

**MINUTES – REGULAR SESSION**

**PORTSMOUTH CITY COUNCIL MEETING**

Monday April 28, 2014

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday April 28, 2014 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Mayor Steve Sturgill 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 (Vice Mayor) | 1 <sup>st</sup> Ward                   |
| Rich Saddler                  | 2 <sup>nd</sup> Ward                   |
| Kevin E. Johnson              | 3 <sup>rd</sup> Ward                   |
| Jim Kalb                      | 4 <sup>th</sup> Ward                   |
| Gene Meadows                  | 5 <sup>th</sup> Ward ( <b>Absent</b> ) |
| Steve Sturgill (Mayor)        | 6 <sup>th</sup> Ward                   |

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

Councilman Gene Meadow's absence was excused on a motion by Vice Mayor Johnson.

The motion carried viva voce: **VOTE: ayes 5 – nays 0**

Council dispensed with the reading of the Journal for the regular session of April 14, 2014 on a motion by Vice Mayor Johnson.

Vice Mayor Johnson moved to add a Resolution to the Agenda as item 7i; the City of Portsmouth, Ohio, hereby petitions the Ohio Department of Transportation to immediately initiate the process for decertifying Chillicothe Street (U.S. Highway 23 Business Route) between 2<sup>nd</sup> and 10<sup>th</sup> streets as a portion of U.S. 23.

**Item added  
to the  
agenda**

The motion carried viva voce. **VOTE: ayes 5 – nays 0**

There was no Public Hearing.

**STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA**

**Jane Murray – 1920 Dorman Drive** – She encouraged Council to take a look at a different type of storm water sewage system, one that will be able to handle the overflow problem. She stated that other communities implement a storm water fee which takes a little more upfront work but would be worth in the future.

**LEGISLATION**

The clerk gave a **third reading**, to an Ordinance authorizing the fund transfer of \$40,000 from Fund No. 217.223 OCJS Cruisers to Fund No. 225 Law Enforcement Trust to reimburse Fund No. 225 for the advance that was made from Fund No. 225 to purchase Police Vehicles through a grant award

**Ord. #14-14  
Fund  
Transfer  
from  
Cruisers to  
Fund #225**

Vice Mayor Johnson moved 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 **third reading**, to an Ordinance authorizing the fund transfer of \$3,260.33 from Fund No. 217.223.5901 OCJS Cruisers to Fund No. 214 Police Donations to reimburse Fund No. 214 for a purchase that was wrongfully paid in 2013 from Fund No. 214.

**Ord. #15-14  
Fund  
Transfer  
from  
Cruisers to  
Fund #214**

Vice Mayor Johnson moved 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 **third reading**, to an Ordinance to ratify a Memorandum of Understanding entered into the 25<sup>th</sup> day of February, 2014, by and between Derek K. Allen, City Manager of the City of Portsmouth, and the Fraternal Order of Police, Scioto Lodge #33 representing the supervisor and patrol officers bargaining units of the Portsmouth Police Department dealing with Article 34 Section B and the “take home cruiser” program.

**Ord. #16-14  
Memorandum  
of  
Understanding  
Take Home  
Cruisers**

Vice Mayor Johnson moved that this Ordinance be passed.

Councilman Kevin E. Johnson asked the City Manager to review the proposed legislation to bring the citizens up to date as to why this is being requested. City Manager Allen stated that the Collective Bargaining agreement didn't allow for drug testing, so in exchange and to comply with drug testing the City will implement the "take home cruisers" program.

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

The clerk gave a **second reading**, to an Ordinance authorizing the Public Records Policy for the City of Portsmouth be officially adopted to satisfy the request by Wendy McGoon of the State of Ohio Auditor's Office. (Exhibit A attached).

Vice Mayor Johnson moved that this constitute a second reading and motioned to amend Section 7 as "Public Records Commission" and the former Section 7 "Compliance" will now be Section 8.

**VOTE: 5 ayes – 0 nays**

Vice Mayor Johnson moved that this amended language 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 to amend the Codified Ordinances of the City of Portsmouth, Ohio by enactment of a supplemental section to Chapter 339 to prohibit the use of Jake brakes and other similar engine retarders.

Vice Mayor Johnson moved that this constitute a second reading.

Councilman Saddler abstained from the conversation and vote.

There were no questions or comments. The role was called. **VOTE: 4 ayes – 0 nays – 1 abstain (R. Saddler), a second reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the City Auditor to transfer funds in the amount of \$8,926.44 from the General Fund No. 101 to Playground Trust Fund No. 805 to correct amounts incorrectly paid into the General Fund.

Vice Mayor Johnson moved that the three reading rule be waived.

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

Vice Mayor Johnson moved 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**, to an Ordinance authorizing the amendment of Chapter 941 of the Codified Ordinances of the City of Portsmouth, Ohio, entitled Garbage, Rubbish and Weeds, Section 941.15(a) (b) (c) and removing (d) - Rates for Residential Collection and Disposal to increase Sanitation rates in the City of Portsmouth

Vice Mayor Johnson moved 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 a Resolution authorizing cooperative agreement for construction of the sewer system improvements projects between the City of Portsmouth and the Ohio Water Development Authority.

