

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

Monday March 14, 2016

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday March 14, 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 (Absent)
Thomas K. Lowe	6 th Ward

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

Councilman Gene Meadow's absence was excused on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 5 – nays 0.**

Council dispensed with the reading of the Journal for the regular session of February 22, 2016 on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 5 – nays 0.**

Public Hearing – Pawnshops and Second Hand

Mayor Kalb declared the public hearing open at 6:02 p.m.

Franklin T. Gerlach – 814 7th Street – Portsmouth, Ohio - He stated that Council should be aware that under Section 4727.21 the State of Ohio was the exclusive regulator agency for Pawnshops/Pawnbrokers, they are like a financial institution as they are audited and the authority of Council does not exist to regulate Pawnbrokers. As part of the regulation they have to be compliant and one of those regulations require them to furnish information to the Police Chief or Sheriff. The requirement was to supply a description of all property purchased by the licensee, the number of pawns or purchase forms. He invited all who are not familiar with pawnshops to observe their operations when someone comes in to pawn something. The procedure is as follows: provide identification; a picture is taken of the individual; after the purchase is made it is held for 15 days in case there's any problem with it, however on occasion the Police Chief would waive the 15 day waiting period. He believed that the situation was well covered and City Council doesn't need to regulate something in which they have no authority. He also stated that Leads is not a governmental agency, police department, it is a service. Police throughout Ohio tend to want all the information that was on the pledge (name, address, social security number, date of birth etc.) and the problem with that is that they have regulations that require them to keep the information private. With various individuals that come in, they should be able to do that and he believes with Leads that they want more than a description and serial number. He gave some examples of how they have cooperated with the Police Department in the past.

**Public
Hearing for
Pawnshops
and Second
Hand**

Police Chief Ware – 728 2nd Street – Portsmouth, Ohio – He thanked the business owners for their participation in the discussion. He spoke about why the Police Department wanted to put this into place and explained of the obligation to protect property rights of citizens. In this community as well as others, there are drug problems and the number one feeder of that drug was property crimes and those property crimes result in things being taken from homes, vehicles, school and fitness center lockers or stolen out of a garage or off a front porch. He said Mr. Gerlach was correct in that they had been providing information to the Police Department, however in the past, everything was handwritten and there wasn't electronic media, we didn't have telephones or computers but as technology advanced, there's now a means to which the information can be gathered and more efficiently provide that service to the public. The information that is provided by pawnshops comes in a thick packet and only one individual to review all the information, and one individual to review all the incident reports which was very time consuming. He said that he doesn't have a lot of man-power to dedicate to administrative and clerical tasks, but by using the databases that are used throughout the State of Ohio under the existing law through LeadsOnline, there are search engines that would allow us to quickly match that information and find the rightful owner in a timely fashion. He reiterated what Mr. Gerlach said in that they do not hang onto the products forever nor was that expected of them, just long enough to verify whether it was stolen from this jurisdiction or some other jurisdiction. Other areas participate in these private/public partnership services that otherwise government couldn't provide but are necessary to be efficient. He gave some examples of how well LeadsOnline worked.

Paul O'Neill – 607 Harding Avenue – Sciotoville, Ohio – He asked if Antique Dealers were included and if so, what the requirements for dealers are. Also from an ownership prospective in antiques, there may be hundreds of the same item and if someone came in and said the item was theirs, who had ownership of the item. What if

an item was bought at a flea market, what are the requirements? He doesn't understand how the whole process was supposed to work.

Solicitor John Haas – 728 2nd Street – Portsmouth, Ohio – He sent an email out to City Council with the section that Mr. Gerlach referenced. He said he believed that we should re-calculate what we're going to do with this and his concern was the State of Ohio has preempted the ability of the City to handle this type of issue with pawn shops and second hand shops. He's not sure what the requirements are and he would reach out to the Municipal League and also to Columbus and other communities that have LeadsOnline and inquire how it was handled, whether it's voluntary or mandated by the cities. The revised code section that was referenced by the State was passed in 2001 and these ordinances have been on our books since before that, and doesn't know if our ordinances were enforceable for the last 15 years. He will look at it and research it. He knew consignment shops were not covered because that would be someone bringing in their own things to sell. Councilman Kevin W. Johnson stated that there were currently some pawnshops in the area utilizing the LeadsOnline and he had inquired as to the extra time it took to enter into leads as opposed to hand writing it out, and they answered that there was no extra time because they still had to enter into their system. Solicitor Haas stated that he had been working with Lieutenant Hamilton and they started putting together the ordinances that were presented by pulling various ordinances from other municipalities. He also spoke to LeadsOnline through both e-mail and telephone and they lead him to believe that other cities were mandating it in the State of Ohio. He stated that he would get a more definitive answer for Council.

