

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

Thursday November 14, 2013

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Thursday November 14, 2013 at 6:00 p.m., at the Portsmouth Welcome Center at 342 2<sup>nd</sup> Street Portsmouth, Ohio.

President of Council Steve Sturgill 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
Steve Sturgill	6 <sup>th</sup> Ward

Also present was Mayor David Malone, City Solicitor, John Haas, Auditor Trent Williams and City Clerk, Diana Ratliff.

Council dispensed with the reading of the Journal for the regular session of October 28, 2013 on a motion by Councilman Kevin W. Johnson.

There was no Public Hearing.

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

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

**LEGISLATION**

The clerk gave a **third reading**, to an Ordinance to appoint an individual to the position of City Manager of the City of Portsmouth, Ohio.

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

Solicitor Haas asked if it was Council's pleasure to have the wording which references that the City Auditor certify that funds are available for each Ordinance dealing with all different appropriations.

Councilman Kevin W. Johnson stated that the supplemental appropriation is one thing; the charter amendment is not a supplemental appropriation.

Solicitor Haas stated that this Ordinance is going to require appropriations and Council is obligating the City to spend money. Council is asking the Auditor to certify funds in the language of the Ordinance and he does not believe that it's appropriate and is concerned that in the future, Council would be giving the Auditor "veto" power for any legislation that he doesn't like as he could say that he could not certify the funds.

Auditor Williams agreed with the Solicitor and added that there are two ways he's required to certify fund availability. 1. At the beginning of the year projections, when he certifies the resources that are available to the Mayor/City Manager/City Council, he also provides that same certification to the Scioto County budget commission. 2. He certifies that funds are available within an appropriation that's already been made. He believes that it's a good idea to ask the Auditor at the time the appropriation is being made but does not think that it's necessary to have it in the language of the Ordinance.

Councilman Kalb suggested that each Ordinance be uniform.

Solicitor Haas stated that if Council puts this language in the Ordinance, there needs to be consistency and if that's what Council desires to do, his concern is that somewhere down the road the City will be in a situation where there's some unforeseen circumstance and we're adding new requirements to City Council that it has never had before, it's not in the charter or the revised code.

Councilman Kevin W. Johnson moved the previous question.

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

**Ord. #46-13  
Derek Allen  
named as  
City  
Manager**

The clerk gave a **second reading**, to an Ordinance authorizing the appropriation of \$106,000 of the City's Business Revolving Loan Fund in order to expend these funds for CDBG activities as required by the Ohio Developmental Services Agency.

Councilman Kevin W. 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 authorizing the appropriation of funds in the amount of \$3,703.34 from the General Fund into Community Development Miscellaneous Line Item No. 101.661.5349 to repay unexpended Grant Funds for A-F 08-2DH1 to the State of Ohio.

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

Councilman Kevin E. Johnson stated that he still doesn't understand where the money went and asked for further explanation.

President Sturgill asked Community Development Director Tracy Shearer if she could provide further explanation.

Director Shearer stated that she had given Council an expenditure report which showed the non-project money that was spent in 2009 and then in 2010, she's unsure where the line stopped but it should have stopped early in 2010. It seems to have gone over in payroll, PERS, however she can't provide a precise explanation because she wasn't in that department at that time.

President Sturgill asked Auditor Williams for an explanation

Auditor Williams stated that he would need to spend hours researching but it could be that the money spent after a certain time frame. He added that this showed up after the Audit was completed and it could be a matter of the reports being turned into the State and the expenses don't match exactly the expenses that incurred on the City Auditor's books.

Councilman Kalb asked if it could be unexpended monies. Possibly the project was bid and come in less than the amount budgeted for and the money is still there.

Director Shearer replied that the money was spent, we were allowed \$17,700 in Administrative cost and according the records there was more than that in administrative costs.

President Sturgill stated that the bottom line is that this money cannot be accounted for but we still have to pay it back to the State. He apologized to Councilman Kevin E. Johnson for not satisfying his question.

Councilman Kevin E. Johnson stated that he can appreciate that there is no one here now that was here at the time this happened. It's just the principle behind it.

President Sturgill permitted former Mayor Jane Murray to speak as she was in office at the time of the overage. She stated that the Community Development Department was a disaster, she allowed the person working in that department to continue for several months and then determined that it was a disaster and terminated her employment and she then hired someone from the Health Department who worked with the State and the Auditor's office to try to clean out a bunch of things.

