

MANAGER’S CONFERENCE MINUTES
Portsmouth City Council Meeting on
March 28, 2016 – 6:36 p.m.

Present were all members of Council, Solicitor Haas, Manager Allen, and City Clerk Ratliff.

Discussion

1. Councilman Kevin W. Johnson stated that at the next meeting he would be appointing Alan Barlow to the Traffic Committee as per the new rules, he’s bringing that forward and had received and appreciated the feedback from one Councilmember.
2. Councilman Kevin W. Johnson also stated that he was very disappointed in the documentation presented to Council by the Cultural Affairs Committee and he would be discussing this further at the next meeting.
3. Mayor Kalb had a couple of appointments he would be making at the next meeting for the Design and Review Board. Reappointing Paul Yost and Darren Mault and appointing George L. Davis, III to replace Terry Ockerman. He stated that the DRB guidelines recommend that an attorney be a part of that board and Mr. Davis is an attorney. He will give names and addresses at the next meeting.

Agenda

1. **Chapter 771 & 773 Pawnbrokers & Second Hand**

CM-16-06

Manager Allen stated that he would let Solicitor Haas explain the issue. Solicitor Haas said that after doing some additional research regarding Pawnbrokers Chapter 771 and what he learned was that the State statute overrides the City’s authority and his recommendation was to repeal the whole Chapter 771 since it was unenforceable instead of amending the ordinance to include LeadsOnline. The secondhand dealers was not affected by the State statute and he recommended leaving it alone. Mayor Kalb ask how other cities operated using LeadsOnline and Solicitor Haas replied that it was all voluntary or highly recommended. He said there were many cities in the State of Ohio that have Ordinances on their books that deal with pawnbrokers and like ours they have neglected to repeal the ordinances which were unenforceable. He also stated that there had not been any real complaints about it from area pawnbrokers. He thought Mr. Gerlach made a public records request regarding the cost of the program to the city and he’s certain that Chief Ware responded. Mayor Kalb said that he believed it to be worthwhile to put out there even if it was a voluntary program, it would be a benefit to the pawnbrokers as well as the city and people buying and selling from those businesses. Solicitor Haas believed there had been some press about it and the Pawnbrokers in the area know it and he doesn’t know if they all use it and so far it had been successful.

Chief Ware reminded Council that in 2014 they had approached all of the pawnshops to request that they voluntarily start using LeadsOnline and they got about 50% participation and since that time they’ve had another pawnshop begin to participate. They were very happy with the voluntary compliance and he reiterated that it was two-fold, to protect the business interest and to protect the property owners that were victims of theft of property. Citizens can record their property within the LeadsOnline program and if it were stolen and pawned anywhere nationwide that participated in the LeadsOnline system, there would be a way to identify that property and get it back to the rightful owners. He spoke with Mr. Gerlach and expressed his gratitude at the voluntary compliance in the level they are participating which made good business sense as the citizens recognize the business was doing everything to remain reputable and protect the rights of property owners.

Councilman Kevin W. Johnson ask if there was a way the Fraternal Order of Police could recognize the businesses that voluntarily participate in the program so that they could be recognized by the public because

there's an issue of trust and would be nice if the public were aware. Chief Ware stated that he had given it some thought and was still trying to decide the best way to do that without harming a business in the process. Mr. Johnson asked if any of the Statewide/National Check Cashing pawnshops participating and the Chief replied "yes".

Mayor Kalb ask what the State laws were with regard to repealing the sections we have now and if there was mandatory filing paper wise. Solicitor Haas said "yes" it was very similar to what we have and was surprised when he received an email from one of the National companies that acts as a pawnbroker in this area and Counsel said you should probably look at Revised Code Section. He reviewed the section and wondered how it worked with all these cities that have the program, and was shocked at the majority of the cities that have not bothered to repeal their code section, as it was very misleading. Mayor Kalb stated that he liked Councilman Kevin W. Johnson's idea about recognizing the businesses with maybe a sticker for their window. Councilman Kevin W. Johnson questioned why we had to repeal instead of simply having ours reflect for two reasons: People in the city would go to our site first and not ORC's because ours was easier to search than ORC and secondly because of violation; we get more with violating ours than we do the State. Solicitor Haas stated that we were pre-empted and we could refer them to review the administrative code section but we could not impose any fines or anything like that because the State had pre-empted a lot of that unless it was a criminal offense. Mr. Johnson asked the Solicitor if he was concerned about how the State was chipping away at our Home Rule, not just ours but other city's Home Rules and Solicitor Haas replied "yes" and the cities have not had much success with the current Supreme Court. Manager Allen stated he didn't have Council Alternatives but we need to know how to proceed.