Vice Mayor Johnson moved that this constitute a first reading and asked for clarification regarding the "Term Sheet" that was attached. The loan amounts differ, the written amount is: Three Million, Four Hundred Nineteen Thousand, Nine Hundred Fifty Dollar and the numbered amount is: \$3,929,250 for a difference of \$509,300.

City Manager Allen stated that he would research it to find the correct figure.

Vice Mayor Johnson motion that this legislation be tabled until the next meeting.

Ord. #17-14  
Transfer  
funds from  
General  
Fund to  
Playground  
trust Fund

Tabled until  
5-12-14

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

The clerk gave a **first reading**, to a Resolution petitioning the Ohio Department of Transportation to decertify Chillicothe Street as a portion of U.S. 23.

Vice Mayor Johnson moved that this Resolution be adopted.

Councilman Saddler abstained from the conversation and vote.

Vice Mayor Johnson stated that the issue had been discussed with the Ohio Valley Regional Development Commission on two occasions, February 6<sup>th</sup> and April 24<sup>th</sup> and would be submitted to the OVRDC Scioto County Caucus on May 8, 2014.

Solicitor Haas advised that this legislation did not come through his office and petitioning ODOT will not accomplish the decertification. There is an application process that ODOT will have to file with AASHTO for approval.

Vice Mayor Johnson stated the issue had been approved at the previous Conference Agenda after being amended by Councilman Saddler. As for filing with AASHTO for approval, OVRDC will be asked to manager the process via the ODOT..

There were no questions or comments. The role was called. **VOTE: 4 ayes – 0 nays – 1 Abstain (R. Saddler), the Resolution was Adopted.**

**STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA**

There was no one present who 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 from the Auditor via e-mail on April 21, 2014, the following Combined MTD/YTD reports for the period ending March 31, 2014: Expense Report, Revenue Report, Fund Report and Appropriations Transfer.
- 2. Prepared the Proclamation proclaiming April 22, 2014 as Arbor Day in the City of Portsmouth and attended the Arbor Day ceremony.
- 3. Prepared the Proclamation proclaiming the month of May Poppy Month.

The City Clerk’s report was received, filed and made part of the record, on a motion by Vice Mayor Johnson.

**City Manager’s Report** – Manager Allen reported that he had sent his Manager’s report out with the packets but wanted to point out that the air conditioner at the Health Department that was discussed during the Capital Improvement meeting has failed and they will need a new air conditioner.

The City Manager’s report was received, filed and made part of the record, on a motion by Vice Mayor Johnson.

**Mayor’s Report** – Mayor Sturgill had no report.

**MISCELLANEOUS BUSINESS FROM CITY COUNCIL**

**1<sup>st</sup> Ward -** Vice Mayor Johnson reported the following:

- 1. He attended the following meetings and events:
  - a. OVRDC meeting and training that was provided by John Hemmings.
  - b. Main Street Portsmouth.
  - c. Portsmouth-Scioto County Visitors Bureau Board of Trustees.
  - d. Southern Ohio Port Authority Board.
  - e. Business after Hours at PNC Bank.
  - f. Arbor Day celebration on the Roy Rogers Esplanade with members of the Shade Tree Commission, City Clerk Ratliff and Mayor Sturgill.
- 2. He met with new owners Charles Canter and Sharon Halcome of 604 2<sup>nd</sup> Street and viewed their construction as well as their adjacent property on Court Street of which they will need City approval in the future.
- 3. He received feedback from his ward and other wards regarding road repair and paving and recommended the following: Waller Street between 20<sup>th</sup> and 24<sup>th</sup> Streets; deep hole at a utility cover and missing pavement on Richardson Road; small utility cover missing at 630 2<sup>nd</sup> Street; 3<sup>rd</sup> & Market and 3<sup>rd</sup> & Jefferson; hole in the back portion of the 7<sup>th</sup> Street Parking lot.

Res. #05-14  
Petition for  
Decertification  
of a portion of  
US #23  
Chillicothe St

4. He addressed the financial aspects of an article in the Daily Times and quoted an article from March 12, 2014 where the City Manager discussed contract negotiations and was quoted as saying “I got nothing to trade, I got nothing to offer. We are spent”. He doesn’t know how more blunt he could have been concerning the severity of the financial situation. He added that the City Manager has made numerous proposals to correct and improve upon our numerous financial issues and we need to listen to our City Manager. Also in the March 12, 2014 article the City Manager was quoted as stating that “he does not know how the city can fund 88 police department and fire department employees”. Vice Mayor Johnson added that he and Mayor Sturgill have discussed proposing to Council and consequently the voters in November, that Section 87 and 89, requiring minimum staffing in the fire and police departments be rescinded. He met with Union President Tim Stewart of the Fraternal Order of Police and had a constructive conversation in which they did not agree and he shared via email with Officer Stewart a study based on a comparably sized city and that the average department size would have been 28. He concluded that he provided Officer Stewart with documentation that the charter amendment of 2011, increasing the income tax from 1.4% to 2%, with the 0.6% increase dedicated to the fire and police departments, was not written in any way, shape or form to suggest or support minimum staffing for these departments.

