

**MANAGER'S CONFERENCE MINUTES**  
**Portsmouth City Council Meeting on**  
**April 11, 2016 – 7:10 p.m.**

Present were all members of Council except Kevin E. Johnson who was absent, Solicitor Haas, Manager Allen, and City Clerk Ratliff. Auditor Williams arrived at 7:15

**Presentation – Performance Audit-Auditor of State**

Manager Allen introduced Scott Anderson and Nicole Bent with the State of Ohio's Auditor's office. They contacted us because they now offer performance audits for financially distressed communities who qualify and are under fiscal status.

Scott Anderson Director of the Ohio Performance for the Ohio State Auditor Dave Yost. He stated that when HB 64 passed the language surrounding fiscal distressed entities, included was language that provided for the authority of the Auditor of the State to go in and conduct a performance audit and the State Auditor would bear the cost of it. They reached out to Manager Allen and wanted to speak with the leadership and let them know that this was available and they would like to answer any questions that Council might have for them. Councilman Kevin W. Johnson asked them to define a Performance Audit. Mr. Anderson said there are various types of annual audits that are conducted, but a performance audit was a forward looking consultant, wrapped in the auditing standards within the State Auditor's office. They compare metrics and look at the operations of the city, such as staffing, fleet and files and basically everything and then compare it to best practices. They would do a cost benefit analysis and it's very open ended to what they can do but they typically work with the leadership of the entity to establish the scope with the idea being that they could demonstrate either good stewardship of the tax payers money and the operations that are in existence or they could find opportunities to tighten the belt.

Manager Allen asked if other communities had participated in performance audits and the reply was yes. Typically performance audits are client paid and that client would tell them what they want looked at and they would scope it out and give them a cost to run the project. They've had a very good return on the dollars spent, overall it's \$34.00 to every dollar spent. It's typically a good investment for leadership and a very good tool going forward. Councilman Johnson asked what they want from Council and Mr. Anderson said that because of the language in HB 64 they would just sign a notice of engagement and work with Mr. Allen's staff. Manager Allen stated that they would need to identify what they want looked as it would not be the whole city. Councilwoman Aeh asked if it included elected offices and Mr. Anderson replied that they do not look at elected positions. Councilman Meadows questioned again that there would be no cost to the city and Mr. Anderson replied that that was correct. Councilman Johnson said that he believed that this should be left up to the City Manager because it wouldn't require any legislation. Mr. Anderson said that in reality because of the language in the HB 64, they could take the list of distressed communities and go into that community without their permission because the authority lies within the Auditor of the State's office but that's not practical because a performance audit operates on success rates. They want to take the approach of working with the entities, looking at the major areas of the city and from there have dialogue with the people that are in charge of those major areas and determine what makes sense for them to look at.

Auditor Williams asked if this was a result of the City's fiscal condition and would this be a full performance audit or a limited scope of something specific and how long and when would you start. Mr. Anderson said it would be a full blown performance audit and it could be started immediately and would take about 8 months. Manager Allen said he was under the impression that they wanted to do certain areas such as sanitation or water, but it sounds like everyone will be audited. Mrs. Bent said every audit was different and a typical audit looks at 4-5 scope areas and it's not determined what those areas are until they take a good look at what's going on and then they take those 4-5 areas and drill down deeper into the operations of the areas that look promising, it would be a collaborative approach. Mayor Kalb asked if we participated in the performance audit if that would put us in a better light with the people that are reviewing

us as a fiscally challenged city. Mr. Anderson said he could not speak for them but intuitively if leadership was taking all the steps that are out there, then it couldn't hurt. Mr. Williams ask if they were a part of LGS or a separate division. Mr. Anderson said part of LGS. Councilman Meadows asked if there was a reason why we wouldn't do this and Manager Allen said before he thought they were speaking of specific areas but if they are coming in citywide then he doesn't have a problem with it. His experience with this in the past was if a City couldn't figure out a viable solution, one of these audits were performed. Mayor Kalb asked if this had to be requested or could they choose a city and go in and do an audit without a request and Mr. Anderson replied both were correct. Mrs. Bent said that there was also a smaller window of opportunity because it was tied to that fiscal designation and currently it's free. Clerk Ratliff ask who pays the fee for this service and Mr. Anderson stated that the State foots the bill. She also ask how many people they would be sending and he said typically 4-6 people and Mrs. Bent said that it's not like a typical financial audit where they were housed in the building, they would be working remotely.

