

**MANAGER’S CONFERENCE MINUTES**  
**Portsmouth City Council Meeting on**  
**September 12, 2016 – 7:27 p.m.**

All members of Council were present, Manager Allen, Solicitor Haas, and City Clerk Ratliff.  
Auditor Williams was absent.

Councilwoman Aeh commented that Section 745.02 through 745.21 were put into the codified ordinance with one ordinance and asked Solicitor Haas if they could be amended and removed with one ordinance. Solicitor Haas replied that if we were deleting the entire Chapter the answer would be “yes” but when specific ordinances were being done, the Charter required that we identify separate issues in each ordinance and that each ordinance be addressed in that particular ordinance, and to be on the safe side he’s doing them separately. Mrs. Aeh then asked how on the old ordinances we could put them in one ordinance if it was against the Charter, and why we couldn’t combine everything to do with Taxicabs into one ordinance. Solicitor Haas said there were three (3) different topics in each ordinance and his opinion was that each ordinance had to be separate. Mrs. Aeh asked how we passed the codified in the past from one ordinance. Solicitor Haas said that was his opinion and it’s safer to do it separate and he was being cautious. Mayor Kalb asked Solicitor Haas about the ordinances that were being changed. Solicitor Haas said that when Mayor Kalb signed an Ordinance that would be codified, that would be the enacting ordinance which puts it into the codified. The actual ordinance itself had no meaning afterward and was merged with the codified ordinance. Mrs. Aeh said that she pulled some of the old ordinances and would be pulling more, and the ones done in 1998, 1984, 2001 which amended or repealed a codified ordinance had the old ordinance mentioned in either the preamble or in the section portion of the ordinance. Solicitor Haas said that just because it’s been done that way in the past doesn’t make it right and in his opinion he believed that we were now doing them correctly. Mrs. Aeh said that the city chose to have the ordinances codified and that there was no law that said that we had to have them codified. Manager Allen said that he believed that they had to be codified. Solicitor Haas asked how anyone would ever look up CM-16-120 10 years from now. They would have to come to the city building and dig through the office and hopefully it would still be there and nobody destroyed them or boxed them and shipped them off to the Martings Building. He said he doesn’t know how else to explain it and thought that this had already been discussed.

Councilman Kevin W. Johnson stated that after the City Manager goes through these, he would like to make one motion for CM-16-120 through CM-16-135 and would introduce those as one motion.

**1. Code Cleanup 737.22 Junkyard License CM-16-120**

Manager Allen stated that he had to correct this one because he had crossed out the end but didn’t put the new data in and thanked Councilman Kevin W. Johnson for noticing it. This dealt with Junkyard licenses and he doesn’t believe that a junkyard license had been issued in years. He doesn’t want to delete it because all of the metal and other things that are stolen within the community go through scrapyards and junkyards and he felt that we should at least issue a business license to them. The fee of \$50.00 was from 1975 and he would like it raised to \$250.00 and to change Mayor to City Manager and “or his designee” can be removed. The license expires at the end of each year and if they come in at the last half of the year it would be pro-rated.

Councilman Kevin W. Johnson recommended alternative #2 removing “or his designee”.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**2. Code Cleanup 737.05 Revocation of License CM-16-121**

Manager Allen stated that this changed Mayor to City Manager.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**3. Deletion of Chapter 741 Mechanical Amusement CM-16-122**

Manager Allen stated this would delete the entire chapter to do with mechanical amusement devices. He said that someone brought up about new gambling devices that were being put into bars. He doesn't want to go to Buffalo Wild Wings or Gatti's and have them pay \$100 for each machine. Councilman Kevin E. Johnson said both of those mentioned contribute throughout the community and agreed that the city shouldn't be charging that fee.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**4. Deletion of Section 709.08 Identification Handbills CM-16-123**

Manager Allen said that this was an ordinance passed in 1958 which stated that if you post something it required individuals to identify the person that wrote and/or manufactured and distributed the printed material. In 1960 it was ruled unconstitutional and it should've been taken out years ago.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**5. Deletion of Section 709.09 Handbill License CM-16-124**

Manager Allen said this section required a license and fee to distribute materials and in 1960 was ruled unconstitutional. Mayor Kalb commented about the referenced ordinance in each of these because on the old ones, the old ordinance was listed. He said it read to amend the following, and it listed each section to be amended, then it read: repealing said original sections and section 730.01 as amended by Ordinance No. 9 of 1972, and section 745.18 as amended by Ordinance No. 78 of 1975. Mr. Kalb asked Solicitor Haas if they had to be in there and Solicitor Haas replied that he doesn't know about back then and wasn't sure when the codified ordinances were last updated. He said that when we were done with the update, we will do an enabling part at the beginning of the codified ordinances that would give the date and anything passed before that and conflicts with that is hereby ineffectual and he believed they did that back then because they didn't have that language. Manager Allen said the reason he doesn't list out each ordinance was because it would be easy to miss an ordinance and by changing the codified, he knew that was the official record. Solicitor Haas stated that if there was ever a conflict of what was back in a file cabinet versus what was in the codified, the codified would control. Councilwoman Aeh stated that when she was City Clerk, she would have people come in and look through the ordinances for research or whatever, and that the old ordinances needed to be marked as repealed or amended because these ordinances aren't telling the Clerk which ones to repeal or amend, and if people were looking at the old ordinances that aren't updated with amend or repeal, then they were getting the wrong information. Solicitor Haas said even if they did that, if it's in conflict with the codified ordinances that were enacted after the date of that ordinance in the file cabinet, the codified would still be in control. Councilman Meadows said if people didn't look in the codified ordinances then that would be their fault for not looking in the right place.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**6. Deletion of Chapter 729 Distressed Merchandise CM-16-125**

