

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday July 28, 2014

6:00 P.M.

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

Solicitor John Haas called the meeting to order. A moment of silent prayer was observed followed by The Pledge of Allegiance to the Flag.

Solicitor Haas opened the floor for nominations for Acting Mayor to fill the unexpired term and lasting through January 2016.

**Acting
Mayor
Jim Kalb
appointed**

Councilman Saddler nominated Councilman Kalb.

Councilman Kevin W. Johnson nominated Councilman Meadows.

Solicitor Haas called for other nomination three times, there were no other nominations and the process was closed. Solicitor Haas suggested taking the nominations in order of the nomination.

The role was called for Councilman Kalb. **VOTE: 4 ayes – 2 nays (K.W. Johnson, G. Meadows), Councilman Jim Kalb was appointed as Vice Mayor.**

Solicitor Haas congratulated Acting Mayor Kalb, he explained that since both positions Mayor and Vice President were vacated, there may have to be a swearing in process. He will review the rules and if so Acting Mayor Kalb will be sworn in at the next meeting. He turned the meeting over to Acting Mayor Kalb at that point.

Roll Call showed the following members to be present:

Kevin W. Johnson	1 st Ward
Rich Saddler	2 nd Ward
Kevin E. Johnson	3 rd Ward
Jim Kalb	4 th Ward
Gene Meadows	5 th Ward
Jeff Khela	6 th Ward

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

Council dispensed with the reading of the Journal for the regular session of July 14, 2014 on a motion by Councilman Kevin E. Johnson.

There was no Public Hearing.

Solicitor Haas explained the need for the revised Ordinance which amends Sections 1361.02 and 1361.09 of Rental Dwelling Code Chapter, 1343.02 of Administration, Enforcement and Penalty Chapter and 1311.01 of Unsafe and Unsanitary Buildings Chapter of the Codified Ordinances of the City of Portsmouth, Ohio. He asked that it be added as a Consent Agenda item. Councilman Kevin W. Johnson motioned to add the item as 8(d) as a consent agenda item.

**Item added
to the
Agenda**

The motion carried viva voce the item was added.

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

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

LEGISLATION

The clerk gave a **second reading**, authorizing the appropriation of funds in the amount of \$27,180 from Capital Improvement Fund No. 301 for the purchase of a 2014 GMC Terrain from Glockner to be utilized by SOPA as the City of Portsmouth's contribution towards operation costs.

Councilman Kevin W. Johnson moved 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 authorizing the City Manager to enter into an interagency agreement between the City of Portsmouth and SOPA that details the conditions of a vehicle loan to SOPA as per Exhibit A, attached.

Councilman Kevin W. Johnson moved that this constitute a second reading.

Acting Mayor Kalb asked the two Kevin Johnson's how they would like to be addressed and both replied as Kevin W. and Kevin E. respectively.

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 181.15 of the Codified Ordinances of the City of Portsmouth, Ohio – Credit For Tax Paid To Another Municipality.

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

Councilman Kalb stated that the item had previously failed by a 3-3 vote the last time it was on the agenda, however now the majority of Council has voted in favor of putting it back on the agenda. He understands that some Council members are against the Ordinance because it will be an increase in taxes paid by some. He shared the facts regarding the Ordinance: #1. Passing this ordinance will only affect about 5% of the tax payers of Portsmouth. #2. It is a minimal increase, amounting to approximately \$300.00 per year for someone making a \$30,000 salary. #3. He feels that it is unfair for this 5% of the taxpayers to enjoy the benefit of the Fire and Police protection, using the streets and enjoying the parks and recreation facilities at no cost to them. People that have businesses in our city or that are permanently or temporarily working in our city pay the full rate of the Portsmouth income tax even though they do not live in Portsmouth. These people probably use the services and streets in town less than someone living in Portsmouth and working in another city. Also the people who have businesses or work in the city but live out of the city don't have the right to vote on city issues or representatives. The 5% that live in Portsmouth but work elsewhere pay no city tax but have the right to vote on city issues. #4. Portsmouth citizens voted for the City Manager form of government, Council hired a person for the position that will lead us in a positive direction. The City Manager requested the first time that we pass this ordinance and we failed to do so. For the City Manager form of government to work, Council has to put their trust and support in the City Manager to do what he feels necessary to move us forward. #5. Failing to pass this ordinance the first time did not sit well with the State Auditors, who are carefully scrutinizing City Council to see what is being done to reduce the deficit. This is one of the items on the list of things that the city is going to do that we had relayed to the State Auditors to improve our revenues and we didn't follow it through. There's been discussion about proposing another tax increase, he doesn't know how Council expects 95% of the majority of taxpayers to support this when we've not asked the 5% to pay half for the same services. He would like to send a message to the State Auditors that Council is doing all that it can and what Council said it would do by passing this ordinance. He concluded by motioning for the three readings to be suspended since the topic has already been thoroughly discussed and asking Council to send a louder and positive message to the State Auditor's, tax paying citizens of Portsmouth, City Manager and everyone concerned by passing the ordinance unanimously.