**2<sup>nd</sup> Ward** – Councilman Saddler reported the following:

1. He reminded everyone of the Community Flea Market on May 3<sup>rd</sup> at Spartan Stadium.
2. He stated that there was a quote in the Daily Times from him that he needed to clear up with the City Manager and he did so before the meeting.
3. He commented on a statement from the emails and wanted to clarify that he apparently was misunderstood by Mayor Sturgill and Vice Mayor Johnson on his stance with the 44/44 Police and Fire. He fully supports the 44/44 and he added, that we need to increase that number but unfortunately the budget doesn’t allot for that increase.

**3<sup>rd</sup> Ward** – Councilman Kevin E. Johnson reported the following:

1. He thanked all those involved in the cleanup around the City. He has noticed the mowing and general overall look of the City is better.
2. He addressed a comment in the Daily Times that stated “Kevin E. Johnson is on the fence” and would like to clarify that comment. He stated that there is a difference in being “on the fence” and “taking time to reflect”, he supports our leaders and believes they are doing a great job. He asked that in the future the media contact him for a quote before printing something that is not correct.

**4<sup>th</sup> Ward** – Councilman Kalb stated that he was disappointed, ashamed and mad about the improper and possibly illegal collaboration of a few Council members working secretly to manipulate the votes of Council on upcoming issues. He believes that all of the genuine efforts and hard work that this Council has done as a whole to earn the respect and trust of the Portsmouth and Scioto County residents has been destroyed by the actions of a few. His opinion was that these acts were not a result of ignorance of the rules, but of certain individuals thinking they were the only ones with enough intelligence to make decisions that ultimately affect all of those living in and around our city.

**5<sup>th</sup> Ward** – Councilman Meadows was absent.

**6<sup>th</sup> Ward** – Councilman Sturgill reported that he continues to forward his Wards concerns onto the City Manager.

**City Solicitor** – Solicitor Haas reported that as the Solicitor for the City of Portsmouth, he believes that it is his obligation to represent the interest of the citizens of Portsmouth first and foremost. Normally that obligation and the obligation to advise City Council align and are not the source of any consternation on his part. However, due to recent actions by several member of Portsmouth’s City Council in holding meetings in violation of the Open Meetings Act, the destruction of public records in violation of Ohio Sunshine Laws, the refusal to comply with public records request, violating the City Charter by meeting with Department Heads and employees in some instances without the knowledge of the City Manager and in other instances in direct conflict with a request by the City Manager not to do so, has created a situation in which he has witnessed the destruction of the City Manager’s credibility within the ranks of City employees. The circulation of emails has renewed a lack of trust in Council that he believed was on the mend and he is concerned that as the matter proceeds, the damage certain members of Council caused may be irreparable.

He continued by saying that since the City Manager has come on board, his office has been inundated with work from Council on items having absolutely nothing to do with the items of concern and identified to the City Manager during his interview process. The City Manager has tried to forge ahead and on a daily basis has requested legal opinions from his office on matters ranging from building collapses, employee issues, contracts, health insurance issues and the list goes on and on. It is unfortunate that the secret actions of Council that came to light in the 100 plus pages of emails provided in the public records request has undermined the authority of the City Manager and he implored Council to let the City Manager do his job and stop meeting with Department Heads.

He concluded with the fact that Council has placed his office in an untenable position, to that which

he cannot assist Council on the public records requests because the subject of the requests deals with the attempt to eliminate his position and to place city's legal counsel under the control/power of City Council. With all that said, he placed City Council on notice that he would not be providing legal advice on these issues and that Council would need to hire outside counsel.

**City Auditor** – Auditor Williams stated that he feels similar to the Solicitor as his job too is being discussed. He felt that the first three months of this year the City was moving in a positive direction and improving. He believes that Council should let the City Manager do his job.

City Manager Allen asked to clarify some of the comments made at the table and was given the floor. With regard to Vice Mayor Johnson's report commenting on quotes that he had made in an earlier statement to the Daily Times about the city not being able to afford the 88 positions was taken out of context by some members of Council, stating that affording those positions was why he had come up with cutting the income tax credit for those living and working in the two jurisdictions. He stated that there had been upheaval in the past week and he viewed it as his ability to manage the work force had been seriously impaired and he questioned why if he was hired to manage the city was he not included in the discussions with employees. He concluded by stating respectfully that the Councilmen are his boss and that he will continue to do his very best for the City of Portsmouth, however, he does not want things that he says to be twisted and does not appreciate the fact that things are going on that he is not aware of and not included in.

Councilman Kalb also asked to speak again and asked the Solicitor since he would not be representing them (Council) on the public records requests, would it be the City Manager's job to find outside representation and Solicitor Haas replied that it is the job of Council.

Councilmen Rich Saddler and Councilmen Kevin E. Johnson both offered a vote of confidence for the job Manager Allen has done since beginning with the City four months ago.

The meeting adjourned at approximately 7:00 p.m. on a motion by Vice Mayor Johnson.

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City Clerk

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Mayor