

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING
Monday February 22, 2016
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday February 22, 2016 at 6:00 p.m., in the Council Chambers of the Municipal Building.

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
Jo Ann Aeh	2 nd Ward
Kevin E. Johnson	3 rd Ward
Jim Kalb	4 th Ward
Gene Meadows	5 th Ward
Thomas K. Lowe	6 th Ward

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

Council dispensed with the reading of the Journal for the regular session of February 8, 2016 on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

There was no Public Hearing.

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 **third reading**, to an Ordinance approving the 2016 Capital Improvement Program budget and appropriating funds for same from Capital Improvements Funds Fund No. 301 for listed items only.

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

Councilman Kevin W. Johnson motioned to amend the legislation to include the following:

1. Woodlawn Road Retaining Wall - \$50,000
2. Handicap Chair Lift for McKinley Pool - \$10,000

Manager Allen explained that the \$50,000 is in the Engineering Department but it's not for Engineering it was for the actual construction and repair of the wall.

The role was called. VOTE: 6 ayes – 0 nays, the ordinance was amended.

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

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

The clerk gave a **first reading**, to an Ordinance authorizing the Auditor of the City of Portsmouth, Ohio to enter into a four (4) year contract with Schonhardt & Associates for technical accounting and management oversight assistance in preparation of the City's Comprehensive Annual Finance Reports. **Consent Agenda**

Councilman Kevin E. Johnson motioned to waive the three reading rule.

The role was called. VOTE: 4 ayes – 2 nays (G. Meadows, T. Lowe), the readings were suspended.

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

Councilman Meadows asked why we bypassed the readings, was there an urgency. Auditor Williams stated that it was done every 4 years routinely *and the rest was inaudible*. Councilman Kevin W. Johnson asked why it was 4 years and what was the price rate, Auditor Williams stated that it had always been a 3-4 year term, the previous contract was \$18,500 and had always been below \$20,000. There was one time that it had been increased to \$25,000 however he had asked them to remain at \$20,000 due to the City's financial situation. Mr. Johnson commented that the legislation was not a surprise and asked why the last minute push. Councilman

**Ord. #07-16
2016 Capital
Improvement
Program
budget**

**Ord. #08-16
Contract with
Schonhardt &
Associates**

Lowe stated that he was against any “consent agenda item” unless we’re accepting a check. Mr. Johnson stated that it had been discussed during the Manager’s Conference meeting and if there were any objections it should have been during that meeting. Mr. Meadows said that he wasn’t opposed to the Ordinance but he didn’t recall discussing this as a “consent agenda item”. Auditor Williams stated that the conversation was diverted to Mrs. Aeh’s ideas regarding the “Consent Agenda”. Mr. Meadows stated that one of the issues he had was when something was proposed as a “Consent Agenda”, Council cannot discuss it, because it’s either “yes” or “no” however, once an explanation was given he’s usually alright with it but they don’t have that the benefit of that explanation prior to the vote. Auditor Williams stated that he would be timelier the next time the contract comes up.

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

The clerk gave a **first reading**, to an Ordinance authorizing amending Ordinance No. 96 of 2015 that transferred funds for fiscal year 2015 by moving the transfer from Health Department Fund No. 263 HIV Prevention to Health Department Fund No. 253 Federal Rural Aids Grant in the amount of \$81,496.03 from Section II which listed the funds as a loan or an advance to Section I which are permanent transfers and repealing Ordinance No. 96 of 2015.

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

Councilman Meadows stated that again he sees language issues where we’re authorizing amending Ordinance #96 of 2015 and then at the bottom we’re repealing Ordinance #96 of 2015 and it should not be both. Manager Allen suggested that Solicitor Haas review the Ordinance and come back with a suggestion at the next meeting.

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 311.03-Toy Vehicles on Streets of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 5 ayes – 1 nays (T. Lowe), a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing approval of final legislation submitted by the Ohio Department of Transportation (ODOT) regarding the resurfacing of U.S. 52, including curb ramps, lying within the City of Portsmouth.