Councilman Kalb stated for the record that the person Ms. Murray terminated was hired by the State for the same department on a permanent basis.

Auditor Williams concurred that you have to have someone who keeps on top of those grants as there has been quite a bit of turnover in that office. He hopes Ms. Shearer has a better handle on it as it does take a lot of effort especially with the Department of Development as they are very strict.

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 Authorizing the approval of a Provider Agreement between the Portsmouth Health Department and the City of Portsmouth for an employee health clinic to provide primary health care services to City of Portsmouth employees and the appropriation of \$60,000 from the General Fund to Health Department Fund.

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

Councilman Kalb questioned why we were not asking on this Ordinance or the previous Ordinance for the Auditor to certify the funds.

Solicitor Haas stated he didn't know if it was an oversight from the conference agenda from the last meeting but this is why he brought it up on the first Ordinance.

Auditor Williams asked if this begins in January 2014 and stated that there needs to be an appropriation for 2014. If you were to Table this item the Table of Ordinances die at the end of the year.

Councilman Kevin W. Johnson stated that this is laying the ground work and we've got two more readings which will impact next year's budget not this year.

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 Authorizing the appropriation of funds in an amount not to exceed \$300,000 from CIP Fund No. 301 to CIP Land Improvements Line Item No. 301.119.5502 for Phase I of the Rehabilitation of the former Adelphia Building and allowing the Mayor to advertise for bids and contract for such services.

Councilman Kevin W. Johnson motioned that this item be tabled so that the City Manager can provide input and guidance during the first 60 days of his term.

Mayor Malone stated that this was discussed in Park, Recreation, Service, Buildings and Cultural Committee meeting and Director Sutherland had gotten quotes and put together all the information for this project as he is concerned for the pipe yard workers because the building that they're located in now is unsafe and this would be a great opportunity for this department.

President Sturgill stated that not much can be done in the next 6 weeks

Councilman Kalb brought the point of order that there's a motion to Table this item and there should be no discussion.

There were no questions or comments. The role was called. **VOTE: 3 ayes – 3 nays, the motion to table failed.**

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

Councilman Saddler explained his vote by stating that he understands the concerns that the new City Manager will be having but the people in our water department have worked in sub-par conditions for quite a long time and this issue was brought before the Park, Recreation, Service, Building and Cultural committee and he knows Mr. Sutherland has spent a lot of time on this project thus far to get it going for the betterment and safety of his employees. There might only be 2-3 weeks difference and not much can be done in that time period, but at least it will be moving forward.

Councilman Kalb stated that he doesn't look at it as denying the new City Manager; he looks at it as doing him a favor as this will be one less issue he'll have to deal with.

Councilman Kevin W. Johnson stated that there are issues the City Manager will have to deal with as this is only Phase I and he'd like to know the cost analysis of Phase II, what's the cost analysis on the maintenance of the building and anticipated maintenance for example HVAC. He questioned whether these issues have been addressed and he would like the new City Manager to have a chance to look into it further to get a feel for what the whole project will entail not just Phase I.

Mayor Malone stated that when this was brought before Council during the Mayor's Conference, both Phases and the total cost for completion of this project were included.

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 Amending Section 169.10 (c) of the Codified Ordinances of the City of Portsmouth, Ohio – Health Insurance Premiums to become effective January 1, 2014.

Councilman Kevin W. Johnson motioned that this item be tabled.

**Ordinance  
Tabled**

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

The clerk gave a **first reading**, to an Ordinance to amend the Salary Ordinance as amended by Ordinance No. 02 of 2013, to reflect a six (6) percent increase to non-union employees, City Solicitor and City Auditor salaries beginning January 1, 2014; to remove the position of Mayor and add the position of City Manager beginning January 6, 2014 with the compensation range of \$90,000 to \$120,000 per annum and to remove the positions of Emergency Service Man and Emergency Flood Defense Worker (Temp) which are provided for per AFSCME contract effective May of 2012 and to repeal Ordinance No. 02 of 2013.

**Ordinance  
Tabled**

Councilman Kevin W. Johnson motioned that this item be tabled.

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

The clerk gave a **first reading**, to an Ordinance Authorizing the Mayor to enter into a contract with Distel Construction Inc. in an amount not to exceed \$19,500 to replace a deteriorated storm sewer in the 3000 block of Orchard Drive with said funds to be appropriated from CIP Fund No. 301 upon certification by the City Auditor that the monies in said fund are available.

