

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday August 25, 2014

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday August 25, 2014 at 6:00 p.m., in the Council Chambers of the Municipal Building.

Acting Mayor 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 st Ward
Rich Saddler	2 nd Ward
Kevin E. Johnson	3 rd Ward
Jim Kalb	4 th Ward
Gene Meadows	5 th Ward
Jeff Kleha	6 th Ward

Also present was City Manager Derek 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 August 11, 2014 on a motion by Councilman Kevin W. Johnson.

There was no Public Hearing.

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS ON THE AGENDA

Patricia Keaton – 1907 Baird Avenue – She apologized for not being at the last meeting as she had prior commitments that could not be rescheduled. She hopes Council will consider vacating Brady Alley.

LEGISLATION

The clerk gave a **third 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 W. Johnson moved that this Ordinance be passed.

Acting Mayor Kalb expressed that almost everyone that he's discussed this with, said that it wasn't fair to 95% of the taxpayers in Portsmouth and to allow a few to have a 100% income tax credit. Those few are not paying Portsmouth income tax because they are working out of the city and they still receive full time public services. Passing this ordinance is only asking a small group of people to pay their fair share; also the City had told the State Auditor office that we were going to do this in order to help out with our fiscal watch situation. Councilman Kevin E. Johnson stated that he will continue to vote no on this as he doesn't want to balance the budget on the backs of the taxpayers and he doesn't want to penalize people for having to seek employment out of the city. Councilman Kleha stated that this was voted down prior to his coming onto Council and then it was brought back to the Table, he is against it. Councilman Kevin W. Johnson answered that Council has often had legislation re-thought and brought back to the Table after being defeated and he's never allowed that previous defeat to influence his vote on the current legislation. Councilman Saddler stated that he agreed with Mayor Kalb and Councilman Kevin W. Johnson, he works out of town and will have to pay this tax, it is a very small amount but every dime counts. Councilman Kevin E. Johnson understands it to be about \$300 on a \$30,000 income and he believes that the money would be better spent shopping in our downtown area. Mayor Kalb concluded by saying that we have a lot of business people that live out of town but work in the City and they pay the full city income tax and they don't have the same rights. They don't have the right to vote on city topics, they pay twice the water, there are a lot of people out there that are paying the tax but aren't seeing the benefits derived from it.

There were no questions or comments. The role was called. **VOTE: 4 ayes – 2 nays (J. Kleha, K.E. Johnson), the Ordinance was passed.**

The clerk gave a **second reading**, to an Ordinance authorizing the transfer of monies from FEMA Fund No. 261 to Wastewater Fund No. 621 in the amount of \$47,324.54; Flood Defense Fund No. 265 in the amount of \$32,471.13; Campground Fund No. 801 in the amount of \$1,993.18; and General Fund No. 101 in the amount of \$13,020.20.

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

**Ord. #34-14
Credit for
Tax Paid to
another
municipality**

Manager Allen stated that he had spoken with Kim Carver at Scioto County EMA who gave a name at FEMA to contact regarding the unidentified amount in the General Fund. All the paperwork has been submitted to Columbus which made it legitimate that we were reimbursed, we just cannot identify it. There were some general county wide reimbursements and this could have been activities that would have gone into the general fund anyway. He is comfortable with this as well as the Auditor and he believes that everything has been done that could possibly be done to identify every penny that will be allocated back.

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 vacation of Brady Alley as requested by Jeff and Patricia Keaton and more fully described in the attached legal description, with the City of Portsmouth reserving all easements to this property.

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

Mayor Kalb addressed Ms. Keaton and commented that he appreciated her being at the meetings.

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 Auditor to make fund transfers and appropriations necessary to satisfy the requirements of the Auditor of State's proposed finding for adjustment as a result of over-allocated central service costs in the 2013 budget.

**Ord. #35-14
Fund transfers
and
appropriations
to satisfy State
Auditors
requirements**

Councilman Kevin W. Johnson moved that the balance of the three reading rule be waived.

The role was called. **VOTE: 5 ayes – 1 nays (G. Meadows), the rule was suspended.**

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

Councilman Kevin W. Johnson stated that this was introduced at the last meeting and decided not to waive the 3 readings until the public had a chance to comment and that was the reason for putting off waiving the three readings until this meeting.

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

The clerk gave a **first reading**, to an Ordinance amending Sections 175.02 and 175.03 of the Codified Ordinances of the City of Portsmouth, Ohio – Shade Tree Commission.

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

Councilman Kevin W. Johnson addressed Solicitor Haas and commented that he appreciated the time and work he and his staff put in to preparing this legislation. There has been more interest shown recently and there have been Master Gardeners that have become interested in the program.

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

Motion to approve payment of Councilman Kevin W. Johnson's invoice submitted for the attorney fees for services provided by Stephen C. Rodeheffer, Esq.