Councilman Kevin E. Johnson – 1646 Grant Street – Portsmouth, Ohio – He questioned whether he misunderstood whether this legislation was being mandated and it was required of these shops. Chief Ware stated that they went to local pawnshops and asked for voluntary compliance and received about 50% participation. It provided for more expeditious reporting for both ends of the reporting process and his end goal was to protect the business, the rights of the owners and the property rights of crime victims. If there's a way for a business not to take in property that's already out there reported stolen because within 4 hours they can be in 7 different States. Property owners can also put their information into the system.

Franklin T. Gerlach – 814 7th Street – Portsmouth, Ohio - He requested to speak again and was granted the opportunity. He said the issue about firearms was that you have to have special license for fire arms and they are audited by Federal Government. Before a person can get a pawned firearm, they must go through a check list that the Federal government provided to see if they are eligible. Technically the gun was still theirs but if they've gotten into trouble and don't meet the guidelines, they are not allowed to get it out. He stated that they do their best to assist the Police Department and if there was something they are suspicious of they put the item on a Police hold for the Department until they have a chance to check it out and they were doing all that they can to help citizens. He encouraged Council to get a representative from LeadsOnline to come and speak, as he believed that it cost money and you have to have a contract that holds them harmless. He asked how much the city was paying for the program and Chief Ware said that he wasn't sure on the cost, Mr. Gerlach then asked for a copy of the contract so that he can look it over to see how much it cost the city for this service. He doesn't believe that it's a bad service but they were limited on what information they are allowed to provide.

Michael Livingston – 2502 Gallia Street – Portsmouth, Ohio – He believed they had received some mixed information and wanted clarification about whether scrapyards would be included in this process. Chief Ware said scrapyards have their own reporting system and would not be consider under this legislation.

Mayor Kalb called for other wishing to speak and there were none and he declared the hearing closed at 6:32 p.m.

Councilman Kevin W. Johnson motioned to add to the table as 7(m), the legislation authorizing the City Manager to instruct All About Plastics to perform work estimated to be approximately \$71,360.00 to be paid from Water Plant Maintenance Line Item No. 606.771.5260 to repair a water trough on the east side of the water plant that is quickly deteriorating which without repair measures failure of the trough is eminent, waiving the requirement of the bidding process for projects over \$50,000, and declaring this to be an emergency.

Item added
to the
Agenda

There were no questions or comments. The role was called. **VOTE: 5 ayes – 0 nays, the item was added to the agenda.**

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 **second 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 second reading.

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

The clerk gave a **second 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 second reading.

Councilman Lowe said he saw problems with this and believed that we need a better ordinance in place to cover traffic laws because as it is, he doesn't see it as a benefit to the city. He wanted to know what would happen if someone crashed one of these segways and tried to sue the city. Councilman Kevin E. Johnson stated that there was a discussion about there being certain routes for the segways and he foresees folks from out of town enjoying these segways, Clerk Ratliff stated that the streets were listed in the Ordinance. Councilman Lowe questioned what would happen if they went outside of the routes listed, Manager Allen replied that they would be subject to a ticket. There's no liability on the city's part, we would be permitting use of something on designated streets, the business owner would be responsible for buying insurance and it would be no different than motor vehicles using the city streets and there are rules for those streets. He believed that the owner of the business would keep a close eye on where they ride them. Solicitor Haas stated that there was a penalty section. Mayor Kalb asked about a helmet law and if that's a requirement implemented by the owner of the business, Solicitor Haas stated that it wasn't addressed in the ordinance but if the State Law required a helmet then they would be required to wear it and he believed that the owner's insurance company would require them to be worn.