Councilman Kevin W. Johnson stated that he voted against it the first time and at no time prior or since has he gotten any indication from his Ward as to their opposition nor their support as he has had no feedback whatsoever. He agrees with everything that Acting Mayor Kalb stated except the last point, he doesn't believe in rushing any fiscal issue.

Councilman Kevin E. Johnson said that Acting Mayor Kalb spoke very eloquently, but he's been against this from day one and he will continue to vote against it. He doesn't believe that it's right to penalize those that have to seek employment outside of the city and balancing the budget on the taxpayer's backs. He said Acting Mayor Kalb spoke of it being \$300 on a \$30,000 income, he believes that we're better off leaving the \$300 in that individuals pocket and let them choose how to spend it. He decision has no reflection on the City Manager, he applauds the City Manager and the job that he is doing and there's going to be times when they disagree and this is one of those times. He has heard from his constituents and they voiced their opinions that they too were against it.

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

The clerk gave a **first reading**, to an Ordinance amending Sections 1361.02 and 1361.09 of Rental Dwelling Code Chapter, 1343.02 of Administration, Enforcement and Penalty Chapter and 1311.01 of Unsafe and Unsanitary Buildings Chapter of the Codified Ordinances of the City of Portsmouth, Ohio.

Councilman Kevin W. Johnson motioned for the three reading rules to be suspended.

The role was called. **VOTE: 6 ayes – 0 nays, the rule was suspended.**

Councilman Kevin W. Johnson motioned that the Ordinance be passed.

City Manager Allen asked the Solicitor to review the changes that are highlighted in bold letters. Solicitor Haas stated that the first change was that the rule required that every unit would be inspected one time per calendar year and the change is one time per three calendar years. The reason behind that is that if Council or the Health Department decide to go on an administrative type warrant basis to do the inspections on properties of owners who do not consent to an inspection. One of the procedures that the city can operate under is a rolling administrative process, wherein the City would identify the different parts of the city that they would obtain a blanket warrant for and they could inspect those properties and in going through the process, there is no way the city could do that on a yearly basis. The other changes basically change it from a mandatory inspection to a volunteer inspection. One of the issues that came up was that there may or may not have been a violation of the constitution with respect to warrantless searches. So rather than fight, they thought it would be better to go ahead and make it a “consent” or “no consent” but if you don’t consent the City may obtain a warrant if there is reasonable cause that the place needs to be inspected. Those are the main changes.

Acting Mayor Kalb asked the Solicitor if he thought this would satisfy the plaintiffs and the Solicitor responded that he didn’t know what would satisfy the plaintiff’s. He believes after speaking with the insurance Counsel who is helping defend the case that the court will look favorably upon the changes and if nothing else the suspension of the current ordinance will limit any type of damages that there may be down the road and it’s good to show the court that we are working with the plaintiff’s to resolve this matter. Acting Mayor Kalb stated that he thought the program had been working well and he’s had a lot of positive feedback from the program. Solicitor Haas stated that there are advantages to the program and permitting inspections to the landlords. Counsel indicated to the Solicitor that he had seen a case where someone filed suit over issues with the property and the landlord had the inspection report that showed that the property was fine when the tenant moved in, he added that it really works to everyone’s benefit and the tenants have a safer place to live. He said that he’s looked over the failed inspections and the vast majority have been for smoke detector violations, either no smoke detector or the smoke detector wasn’t working; and the other big one is the Hot Water Tank relief valve.

