour. It will wind up on the 11th hour of the 11th day in the 11th month which is the ending of World War I which is why that timeframe was established. Immediately following the ceremony there will be a bean dinner at the American Legion Post 23 and the public is invited.

3rd Ward – Councilman Kevin E. Johnson thanked Larry Moore's class from Scioto County Vocational School for rebuilding the wall at the Grant Street entrance. The work is all volunteer and he encouraged citizens if in the area to support the class.

4th Ward – Councilman Kalb had no report due to absence.

5th Ward – Councilman Meadows reported the following:

1. He received a lot of complaints Thursday regarding the fact that Dorman, Grandview, Shawnee, Micklewaite streets were all closed at the same time and there was not a lot of coordination of what was happening. He had sent an email to the City Manager Thursday morning and still had not received a response. Mr. Meadows stated that if we're prohibited from contacting Department Heads with a question, then we need to find a way to respond to Council regardless of the number of emails that the Manager receives. City Manager Allen stated that he had over 100 emails to answer after he returned from his vacation and he didn't get back until Monday. Mr. Meadows stated that was another issue that needed to be taken to Executive Session at another time. Manager Allen requested to have it said during Mr. Meadows report. Councilman Meadows stated that the Manager's contract gave him 10 vacation days for the year. Manager Allen replied that he took 5 days in June and 5 days last week, Mr. Meadows replied that Manager Allen was supposed to be back on Thursday and he was out Thursday and Friday. Manager Allen stated that he had his 40 hours accumulated for the week. Mr. Meadows stated that the conversation needs to be handled in Executive Session.
2. The paperwork that he received showed that the Dorman Drive project will be completed on November 11, 2014, however the Sanitation and Sewer regarding Dorman Drive east of Shawnee showed that it will be installed the week of November 10, 2014. Does this mean that Dorman Drive will be paved one day and torn up the next or will the sewer be put in first and

then the street paved? Manager Allen stated that the only part of Dorman he was aware of getting sewer line was between Grandview and Coles Boulevard and that section will not be paved until the sewer line is installed. Mr. Meadows stated that the paperwork showed Dorman Drive from Circle Drive to Coles Boulevard and Manager Allen responded that he had her back off and not pave the part where sewer work was to be done.

3. Councilman Meadows stated that he understood high volumes of emails because he also receives them too. When he receives complaints from his constituents and the City Manager is unavailable, there needs to be some leeway or something worked out where he can get an answer. Manager Allen stated that he was discovering that it was impossible to do everything that needs to be done.

6th Ward – Councilman Kleha had contacted some people that live on Oakland Boulevard and heard their complaints and concerns.

Manager Allen added that the Charter stated that the budget be delivered by November 15th, Council will get the budget this week because he will be working on Veteran's Day. He asked Councilman Meadows which Department Head he wanted to contact about what was going on and Councilman Meadows replied he would have liked to spoken with Crystal Weghorst in Engineering and Manager Allen stated that Ms. Weghorst was out of the office on Thursday and Friday. Councilman Meadows stated that the letter Manager Allen gave Council regarding his trip stated that he would be gone from October 30th to November 6th. Manager Allen stated that technically Councilman Meadows could've called him and he didn't get his emails because something happened, either the server crashed or his computer crashed because he stopped getting his emails. He apologized that he wasn't able to communicate and believes the solution for what is expected of him would be another person in his office, we cannot afford it but it is needed because then he could devote himself more to getting back with people in a more prudent manner. He had several issues when he returned that had to be dealt with and they were issues he thought the Department Head could have handled in his absence but apparently could not. He also prepared a report for Council to keep them abreast of what was happening in the City. He personally went out and checked the situations on Kinney's Lane and Oakland Boulevard and it was almost 5:00 p.m. when he got back to his office. To meet the expectations that people have of him, he definitely needs another person in his office. He works until 9:00-10:00 p.m. and weekends and he added that he could be like a lot of people and leave at 4:31 p.m. which most people do. He's on a mission here to turn this city around and to make this city better. He records his time from the moment he arrived at work to the time he leaves and when he was doing the Financial Recovery Plan he worked 74 hours in 6 days and he doesn't believe that he's cheated any one out of any time. He took a week's vacation, he left early because he already had his 40 hours in and stated that it was somewhat insulting to him. He understood the frustration when he doesn't reply on the emails but he had replied to 70 emails and still had about 83 to review. He suggested logging all the phone calls and emails that he received and at the same time he's trying to turn around the city. He had a question posed to him regarding resurfacing and the person wanted to know if we were out inspecting the job and he replied "No", the person said how do you know they're not out there paving over manhole lids which had been done because the sinkhole around Notre Dame High School was the result of where the city paved over a manhole. The person wanted to know how we knew the asphalt was at 300 degrees when it's hauled from Lucasville, because if the asphalt is cold it will not stick, it will peel. He took the Engineering Department out today and showed them on Gallia Street in Sciotoville some problems with base, which we were just going to pave over, which meant that next summer it would just crumble and then we look stupid because we've wasted the resurfacing money. He's trying to educate the staff to do things differently because it has to change. The problem with resurfacing is that we don't have the money to send someone out to watch and make certain it is done correctly. He's gotten a lot of goals accomplished but there are some that have not been accomplished, but it's Council's decision to give him a bad evaluation or not, because there's not enough hours in the day to do what needs to be done. He had a complaint from a citizen about communicating issues to the public and understands that he needs to figure out a way to communicate things to the public, but the primary focus has been to reverse the financial status. If Council believed that he had cheated them out of hours, nothing could be further from the truth. He came back from a third world country where if you do the smallest thing for someone, they are so grateful for that little act and he comes back to work and had a woman complaining that they were repaving her street.

Councilman Meadows stated that he was not accusing anyone of cheating on hours but that there have been times the Manager has brought up that he had a contract. Secondly, he stated that he worked long hours too and if he has a trial he may work 100 hours plus in a week because when you work, that's just what you do.

City Manager Allen stated that he's trying his best and he knows that he is not a perfect person and there are a lot of things that he could do better but there was too much going on, but he needs more help in his office.

The meeting adjourned at approximately 7:35 p.m. on a motion by Councilman Jeff Kleha.

City Clerk

Acting Mayor