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

The clerk gave a **first reading**, to authorize the fund transfer of \$5,156.00 from Law Enforcement Trust Fund No. 225 to Task Force Fund No. 217 in order to participate in a grant awarded the City of Portsmouth Police Department from the Ohio Department of Public Safety, Office of Criminal Justice Services (OCJS), the appropriation of the funding when received and the fund transfer of \$4,640.40 from Task Force Fund No. 217 to Law Enforcement Fund No. 225 upon completion of the grant program.

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

Councilman Kevin W. Johnson stated that there was a typo in the 2nd paragraph, third sentence the amount shown as \$5,156.00 had a decimal misplaced and it should read \$515.60.

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**, authorizing the acceptance of grant funds from the Ohio Department of Public Safety, Office of Criminal Justice Services under the Justice Assistance Grant (JAG)-Law Enforcement (LE) specifically for equipment purchases by the Police Department and to authorize appropriation of such funding as received.

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

Councilman Kevin W. Johnson told the Solicitor Haas that the issue exist in this ordinance as well in the 2nd paragraph, 3rd line at the end it shows \$5,156.00 and it should be \$515.60. Solicitor Haas noted both typographical errors.

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 authorize the fund transfer of \$13,333.33 from Law Enforcement Trust Fund No. 225 to Task Force Fund No. 217 in order to participate in a grant awarded the City of Portsmouth Police Department from the Ohio Department of Public Safety, Office of Criminal Justice Services (OCJS), the appropriation of the funding when received and the fund transfer of \$10,000.00 from Task Force Fund No. 217 to Law Enforcement Fund No. 225 upon completion of the grant program.

Councilman Kevin E. Johnson motioned 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**, authorizing the acceptance of grant funds from the Ohio Department of Public Safety, Office of Criminal Justice Services under the Justice Assistance Grant (JAG) specifically for equipment purchases by the Police Department and to authorize appropriation of such funding as received.

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

Councilman Kevin W. Johnson said there was minor typo in the 2nd paragraph, 4th line, it read \$3333.33 and asked that a comma be inserted after the first 3 for it to be consistent with the other monies mentioned.

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**, authorizing the fund transfer of \$25,000.00 from Law Enforcement Trust Fund No. 225 to Task Force Fund No. 217.237 in order to participate in a grant awarded the City of Portsmouth Police Department from the Ohio Department of Public Safety, Office of Criminal Justice Services (OCJS), specifically for the Task Force use and the appropriation of the funding as received; and further, authorizing the fund transfer of \$25,000.00 from Task Force Fund No. 217.237 to Law Enforcement Trust Fund No. 225 upon receiving reimbursement at the completion of the program.

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

Councilman Kevin W. Johnson stated that like the first two ordinances, these two go together which was why he was referring to both of them at once. The next one reads that the city was to provide of the \$8,333.33 matching and the matching was not noted in the first ordinance. Also next proposed legislation stated “The Portsmouth Police Department will provide the match funding” and he believed it to be incomplete as they do not capture everything that’s needed and asked if there was a reason why the matching was not mentioned. Police Chief Ware responded by saying that under that particular grant they can use an in-kind match that had a value of \$8,333.33 based on equipment services and other expenses that have already been paid. It does not have to be a cash match and they consider that to be the in-kind match. Councilman Kevin W. Johnson said the total amount to be expended on the grant was \$33,333.33 and the ordinance reads that \$25,000 plus the \$8,333.33 and mentioned nothing about an in-kind match. Police Chief Ware replied that for the purpose of the grant award they had to list it as dollars but the in-kind value is \$8,333.33 and was not required to be listed as in-kind in the ordinance. They are audited and it was standard practice. He requested Council consider the grants be consent agenda items for the rest of the readings. Clerk Ratliff asked if that was for all of them that were being read tonight and he replied “yes”. Mayor Kalb gave kudos to the grant writer for making all this happen.

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**, authorizing the acceptance of grant funds from the Ohio Department of Public Safety, Office of Criminal Justice Services under the JAG program for Drug Task Force use and the appropriation of such funding as received.