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

Councilman Kalb moved to amend the Ordinance to delete “upon certification by the City Auditor that the monies in said fund are available” as he is not in favor of this clause being in every Ordinance and this will make it more uniform with the other Ordinances.

Councilman Kevin W. Johnson stated that his concern is for the audit that we’ve experienced the past couple of years where we’ve gotten hit because funds haven’t been certified as being available for supplemental appropriations.

Auditor Williams stated that was incorrect, the citation in the audit refers to purchase orders that were not certified by the Auditor. The Solicitor gave the example earlier of the “Shovel” so if the Mayor were to go into Vandervorts and pick up a shovel and ask them to bill the City and then a week later have his secretary write up a purchase order.

Councilman Kevin W. Johnson rephrased in that Council has been spending money because we didn’t ask the Auditor or follow his instruction as to whether the funds were available for what we were spending.

Auditor Williams stated that this year and last year Council has been more adamant about making sure that the money is there, but we still get hit on the audits because we’re still in a deficit situation and when you spend your first dollar in a deficit situation, you’ve spent more than what’s available.

Councilman Kevin W. Johnson stated that he’s not opposed to Councilman Kalb’s motion, however he will ask each and every time there’s a supplemental appropriation so that it can be in the minutes.

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

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 a Resolution in support of the port boundary expansion beyond the current recognized limits of the Ohio River mile 465 and river mile 491 to include a portion of the riverfront of Scioto County from river mile 356.8 to river mile 374.6 on the Ohio River. Said support extends for statistical purposes only and not to any waterways organization or further control of the Ohio River nor does the expanded boundary impact any existing or future public port or economic development authorities.

**Res. #19-13  
 Support of  
 Port Boundary  
 Expansion**

Councilman Kevin W. Johnson moved that the resolution be adopted.

Councilman Kevin W. Johnson stated that the County Commissioners have approved this very same thing as they’ve looked at it and it has the potential for great benefit for Scioto County especially since we will be one of the few counties that actually will belong to two recognized ports; this will be of great benefit to us.

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

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

**Austin Leedom– 1521 5<sup>th</sup> Street** – He commended Council on the wonderful work they’ve been doing and stated that there’s hope among the people of the City. He told them they’d done good things but that things weren’t perfect yet. He added that money is a big problem within the city, money that is not being collected for example like during a “Going out of business sale”, some people aren’t aware that there’s money there. Another problem is public records request; he requested a copy of a report on the Lewis Furniture’s sale 2 years ago and he just now received a copy of it this evening and that is just way too long for a public request. He concluded stating that he had another request regarding a gasoline receipt in which possibly was used to buy cigarettes using tax payer money.

**Derek Allen – 3624 North Hill Road** – He spoke on some of the issues brought before Council during the meeting, he believes that he was hired to bring the City’s finances somewhat more into control and to deal with some of the audit issues that were discussed. He reinforced that when a budget is passed in the future, the City will have to live within that budget. He added that it is his intention to communicate with Council and keep them informed about monies spent and appropriated. The concern regarding the language of the Auditor certifying funds will take care of itself once he takes office as he will be working with the Auditor to come up with a solution for the “shovel” theory as it is a hindrance to the day to day operations to get permission to buy something small like a shovel and he assured Council that they will find ways to make sure that there has been prior approval before anyone from the various departments purchase items. He clarified that he was not against the Adelphia building project but he wanted to make certain that everything was looked at because if the costs escalate, it won’t be the Mayor or Mr. Sutherland that gets blamed, it will be him which is why he wanted to review the project to make sure there’s a comprehensive evaluation. He also clarified that he’s not against an increase for the non-union employees, but would like to see a financial analysis that shows the total cost and trade off on the insurance and he believes that the insurance has to be a total comprehensive package. He’s also supportive of the Health Department and believes the plan will help get health care cost under control. He concluded by saying that he looks forward to working with everyone and is excited about what lies ahead for the City of Portsmouth and firmly believes that things will get turned around.

**Kurt McGraw– 2320 Woodlawn Road** – He spoke regarding trying to save the city some money on their electric and gas bills. He stated that most of the utilities are currently under contract but there are approximately 28 accounts not under contract that could be helped. He partners with First Energy the company we are under contract but doesn’t work for any one energy company. He did a reverse bid on the city’s kilowatts for the accounts not currently under contract and determined that he could save the city 23% or approximately \$8,700 per month just on the accounts not under contract. He stated that there would be no cost to the city, he does not charge a fee, the tariffs and everything would stay the same. With the exception of the generation and transmission charges, the bills would still come from AEP and nothing would change except the rate that the city is paying for that service.