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

Councilwoman Aeh mentioned that the contract was due back to the State by March 11th and before the next meeting and she stated that this happened with ODOT often.

Councilman Kevin E. Johnson moved to withdraw his motion for a first reading and motioned to suspend the three reading rule do to time restraints.

The role was called. VOTE: 6 ayes – 0 nays, the readings were suspended.

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

Manager Allen stated that the legislation comes from ODOT as a Resolution but according to our Charter it required us to make it an Ordinance and suspend the readings. He added that this was the final legislation after passing all the preliminary legislation.

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**, to a Resolution requesting the advance payment of all taxes now standing to the account of the City of Portsmouth, Ohio, from the Treasurer of Scioto County, Ohio, and any and all other monies due the City of Portsmouth, Ohio, included in the certificate of estimated resources as issued and approved by County Budget Commission, and to be credited to the respective funds by the warrants received from the Auditor of Scioto County, Ohio.

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

**Ord. #09-16
Final
legislation
for
resurfacing
of US 52
East**

**Res. #01-16
Advance
Payment of
Taxes from
Treasurer of
Scioto County**

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

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Joseph Pratt – 1662 Grant Street – He thanked all who showed up for Celebrate Portsmouth through Main Street Portsmouth. The Main Street Board was very impressed and they all had nice things to say about the City’s attendance for the banquet. He added that they look forward to hosting again next year.

MISCELLANEOUS BUSINESS AND REPORTS:

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

1. She received from the Ohio Division of Liquor Control a request for a transfer of D5 permit for Slam Enterprises, LLC dba Block House Beer Garden– 1107 Lawson Street, Portsmouth, Ohio from James A. Pack, II dba Block House and Beer Garden at the same address.
2. She received from the Ohio Division of Liquor Control a request for a transfer of D5 permit for Patties & Pints, LLC – 546 2nd Street, Portsmouth, Ohio from F G S Inc. dba Sunset & Rainbow Lanes Excl Northeast Corner of Building at 1400 Kendall Avenue & Patio – Portsmouth, Ohio.
3. She attended the Main Street Portsmouth Annual Banquet and Silent Auction on Thursday February 11, 2016 and the Main Street Board meeting on February 18th.

Liquor License owner transfer Block House

Liquor License transfer to Patties & Pints

The City Clerk’s report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

City Manager’s Report – City Manager Allen reported the following:

1. His written report can be found on the City’s website.
2. The Fraternal Order of Police met to discuss the settlement of the insurance arbitration.
3. There had been some wall repair work done on the Municipal Building due to water infiltration through the walls and ceiling. He stated there would also be work done to the exterior work on the building around the flashing and tuck points to keep the water out.
4. He commended the Fire Department on the rescue of 8 individuals from a 3rd floor of an apartment located on 16th Street.
5. Road salt has been restocked with 200 tons.
6. ODOT will repair the damaged sign on US 52 for State Route 335 as well as the bridge guardrail and light on 2nd Street that was struck by a motorist.
7. He’s meeting with ODOT as they have a contractor that will repel down and put pneumatic devices in the crevice on the rock between New Boston and Sciotoville. There have been many people that were afraid that it was going to fall.
8. The third year was initiated with Republic on the hauling and disposal of refuse from the transfer station and at the end of this year, it would be re-bid.
9. The rapid mix project was completed.
10. The work on the waterline relocation under State Route 140 will begin soon.
11. Solicitor Haas was working on an agreement with the County on the relocation of a 24 inch waterline.
12. He was pleased to hear the announcement that the City was going to do the open check book and he expressed that was a positive and he was glad we’re moving forward. He was happy SOPA was the first Port Authority to have the open check book and it speaks well for Scioto County and the community.
13. There was some flooding in Sciotoville and he along with the 6th Ward Councilman will meet with some citizens in the 6th Ward to see if there’s anything that can be done to make that situation less of a problem.
14. He reminded Council of all the paperwork that was submitted to FEMA on the floodwall certification, he stated that FEMA responded back that it was a complete submittal, however they needed backup calculation and documentation. There were two Consultants that worked on that project AMEC and Howerton and both consultants were contacted. AMEC responded quickly that it would be ready within two week. Howerton was emailed, called and contacted with no success. Director Duncan stopped by Howerton’s and Mr. Howerton wasn’t there but he spoke to one of the employees that stated that they were working on it.