Councilman Kevin E. Johnson motioned 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 amend the Salary Ordinance as amended by Ordinance No. 62 of 2015 to create the position of Legal Secretary to Solicitor/Executive Secretary – Civil Service with an associated salary range of \$20,800 - \$44,889 per annum to be effective January 1, 2016 and to repeal Ordinance No. 62 of 2015.

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

Councilwoman Aeh said that she had sent an email to Solicitor Haas as there was nothing in the ordinance that would indicate that this was just for his current secretary. Mrs. Aeh gave the scenario of what if the Commission changed along the line and no one knows that were to hire their own secretary and Solicitor Haas replied that it was in their rules. Solicitor Haas said this was a permanent change in that, if the legal secretary left and someone else was hired, the Civil Service could choose the new legal secretary as their Executive Secretary or hire a new person because the ordinance provided for that. There’s a separate line in the ordinance for Executive Secretary for Civil Service and should his current secretary decide she didn’t want the position any longer, then the commission would hire someone else and the line would still be there. There’s a Legal Secretary to Solicitor and there’s a combined on Legal Secretary to Solicitor and Executive Secretary to Civil Service and then there’s one by itself as Executive Secretary to Civil Service. Mrs. Aeh’s concern was that if there were many changes along the line that nobody would remember what was supposed to happen. Solicitor Haas stated that he didn’t know if he could make any clearer and he hoped that the Commission continues with the secretary in his office in the future because it had been very convenient.

Councilman Kevin W. Johnson brought up the same issue that Councilman Meadows had brought up in the past in that the Ordinance wording in the first paragraph states that we’re amending and repealing it. Solicitor Haas replied that he was complying with what the Charter required, Mr. Meadows had brought that to his attention at the last meeting and he researched it and found that the Charter required it to be worded as such. Councilman Johnson requested that Solicitor Haas send that portion of the Charter to him that stated the requirement.

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**, authorizing the City Manager to sign and enter into an agreement between the Board of County Commissioners of Scioto County, Ohio and the City of Portsmouth, Ohio for a waterline relocation for the new State Route 823 project, and considering the same an emergency measure due to the fact the project is currently in progress. (Consent Agenda Item)

Councilman Kevin E. Johnson moved to waive the three reading rule due to the emergency measure.

The role was called. VOTE: 5 ayes – 0 nays, the rules were suspended.

Councilman Kevin E. Johnson motioned that this 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 **first reading**, authorizing the appropriation of \$250,000 from the unappropriated revenues in Fund No. 606 to WW Waterline Line Item No. 606.771.5521 needed for waterline relocation for the new State Route 823 project currently in progress.

Councilman Kevin E. Johnson motioned 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**, a Resolution requesting the Scioto County Auditor, David L. Green, certify to the City of Portsmouth the total current property tax valuation of the City of Portsmouth along with the estimated property tax revenue that would be generated by the renewal or replacement of its one (1) mill Flood Defense System Levy.

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

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

The clerk gave a **first reading**, authorizing the City Manager to instruct All About Plastics to perform work estimated to be approximately \$71,360.00 to be paid from Water Plant Maintenance Line Item No. 606.771.5260 to repair a water trough on the east side of the water plant that is quickly deteriorating which without repair measures failure of the trough is eminent, waiving the requirement of the bidding process for projects over \$50,000, and declaring this to be an emergency.

Councilman Kevin E. Johnson moved to waive the three reading rule due to the emergency measure.

The role was called. VOTE: 5 ayes – 0 nays, the rules were suspended.

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

Manager Allen gave a brief description for the public. In 2015 it was identified that a water trough on the east end of the water plant had deteriorated, at the time they had lined it with concrete and it appeared that water has gotten between the concrete and tarlike waterproof lining. Last fall they had a meeting about a stainless steel tank into the concrete tank and if the wall falls, then the stainless steel would have some structure to hold it in place. After some research they found “All About Plastics” that does this type of work, not going to be bid out because they are the only company that does that type of work.