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

1. **City Clerk’s Report** – City Clerk Ratliff reported that she received from the Ohio State Liquor Department on October 28, 2013, notification of licensing fee distribution.

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

**Mayor’s Report** – Mayor Malone reported that there’s a bike trail committee that’s working on getting a bike path within the city. They would like Council to consider making a portion of Front Street one way going west from Washington Street to Madison Street. This is a high traffic area due to visitors viewing the murals and he believes that this would be a good idea to have this designated as part of that bike path. They have presented the idea to the Traffic Committee and will canvas the neighborhood to get opinions from the community.

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

**President’s Report** – President Sturgill reported the following:

1. He asked the Mayor about the levy project in Mr. Duncan’s department as it was supposed to be completed by the end of November and also inquired on the progress of the Grandview Avenue sewer project. The Mayor responded that he believes we’re still on course for the charted timeline but will get clarification.
2. He appointed Kevin W. Johnson and Steve Sturgill to the Portsmouth Convention and Visitor’s Bureau Board of Trustees to begin their terms January 2014.

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

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

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

1. He thanked the voters for passing the two charter amendments and appreciates the confidence of the voters.
2. He reviewed some details from the Economic Sustainability committee meeting, stating that they had two speakers Mr. C.B. Hermann and President of Council Steve Sturgill. Mr. Hermann is the treasurer for the Southern Ohio Port Authority and offered a proposal for the City, the committee voted in support of the proposal in concept only. President of Council Steve Sturgill spoke about the things the Budget & Finance committee is trying to achieve.

Mr. Johnson stated that at the next meeting Vice President of Council Rich Saddler will be discussing how the city should go about selling city owned properties.

3. There was discussion regarding developing a new City Seal for the bicentennial.
4. He discussed the newly passed House bill that overhauls municipal income tax throughout Ohio and said that it will cost our city potentially \$500,000 in income taxes. He encouraged a resolution or that individuals contact our State Senator Joe Uecker and relay our concerns over the bill. He stated that many cities opposed the bill throughout Ohio as it will cost municipalities from 7-13% of their generated income tax. He concluded that if something isn't done it will kill us as our city is barely scrapping by.

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

**3<sup>rd</sup> Ward** – Councilman Kevin E. Johnson reminded everyone of the Personnel meeting on November 20, 2013 at 5:00 in the Engineers Department. He also thanked the voters of the 3<sup>rd</sup> Ward for electing him and he congratulated the other Councilmen that were on the ballot.

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

**5<sup>th</sup> Ward** – Councilman Meadows reported that the Legal, Legislative & Safety committee will be meeting November 21, 2013 at 5:30 in Council Chambers. Attorney Steve Rodeheffer will be there to discuss the Bike path project and Jane Murray will discuss traffic issues within the city where large trucks continue to cause problems in some neighborhoods.

**6<sup>th</sup> Ward** – Councilman Sturgill asked Andy Gideon from the Health Department about the issue on Stewart Street in Sciotoville. Mr. Gideon replied that it was turned over to a processor as the code enforcement officer tried to locate him but was unsuccessful. He asked to be kept informed, as the citizens are getting restless for a solution.

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

1. He stated that he had put together a proposed Ordinance to revamp the oversized vehicle issue within the city. The draft is completed and being reviewed and hopefully by the next meeting there will be something to present to Council.
2. He commented that traffic enforcement numbers are better this year and we're up over 12,000 traffic tickets which has created quite the docket in municipal court.

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

1. Regarding the public records request that were addressed by Mr. Leedom. In 2010 he requested some public records and we take every public record request very seriously, however there are sometimes when records are left to his discretion as to whether they are public or if the full document is public. The Police Department deals with this as well and some records need to be redacted or maybe the whole document is not public but after reviewing this with the Solicitor, the records were not public in 2010 but they are now and the record request was given to Mr. Leedom.
2. He researched the gas receipt that had a charge of \$4.15 that Mr. Leedom stated was used for cigarettes and found it was not used for cigarettes but used for Pennzoil 10WD30. The State Auditor does not require the individual receipt be kept because those charges are kept on the card and made record by the fleet manager in the service department and provided to the Auditor's and Mayor's office on a monthly basis.

Councilman Kalb thanked President Sturgill for reserving the Welcome Center for the meeting.

The meeting adjourned at approximately 7:15 p.m. on a motion by Councilman Kalb.

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City Clerk

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President of Council