

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING
 Monday February 9, 2015
6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday February 9, 2015 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Acting 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
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 January 26, 2015 on a motion by Councilman Kevin E. Johnson.

There was no Public Hearing.

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

Sharon Bender – 1666 Highland Avenue – She stated that she is in support of vacating a portion of Waller Alley.

LEGISLATION

The clerk gave a **first reading**, to an Ordinance authorizing the appropriation of \$161,000 from the unappropriated monies of Fund No. 265 Flood Defense to Line Item 265.225.5529 in order to make payment of an invoice to Moody’s of Dayton in the amount of \$160,460.44 for the construction of the Flood Relief Wells project. **Consent Agenda**

**Ord. #05-15
 Appropriate
 from Fund
 265 for
 construction
 of relief wells**

Councilman Kevin E. Johnson moved to waive the three readings as it was a consent agenda item.

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

Councilman Kevin E. Johnson motioned 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**, to an Ordinance authorizing the appropriation of \$46,600 from the unappropriated monies of Flood Defense Fund No. 265 to Line Item No. 265.225.5502 in order for there to be sufficient funds to complete the certification of the Flood Defense System.

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**, to an Ordinance authorizing the vacation of a portion of Waller Alley that runs east/west between Fifth Street and Sixth Street directly adjacent to the current St. Mary of the Annunciation Catholic Church, and more fully described in the attached legal description, with the City of Portsmouth reserving all easements to this property.

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

Councilman Meadows asked the City Manager if there was a reply regarding the garbage truck passage through the alley. City Manager Allen stated that he would gather a response on whether the covered walkway would be high enough for vehicle to drive under and if the Sanitation Department would have any problem

Councilman Saddler asked that the City Manager also to check with the Fire Department regarding the clearance.

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 authorizing the City of Portsmouth to prepare and submit an application to participate in the Ohio Development Service Agency Revolving Loan Fund Programs(s) and to execute contracts as required for obtaining this financial assistance.

Res. #05-15
Revolving
Loan
application

Councilman Kevin E. Johnson moved to adopt the Resolution.

Acting Mayor Kalb asked the Solicitor if there was a problem with him voting on the Resolution since he is a member of that Board. The Solicitor replied that “No” since he does not prepare the application.

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

There was no one present that 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 February 9, 2015 the franchise fee from Time Warner Cable in the amount of \$55,562.76 and deposited in the Auditor’s office the same day.

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 stated that he’s presenting his report as written and asked if there were any questions and there were none.

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 reported the following:

1. He reappointed the following:
 - a. Dr. Elie M. Saab and Angela Hodge to the Board of Health
 - b. Eugene Collins, Jr. to the Fair Housing Board
 - c. Sharon Bender and Jim Kalb to the Portsmouth Area Convention Visitor’s Bureau
 - d. Gary Hairston to the Zoning Board of Appeals
 - e. Janice Shanks to the Land Reutilization Neighborhood Committee
2. He and Councilman Kevin W. Johnson attended the ground breaking ceremony for SOMC. He is happy to see the progress of this facility as it continues to grow and Portsmouth moving forward with increased medical facilities.

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

City Solicitor – Solicitor Haas reported the following:

1. He thanked Rick Duncan and his staff in the Wastewater Department for going above and beyond to provide information and the documents necessary to obtain the dismissal of a lawsuit that was filed against the city by a contractor for damages to UV equipment at the plant. He stated that the city was exposed due to the insurance carrier denying coverage and defense. He was informed by Counsel for the contractor at a pre-trial conference that he intends to dismiss the claim against the city in its entirety and his office obtained the dismissal at no cost to the city.
2. He thanked the City Manager for bringing to light that the city had been paying property taxes on property that the city had owned for years. He stated that each and every application that his office filed for refunds on property taxes was approved by the State and the city will be refunded property taxes on roughly 70 parcels for tax years 2011, 2012 and 2013. Unfortunately, the taxes for 2010 will not be refunded and he recalled that by not obtaining 2010 it was a loss of \$60,000 and \$70,000.
3. There were some issues brought to light by the Scioto County Board of Elections with regard to the upcoming Primary Election. There were petitions filed for different races and seats and

being that this will be a City primary election that is controlled by the Charter. The questions and answers are as follows:

- a. If someone circulated an old petition with language requiring the person that signed the petition to pledge their vote for that person would that invalidate that petition? His reply was that it would not because that language was stricken from the Charter and the surplus language would not affect the validity of the petition.
 - b. Are candidates required to sign the acceptance of the candidacy? He replied that “yes” it must be signed as it is covered under section 144(g) in the City Charter.
 - c. State law requires that the candidate sign the acceptance prior to the petition being circulated and one of Mr. Meadows petitions was circulated with the vast majority of the signatures on the petition prior to his signing the acceptance. Solicitor Haas stated that he originally thought that he had a conflict with handling this since Mr. Meadows is running for the Solicitor position, however, he decided that the Charter would permit it as long as the acceptance is signed prior to being filed.
4. He stated that the Board of Elections is meeting on the 10th to certify the petitions and no one filed for candidacy in the 2nd Ward and the question was asked if there could be a write in for the Primary Election, to that he replied that the City Charter does not have provisions for write-ins for primary elections. If there are going to be write-ins for the 2nd Ward it will need to be for the General Election in the fall and the filing deadline is August 23rd. The only City Council race taking place in the primary will be for the 6th Ward as there were 3 candidates that filed petitions and this would take place only if all 3 were certified by the Board of Elections.

Councilman Kevin W. Johnson stated that he spoke with the Board of Elections and the deadline for the primary write-in is February 23rd. Solicitor Haas replied that he believed that Mr. Johnson spoke to the Board of Elections prior to them speaking with him and there is a Solicitor’s opinion from years ago, directly on point for that issue. There was an instance where two people had filed written petitions for a Council seat and then someone wanted to file a petition as a write in on a Primary Election and there is no provision for that, if they are going to file as a write in, they will have to file for the General Election. Acting Mayor Kalb stated that the Charter supersedes the State and Solicitor replied that the Charter prevails unless it is silent then the State law would be in effect.

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 had no report.

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

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

- 1 He too enjoyed being at the ground breaking ceremony for SOMC as it will be a huge expansion for them.
- 2 He did complete the online Ethics training required for all Elected Officials through the Attorney General’s office and submitted a copy to the City Clerk.

2nd Ward – Councilman Saddler had no report.

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

1. He stated he had a constituent that asked about the overdue water bills for commercial accounts and that the information had been requested at a previous meeting but was never received. He asked the City Manager if he had ever obtained the information as requested. The City Manager replied that there were a few delinquent commercial accounts but he believed them to be either bankruptcy or they’ve closed up and are no longer in business. He will write a report and get it to Council.

4th Ward – Councilman Kalb had no report.

5th Ward – Councilman Meadows had no report.

6th Ward – Councilman Kleha reported the following:

1. He stated that a citizen on Harrison Avenue complained of the traffic light at the filtration plant but that is within the New Boston jurisdiction.
2. He added that the folks on Kiff Street would like their street paved.
3. He is unhappy with ODOT’s response to the rock slide, he understood how it works but is still unhappy.

The meeting adjourned at approximately 6:30 p.m. on a motion by Councilman Kevin W. Johnson.