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

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Tim Huff – 2732 South Cedar Street- Portsmouth, OH – He and his partner had Boneyfiddle/Market Street Vanity Hair Company which was at 206, 208 & 210 and all of Council was aware there was a fire in the building on Saturday January 30, 2016. They requested the City turn the water off that following Monday which would have been the next business day. Instead of calling there was actually a representative there already and it was in his capacity as he worked for the city and he attempted to turn all the water off to the complete building and so they went on about their business. They had Serv-Pro come in and board up the windows, they turned the water off and the electric was off, so as far as they were concerned all of their due diligence was completed and there was nothing else for them to do. They returned back and would do drive-byes just to be sure that the property was secure and when they came back on Friday February 19th, and opened the door, there was 3 inches of water

**Ord. #10-16
Agreement
with County
Commissioners
for waterline
project for St.
Rt. 823**

**Res. #02-16
One Mill
Flood Defense
System Levy**

**Ord. #11-16
Repair of
the water
trough at
Water Plant**

throughout the salon. Serv-Pro had just completed \$25,000 worth of work and you can imagine their frustration when they found water in the salon. The 210 Market Street building was scheduled to be opened within two weeks as it sustained the least damage from the fire, but most of the damage from the water break was done in that untouched area, where they had requested the city to turn off the water. On Friday February 19th he called the city and told them that there was a problem and they needed to come and turn the water off as they had requested the first time. The man came and opened up the valves and they were told that the gentleman that came initially didn't turn the water off all the way which created a \$15,000 bill that they now have from Serv-Pro. They have loss of wages, equipment in the salon which was not damaged by the fire but was now damaged from the water break. He didn't feel that it was their responsibility to pay, because they had done their due diligence and doesn't feel they should have to pay because someone unfortunately made an honest mistake. That money shouldn't be put on them, he had paperwork of the breakdown of the total for the waterline break was \$21,000 and that included loss of rent from one of the tenants for one month, loss of income for one month, a pedicure chair and Serv-Pro bill which was shy of \$15,000. They feel they have two options since the fire and water break; a complete tear down or abandonment. In the City of Portsmouth you cannot insure a building for a lot of money and it's hard to get an insurance company to even insure a building. They've been in contact with their insurance and the City's insurance, their insurance picked up one claim which was maxed out during the fire. The additional water line break put them over the edge, they're doing their best to get it the business up and running again, but they don't feel that this was their mistake. They have to pay and additional \$21,000 that they don't have and feel they did what they needed to do and if they water had been turned off correctly, there wouldn't have been significant water damage and they would not have had to hire Serv-Pro to come back and absorb a substantial amount of the insurance money.

Mayor Kalb stated that they would need to follow up with the City Manager and Solicitor. Manager Allen stated that they were aware of it and he mentioned there was a bit of a dispute of the facts.

MISCELLANEOUS BUSINESS AND REPORTS:

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

1. She received the Scioto County Commissioners Resolution renewal agreement for representation to indigents.
2. She received via email on March 2, 2016 from the Auditor's office, the following summary statements of the Combined MTD/YTD reports for the period ending February 29, 2016: Expense, Revenue and Fund.
3. She received the Oath of Office on Val Owens for the Cultural Affairs Panel.

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 5 – 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. He received an email with questions about his report in which he had replied.
3. He stated that he could not accept grants without Council's approval and wasn't aware that it was a requirement for him to get prior approval to apply for the grants, however if that's the rule, it needed to be communicated to him as he checked with staff and that hadn't been the rule in the past. The City applied for ARC grant funding once before for the waterline on Sunrise Avenue, but no project was identified. He advised Council that they would be requesting a higher dollar amount in the ARC funding. In the past it was only \$75,000, but this year they're applying for \$250,000, we're trying to be aggressive about going after grant funding. People criticize the City for not going after certain grants and he wanted them to know that they're trying hard to get grants at a higher level. He reiterated that he didn't want there to be any miscommunication, he could apply for the grants but cannot accept them without Council's approval.
4. He updated Council on the levee project. FEMA asked for the calculation on how the figures were determined for the floodwall certification. They've received the additional information from AMEC and he had an email from Howerton Engineering requesting more money to finish. There were 7 items that were requested and those have not been received from Howerton and we're not inclined to pay additional money.

