

**MINUTES – REGULAR SESSION**

**PORTSMOUTH CITY COUNCIL MEETING**  
 Monday May 23, 2016  
 6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday May 23, 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 <sup>st</sup> Ward
Jo Ann Aeh	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
Thomas K. Lowe	6 <sup>th</sup> Ward

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

Council dispensed with the reading of the Journal for the regular session of May 9, 2016 on a motion by Councilman Kevin E. Johnson. The motion carried viva voce: **VOTE: ayes 6 – nays 0.**

There was no Public Hearing

**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 **third reading**, to an Ordinance authorizing the City Manager of the City of Portsmouth to enter into a five (5) year non-transferrable lease with E-Flow Services, LLC, for three (3) distinct described areas of City property for a fenced in sitting/patio area for its patrons and for ingress and egress to the building beginning upon the date of execution of the Lease Agreement (Exhibit 1) and renewal shall be automatic at a cost of five hundred dollars (\$500.00) per annum.

**Ord. #30-16**  
**Lease at**  
**546 2<sup>nd</sup>**  
**Street Tim**  
**Wolfe and**  
**E-Flow**  
**Services,**  
**LLC**

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **third reading**, to an Ordinance authorizing the City Manager of the City of Portsmouth to enter into a five (5) year non-transferrable lease with E-Flow Services, LLC, for certain City owned property on the west side of Court Street between the property commonly known as 546 Second Street and 113 Court Street in order to concrete the area along with the lots at 113 and 111 Court Street for parking and finished access to the rear of the buildings facing Second Street beginning upon the date of execution of the Lease Agreement (Exhibit 1) and renewal shall be automatic at a cost of one dollar (\$1.00) per annum.

**Ord. #31-16**  
**Lease at**  
**Alley 111 &**  
**113 Court**  
**St. Tim**  
**Wolfe and**  
**E-Flow**  
**Services,**

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

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, the Ordinance was passed.**

The clerk gave a **second reading**, to an Ordinance authorizing the transfer of \$11,109.19 from Unclaimed Monies Fund No. 803 to General Fund No. 101 accumulated for years 2011 and 2012.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance to submit to the electors of the City of Portsmouth, Ohio, at the General Election to be held on the 8th day of November, 2016 a proposed renewal tax levy for the Flood Defense System of the City of Portsmouth, Ohio, after declaring the amount of taxes that may be raised by levy at the maximum rate authorized by law without a vote of the electors to be insufficient.

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

Councilman Lowe said that he had spoken with numerous people in his Ward regarding this legislation and Sciotoville (6<sup>th</sup> Ward) does not have a flood wall or gates and the people of his Ward were concerned that they were paying for something and not getting the use of it and that the people who actually need it were not actually paying for it. He added that it needed to be put forth to the voters to determine who would pay for it. Mayor Kalb stated that moving this legislation forward would put it before the voters. Mr. Lowe said he meant that if you don't live in the flood plain then you shouldn't have to pay for it.

Councilman Kevin E. Johnson said that he wasn't real easy with the legislation but believed that it was a situation that if it wasn't passed then it would not be on the ballot and there wasn't a choice but to run it through. Mayor Kalb said that this legislation was Council putting it on the ballot and it would be subject to voter approval for passage and in response to Councilman Lowe's comment he understood what he was saying as he lives above the flood plain too and also paid that tax, but viewed it as a tax because he lived in the City of Portsmouth. He said that the flood wall wasn't necessarily benefiting his location but Portsmouth as a whole.

There were no further questions or comments. **The role was called. VOTE: 5 ayes – 1 nays (T.K. Lowe), a first reading was declared.**

The clerk gave a **second reading**, to an Ordinance authorizing approval of the preliminary legislation submitted by the Ohio Department of Transportation (ODOT) proposing to resurface a portion of U.S. 52 Westbound within the City of Portsmouth.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance repealing Chapter 909 – Poles and Wires of the Codified Ordinances of the City of Portsmouth, Ohio.

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

Mayor Kalb said for informational purposes that the following 7 items were language cleanups in the codified ordinances, changing the term Mayor to City Manager. Councilman Kevin W. Johnson stated that some of these were in fact repeals because they were ancient and don't apply nor utilized any longer.