Councilman Kevin W. Johnson requested that we accept the Solicitor's recommendation.

There were no further questions or comments. VOTE: 6 Ayes – 0 Nays

Councilman Kevin W. Johnson wanted to go on record stating that our local legislators have had a hand in and voted for stripping our Home Rule; practically every vote that had come along they've voted for it and politely ignored us and never came before us to explain their vote or ask how it would affect Portsmouth.

2. Anchor Pad Lease Agreement

CM-16-22

Manager Allen stated that the next three items are all the same and the last time legislation was enacted was in 2005 and those ordinances granted (2) 5-year automatic renewals and all the leases expired December 31, 2015. The proposal was not to change anything in any of the leases except for making sure that the insurance requirements were included naming the City as an additional insured for at least \$1,000,000 and also language that they must notify the City of any alterations to the leased area. There were discussions of The Anchor Club filling in and they had gotten all their floodplain requirements taken care of, it was just lack of communication with the city. He wanted to make sure that all the leases specify that if you're pouring a concrete pad or some other alteration that the city must be notified first. When he presented the lease agreements it was brought up to bid out the leases.

Councilman Kevin W. Johnson asked if any of the other boat club members were in attendance and it was just The Anchor Pad member.

Solicitor Haas noted that the lease was just for the land where the clubs were located as the clubs actually own the docks and have invested money and time in their clubs and the lease was just for the ground adjacent to the club.

Mayor Kalb noted that he and Councilman Lowe had both received complaints on how the boat clubs were operated and their limited membership, however the people complaining were notified of the past two meetings where the topic would be discussed and they've not bothered to appear or ask questions.

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Manager Allen stated that Judge Kegley came to see him two or three times about the Shawnee Boat Club and thought someone would be there to represent them. He's had multiple discussions with Anchor Pad and to his knowledge he had never met with the Sciotoville Boat Club. Solicitor Haas stated that during the time that this had been being discussed, the drafts of the leases with the proposed changes were sent to all three clubs and they've been very responsive and all three have paid or attempted to pay their lease fee but have been told to wait until Council approved it. Manager Allen said that Anchor Pad and Shawnee Boat Club have been down along with river cleaning it up as there was a lot of debris, trash and driftwood.

Councilman Lowe ask who's to say that another organization would come in and do the same thing that these clubs were doing. He also asked if the Anchor Pad was a Non-Profit Organization and if they were making money. Mr. Cantor from the Anchor Pad said "No" and Mr. Lowe ask him if he could prove it, because before he voted to approve the lease he would need to make sure that they were not making a profit when the City was only charging \$100 per year lease and Mr. Cantor explained that the money that was taken in was put right back into the club/docks and they operate on a shoestring budget and if they have a bad year, they have to cut back and not repair the main boards that year. Mr. Lowe asked if they self-fueled and Mr. Cantor replied "no" that Shawnee sold the fuel and all they do was rent dock space. Mr. Lowe stated that he had spoken with the Treasurer from the Sciotoville Boat Club and they are a low-cost club and their member rental fee is under a couple hundred dollars per year and they have discounts for the elderly and widowed people and they are not making money and he doesn't have a problem Okaying their lease. He needs to check out Shawnee Boat Club and if they are making money off our \$100 lease then he had a problem with that and it needed to be bid out because it's not fair to other people. If they're not making money that's fine but from what he understood, they're selling fuel and other things and he sees a way of generating revenue and he needed to make sure that the money was going back into the club and not into someone's pocket. Whenever he took the job he took an oath to look after the city's best interest by asking these questions.