Councilman Kevin E. Johnson asked Manager Allen about his tour of the old Candy Land Building. Manager Allen stated that it hadn’t been destroyed but had roof damage and would need a new roof. He added that every day that the roof stands open it was open to the elements.

Councilman Lowe asked about the US 52 videos that he sent to Manager Allen and stated that he would like to be kept in the loop on the progress. Mayor Kalb stated that he knew the Manager had asked the State for assistance but was the hillside considered our responsibility and Manager Allen replied “yes” that it was a maintenance item. He added that last year we hired a contractor to clean up all the rock that had fallen over a period of several years and recently the contractor told him that the rock had moved and that it was too dangerous to be underneath it with a trackhoe. We had contacted ODOT because the rock was too large for us to remove and to get some technical advice and were going to ask if they would bring it down. Mayor Kalb asked if we took responsibility for that property when the highway was created, because the City did not decked the wall and questioned why the aftermath should be our responsibility. Manager Allen replied that he was told that it’s all maintenance items. Mr. Lowe requested to know when the City purchased the property as he had been looking through some old papers and found a 1947 easement. He also wanted it to be known that there was a problem above that property and there’s stuff up there that’s a danger to the people and something may have to be done about it. Mr. Lowe reiterated to the Manager that if he hadn’t watched the videos, that he should watch every one of them because they were important. Solicitor Haas stated that the City owns the property. Mayor Kalb posed the question that “if there was a big rock slide onto the highway and someone was hurt, would we be liable?” Solicitor Haas said that there were immunity issues, and he added that if there was a problem that we knew about and did nothing, we would be liable but if we knew about the problem and we’ve done our due diligence, we would have immunity. Councilman Kevin W. Johnson stated that former Councilman Rich Noel and Councilman Lowe had given him a tour of that property and it had a great view from the top but he hadn’t realized that it had been mined for clay a long time ago and the property was riddled with clay pits.

The City Manager’s report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

Mayor’s Report – Mayor Kalb reported the following:

1. He gave a follow up to the recent email that was reported on the front page of newspaper, it is as follows:
 “First I want to apologize to anyone that I may have offended other than the person I wrote referred to as a female dog, or as the headlines read the “B” word. I really don’t know what qualified this email as a front page story, was it the fact that the Mayor used the “B” word which could be heard anytime on the history channel, A&E channel, Discovery channel, or just about any other broadcast station on T.V. or was it the fact that the Mayor called an Ex-Mayor any unflattering name. This is the same Ex-Mayor that has called everyone sitting at these tables crooked, thieving, incompetent, stupid, uncaring and selfish individuals. The same Ex-Mayor that when I went to shake her hand at the court house for garnering the most votes in a primary election, she jerked her hand back and ask me how that 2nd place was working for me. The same Ex-Mayor that sends a correspondence to Portsmouth City Council about official business but purposely neglects to include the President of Council and also ask other recipients not to copy any of her correspondence to him. What else could you call a person like that and in my limited vocabulary, there was only one word that seemed to best describe her and I used it. Her major concern in this e-mail was that an out of town company was used for engineering services instead of using a local firm that employs local people and pays local property taxes.”

Councilman Kevin W. Johnson interrupted and said that we asked the people who address us to avoid personal reference and do so with dignity. Mayor Kalb asked if he was on the edge and Mr. Johnson replied that he had passed over it just a little. Mayor Kalb stated that the rest of it had to do with the email and the contents of the email. Mr. Johnson said that he believed that it’s been covered and Mrs. Aeh stated that the message was received.

Mayor Kalb asked to finish his report with no reference to anyone. There were no consequences for sharing the email and he’s accepted the responsibility for the black eye on the city by supplying someone with the ammunition and ask if there was anyone present, man enough to stand up and say that they were the one that shared the email. He sent it to 10 people, no one stood up to take responsibility.

