

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

Thursday June 6, 2013

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on, Thursday June 6, 2013 at 6:00 p.m., in the Council Chambers of the Municipal Building.

President of Council 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:

Rich Saddler	2 nd Ward
Kevin E. Johnson	3 rd Ward
Jim Kalb	4 th Ward
Gene Meadows	5 th Ward
Steve Sturgill	6 th Ward

Also present was Mayor, David A. Malone, City Solicitor, John Haas and City Auditor, M. Trent Williams, City Clerk, Diana Ratliff.

Councilman Johnson's absence was excused on a motion by Councilman Saddler.

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

Council dispensed with the reading of the Journal for the regular session of May 23, 2013, on a motion by Councilman Saddler.

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

PUBLIC HEARING

2014 Tax Budget

The President of Council declared the public hearing open at 6:02 p.m.

There being no one present who wished to address Council with regard to the 2014 Tax Budget, the President declared the hearing closed at 6:02 p.m.

STATEMENT OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

There was no one present who wished to address Council on any item on the agenda.

LEGISLATION

The clerk gave a **third reading**, to an Ordinance to submit to the electors of the City of Portsmouth, Ohio, at the General Election to be held on the 5th day of November, 2013, proposed amendments of Sections 31, 32, 41, 42 and 144 of the Charter of the City of Portsmouth, Ohio.

Councilman Kalb moved that this Ordinance be passed.

There were no further 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 amendment of Chapter 941 of the Codified Ordinances of the City of Portsmouth, Ohio, entitled Garbage, Rubbish and Weeds, Section 941.15(a), (b), (d) and (e) - Rates for Residential Collection and Disposal to increase Sanitation rates in the City of Portsmouth.

Councilman Kalb motioned that this constitute a second reading and stated he wasn't used to not having Kevin W. Johnson here to make the motions.

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

Ord #27-13
Charter
Amendments
Sections 31,
32, 41, 42,
144

The clerk gave a **second reading**, to an Ordinance authorizing the appropriation of \$40,000 from General Fund No. 101 to Fire Department Payroll/Union Line Item No. 101.223.5115 to cover potential overtime expenses for the remainder of 2013.

Councilman Kalb motioned that this constitute a second reading.

Mayor Malone commented on statements made in the past meetings regarding the balanced budget, the first statement was: “Council was presented a proposed budget earlier this year and was not made aware that not all the numbers were correct and wishes they had not been given a fake ideology and that the actual numbers needed would have been put into the budget process, he understands that the overtime money is needed and will support it but would like to make known that this is not an action of Council but a problem that Council has to address and fix”. The other comment was: “the budget presented was a smoke screen”. He stated that Council was presented a balanced budget and Council did have input into this budget. He added that during the budget process, cuts needed to be made to present a balanced budget and this was accomplished without any lay-offs. He has requested copies of the Audio for these meetings from the City Clerk and looks forward to making it clear that Council was informed of all the changes that were made and the reason behind the changes.

There were no further 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 submit to the electors of the City of Portsmouth, Ohio, at the General Election to be held on the 5th day of November, 2013, a proposed amendment of Section 6 of the Charter of the City of Portsmouth, Ohio.

Councilman Kalb motioned that this item be tabled.

Councilman Meadows asked Councilman Kalb for a reason to table at this point.

Solicitor Haas stated that once the motion to table has been put forth, there should be no discussion.

The role was called to table. **VOTE: 1 ayes (J. Kalb) – 4 nays, (K.E. Johnson, S. Sturgill, G. Meadows, R. Saddler), motion to table was defeated.**

Councilman Kalb motioned that this constitute a second reading.

