

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

Monday December 8, 2014

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday December 8, 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:

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 November 24, 2014 on a motion by Councilman Kevin E. Johnson.

There was no Public Hearing.

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

Jeff Albrecht – 3731 Stagecoach Lane – He spoke to Council about legislation regarding the city budget. He stated that he was born and raised in Portsmouth and continued to try to develop businesses in the area and that as a business person he was very much in favor of passing the budget that was prepared. He realized that Council would be discussing the expenses but as a business person, it was very important (coughing) financially solvent and physically responsible and urged Council to pass a budget that was balanced. He's been fortunate that CVS is building a new facility and he owns the facility next to the new building and hoped to bring in another restaurant. When CVS moves to their new facility the CVS downtown will be vacant and he'd like to bring someone in to occupy that building. He had found it difficult to talk to other retailers from out of town and convince them to do business in Portsmouth as it was a good place to do business, but there are problems with our streets, problem cutting the grass and other services that have issues and he felt it important that Council pass a budget that would take care of all of the services. He realized that Council had some difficult issues to deal with and difficult problems to solve and it's all on Council's shoulders to try to do what's best and he knows it's a tough job and he felt like their decisions are going to be tough no matter what was decided and there would always be citizens out there that are not going to like what was done. He added that as a business person, he would support paying his share and he would go out into the community and urge his neighbors and fellow citizens and other business people to pay their share. If we want to keep the same level of services, money will need to be raise somewhere and he felt that it was very important, whether it be an increase in water rates, increase in the city income tax or whatever, he'd be willing to personally pay his fair share. He loved the city, loved the people and has invested dearly in it and would like to see our city succeed. Another advantage our city had was after changing to the City Manager form of government, a search was made to hire a City Manager and he believed that bringing a professional was the right thing to do too help manage our city. When he opened a hotel, restaurant or business in another area, he tried to find a professional to help run it and he encouraged Council to support the City Manager.

LEGISLATION

The clerk gave a **third 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.

**Ord. #48-14
Fund 220
Indigent
Alcohol
Monitoring**

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

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

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

**Ord. #49-14
Fund 202
Municipal
Court
Subsidy**

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

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

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

**Ord. #50-14
 Fund 250
 Health
 Department
 Subsidy**

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

There were no questions or comments. The role was called. **VOTE: 5 ayes – 1 nays (G. Meadows), the Ordinance was passed.**

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

**Ord. #51-14
 Motor
 Vehicle
 License Fee
 Permissive
 Tax**

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

Councilman Kevin E. Johnson wanted Manager Allen to confirm the reason this was on the agenda twice was because we couldn't make it just one \$10.00 increase it had to be two \$5.00 increments and Manager Allen said that was correct.

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

The clerk gave a **third reading**, to an Ordinance to levy a municipal motor vehicle license fee pursuant to Section 4505.171 Ohio Revised Code. Now, therefore,

**Ord. #52-14
 Motor
 Vehicle
 License Fee
 Permissive
 Tax**

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

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

The clerk gave a **first reading**, an Ordinance to make appropriation for the current expenses and other expenditures of the City of Portsmouth, Ohio beginning January 1, 2015 and ending December 31, 2015, as provided for in Section 49 of the Charter of the City of Portsmouth, Ohio. Now, therefore,

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

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**, an Ordinance authorizing the City Auditor to amend appropriations in order to balance and close the City's books for the fiscal year 2014. Consent Agenda

**Ord. #53-14
 Appropriation
 to balance and
 close the
 books for
 fiscal year
 2014**

Councilman Kevin E. Johnson moved to waive the three readings.

The role was called. **VOTE: 5 ayes – 1 nay (G. Meadows), the rule was suspended.**

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

Councilman Meadows asked why this had to be passed as a consent agenda item, citizens should have the right to voice their opinions. Auditor Williams stated that it could have gone one more reading, but needed to be passed before the end of the year and another reason was that the consent agenda was created for routine legislation that were done every year. Councilman Kevin W. Johnson stated that in this instance there was nothing from either Council or the Citizens to debate, it is to balance and close the city's books and it is something that has to be done.

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. Received on December 5, 2014 from the Ohio Division of Liquor Control a new request for a liquor license for Ohio CVS Stores, LLC at 11th and Chillicothe Streets in Portsmouth. There were no objections.

2. Received on December 8, 2014 from the Scioto County Board of Elections the Certificate of Result of Election on the City Charter Amendment “Repealing Limitations of Taxing Authority”, regarding section 47(g) with 1,963 voting “yes” and 1,603 voting “no”.