Manager Allen said this had been controversial in the past and it was requested to delete the whole chapter. The purpose was to prevent a business from continuously advertising a "going out of business" sale. Also, these business that were going out, have had tough times and he doesn't want to kick them while their down. Mayor Kalb said that if they chose to delete this chapter, there would still be an ordinance in the file cabinet. Councilman Kevin W. Johnson stated that we've moved into an electronic age and if someone wanted a copy of an ordinance, the Clerk would pull the most recent ordinance from the computer. He said

the paper copy was a nice history but that's all it was and was important for history only. He said from the legislative point of the State and Federal level, they do not mark the old bills any longer as it was all electronic. Solicitor Haas stated that when he worked at the Statehouse in college and in law school, they did not go back and mark the old copy and the new one would read "ordinance amended" and the date was included. If a person wanted to do the research, they could go back and see what it was before it was amended and do a comparison. He said the old ones must be kept especially in criminal cases because there were times when someone committed a crime and the ordinance might change as well as the statute and they might fall under the old ordinance, so they do need to be kept for historical purposes.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**7. Code Cleanup 745.02 Taxicab Identification CM-16-126**

Manager Allen said the only change was from Mayor to City Manager but we can remove "or his designee"

Councilman Kevin W. Johnson recommended alternative #2 remove "or his designee".

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**8. Code Cleanup 745.03 Taxicab Condition CM-16-127**

Manager Allen said this changes Mayor to City Manager.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**9. Code Cleanup 745.04 Taxicab Inspection CM-16-128**

Manager Allen said the only change was from Mayor to City Manager but we can remove "or his designee"

Councilman Kevin W. Johnson recommended alternative #2 "or his designee".

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**10. Deletion of 745.07 Railroad Crossings CM-16-129**

Manager Allen said he didn't understand this section because he wasn't aware of anything that required a taxicab to stop at a railroad crossing.

Councilman Kevin W. Johnson recommended alternative #3, take no action. Need more time to research.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**11. Deletion of 745.08 Taxicab Rates CM-16-130**

Manager Allen said that he wasn't interested in micro managing the rates that taxicabs charge. If people don't like the rate, then they won't utilize the cab.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**12. Deletion of 745.12 Taxicabs Stands CM-16-131**

Manager Allen stated that we no longer have taxicabs stands.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**13. Deletion of 745.13 Taxicabs Stations CM-16-132**

Manager Allen stated that we do not have taxicabs stations.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**14. Code Cleanup 745.19 Taxicab Application CM-16-133**

Manager Allen stated that this was being done and would like it to read “City Manager through the Police Department”, because the Police Department were doing the checks on the drivers.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**15. Code Cleanup 745.20 Insurance or Bond CM-16-134**

Manager Allen said that this required insurance of \$100,000 per person and \$300,000 per accident resulting in injury and death. He said it was probably from the 1970’s because most places now have \$1,000,000 of liability insurance. We would be changing from Mayor to City Manager and they would be required to provide proof of insurance of \$1,000,000. Solicitor Haas requested to change that from one accident to per occurrence or per person, Manager Allen said to change it to whatever he thought best.

Councilman Kevin W. Johnson recommended alternative #2 with the above changes.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**16. Code Cleanup 745.21 Issuance of License CM-16-135**

Manager Allen said this changes Mayor to City Manager.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**17. ODOT Bridge and Culvert Agreement CM-16-136**

Manager Allen said this was an agreement from ODOT for a bridge and culvert on the US 52 bridge located near St. Rt. 335 in Sciotoville. There would be maintenance on the sub-structure at no cost to the City of Portsmouth.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**18. 2017 Tax Budget**

**CM-16-137**

Councilman Kevin W. Johnson stated that this was an annual procedure where the city was accepting the amounts and rates from the tax budget commission which was at the County level. He pointed out a list of increases in certain amounts which was to the City's benefit.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

Councilman Meadows asked if the figure was correct for Flood Defense at -\$193,000 and Councilman Kevin W. Johnson said that it could not be certified until after the election and it had to be written that way but if it passes it would be amended.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

**19. OPWC Issue II Resolution Sunrise Water Main**

**CM-16-138**

Manager Allen said this was an application for the Ohio Public Works Commission funding which was done every year. We were requesting \$500,000 in grant funding and this year we're going after a different type of money and \$1,000,000 with a 0% interest loan; he wasn't sure if we would do that yet, but the project was estimated to cost \$3,000,000 to replace the 30 inch waterline that runs up to Sunrise Reservoir. The water main to be replaced is as follows:

Sunrise Avenue to 28<sup>th</sup> Street  
28<sup>th</sup> Street to Sunrise Avenue down to Kinney's Lane  
Kinney's Lane to Offnere Street  
Offnere Street down to Robinson Avenue.

There would be over a mile of 30 inch pipe.

Councilman Kevin W. Johnson recommended alternative #1 as requested.

**There were no further questions or comments. VOTE: 6 Ayes – 0 Nay**

The meeting adjourned at 8:05 p.m. on a motion by Councilman Kevin W. Johnson

Submitted by: *Diana Ratliff* – City Clerk