Councilman Kevin E. Johnson motioned that the fees be paid.

**Motion
accepting to
pay the
attorney fees
for Kevin W.
Johnson**

Councilman Kleha questioned if this would have come to Council for a vote first, if there would have been a majority vote, each person needs to decide whether all of Council derived benefit from this action. Councilman Kevin E. Johnson stated that he is 1/6th of the vote and he would've liked to have something to say about it, but also believed that as a whole, Council had the obligation to pay the bill. Councilman Saddler stated he partially agreed with Councilman Kevin E. Johnson, but doesn't believe that Mr. Rodeheffer thought he was working for all of Council as there was no discussion whatsoever for him to act on behalf of all of Council. There were things done that probably shouldn't have been done and he's not applying guilt to anyone, but he doesn't believe this is an action of all of Council. City Auditor Williams asked if Council approved this, what fund would it be paid from and City Manager Allen stated that it would be out of the Council's Professional Services account. Mayor Kalb referred back to the minutes when the Solicitor stated that due to the situation he would not be providing services to Council on the subject and that Council would need to hire outside Counsel - not for one Councilman to hire their own attorney. Proper procedure would have been to have the expenditure approved prior to accruing it. If Council approves this, are we setting a precedence for future Council to hire outside Counsel without the consent of all of Council? Councilman Meadows stated that he appreciates Mayor Kalb's statements, but he believed the issue is the email from the Solicitor to Council stating that other Counsel should be consulted but doesn't recall any comments about it. He stated that he's in a

mixed position, being that if there were a problem it should have been brought to Council first with the statement from the Solicitor showing that the email received stated to hire outside Counsel; the question is, did all of Council derive the benefit of the outside Counsel that was hired and if so, the Attorney should be paid for his services.

There were no other comments. The role was called. **VOTE: 4 ayes – 2 nays (R. Saddler, J. Kalb), the motion passed.**

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Jason Kester – Executive Director of SOPA – He thanked Council for the vehicle and stated there had been over 600 miles put on it in the first week. He provided good news that we received a \$10,000 grant from American Electric power and that the money will be used toward the Brownfield inventory which will include all of Boneyfiddle and encompass everything south of 11th Street on Route 52 to the Ohio River and from one end of the floodwall to the other at the U.S. #52 dock by the former Coke facility. They will take the information gathered from that and apply for another grant in the neighborhood of \$250,000-\$400,000. They are applying for another grant that will help the city map the G.I.S but Strand already had that plan in place for the city, so they will take the money and start building a G.I.S. in the same area that will be identified where most of the industrial development could be in Portsmouth and New Boston, perhaps a G.I.S. overlay, he's started to build on properties that are abandoned, vacant, brownfield and infrastructure so that we will have a product to produce. They will also be doing what is being called "Project Kalb" an infrastructure and road project hopefully linking our three river terminals with Portsmouth and New Boston together, he will start doing some of the engineering work on that. ODOT and OVRDC economic development administration grant may be able to help with that project and there will be a match at some point but first we need to get the structure going and some architecture done to show the viability. The City Manager will go and accept the grant on behalf of the city and SOPA on September 9, 2014

Miles Ferguson – 1241 Tipton Lane – He shared that he and a friend have formed Basketball tournaments for the youth in our area, it's called "Buckeye Elite – event management". They are trying to create an atmosphere here in the local area for the community to bring in money. They got the idea from Dayton, they have an event called "Flying to the Hoop" which is a basketball tournament that brought into the community \$1.9 million dollars. The teams come from all over the country and they just want to start by putting our area on the map. There are 3 tournaments, one is held in Huntington, WV and the other 2 are held at Shawnee State University. He knows that finances are tough and they do have contributors sponsoring the events and he's asking the city to be behind the event and get the word out to the businesses to welcome these teams that are coming in for these tournaments, whether it be on signs or newspaper articles. He would like to see Council support it but obviously it cost money to bring in teams, as they have teams coming to Shawnee State University from 5 different States as well as our local teams. There will be scholarships created for our local teams only, this is a big benefit for our local youth as well as the community (hotels, businesses, and restaurant's). He gave additional information to the City Clerk and Mayor Kalb suggested that he contact our Community Development Director Tracy Shearer to see if she could help out.

Tom Lowe – Wilson Avenue – He challenged the City Manager, the Acting Mayor and the Solicitor to take the ALS Ice Bucket Challenge.