Mayor Kalb ask if the Anchor Pad was organized as a non-profit or as an LLC and Mr. Cantor replied that he did not know. Solicitor Haas stated that they were a corporation and he had the information, but doesn't think they're a non-profit, however they are registered and up to date with the Secretary of State. Councilman Kevin E. Johnson asked Councilman Lowe if anyone had approached him about leasing the land where these boat clubs are located and Mr. Lowe replied that he has had numerous people approach him even before he was on Council. Mr. Johnson said that he had not seen anyone at the meetings and Mr. Lowe replied that people were afraid to come forward especially with the Shawnee Boat Club because you're stepping on a lot of people toes including Judge Kegley's, and who wants to step on a Judges toes; they're afraid to come forward. Mr. Johnson said that he's had dealings with 2 of the 3 boat clubs and they've always been very positive and having owned a boat before and knowing a little bit about boat clubs, he didn't see it as a big moneymaker; he just seen men and women enjoying the river and our community and he would have no problem moving forward. Mr. Lowe suggested that he do more research on what it cost to dock a boat, he's done it and the number he came up with and referred to Mr. Kalb (muffled sounds). Councilman Meadows asked what the yearly slip fee for the Anchor Pad was and Mr. Cantor replied \$15 per foot and added that if there's bad weather, people don't come, then there are open spots all year round. He said their budget that they spend is around \$5,000-\$6,000 with electric, upkeep, insurance. He added that they are not a big boat club, they bought their docks from Shawnee Marina and they have a web-site that anyone can check out and it's a lot of work providing upkeep. They are bringing in riverfront recreation and it's not costing the city a dime. If someone comes in overnight and docks their boat they charge a fee but if they pull in for 3-4 hours to go look at the murals they don't charge them. He noted that there was a Portsmouth Boat Club that went defunct years ago but it wasn't the Anchor Pad.

Councilwoman Aeh said that the Portsmouth Boat Club was a For-Profit and they were in business. It was Bill Birchfield and his sons because they were not maintaining the docks as they should have been or the steps down. There were four members of that club and one was her husband and he was the only living Charter member of the Shawnee Boat Club, they formed an organization and started their own boat club and

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that was 51 years ago but the original boat club was a For-Profit club. Solicitor Haas said that he believed that they were all registered as For-Profit. Mrs. Aeh said at one time there was one club that was ran as a business and members just rented spaces and didn't put in any hours because it was a business, but Shawnee Boat Club they all put in time.

Manager Allen stated that if it was put up for bid, they would have to write bid specifications and he would be required to advertise it for two weeks at a cost of \$600 per week which adds up to \$1,200. If there was only one bidder, they may only bid \$1.00, but they'd probably put a minimum bid in there and would be consistent with all three. Councilman Kevin W. Johnson said that he wasn't interested in going through a bid process and that the Manager stated that there was an automatic renewal for up to 10 years so Council hasn't even heard from any of these clubs and what they've been doing for over 10 years. The Manager had already first addressed some of the issues regarding the contractual basis and second he addressed the other issues regarding alterations. He said because they don't know, they are asking questions and they don't want to kick anyone out, but he's concerned that only one showed up and Council made it clear to all three that they wanted a Q & A with each of them. He said he's comfortable moving forward with The Anchor Pad but was very disappointed with the other two and Solicitor Haas stated that he had spoken to all three and wasn't aware there was concern of, if they were making money or not.

Councilman Kevin E. Johnson motioned to accept Alternative #1 on all three boat club agreements.

There were no further questions or comments. VOTE: 6 Ayes – 0 Nays

3. **Shawnee Boat Club Lease Agreement** **CM-16-23**
See above
4. **Sciotoville Boat Club Lease Agreement** **CM-16-24**
See above

The meeting adjourned at 7:05 p.m. on a motion by Councilman Kevin W. Johnson.

Submitted by: *Diana Ratliff* – City Clerk