Councilman Kalb provided some facts and figures for Council’s consideration. He stated that if everyone on Council received the benefit and worked at least 10 hours per week including their pay and minus the co-pay for insurance, the compensation would be about \$30.00 per hour if the family plan was in place and if the single plan was chosen it would be about \$11.50 per hour. These figures are based on a family policy at \$16,500 and a single plan at \$6,000. On an average, Councilmen spend about 15 hours per week on city related issues and the average compensation for that Councilman with a family plan would be about \$20.00 an hour and a single plan would be about \$7.50 per hour. He compared the Mayor’s and other Department Heads 40 hour work week with the payment plan, and compensation would be approximately \$36.00 per hour. He added that most employees on the back of a garbage truck with benefits make approximately \$20.00 per hour, in addition to this they get 3 weeks paid vacation which Council does not receive. The proposed salary increase of \$6,000 for the President of Council would make the compensation less than \$10.00 per hour if 10 hours a week were worked. In 1929 the Charter was drafted and the composers of that document and the voters considered their Councilmen important enough to pay them a decent wage and he believes that his contribution to helping Portsmouth move in a positive direction is more valuable than \$9.00 an hour. He concluded with the fact that 20 years ago he and other Councilpersons were removed from Council by a watch dog group for having the city paid benefit but was redeemed by the court system as nothing improper had taken place and all Councilpersons retained their positions. He was not arguing for himself but for those that have suffered the embarrassment of being accused of improprieties of having the Health benefit and also for future Council members who may want to enjoy this compensation for their service to the City.

Mayor Malone agreed with Councilman Kalb that the compensation should be more than what it was in 1929, however at this time the City is in a fiscal situation. He suggested to Council that since the Health insurance is currently by Ordinance, they could determine within themselves to save the City approximately \$80,000-\$100,000 a year by eliminating the Health insurance rather than putting this decision on the backs of the citizens. Council is the financial watch dog and approves budgets and this proposed Ordinance places a tug-of-war upon our citizens as they will have to vote “yes” for the salary increase and “no” for the insurance. Some comments he’s heard have been that they believe Council deserves a raise but not the insurance and if he were Council he would need to consider those comments made by the citizens.

Councilman Kalb reiterated that if Council and the voters pass this increase then the value of compensation would be less than in 1929.

Councilman Saddler stated that he doesn’t enroll in the City Health insurance, but this will help the fund that’s in a deficit right now along with other multiple deficits within our City. He believes this is a good thing for the City and doesn’t believe that it will pull people one way or the other when they go to the polls; it’s all in how it’s relayed to the public. Time will tell and we’ll see what happens.

Councilman Sturgill stated that we can play this several ways and that we've already started that game. He stated that we're giving the people the opportunity to vote if they want Council to receive a pay increase or to continue receiving the health benefit. He added that Council could debate all night on who spends the most hours on the job, but this vote will provide the citizens the opportunity to voice whether they want Council to have a reasonable wage and if not, then the insurance is there as compensation. If all of Council were to take the Health insurance plan it would cost the City approximately \$105,000 but if the increase takes affect it would only cost the City \$31,000, so there's a potential savings of \$70,000. He recalled the conversations over the last several months regarding the non-classified employees not receiving wage increases for years and this would be an opportunity to put money back into these other accounts. This is the message to all of those employees that we're serious about trying to find a way to make more money available for those people that go to work every day and if this makes it to the November ballot, he'll advocate for its passage as he believes that it make sense for the community.

Councilman Meadows stated that he takes the single health insurance plan and giving citizens the opportunity to vote one way or the other and making the decision about the elected Councilmen and how they are compensated is what this Country is about, but Council won't know until November 5th, 2013 how the citizens voted.

Councilman Kalb responded to the last couple of comments saying that he doesn't think it's a question of determining worth of the City Council and if you want to save money put the Department Heads and other Elected Officials on the ballot also and give the people the decision. He concluded that he doesn't understand just putting a portion to the vote of the citizens, if it's a matter of saving money.

Councilman Sturgill stated that he can define what he does as a Council Member and what the employees do every day for the city.

Mayor Malone stated that the whole point is not about compensation because the insurance is not a compensation it is a benefit. He reiterated that Council could make the decision on the insurance as opposed to putting it on the ballot and the savings could still be observed.