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

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Patricia Keaton – 1907 Baird Avenue – She is requesting the vacation of the alley between 1907 and 1919 Baird Avenue as she owns both properties. She’s a self-employed Type B childcare provider and would like to incorporate a larger play area for the children in her care. As of January 2014 the State of Ohio is measuring indoor and outdoor play areas and she has reviewed the requirements and measured the space only to realize that she needs more space between for climbing equipment or she needs to give up some of her current equipment. She hopes that Council will vacate the alley in order to maintain and possibly expand the equipment. The outdoor equipment is vital in today society of electronics as it is difficult to engage children in outdoor play. Outdoor play is important as it helps to develop both large and small motor skills, social and emotional wellbeing as well as enhancing the development of cognitive thinking. She provides day, evening and weekend care and her service helps many women, some of which are single parents, to work and provide for their children as most daycares only provide weekday hours. She hopes City Council will acknowledge her work as an important resource to the city and grant her request to vacate the alley.

MISCELLANEOUS BUSINESS AND REPORTS:

City Clerk’s Report – City Clerk Ratliff reported that she received the Oath of Office for Jeff Kleha as 6th Ward Councilman.

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

City Manager’s Report – Manager Allen reported the following:

1. He advised that his written report can be found on the City’s website.
2. He reviewed highlights from his report.
 - a). Vacancies within the city have made it difficult, but we keep moving along.
 - b). In the process of testing and filling the Fire Department positions.
 - c). There are some Police positions that are vacant.
 - d). There was a problem with the receptacles at the Riverfront project, in the process of being corrected.
 - e). The graffiti at the Service Department has been covered up and they’re in the process of painting the whole wash bay.
 - f). Fire Hydrants painting will be completed by the end of summer.

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

Acting Mayor’s Report – Vice Mayor Kalb said he would do his best in this position and thanked those that supported him and to those that didn’t, he hopes to earn their trust.

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

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

1st Ward – Councilman Kevin W. Johnson reported the following:

1. He submitted his resignation for the Shade Tree Commission.
2. He missed the last meeting of OVRDC in Waverly due to health issues, he's not resigning from that post, but simply wanted to advise Council.
3. There were some items that he had discussed with the City Manager concerning West Ruhlman and he hasn't heard back from him. City Manager Allen stated that he had met with the upset gentleman and there were discussions as to whether there was an easement to the property. It had been promised to him that his yard would be put back the way it was found and it wasn't. He was going to have someone come in and put topsoil down and the City Manager felt it reasonable to cover the cost of the topsoil. There was also a tree that was covering the street that has been trimmed.

2nd Ward – Councilman Saddler reported the following:

1. He thanked the City Manager for all the issues that he had in the second ward and also thanked him for taking care of the graffiti on the Grant Bridge. City Manager Allen said it was a work in progress.
2. The next Parks & Recreation meeting will be August 12, 2014 at 6:00 in Council Chambers. He also received a letter from Jeff Brant regarding a park in Sciotoville that had been overlooked, it is called "Sciotoville Community Square". The park has been maintained by Mr. Brant and his employees for approximately 15 years and he's put over \$10,000 in the park. He replied to Mr. Brant with a letter of appreciation and the park has been listed on the web-site as a city park and shows it as adopted. He thanked all those that have adopted a park and offered anyone else wanting to adopt a park to contact the City Clerk, City Manager or the Service Director for guidance.

3rd Ward – Councilman Kevin E. Johnson reported that the Personal & Performance meeting will be August 6, 2014 at 5:00 p.m. in the Engineers office. He also congratulated Acting Mayor Kalb on his new appointment.

4th Ward – Councilman Kalb appointed Madeline "Carol" Caudill of 1448 Layton Drive –Portsmouth to the Land Reutilization Committee.

5th Ward – Councilman Meadows reported that the trees at Grandview & Kinneys Lane, 25th and Grandview and Vinton & Grandview are blocking the STOP signs and need to be trimmed.

6th Ward – Councilman Khela had no report.

City Solicitor – Solicitor Haas reported that he received a couple of final determinations from the Ohio Department of Taxation regarding the property taxes that the city paid on City owned property. The tax commissioner determined that the property should be exempt and will be treated as exempt going forward as we shouldn't be paying on those pieces of property any longer. Also, we will get a refund for the taxes paid in 2011, 2012 & 2013 on (3) three of the parcels and then the other parcel we will get 2012 & 2013 because we didn't buy the property until July of 2011 and weren't entitled to reimbursement. He doesn't anticipate the other 75 parcel determinations to be any different from the 4 that we just received. No determination of when we will received the refund.

Auditor Williams – Absent

The meeting adjourned at approximately 6:45 p.m. on a motion by Councilman Kevin W. Johnson.

City Clerk

Acting Mayor