## Agenda

### 1. ODOT Agreement US 52 Rock Removal

CM-16-25

Manager Allen had requested again from ODOT that they come in and take care of this situation as the City of Portsmouth did not have the money and ODOT agreed and Council needed to approve the agreement. Mayor Kalb said the first time the Manager contacted ODOT they had said that it was the City's responsibility. Manager Allen said there was a sentence in the letter from ODOT that said "if this was outside the city limits, it would be the highest priority" and it went on to identify the safety issues and he doesn't believe they had a choice. Mayor Kalb stated that in all the previous work, they went in 20 year increments, Manager Allen replied that in the 1990's they changed and stopped doing thing inside city limits. (*Councilman Lowe was speaking but I could not hear him*). Manager Allen stated that ODOT told him they were going to drop the rock section that appeared ready to break lose, clean the benches and then deal with the wall on the east end. He's not sure at what level they will be fixing the wall. Solicitor Haas stated that we're not spending any money so it can be a Resolution.

Councilman Kevin W. Johnson recommended alternative #1 to prepare an agreement with ODOT to conduct work along the North Side of U.S. 52.

**There were no further questions or comments. VOTE: 5 Ayes – 0 Nays**

### 2. Lease of City Owned Property – 546 Second Street

CM-16-26

Manager Allen stated that Gina Chabot with Tanner, Stone Architects and Tim Wolfe (the owner of the 546 Second Street property and the parking area behind said address) were there to request permission from Council. Manager Allen said he lumped them all together but there are three encroachments in the right of way, two were minor and it would not have been an issue as those were both ingress and egress to the building, but the issue was the outdoor seating area which will take Council to authorize a lease agreement. The City owns a parcel land behind the building that that they were wanting to pave but it has a sewer running under it that services that area between Front & Second Street. There's an issue with the encroachment in which there were only two alternatives; 1. The City would make him remove the concrete seating area. 2. To work out a lease arrangement where we permit the structure in the public right of way and would allow him to have an outdoor seating area. He believed that it would be counter-productive and very expensive to make him rip out that seating area. Mayor Kalb asked how we got to this point of an existing encroachment, were there meetings, planning commission meetings, and was it approved? Mr. Wolfe said he had put the cart before the horse. They had approved drawings and the patio was on the drawings and he advised the contractors to build it because he had 90 days to get (inaudible) for occupancy so he had to do the egress to the building and he had them do it all at the same time. He realized that he should have went before the planning commission for the patio. Mayor Kalb said that he assumed that Tanner & Stone had dealt with the city before and would think that they would know they had to go through the Design and Review Board and the City Planning Commission. Ms. Chabot said that she stated in her letter that it was an oversight. He took the plans to the Engineer on that portion and she didn't give him that

Conference Agenda  
April 11, 2016

part of the agenda and he wasn't informed that he needed to do it and we missed it and we had a verbal approval for the parking. Mr. Wolfe said in her defense, he was moving in a rapid speed and took part of the blame and if he needs to tear it out and do something different he will but his vision was that it was a gateway to the murals. He's even trying to buy the property across the street so that it all could be developed. Councilman Meadows asked if he owned the property where the building collapsed and he said yes and Mayor Kalb said there were no permits requested for that property either. He said this comes at a bad time for him because not only in this instance but the City seems to be dealing with people doing whatever they want first and then asking for permission later and every time the City grants permission after the fact then we were setting a precedent. He does believe that Mr. Wolfe had made a great investment and it would be a great addition but he doesn't want to set the precedent of building first and then asking for forgiveness later.