There were no further questions or comments. The role was called. **VOTE: 4 ayes (K.E. Johnson, S. Sturgill, G. Meadows, R. Saddler) – 1 nays (J. Kalb), a second reading was declared.**

The clerk gave a **first reading**, to an Ordinance authorizing the vacation of an alleyway located between the 2000 and 2100 blocks of Argonne Road and the west side of US 23 (Scioto Trail) and a portion of Argonne Road and Spring Lane as it now exists; and the relocation of Spring Lane, as requested by KDMC Ohio and more fully described in the attached legal descriptions, with the City of Portsmouth reserving all easements to this property.

Councilman Saddler motioned that this constitute a first reading.

Councilman Meadows stated that when it comes to the final reading, he's not sure what the outcome will be, and he knows that there are only a couple of alley ways and smaller streets compared to 3rd Street. He pointed out that he had asked a question of a KDMC representative at the last meeting and the reply was very vague. He added that he can't help but compare the ringer that Shawnee State University had to go through and when Council asked questions of them, answers were received. He doesn't think that it's too much to ask of KDMC to be willing to give Council answers when it comes to requesting to vacate streets and alleyways.

Councilman Kalb asked Council President Sturgill if Council could stray from the normal format and ask the representative from KDMC to answer the questions that Mr. Meadows referred.

Councilman Sturgill asked Councilman Meadows if there was a particular question.

Councilman Meadows replied that he had asked the representative about the number of jobs that they anticipate coming to the area as a result of the closure. He said they stated they didn't want to disclose any of this information due to competition. He added that he is aware of the competition and wasn't asking for secrets just what they anticipate their growth to be. He stated that even though this is just a small street and alleyways, the citizens that live in that area are just as important as 3rd Street was to the people that live around it.

Council President invited Mr. Harrison to reply.

Howard Harrison – Vice President of Facilities of KDMC – He said that he didn't understand the question as he thought the question from the previous meeting was "what were they building" and to that he replied that he didn't want to release that information due to competition. He understands the question now is "how many jobs does KDMC anticipate".

Councilman Meadows stated that he had also asked about the number of jobs and the answer was that it had not been determined. As long as KDMC has been doing this, he believes they would have some sort of estimate or percentage of jobs to be added.

Howard Harrison replied that he did not know the number of jobs that would be added. When buildings are constructed they are designed to include additional floors being added in the future and usually start with 2 floors and built upon as the need arises and can go up to 7 floors. He said he's not trying to be evasive, but as of right now it's just a master plan and they don't really know what they're buildings will be, but the long term goal in Portsmouth is to add onto the facility. They could add 10 or 100 jobs, but as of right now he could not answer. He recalled what the neighborhood looked like when they first started acquiring property and believes that they've changed the face of that neighborhood and added value to the community and it is KDMC intent to bring more jobs to KDMC Ohio.

Solicitor Haas pointed out that in that particular location, KDMC owns all the property around it and if it's not vacated they'll not be able to build on and develop the property.

Councilman Sturgill and Meadows both stated that was the best and most helpful answer they've heard.

Councilman Sturgill stated that the City wants to be good partners of local businesses and new job creators. He's heard over the past 16 months how Council is against business and growth, we've passed the Ordinance for Shawnee State to grow, and we just need to ask the right questions to get the answers we want.

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

The clerk gave a **first reading**, to an Ordinance authorizing the appropriation of \$25,000 from the unencumbered balance of CIP Fund No. 301 to begin actions to correct the road slippage on Oakland Boulevard in Sciotoville and declaring such an emergency. Consent Agenda

Councilman Kalb moved to suspend the 3 reading rule as part of the Consent Agenda.

The roll was called. **VOTE: ayes 5 – nays 0 The rule was suspended.**

Councilman Kalb motioned that this Ordinance be passed.

Councilman Meadows asks if the slippage has gotten any worse.

Public Service Director Bill Beaumont addressed Council stating that it had slipped about another foot.