There were no further questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance repealing Chapter 911 – Occupational Safety Rules of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance amending Section 933.01 – Utility Deposit Required of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance amending Section 933.02 - Billing for City Utilities Service of the Codified Ordinances of the City of Portsmouth Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance amending Section 933.05 – Billing Procedures; Delinquent Accounts of the Codified Ordinances of the City of Portsmouth Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance amending Section 941.02 – Rules and Regulations of Commissioner of Health and Mayor of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **second reading**, to an Ordinance amending Section 941.06 – Rules, Regulations, Powers and Duties of the Mayor of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a second reading was declared.**

The clerk gave a **first reading**, to an Ordinance amending Section 903.02 – Application and Issuance; Security of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance amending Section 907.02 – Materials of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance amending Section 941.07 – Sanitation Code Enforcement Officer of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance amending Section 941.20 – Weeds, Grass, Vines, Brush and Shrubbery; Maintenance of the Codified Ordinances of the City of Portsmouth, Ohio.

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

Councilman Kevin E. Johnson requested that the City Manager review the legislation and explain the changes as he had some of the resident's from the Third Ward present and they have had issues with weeds. Manager Allen stated that the ordinance changes the violation height from 10 inches to 6 inches and changes the responsibilities from the Mayor to the City Manager. It also eliminated the way the ordinance was written as there were only certain days of the month in which violation notices were published in the newspaper and those were removed. The fees were changed for mowing lots from \$100 standard lot to a cost per hour. Mr. Johnson ask if there was an abandoned house in the neighborhood and the weeds had grown up, what would be the course of action an individual should take, should they contact their Councilperson or the City Manager's office. Manager Allen said that they could call his office, the Public Works Director and in some instances they should call the Health Department and that would get the process started.

Councilman Kevin W. Johnson stated that the Manager indicated that there were previous fees of \$100 for a standard lot, he said it was also \$75.00 for disposing and \$100 for administrative and that was all changed to a cost of labor of \$200.00 for the first hour or a portion thereof, and then \$100.00 thereafter. Mayor Kalb said one of the important changes was the length of the grass as a violation from 10 inches down to 6 inches because by the time it got to 10 inches and the violation was mailed, there's due process time and by the time the grass actually got cut it could be over 2 foot tall.

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance amending Sections 945.01 – Responsibility of City Manager; 945.02 - List of City Parks; 945.03 – General Rules; 945.04 – Hours of Operation; and 945.99 - Penalties and repealing Sections 945.05 – Animals Running at Large; 945.06 – Hitching Animals to Trees; 945.07 – Use of Vehicles and 945.08 – Sale of Merchandise of the Codified Ordinances of the City of Portsmouth, Ohio.

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

Councilman Kevin W. Johnson stated that there had been a number of prohibitions for our Parks and some of it was new and he encouraged people to review the legislation. He read some of the changes; children being under the age of 12 shall be accompanied by an adult; smoking was prohibited within 25 feet of playground; some of the items we assumed was already in an Ordinance but they were not codified. Councilman Meadows asked why we were prohibiting the use of metal detectors in Parks and Manager Allen replied that if someone were to go through with a metal detector and found something, dug a hole but didn't fix it, and someone stepped in the hole that wasn't repaired, they would get hurt and we don't want that. Most places prohibit the use of metal detectors because you don't want holes in the Parks and don't want the Park all torn up because someone went digging.

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance amending Section 947.02 – Responsibility of Service Director of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance amending Section 947.03 – Use of Stadiums and Parks; Permit required of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

The clerk gave a **first reading**, to an Ordinance amending Section 947.04 – Application for Permit of the Codified Ordinances of the City of Portsmouth, Ohio.

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

There were no questions or comments. **The role was called. VOTE: 6 ayes – 0 nays, a first reading was declared.**