Councilman Meadows asked why there was a wall standing all by itself on the property behind his building. Mr. Wolfe said he doesn't own it and it belonged to Charlie Canter, he only owned up to that wall. He's tried to buy it so that he can take that down but Mr. Canter is in love with the structure and has plans and permits to build there. Councilman Johnson said that it looked like a cheap garage or cheap home and the design was disgusting. Mr. Wolfe said he was trying to buy Mr. Crum's building which was the lot behind Mr. Canter's. Mr. Meadows ask how wide the sidewalk was beside the patio and how many employees would be employed in the restaurant and Mr. Wolfe replied 5 foot and 25-32 employees. Mr. Meadows asked what type of food would be provided and Mr. Wolfe said that it would be fresh burgers and it was themed around prohibition times and they would be open from 11:00 – 11:00. The outdoor area would be for extra seating but not smoking. There's a stainless container that will go around the gas meters. Councilman Kevin W. Johnson said he had toured the Patties & Pints and agreed with the Mayor regarding not to establish precedence but he also didn't want to penalize a businessman that's already invested \$1,200,000 and was owning up to his mistakes. This breaks down into two separate lease items.

Councilman Kevin W. Johnson stated he doesn't like 99 year leases and recommended to Council to make the lease \$500 per year for 10 years with an automatic renewal as long as it's the same owner. Councilman Meadows ask if this lease could be tailored just for Mr. Wolfe and have it be non-transferrable and he would rather see a 5 year lease with an automatic renewal. Manager Allen agreed because someone could change the use of the building and it should be non-transferrable and for a shorter period than 99 years. Mr. Wolfe said that the City had done \$1.00 per year leases for 99 years, and asked if the difference was because he had added the concrete and not just fencing. Mayor Kalb said the difference was that those leases were drawn up 99 years ago and Mr. Wolfe said The Royal Lounge lease wasn't 99 years ago and someone said that The Royal lease was a while back and Solicitor Haas stated that their lease had been terminated. Manager Allen ask that we reference the ingress and egress (the ramp and step on 2<sup>nd</sup> Street) as being permitted, they are minor but if anyone ever questioned Mr. Wolfe, he would have a document that referenced that it had been approved. Mayor Kalb stated that before any further work was done, he requested that the plans be given to the Design & Review Board for oversight from this point forward. Ms. Chabot responded that she had been doing this for a long time and worked with many different departments and it was simply an oversight. She made a suggestion that a check list be giving out by the City's Engineers office to serve as a reminder to everyone to make sure that they made contact with every department and completed everything they were supposed to. Mayor Kalb said that this had been discussed before and would make the City more business friendly. Manager Allen told Mr. Wolfe that even though he was irritated on how this was handled, and that he wished he had come to him for a discussion beforehand, he doesn't want him to have to tear out the concrete and believed this to be a reasonable and thoughtful solution. Councilman Mr. Meadows said that the City needs to make sure that we address Mayor Kalb's fears in that the City may not be this accommodating to the next person that attempts to move forward without the City's permission.

Councilman Kevin W. Johnson motioned for the Solicitor to draft the following:

\$500 per year for 5 years non-transferrable with an automatic renewal with same owner only.

**There were no further questions or comments. VOTE: 5 Ayes – 0 Nays**

Mr. Wolfe said that he would like to concrete a Parking Lot all the way back to the freestanding wall, which would encompass a strip of land owned by the city in which the sewer line runs under. Manager Allen said that he doesn't foresee a problem with that sewer but if there was an issue after the Parking lot was made that the City would not be held liable for having to dig it up to fix the sewer or repair the parking lot. Mayor Kalb also added that no type of structure was to be built over top of it either and it's just to be used as a parking lot and the City maintains the right to access the sewer should there be a problem.

Councilman Kevin W. Johnson motioned for the Solicitor to draft the following:

\$1.00 per year for 5 years non-transferrable with an automatic renewal with the same owner only and to be used only as a parking lot.

**There were no further questions or comments. VOTE: 5 Ayes – 0 Nays**

**3. Lease of City Owned Property – 501 Seventh Street**

**CM-16-27**

Manager Allen said a lease agreement for 501 7<sup>th</sup> Street was requested. This issue dates back to 1850 and these are not odd because for many years when people went to banks for mortgages in which thorough title search were not done, but since 2008 they now do thorough title searches. The owners requested the City to vacate a portion of the Street and didn't tell him why and at the Planning Commission meeting there was opposition from the property owner across the Street and as you know when you vacate half goes to one property and the other half to the other property and if they both don't agree it cannot be vacated. The owners contacted the Solicitor's office because they were trying to get a mortgage on the building and the building isn't completely on their property. They did provide documentation that goes back to a 1918 map and the building was constructed in 1850. The City doesn't want to vacate the Street because we access the levee to maintain things and mow but the City doesn't have a problem with their request for a lease. He's not comfortable giving 99 year leases but recommended a lease for the term of their mortgage which is probably 30 years and also it should be non-transferrable. Solicitor Haas stated that he would write the lease for an extra 2 feet for maintenance purposes. They've already had the property surveyed. It was recommended \$1.00 per year for the period of the mortgage, payable in advance.