Councilman Sturgill stated that many people have commented to him regarding the Consent Agenda and it's been diagnosed in the Press, but Council needs to be very careful with adding items as a Consent Agenda item. This road has approximately 120 foot of slippage and he believes a sewer line is also in jeopardy and if ever there's an emergency this would be classified as such and needs to be taken care of immediately. He's spoken with several people from that area and questioned when the road started slipping and why they hadn't notified him of the problem and they responded that it's been 2 years and the City had been notified but they didn't believe that anything would be done about it. He said it shocked him that someone would respond like that.

Mr. Beaumont stated that the area of slippage had been filled in with sand and gravel, and then asphalted. It held for about 6 months and people were driving on the road, however it began to slip again.

Councilman Sturgill stated that he's glad this matter is being addressed as there are other roads in the 6th Ward that need work as the asphalt is starting to come off.

Councilman Kalb asks Solicitor Haas about the Consent Agenda and stated that this could easily be considered an Emergency. He asks Mr. Haas if there were any way to differentiate between the Consent Agenda and an Emergency Ordinance.

Solicitor Haas stated that when it's listed as a Consent Agenda there needs to be a reason and this being an emergency is why it's listed as a Consent Agenda.

Councilman Kalb asked if there will be Ordinances in the future that will need to be listed as an Emergency Ordinance and not just as a Consent Agenda item.

Auditor Trent Williams said he could add to Mr. Haas' statement and that there are special conditions that go along with an Emergency Ordinance that a Consent Agenda item would not take care of. If it's a true emergency and in this case he considers this a true emergency rather than a Consent item because as he understands the Consent items are routine matters with a sense of urgency because of time. In a true emergency there are special conditions under the Ohio Revised Code that can by-pass bidding and Consent items do not have that weight to by-pass bidding. For example, if you have an item that is requiring equipment over \$50,000 and were passed as just a Consent item and not a emergency then it would still have to be bid out and would take two or three times advertising in the newspaper and the job still would not get done as an emergency. There is still a need for the Emergency designation in the future as well as Consent Agenda items.

Councilman Sturgill stated that was the second best response of the evening. He said the Consent Agenda was geared toward housekeeping items and things of that nature.

Solicitor Haas stated that if it's passed as an emergency, it will become effective immediately otherwise there might be a slight delay and suggested that this particular Ordinance probably should include the emergency wording.

Councilman Kalb moved to amend the Ordinance by adding the phrase "declared to be an emergency".

The roll was called. **VOTE: ayes 5 – nays 0 The Ordinance was amended.**

Councilman Kalb moved that the amended Ordinance be passed

Auditor Williams stated that there were problems in the past with items being listed as an emergency that weren't truly an emergency but needed to be passed quickly which is why the Consent Agenda was created. When the Council letters are written they need to include: The Department making the request, the reason for the request and if it's truly an emergency.

Solicitor Haas added that the Consent Agenda lets everyone know that it's probably going to pass whether or not it's an emergency.

Councilman Meadows asked Mr. Beaumont to state for the record his opinion of this Ordinance. Is this something that needs to be done right away and is it going to be detrimental to public safety.

Mr. Beaumont stated that he cannot determine as to when, but it will definitely get worse if left untreated and with all the rain it will get much worse. Mr. Beaumont and Community Development Director Tracy Shearer have been working with the Public Works Commission trying to get some help on this project, however they do not deem this an emergency until the road is closed.

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

The clerk gave a **first reading**, to a Resolution providing for the annual tax budget for municipal purposes for the year 2014.

Councilman Kalb moved that this resolution be adopted. He asks Auditor Williams if we're right on schedule with this budget.

Auditor Williams stated that in the past we've always given the resolution 3 readings so as to give ample time for people to look and ask questions about it. He commented that the revenues are stagnant from one year to the next and is not decreasing like property taxes. The budget shows that we're trying to take care of building maintenance and improvements and the debt listing is very good and there is only one outstanding bond that's down to \$1,400,000 which is very low as far as the City's outstanding debt. He encouraged everyone to contact their State Representative regarding getting the local government funding restored as this affects the local governments revenues. The revenues should be about \$13,000,000 instead of \$12,200,000 because of budget cuts the State is using this excess money to build is surpluses in the State Budget.