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

**Nicholas Basham – County Road #26-Ironton, Ohio** – He reminded Council that he was previous Councilman within the City of Portsmouth and that he still cared about the City. His roots run deep as his Great-Great Grandfather was one of the founding members of the City and he had another relative that was on City Council that secured the money to build a library in the City and his parents were from Portsmouth. He kept up with the activities within the City through the Daily Times newspaper. He said that it seemed that things had calmed down and there was a lot less drama, but was horrified when he read the newspaper article about the floodwall certification or lack thereof. He said that when he first got on Council 2009, they had to address the certification because it needed taken care of and they knew New Boston was using AMEC to certify their area of the floodwall; it's all the same floodwall because it's all connected even though it's two separate Municipalities. He was at a loss as to why the City of Portsmouth had to use a different company than what New Boston used. A former Mayor and her administration really flubbed on that one and hired a local engineering company and he went on record back then that he didn't think the firm was big enough to handle that job and he hated to play the "I told you so game" but it happened time and time again. The company was used and the job didn't get finished and even though that Mayor was no longer in office, thanks to the citizens, we've had to go back and fix the problems and City Council hired AMEC to come in and take care of it so that it could be certified. He had thought about what Mr. Lowe had said about living in Sciotoville and not having a wall and said that was where a lot of his family lived and they don't have a wall but the cost of rebuilding the city if it was flooded would be tremendous and all of the Wards would suffer whether they were protected or not. When he heard the City was still not in compliance and was still trying to get certified, he knew as well as other members of Council that the firm wasn't going to be able to handle it. It appeared that the local firm was unwilling to work with AMEC and the flood wall was still not certified and still all of these problems. He commented that "the Queen of Dorman" showed up and it concerned him that some of Council was listening to some of the things being said and they were not checking the records or facts at the cost that some people who keep showing up for Council was incurring in the city. He stated that he was still a property owner within the City and he cared about the City and added that one of the things he learned from being on City Council was that some people believed that if it was said in this room,

it was the truth whether it's factual, scientific or accurate, because it was said in Council Chambers, suddenly it was real, but it wasn't always real. He encouraged Council to check their facts and due diligence, because of some bad decisions, it had cost the City a lot of money and he hoped that Council could solve the problem.

**MISCELLANEOUS BUSINESS AND REPORTS:**

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

1. She attended the Main Street Portsmouth Board meeting and previously passed along to Council the minutes and financial reports from April, along with the approved grants for the following:
  - Ghost in the Attic – Roof
  - Portsmouth Cement & Lime – Roof (tuck & Point)
  - Journey within – Windows
  - Brain Freeze – Doors
  - Sandy Wilburn Realtor - Exterior paint
2. She had been working with YEI to set up new email accounts for each Councilperson.
3. She received from the Southern Ohio Museum a thank you note regarding the contribution from the Hotel/Motel Income Tax.
4. She received on May 20, 2016 the franchise fee from Time Warner Cable in the amount of \$55,535.51 and deposited in the Auditor's office the same day.

Time Warner  
Cable  
Franchise  
Fee

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 6 – 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 said that Council received monthly statistics but Engineering was not included and those will be given out later.
3. He reviewed the collapse of the sewer on 3<sup>rd</sup> Street and said the project should be done by May 25<sup>th</sup>. Emergency legislation would be needed as the amount was greater than \$50,000.

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 6 – nays 0.**

**Mayor's Report** – Mayor Kalb had no report.

**City Solicitor** – Solicitor Haas reported the following:

1. He said that the Police and Fire pension fund meeting was scheduled for May 24<sup>th</sup> and that Auditor Williams would be in attendance to get to the bottom of the situation.
2. He thanked Mrs. Ratliff for getting the e-mail addresses set up for Councilmembers.

The City 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 6 – nays 0.**

**Auditor Williams** – Auditor Williams reported the following:

1. He reviewed his written report that he had given to Council and reviewed the report.
2. The General Fund for April was \$990,635 which was \$9,597 more than last year in the same month and the accumulated amount compared to last year was \$558,105 and of that amount \$166,245 was from the new tax revenue. Total collection included both General and Capital was \$1,136,115 which -\$18,085 less than last year and \$571,000 higher than last year accumulative. Major Fund Balances – General Fund \$307,546, Streets, \$297,845, Water - \$185,707, Sewer -\$1,206,316, Sanitation \$616,000 and Insurance \$429,032.