Councilman Kevin W. Johnson motioned to accept Alternative #1 with a request to suspend the reading so that the owners can obtain a loan.

**There were no further questions or comments. VOTE: 5 Ayes – 0 Nays**

**4. Revised ODOT Resurfacing for Eastbound U.S. 52**

**Added at Conference 4-11-16**

Mayor Kalb asked if the \$126,000 was the balance of the resurfacing. Auditor Williams asked what fund they were talking and Manager Allen replied the 301 fund and Auditor Williams said the money was there if it's needed. Manager Allen stated that currently Fund #301 has \$1,800,000 unencumbered in it and there's still money coming in. It was originally \$300,000 for U.S. 52 and \$75,000 for resurfacing and those figures were flipped when we received the grant, but we could still have all the resurfacing done and still do U.S. 52. Mayor Kalb asked about Grandview and Manager Allen stated that he would need to get it designed and Mayor Kalb said that at one time it there was a design. Auditor Williams stated that he wouldn't feel comfortable writing a check for \$150,000 when Council only approved \$25,000.

Councilman Johnson moved that legislation be prepared to pay for the increased amount required by ODOT.

Councilman Meadows asked if there was a deadline and if this needed to be an emergency legislation and Manager Allen said that he believed it could be done with a phone call and then let legislation go through on its own but he will let them know for sure.

**There were no further questions or comments. VOTE: 5 Ayes – 0 Nays**

**5. Water Pitchers**

Mayor Kalb suggested doing away with the Water pitchers because they are old and recommended having bottled water for all of Council. Councilman Kevin W. Johnson said everyone should just bring their own. Mayor Kalb said that at one time there was comments about City Council not trusting the City water and the Manager replied that you can trust the City water but you can't trust the water that runs through the corroded pipes in the building. Mayor Kalb was the only one that wanted the bottled water and the consensus was to provide everyone with a cup.

**6. City Clerks request to attend Tree City USA award ceremony**

Mayor Kalb said there were some emails about the Clerk attending the Tree City USA award program that the city was set to receive this year. He asked if this was entirely proper and if it was legal. Councilman Kevin W. Johnson said that the Clerk was not asking for reconspence and this will be her third year accepting the award. Councilwoman Aeh ask if she would collect her salary for that day to go out of town to a meeting. Councilman Kevin W. Johnson said that she's representing Council because no one else can attend. Mrs. Aeh stated that she sat on Emergency Management for over 10 years and when she attended those meetings she was off the clock. Mr. Johnson said that was then and this is now. Mrs. Aeh said all she had to go on was the way that it used to be and all of the sudden we have a City Clerk that's attending meetings and getting paid while she's there and going out of town and getting paid while she's there, it should be discussed. Manager Allen stated that someone from the City needs to go and he doesn't want to go.

Councilman Meadows motioned to compensate the Clerk while she attends the awards ceremony.

**VOTE: 4 Ayes – 1 Nays (J. Aeh)**

**After the vote, the conversation continued.**

Mayor Kalb stated that he believed Councilwoman Aeh had a legitimate question as far as compensation and would she be compensated because the statute says that there would be no compensation for attending the meeting and he believed this to be a question for Solicitor Haas. Manager Allen stated that we would not be compensating the volunteers on the Tree Commission but if a City Employees goes such as the Service Director or the City Manager they would be compensated and there's no difference, she's a City Employee and should be compensated. There's a good group of volunteers putting effort into having a Tree Commission and doing things that a lot of cities don't and he doesn't see any reason to discourage the activities that they were doing. He was short staffed and he doesn't have people to go and he has more important things for the Service Director to do and if the Clerk wants to go, he's perfectly fine with it.

The meeting adjourned at 8:20 p.m. on a motion by Councilman Kevin W. Johnson.

Submitted by: *Diana Ratliff* – City Clerk