Councilman Kalb asks to remove his motion of adoption and motioned for a first reading.

Auditor Williams said we're still on schedule and have plenty of time to file with the County Auditor's office.

Councilman Sturgill stated that he is concerned about the budget and when a balanced budget is presented, they plan on adhering to that budget and he looks forward to future meetings with the new Finance Committee. He commented that the estate tax has been eliminated and it appears that since 2011 we've lost \$1,000,000 in estate tax funding and that would've been \$1,000,000 that would have been generated through income tax. He asked the Auditor what the budget was last year and if we're any further along.

Auditor Williams stated that it was \$12,200,000 but the City started out \$900,000 in the hole and had we started at a zero balance we would have had a \$900,000 end of the year balance. He stated that \$600,000 will not be there this year in local government funding, due to the cuts.

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

STATEMENT OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Robert Gambill – 3130 Michigan Avenue – He thanked the City Employees that came out for City Wide clean-up day; he believes about 16 tons of garbage was collected. He sent Council an e-mail outlining the properties around the city that are in dire need of attention, on that list was a house on 7th Street which he

commends Tracy Shearer Director of Community Development and the Engineers office for having that house torn down over night. He's noticed that citizens sometimes think they can't get something done when two or three years pass after telling the City that there's a problem and nothing gets resolved and sometimes the lines of communication are broken down. There are many abandoned homes throughout the City that have become vandalized and deemed undesirable and many of our long term senior citizens which live in neighborhoods that are close to these empty dilapidated houses, become scared to death that something is going to happen with these homes that appear ready to collapse or catch fire and which was the problem on 7th Street, it was ready to collapse and the power and gas had not been disconnected and this property was owned by a Bank. He provided Council some solutions to these problems as he has gone to 20 houses in 20 minutes and took pictures of these homes that are standing open and need to be closed up on an emergency basis. It will take several departments to accomplish this task and established a centralized clearinghouse of sorts for complaints, but a long term plan is needed for enforcing these code violations. For instance when there's a road slippage or a house that is standing open, the issue needs to be reported to one department. The City has accomplished quite a bit with the Rental Licensing program and the tearing down of houses, but all departments need to participate so that if the Police, Fire and Service Departments are out and they see a home that fits this category, they need to report it. The coordinator would need to maintain an EXCEL spreadsheet, updated on a daily basis as to what the problem was, what has been done and what department handled the problem. He suggested having a 15-30 minute meeting twice a week with all departments so that the City can stay focused on some of these problems. He suggested an intern through Shawnee State University, however he understands those have not met with good results or using some of the workers from the Municipal Court Probation Department to have some of these homes boarded up but equipment, supplies and materials would be needed. Homeowners that don't keep their properties up need to be brought to court and fined. He understands that the Health Department has hired a code enforcement officer to work 1 day every 2 weeks, but more are needed to work every day just on code violations and this might be accomplished through the Fire Department. He concluded that in the Spring of 2000 he came before Council with some of these same issues, with Air Conditioning units and copper being stolen from homes. During a City wide clean-up day in 2000, he and others cleaned up the East end and when they went back this year the problems were back again. These people need to be cited and made to clean up their property. We're seeing more and more young families leaving our City or not buying homes in the City and that's a problem.

MISCELLANEOUS BUSINESS AND REPORTS:

1. City Clerk's Report –

Oaths of Office:	Kirk Donges	Design and Review Board	May 23, 2013
	Joshua Justice	Sergeant of Police	June 4, 2013
	Steven Timberlake	Sergeant of Police	June 4, 2013

2. Received from the Auditor via e-mail, on May 29, 2013 the following reports for the period ending April 30, 2013.

Combined MTD/YTD Expense Report
 Combined MTD/YTD Revenue Report
 Combined MTD/YTD Fund Report
 MTD Bank Report

The Clerk's report was received, filed and made part of the record, on a motion by Councilman Meadows.