Councilman Kevin W. Johnson stated it was helpful to receive a comparison from last year at the same time to this year's report and he would like the same information for Major Operating Funds #101 - #705. He said that it was interesting to review these reports and witness the progression from the previous year. Auditor Williams said that wouldn't be a problem and appreciated the feedback, because generally he can customize the report to give Council what they requested. Mayor Kalb ask about the Water Department being in a deficit and Auditor Williams replied that they had been up and down and this was one of their down months. Manager Allen stated that there was money in Fund #603 because last year they had \$500,000 of debt drop off the books and at the end of last year they moved some money over into the operating fund and will do it again. He added that Fund #603 had \$947,000 and when you look at that compared to the other negative funds, it will be close. Sewer was at -\$1,200,000 but they hadn't finished collecting the first month at the new rate and once that's received, they will see what happens. Auditor Williams stated that the Manager had projected mid 2017 before Sewer would be back in positive balance.

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 6 – nays 0.**

**MISCELLANEOUS BUSINESS FROM CITY COUNCIL**

**1<sup>st</sup> Ward** – Councilman Kevin W. Johnson reported the following:

1. He appreciated the reason behind the new email accounts for City Council members. He understood Council's frustration, email wise. He knew of at least one other Council member that had the same complaint in that they were not allowed to create their own password. Solicitor Haas said that they could change their password but that they would need to call YEI to set up a new password. Clerk Ratliff said that under options there was a setting "Change password" and you could change it there and if that didn't work, then call YEI.
2. He introduced his brother Ken Wadsworth from Fairmont, WV and he appreciated him coming to the Council meeting.
3. He stated that he would not be able to attend the next meeting as he would be attending his "50<sup>th</sup>" High School Class Reunion.
4. He attended Portsmouth High Schools quarterly meeting which he always found fascinating and was impressed with the teachers.
5. He also attended the Southern Ohio Port Authority meeting.
6. He said that when the City came to an agreement with Shawnee State University to allow them to close 3<sup>rd</sup> Street, part of that agreement was that they would put up money to help Portsmouth Elementary School with a cross walk on the far end of 4<sup>th</sup> Street closest to Offnere Street. The crosswalk was painted with good paint and on each side of them were very bright signs warning people of the crosswalk. Unfortunately that was the only one that's around there, however there was one in the middle of the block for SSU housing but was poorly marked with no signage. He said the same thing applied on Gallia Street between Portsmouth Elementary and Portsmouth High School and the library. There were a couple of mid-block crosswalks but you wouldn't know they were there because the paint was gone and there was no signage. He requested that the next time the City Manager met with Shawnee State to ask if there was a way that they could improve the 4<sup>th</sup> Street and Gallia Street crosswalk.

**2<sup>nd</sup> Ward** – Councilwoman Aeh had the following report:

1. She said that she had several animal and solid waste complaints which were turned into the appropriate departments.

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

1. He thanked the City Manager for attending to a residential complaint and cleaning up of garbage that was dumped. He said several of the neighbors requested that he extend their gratitude to the City Manager and to tell him "He's the Man".
2. He said there was another complaint from a citizen in the First Ward regarding a tree that had grown over a house and he will forward that thread of emails to Councilman Kevin W. Johnson.
3. He acknowledged former Mayor Murray and former Councilman Nicholas Basham that were both in attendance and he thanked the many visitors that were present for the meeting.

**4<sup>th</sup> Ward** – Councilman Kalb had no report.

**5<sup>th</sup> Ward** – Councilman Meadows reported the following:

1. He reported a complaint that was located in the First Ward and said the alley between Court and Market Streets and 5<sup>th</sup> & 6<sup>th</sup> Streets. He said he wasn't sure if the resident's in one of the homes didn't get a notice of the change in the garbage service but it looked like a dumping station.
2. He said that the curb corner areas around the Court House, Court Street, 5<sup>th</sup> & 6<sup>th</sup> Street and around the Counseling Center need painted yellow as people were parking where they shouldn't be parking and it was making for dangerous conditions.

**6<sup>th</sup> Ward** – Councilman Lowe reported the following:

1. He reported that a guardrail was torn up on Route 52 by the salt pile.
2. He reported Fitzgerald Logging Company was doing clear cutting without permits and the Company doesn't want to play by the rules.
3. He thanked Chris Smith, Andy Gedeon and Lou from the Health Department for doing clean up at Mrs. Gerard's property on Dunlap Road, she was having snake problems.
4. He reported a "Bat" problem in the vicinity of Eastern Avenue, Farney, Oak and Woodland.

The meeting adjourned at approximately 6:50 p.m. on a motion by Councilman Kevin E. Johnson.

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City Clerk

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Mayor