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. Report included the monthly numerical items for the Street, Wastewater and Water Departments.
3. The Street Department put lights on the Christmas tree on the Esplanade. The tree was donated at no cost to the city.
4. He asked the Solicitor if we were a charitable organization as he received money for a Christmas Fund. Solicitor Haas replied that as long as there is a fund set in place we can receive money. He would assume that a fund would be set up and he would deliver the checks to the Auditor’s office. He’s unsure if people are under the assumption that they are buying a live tree but they are sending money in.
5. Leaf collection is ongoing, it is three days behind due to weather. All the leaves will be collected.
6. House at 1420 Grant Street was demolished and was being cleaned up.
7. He done an interview for a local television station on the building collapse at the intersection of Front & Court Streets. The city values the historic district and its structures and do not want to see the buildings collapse. We don’t have a sufficient building department to monitor or inspect the buildings however, there’s a reason why the city and every other city required building permits and plans to be submitted so that a structural plan can be reviewed. In the instance of the building collapse, there were no building permit and no plan had been submitted to the city. Major alterations to the building were being performed and a new roof was installed on that building over the Thanksgiving break without a building permit. The public had the belief that when they enter a building that they have been built to code, inspected and approved and none of that occurred on that building. This is an example of the reason why the city required building permits and plan reviews and he thankful for the workers that were inside working at the time of the collapse, that no one was killed. He’s not trying to discourage any investment in our downtown historic district because there’s a lot of good activity going on and we encourage that, but the city wants you to obtain building permits and present plans before beginning work.
8. On Friday December 5th, he received a call that there was a fire underneath the Young Street viaduct. ODOT sent a bridge inspector and although the viaduct had sustained some damage, it was deemed safe and opened to traffic after the inspection.
9. We discussed the budget at the November 24th Council meeting and there’s a lot of apprehension in the city. We’ve had an ongoing discussion about whether or not Council had the right or should be able to/allowed to communicate with Department Heads. Obviously Council knows his feeling on that, and it’s not because he’s hiding secrets from Council or doesn’t want Council to know something and he’s tried to communicate in writing with Council and tried to respond to emails and telephone calls as quickly as possible. There’s employees in this building and employees in other areas that are worried about their jobs and he had no idea why on November 25th a Councilman would tell a Department Head that the City Manager had thrown her under the bus; thinking that would not cause animosity between the Department Heads and the City Manager, which it did and afterwards he explained to her why he made the comment and said what he said, and then today not an hour ago, Tracy came to his office because apparently Councilman Kevin W. Johnson told her that she wouldn’t be laid off until May. Mr. Allen pointed to the audience where other city employees were sitting and ask if we’re going to lay them off too. Councilman Kevin W. Johnson replied that he did not say that and would not say something like that and Mr. Allen replied that we should get her in a room and ask her. Mr. Allen stated that he doesn’t need Department Heads having a relationship that is damaging to both he and the Department Head because people are telling him things. He was upfront and honest with Tracy and told her what the situation was and going on what she said in that you told her that her job was safe until May, which was why he doesn’t want communication between Council and Department Heads; it’s a Charter violation interfering with his relationship with the Department Heads. Maybe she’s being dishonest, he doesn’t know, but he’s in a difficult position and he’s trying his hardest to put the city back on track and he doesn’t know why Council feels the need to make Department Heads feel as if they’re going to lose their jobs. He address Councilman Kevin W. Johnson and said that if he didn’t say that, then he needed to talk to her and reprimand her because she came to him and relayed that message; she was going to stay for the meeting but decided not to stay and went home. If Council is going to decide to let people go, let’s just do it now. I thought we understood where we needed to go financially and he’s tried to stress this past year the single focus that we have is to fix the financial problems and he’s at a loss for words. Nine Charter amendments! He asked if Council is trying to hide from the public what we’re going to do, why wouldn’t there be just the income tax increase on the ballot, let’s be open and honest with everyone and let the people decide. We’re going to raise the income tax or we can’t provide the level of service and

there will have to be service cuts. Charter amendments dating back to 1995 would flood the ballot in May and would make it look like the City is hiding something.

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.

City Solicitor – Solicitor Haas reported the following:

1. The building collapse came about because we have no building budget and nobody out there inspecting and nobody out there making sure people have permits and the problem is only going to get worse and not going to get better, unless all the buildings fall down. There was a vehicle down there that was crushed and fortunately no one was in the vehicle or driving on the street. If the gentlemen that were in the building had not recognized that they were in danger and got out of the building things could have been a lot different. One of the gentlemen indicated that the force of the collapse threw him from the front door across Front Street and into the flood wall. This comes about by not having an adequate building official who could work with the city to monitor these things. Chief Raison indicated that anyone in the public expects when you walk into a building, rents an apartment/house, that it had been inspected and safe.
2. There's been a loss of focus. Right now the city is facing fiscal emergency, it's not a get out of jail free card, it won't set aside the Charter, it won't set aside the bargaining agreements with the Unions, and it won't be something that can be used as a tool to dismember the Fire & Police Department. The real issue facing the city right now is the fiscal issue and we really need to focus on that, not some of the other things that have been passed around in the past week. Since we had the meeting in November, it was relayed to Council what the State Auditor's view were and where the budget was discussed, there's been more talk of a Christmas tree on the esplanade than talk about the budget. It concerns me that there seems to be a lack of focus and he hoped that Council would work toward resolving these issues in the short term and the long term.