Mayor's Report – He reported that the City wide Clean-Up day went very well and thanked all the Department Heads and appreciated that they spent the entire day cleaning up in different neighborhoods. He added that since he didn't attend the last meeting, he welcomed Councilman Kevin E. Johnson and expressed that he looked forward to working with him.

The Mayor's report was received, filed and made part of the record, on a motion by Councilman Kalb.

President's Report – He has several items that need responses:

1. He asks the Mayor of the McKinley pool status. Mayor Malone responded that it would be possibly sometime next week. Mr. Beaumont stated that the main circulating pump was locked up and had to be sent to Huntington, WV to be repaired but it should be ready by Friday and there were also a couple of anchor bolts that were taken care of by traffic personnel.
2. He formerly announced the Finance Committee members as follows: Trent Williams, Chief Robert Ware, Crystal Weghorst, Robert Gambill and Robert Berry; he intends to nominate another Council member to serve with him on this committee. He encourage those sitting around the table to attend and to seize the opportunity to better understand what's going on in our City as we move forward with the new form of government in January 2014. He has been very overwhelmed with people who want to participate and didn't have to twist anyone's arm. These meetings will last for about 1-1½ hours once a month in the beginning and then probably those will be cut down to 6 meetings per year. He offered to help those that are still working on forming their committees.
3. He asks the Mayor if any information has been received from the EPA. The Mayor responded that it is still a work in progress. Mr. Sturgill asks if we have a contract with Mr. Shaw to

sign as a Class IV Operator and if so, is it open ended. Mr. Malone responded that it is open ended but only until Mr. Duncan get his Class IV Operator's license, he's been working on it and had a meeting in Columbus to provide them with more information on his application for his work.

4. He stated that he has spoken with Ms. Parrish of Novak Consulting Group regarding the process for City Manager and has forwarded to all of Council the information she provided and she is quite concerned that there were no questions or concerns.

The President's report was received, filed and made part of the record, on a motion by Councilman Kalb.

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

2nd Ward – Councilman Saddler thanked Mr. Duncan for jumping on an issue in his Ward at 3rd & Glover regarding a rat infestation and sewer line collapse; kudos to Mr. Duncan and his employees. At the last meeting he mentioned the workers involved in the clean up at Tracy Park for the Memorial Day event and thanked the following people: American Legion family members; Wayne Lewis of Lewis Materials as he donated a lot of the mulch and various items; Lee Scott and his employees for some of the electrical work; Chris Coleman Landscaping provided the grooming of the shrubs and various other items; Jim Lockhart of J & H Construction Company created some parts that had become obsolete; Bud at Bender's Barber Shop. The area was beautiful for the Memorial Day ceremony.

3rd Ward – Councilman Kevin E. Johnson had no report.

4th Ward – Councilman Kalb thanked Mr. Gambill for taking the initiative to make a difference, seeing a problem and working to solve that problem, we need more people like Mr. Gambill to get involved. He currently enrolls with the City Health insurance and has the family plan, but he wanted to stress that he was not arguing selfishly for the benefits but for what was right. He intends to take the single plan next year so it won't make much difference but was arguing for what was right.

5th Ward – Councilman Meadows thanked Mr. Beaumont for taking care of a citizen complaint regarding a garbage truck. Mr. Beaumont stated that it was a seal and it had been fixed.

6th Ward – Councilman Sturgill spoke of his concerns in the 6th Ward and the Mayor continues to take care of all the other issues.

City Solicitor – Solicitor Haas had no report.

City Auditor – Auditor Williams reiterated Councilman Saddler's comments about the Memorial Day Ceremony. He stated that Mr. Saddler's father had always conducted the ceremony and that Mr. Saddler did a great job following in his father's footsteps.

The meeting adjourned at approximately 7:15 p.m. on a motion by Councilman Meadows.

City Clerk

President of Council