Councilman Kevin E. Johnson asked if there was a problem with applying for a grant, Manager Allen stated that was one of the questions in the email. Councilman Kevin W. Johnson stated that what he was asking was if it had been previously funded because he hadn't heard of the project or of a problem. Manager Allen elaborated on the Sunrise Avenue project. There's a 30 inch waterline which comes down Sunrise from the reservoir (which holds 22,000,000 gallons) to Kinney's Lane and over to Offnere Street that had problems and the original cost was \$3,000,000 in which the water fund doesn't have, so we've been looking at different alternatives. In the past year on Kinney's Lane a whole block was lost and if you'll remember all the sand on Offnere Street last year that was sand from underneath the bricks.

Mayor Kalb commented that the final information we need to certify the levee was not for new information, it was just clarification of the figures FEMA received and reiterated that the City was having a hard time getting the information, Manager Allen said that was correct. Councilman Kevin E. Johnson said that this had been going on forever with the certification and stated that we had already paid for the information. Manager Allen said last year Council approved an additional \$126,000 and now Howerton was wanting another \$5,000 because his sub-contractor was charging him that amount; AMEC responded to theirs at no additional cost. Councilman Kevin E. Johnson asked if we were going to pay it and the Manager replied “No”, they owe it to us because it was part of a conversation on December 8, 2014 where we paid Howerton another \$126,600 and AMEC \$10,000 and we explained that this was to finish everything and get FEMA’s approval and nothing more. Solicitor Haas stated that we were very clear, and recalled discussing during a Council meeting that our fear was when we looked at the \$126,600 we were afraid they would come back for more later and it was made clear to all the contractors and subs that this was it. We paid them to get it done and the fact that they didn’t supply the information with their documentation for the certification was not our fault and they should have supplied it initially because it wasn’t anything new.

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 5 – nays 0.**

Mayor’s Report – Mayor Kalb had no report.

City Solicitor – Solicitor Haas reported the following:

1. He attended the Civil Service meeting today along with the City Manager and various officials from the Fire Department. They had a promotional exam for the Fire Department Captains position, the high scorer on that exam was Travis Garrett. They conducted a Civil Service exam for the Cashier and Clerk II positions and over 100 people signed up to take the test and the results have been certified. He believed that the intent of the City Manager was to start interviewing from that list. He reiterated about whoever was in the Solicitor’s office as a Secretary or Staff member do the Civil Service because there were 100 people come in to sign up for the test and a deposit was collected and if they didn’t show up they didn’t get their deposit back and there was a little over \$2,000 collected and all of that needs to be in the City Building and managed by a Secretary and it was run more efficiently.

The Solicitor’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 5 – nays 0.**

Auditor Williams – Auditor Williams was not present but had left his report for City Council to review.

1. Manager Allen stated that he would like to comment on page 2. He received a call from the State Auditor’s fiscal watch office and they were concerned about the insurance being negative again which was shown as -\$72,845. The fund should have ended in 2015 with \$850,000 but we billed accounts early for the medical insurance and the premium was \$300,000 per month. In December we paid January and we ended the year at \$545,000, and when you deduct February and March payments that was why the account ended in the negative. There was supposed to be a transfer of \$1,100,000 but that wasn’t done until recently. In the footnote Auditor Williams made reference to the situation. All funds are in good shape with the exception of the sewer fund.

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 5 – nays 0.**

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

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

1. He realized that the infrastructure was antiquated and there were 3 water breaks on 24th Street this past week. He mentioned in his questions to the City Manager, the rate payers were just beginning to see what was going to be a number of years of potential rate increases because of all of the money that would need to be invested. Manager Allen stated that the Amerisco payment would be finalized in 2018 which was \$800,000 in water and the City would be ready to work on the infrastructure and they were also applying for grants. Mr. Johnson stated that his concerns were for those that utilize 1,000 or less would see a rate increase of almost 57% and 32.3% for the next thousand and those individuals that use the least amounts, were the ones getting hit with the 57% increase, but nothing over 13 thousand and nothing over 33 thousand and that concerned him and would like the Manager to look at alternatives. Manager Allen stated that the high end users pay that too and Mr. Johnson understood but only on the first one thousand gallons and he’s looking at seniors that only use 1-2 thousand
2. He had some concerns and explained to Councilman Kalb that it wasn’t a personal thing, but brought up the Mayor’s comments that had made the newspaper. His Inbox email had exploded as well as his facebook with people who were furious over the comments and said it put

Portsmouth in bad light. Any Councilmember that does that, the rest of Council should give consideration to a censure, but he would not bring it forward. He believed in the future anything that Council or the public considered to be an embarrassment, a censure should be considered because they are elected officials and everything we say or write in emails represents the city.