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 that regarding the appropriations ordinances that was given to Council. He will be collecting the numbers from the Court to insert into the appropriations Ordinance as he is given them and he will give them to Council at the next meeting or the following meeting. He will also be reviewing the budget to make sure that the numbers are as accurate as can be as KWJ stated that the document is very large and he wants to make sure there are no errors.

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 responded to the City Manager stating that he had a discussion with the City Clerk in which two of the Department Heads happened to be there. He assured the City Manager that in the future he will never have a discussion with anyone, when any (coughing) of the City Manager's staff is around.
2. As far as the direct quote that the City Manager provided him, he did not say that.
3. With the exception of the tax increase charter amendment, the proposed Charter amendments are from 1996. In the November 5, 2013 budget we took care of 4 of 5 charter changes which included the Council's raise. In November 2011 Council submitted two Charter amendments, the City Manager form of government and an Income Tax increase and even though both were contentious, Council decided that the voters of Portsmouth knew how to walk and chew gum at the same time. When Council started working on the 1996 proposed changes, he indicated that in November 2013 he would be coming back with all of them and Council could pick and choose which ones to work on and the proposed amendments are a follow up to that discussion. He doesn't expect all nine to go on, but would like to choose which ones would be appropriate to discuss for the primary. He stated that he will be introducing an income tax provision and that in the past numerous Charter changes have been submitted, some of which were very critical. He presented what was left over and will do the same thing next year for the General Election as he wants to complete what the Charter Review Committee submitted in 1996. The one that was critical to him out of all the recommendations is the recommendation that we actually have a Charter review committee at least every 10 years.
4. He wished that we could be there but unfortunately there was a conflict, but he welcomed the 1191st Engineering Company back home from Afghanistan.

2nd Ward – Councilman Saddler welcomed home the 1191st Engineering troop. It's been almost a year since they've been gone and he's thankful that they are coming home safe to their families.

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

1. He thanked the Health Department for making certain that the tire issue in the 3rd Ward had been cleaned up.
2. He thanked Rick Fraley for his generous donation of a Christmas tree to the City of Portsmouth.

4th Ward – Councilman Kalb stated that he was happy the troops had returned.

5th Ward – Councilman Meadows reported the following:

1. It goes without saying that we're all glad that the troops are returning safely.
2. He noted to the City Manager that some of the holes on 26th Street were taken care of, but he made the mistake of going on Micklewaite. Manager Allen said that the whole area was bad and it had been discussed in the staff meeting, and he replied that if they can't asphalt it, they would try another alternative to stop all the potholes. Mr. Meadows said that he knew the whole area was bad with ongoing construction but when you have Grandview Avenue shut down, then the other side streets become more important. Manager Allen said that they will try to get the whole area cleaned up and they will do their best.

6th Ward – Councilman Kleha had no report

Councilman Kevin W. Johnson requested that Council go into Executive Session for the purpose of finishing up the plans for the City Manager's evaluation.

**Executive
Session**

The motion carried viva voce. **VOTE: 6 ayes – 0 nays**, before Council adjourned into Executive Session, City Manager Allen reminded Council that his contracts states that his performance will be reviewed each December subject to a process format that is mutually agreed upon. He doesn't know what process Council was using, what criteria or format and Mayor Kalb replied that the meeting was just to determine what form was to be used. **Council adjourned into Executive Session at 6:45 p.m.**

Councilman Kleha motioned for Council to reconvene. The roll call showed all those previously in attendance were still present, Council reconvened at 7:10.

Councilman Kevin W. Johnson followed up the discussion that took place during Executive Session, there were several things discussed, including the form that would be used for the City Manager evaluation. Council proposed the ICMA form and it was slightly different from the one that the City Manager provided and he would be providing a copy to all members of Council as well as the City Manager. Secondly, Council would like to ask the City Manager to provide an evaluation on the goals that were requested by Council as well as the personal goals that he set for himself and turn them into the City Clerk by December 16, 2014. Finally Council would like for him to join them in Executive Session on December 22, 2014 to review the entire process. The final meeting will be in Executive Session on January 12, 2015 to review evaluations from Council, the self-evaluation and to have a discussion. They would like to have his goals and input for 2015, plus they will need to relook at his contract from salary, time off and those type of things. It will be a long Executive Session and we need to plan for it on January 12, 2015.

Councilman Kevin W. Johnson moved that Council approve the City Manager evaluation form obtained from the ICMA format and for it to be used to evaluate the City Manager. Councilman Saddler commented that there were three different evaluation forms that were taken into consideration.

There were no questions or comment. **VOTE: 6 ayes – 0 nays, the evaluation form was accepted.**

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

City Clerk

Acting Mayor