The Mayor’s report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

City Solicitor – No report

Auditor Williams – Auditor Williams reported the following:

1. He wanted to report that he was invited by the State Treasurer’s office to be a part of the Southern Ohio Port Authority announcement of their open check book participation and launching and he spoke with the State Treasurer’s office for several months, with the

reservation that he wanted to observe how it worked in other cities and see the process before we went ahead and launched the City's, but now that he's seen it, he was willing to announce that the City would be going forward with the open check book. He appreciated what SOPA had done for the people in this area and for the transparency and openness. He will keep Council apprised of the progress.

The Auditor's report was received, filed and made part of the record, on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

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

1. He enjoyed attending Main Street's annual dinner and it was a treat to see so many people show up for Main Street and he appreciated the fact that it was held in a larger facility than in the past.
2. He also attended with the City Manager and City Auditor, Treasurer Mandel's presentation regarding SOPA and at that meeting Auditor Williams represented the City. New Boston also announced that they would be using the open check book, unfortunately, Scioto County refused to do so. He said it was amazing to see the technology at work during the presentation. Once Auditor Williams had worked with Treasurer Mandel's office anyone would be able to look at all aspects of our budget down to the pencils that were purchased.

2nd Ward – Councilwoman Aeh stated that she also enjoyed the Main Street dinner, good company and good food. She had no complaints from her ward.

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

1. He thanked Main Street Portsmouth as it was an honor to attend the annual banquet and silent auction and he also thanked Mr. Pratt for his presence at the Council meetings and believed that he represented Main Street well.
2. The issues within his ward have been passed onto the City Manager and he's checking on a burned out street light to see if it belongs to the City or AEP.
3. He was still waiting on the radar speed indicator sign for Sunrise Avenue by Notre Dame High School. He believed they were waiting on a battery. Manager Allen stated that a battery had been ordered.

4th Ward – Councilman Kalb said that he attended the Main Street dinner and really enjoyed the dinner.

5th Ward – Councilman Meadows reported the following:

1. He stated that if you go down North Hill Road at the intersection of Dorman, the traffic light had been turned to where it's almost facing Dorman Drive and he noticed one car go right through it when he had the green light, but when he returned later that day he understood why the car had run through the light, because you don't see the other traffic light coming from that direction. He hadn't had a chance to email the City Manager about the issue.
2. He also mentioned that when he travels at early times in the morning or out in the afternoon. The manual for traffic control devices required the workers out in the street to wear certain color items. He's mentioned this a couple of times to the City Manager and he continued to see workers not wearing the required colors.
3. He worked down at the Court House and he's there all the time and he had a lot of unflattering comments about the email and the article in the newspaper. People had told him that it's reflective of all of Council and he believed that everyone should be careful with the comments that are made because the public doesn't necessarily see an individual Council member, they see all of Council.

6th Ward – Councilman Lowe reported the following:

1. He thanked Mr. Pratt from Main Street Portsmouth for inviting Council to the dinner as it was appreciated.
2. He thanked a few of the city employees – Chris Tomlin and Tim Kamer and the backhoe crew for stopping a lot of the flooding on Bonser Avenue in Sciotoville.
3. He received a few complaints as follows:
 - a. Rodent complaint from Kegley's auto on Gallia Street in Sciotoville.
 - b. Flooding on Route #140 and pictures were forwarded to the City Manager and he was handling it.
 - c. There was a stop sign down at the corner of Bonser and Endicott
 - d. There was a drain plugged up on Harding Avenue between Wilson Avenue and Scioto Shoe Mart and the sidewalk was catawampus and it appeared that the sidewalk may need to be closed because kids walk that route to school. He believed that one of the manholes were plugged and there was a washout issue and the sidewalk was caving in.

- e. He was contacted by Marvin Davis of Edendale Road, there was an issue out there and he’s working on it and will provide more information to the City Manager as soon as received. Manager Allen stated that Mr. Davis does not live within the City limits and he acknowledged that but he originally got a call from a resident in the 2 house section of the City.

The meeting adjourned at approximately 6:45 p.m. on a motion by Councilman Kevin W. Johnson.

City Clerk

Mayor