3. He was glad that the representative from Vanity Hair Salon came forward and he hoped that Manager Allen would make them aware of the disputable facts he eluded to earlier.
4. He stated that he had received the minutes from the Design & Review Board which noted the approval for demolition of the old St. Mary's Elementary School and Shawnee State's property on Chillicothe Street. He said the Design & Review Board was not doing its job and did not notify them of meetings or provide minutes which was requested. He stated that they received an email from Kirk Donges that the Design Review Board certainly needed to do a better job and that in the past the City had provided them with someone to take the minutes. He said all the other committees have secretaries and someone from that particular Board could take notes, get an agenda and minutes out to the public. Main Street Portsmouth had applied for 16 grants from the \$25,000 that was appropriated or that have matching grants, each one of those were reviewed by the Design & Review Board, obviously there were meetings to make those decisions, but no agendas or minutes. He knew appointments were coming up and believed that they need to look closely at who's being appointed and if current members were re-appointed they must provide Council with Agendas and Minutes. Mayor Kalb stated that he was aware of the appointments and there would be some discussion at the next conference agenda regarding the appointments.

2nd Ward – Councilwoman Aeh stated that everything was calm and quiet in the second ward.

3rd Ward – Councilman Kevin E. Johnson reported he had some residential issues and were handled by the City Manager.

4th Ward – Councilman Kalb reported the following:

1. He responded to 1st Ward Councilman Johnson's comments and again he apologized to Council members for any embarrassment that he may have caused and he didn't mis-say anything but his mistake was using a word that everyone was not fond of but used on TV programs every day. He may have said the comment but someone else provided the information to the newspaper.

5th Ward – Councilman Meadows had no report due to absence.

6th Ward – Councilman Lowe reported the following:

1. Harner Insurance was remodeling their building and requested some help on fencing
2. He said Marvin Davis wanted some type of settlement on Eden Dale Road. Solicitor Haas stated that it had been a perpetual issue for the last number of years. Mr. Lowe said he'd like to see us make this work.

Councilwoman Aeh stated that she would like to discuss and request an amendment of the Rules of Council concerning "consent agenda". She would like to replace the rule by saying "All legislation, with exception, shall be introduced at the City Manager's Conference meeting for discussion by Council and, with a majority approval of Council, place on the next legislative session's agenda. Anyone requesting the three-reading rule be suspended, as permitted in Section 10 of the City Charter, shall do so when requesting the preparation of the legislation. The reason for the waiver shall be noted in the ordinance's preamble. Emergency legislation, as defined in Section 12 of the Charter shall be introduced at the City Manager's Conference meeting, when possible. If not possible, as an exception, may be submitted in accordance with Section 10 of the Charter, as an addition to the legislative agenda." instead of using "consent agenda".

Councilman Kevin E. Johnson said that if he understood this correctly, it could only be done at the conference agenda. Mrs. Aeh said that was how it was stated before, "we shall submit" and there were no exceptions there, but tonight the rules were broken when we added something to the agenda because it did not go through the conference agenda and there was no exception in the current rules. Manager Allen stated that there would be emergencies on occasion and Mrs. Aeh acknowledged that, but when the rule was re-done it was not allowed, but the Charter does allow it. She said emergencies were addressed in the Charter, but there was no exception left when the rules were revised by saying "All legislation" and that's a conflict because there's always going to be additions. Mayor Kalb said that this would work the same way. Councilman Kevin W. Johnson said this was just verbiage which was what we've been doing anyway.

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

The meeting adjourned at approximately 7:50 p.m. on a motion by Councilman Kevin W. Johnson.

City Clerk

Mayor