MISCELLANEOUS BUSINESS AND REPORTS:

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

1. She received the Oath of Office for the following:
 Kevin E. Johnson for the Shade Tree Commission.
 Rebecca Phipps for Special Deputy Clerk
2. She received from the Auditor via e-mail, the following Combined MTD/YTD reports for the period ending July 31, 2014: Expense Report, Revenue Report and Fund Report
3. She received Legal Opinion from the Solicitor's office regarding the vacation of alleys and "City Charter Section 124".
4. She received from the Scioto County Board of Elections a copy of the proposed Charter Amendment ballot language regarding Section 47(g): Limitations of Taxing Authority.

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. His written report can be found on the City's website.
2. He reviewed some items from the report. There was a meeting with the Auditors regarding the 2013 Audit being concluded, he has met with the staff and began addressing the issues that were brought up in the Audit to show that we've made the changes, but some of those could still come up in the 2014 Audit but by 2015 they should be gone.
3. The financial software provider CMI installed additional memory in the finance server and obtained access to the server to begin installing the updated software.

4. He went over the description of the decreased manpower through attrition.
5. He referred to a separate sheet of paper showing rebates for Workers Compensation. The amount shown is \$267,504 but the check was close to \$198,000 but what's important is the potential stackable savings that we intend to achieve on every item which would total approximately \$110,000.
6. He is working with Clemans & Nelson to update the Policy and Procedure Manual as there are some issues in Chapter 169 Codified Ordinances and one of those the Solicitor is reviewing.
7. Last year the City had a loss ratio of 119% and currently we are at 77%, we've been working hard to contain our cost to get a better premium next year.
8. Civil Service rules are currently being rewritten by the Civil Service Commission. Jo Ann Aeh rescinded her resignation and continues to serve as the secretary.
9. The Police Department will be having an entrance exam as they have exhausted their current list. Also Tom Lancaster has been promoted to Acting Sergeant on the midnight shift.
10. The Fire Department gave the entrance exam earlier this year and 17 of those candidates passed both the written exam and physical abilities test.
11. Columbia Gas will be relocating the gas line on Oakland Boulevard on September 27, 2014
12. Trees were trimmed that were previously requested in a prior meeting.
13. He gave an update on the Capital Improvement projects.
14. The State Auditors have given him 30 days to submit a new 5 year budget, he has until September 19, 2014 to submit it.
15. There was a request to lease the Martings Building and he will be responding back to them as there was a deadline. There was no way he could have gotten it to Council to have a discussion and get public input, but he wanted to make Council aware that there was an entity out there that was looking to submit a grant application to meet their plan for that building. This could not be accomplished within the 2 week deadline.

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

Acting Mayor's Report – Vice Mayor Kalb had no report but stated that he was glad the City Manager was back and that he was healing.

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

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

1. He was delighted to hear about the Basketball Tournament.
2. He was pleased to hear about the Kentucky Warriors Football Team changing their name to "The Portsmouth Warriors".
3. He followed up on the topic from the Manager's discussion involving the letter of August 19th from the State Auditor, he had read the Draft Management letter, and one of the things that Council got dinged on was not discussing the budget. He suggested changing the Rules of Council to make certain that the budget is discussed possibly every other month beginning in March.

2nd Ward – Councilman Saddler reported the following:

1. He welcomed the City Manager back and stated that he was glad that it wasn't any worse than what it was.
2. The next meeting for the Parks & Recreation meeting will be September 9th at 6:00
3. He challenged everyone at the Council Table and every Department Head to do the ALS Ice Bucket Challenge. He hopes to have the assistance of the Fire Department but will get the details arranged and he challenged everyone to donate at least \$20.00.

3rd Ward – Councilman Kevin E. Johnson reported the following:

1. The Personnel & Performance Committee will be meeting on September 3, 2014 at 5:00
2. He thanked Ms. Keaton for coming out on behalf on the vacation of Brady Alley.
3. He thanked Mr. Ferguson for organizing the upcoming Basketball Tournaments, he sees this as nothing but a positive move for the community.

4th Ward – Councilman Kalb had no report.

5th Ward – Councilman Meadows reported that during his work day he had listened to some 911 calls that he received as part of evidence in a case he's working on and he heard something very disturbing. The Police Dispatcher called for an emergency ambulance and the private service that was dispatched stated that they did not have any ambulances available; he has an issue with that statement. Fortunately the dispatcher called another service and they were able to respond, however in an emergency situation time is of the essence. If we are having these private companies taking these emergency 911 calls then we should never hear that there are no available ambulances. He told Council that he had the dates and times if they would like to review it because he feels that this is a serious issue that needs to be addressed.

6th Ward – Councilman Kleha had no report.

City Solicitor – Solicitor Haas stated that we received a check from the Scioto County Auditor in the amount of \$11,369.00 for part of the refund on the property taxes that were paid by the City in error.

Auditor Williams – Auditor Williams had no report.

The meeting adjourned at approximately 7:50 p.m. on a motion by Councilman Kevin W. Johnson.

City Clerk

Acting Mayor