

MINUTES – REGULAR SESSION

PORTSMOUTH CITY COUNCIL MEETING

Monday September 8, 2014

6:00 P.M.

The City Council of the City of Portsmouth, Ohio met in regular session on Monday September 8, 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, and City Clerk Diana Ratliff.

Council dispensed with the reading of the Journal for the regular session of August 25, 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 thanked City Council for their consideration in vacating Brady Alley and she reiterated that she will be using it for the care of the children she cares for out of her home and it will be used to help enhance their emotional and physical care.

LEGISLATION

The clerk gave a **third 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 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 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 Ordinance be passed.

There were no questions or comments. The role was called. **VOTE: 5 ayes – 1 nays (G. Meadows), the Ordinance was passed.**

The clerk gave a **second 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 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 authorizing the transfer to General Fund No. 101 of unclaimed monies in the amount of \$92,729.25 accumulated for years 1995 through 2010.

Councilman Kevin E. Johnson moved 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.**

**Ord. #36-14
FEMA
transfer of
money to
appropriate
fund.**

**Ord. #37-14
Vacation of
Brady Alley
by Jeff and
Patricia
Keaton**

The clerk gave a **first reading**, to an Ordinance authorizing the appropriation of \$10,000 into CIP Engineering Traffic Fund No. 301.331.5327 from the unappropriated funds in CIP Fund No. 301 for the purpose of ordering two new street lights.

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

City Manager Allen stated that there was a light missing on 4th Street, if approved we will order two lights. Councilman Saddler asked if we should order a third one to have on hand in case this would happen again. Manager Allen replied that it was not necessary as he doesn't believe they get hit very often and the one had been missing for 11 years, if it were a reoccurring thing then we would stock more. Councilman Meadows ask why this wasn't part of the CIP budget last year or over the many years that it's been missing. Councilman Saddler stated that it was actually in his ward but a lady had e-mailed Councilman Kevin W. Johnson about it, Councilman Kevin W. Johnson replied that there several reasons but mostly he heard about it from citizens. Councilman Meadows stated that there should be a mechanism within the city to keep track of these things so we know about it before years go by. Manager Allen stated that if this happens in the future, first thing is that it will be turned into the insurance company but he can only speak as of January 6, 2014. He said earlier this year someone hit the cemetery fence and he had it repaired immediately. He receives Police reports on anything that involves a City Vehicle or damages to the property so that action could be taken.

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 authorizing the appropriation of \$1,480 into Camp Street Maintenance Line Item No. 801.551.5325 to pay for gravel used to upgrade and maintain roads at the Riverfront Campground.

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

Councilman Kevin W. Johnson ask that the line item from where the funds will be removed be put into the legislation as it's was not noted as to where the funds were coming from. Manager Allen believed that it was a transfer but will find out and advise of the changes.

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 authorizing the appropriation of \$3,000 into Cemetery/Grounds Computers Line Item No. 301.333.5536 to pay for burial records software.

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

Councilman Kevin W. Johnson motioned to amend the Ordinance to include that the money is being appropriated from the unappropriated Capital Fund 301.

The role was called. **VOTE: ayes 6 – nays 0, the legislation was amended.**

**Ordinance
Amended**

Councilman Kevin E. Johnson asked if \$3,000 was the correct amount and the Manager replied that it was less than \$2,000 but to go ahead and leave it at \$3,000.

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 a Resolution to adopt the Red Flag Rules for the City of Portsmouth.

**Res. #11-14
Red Flag Rules**

Councilman Kevin W. Johnson moved that this Resolution be adopted.

Manager Allen stated that this is basically identity theft protection for the utility customers. These are steps that the federal government wanted to see all utility companies take to be protected. Councilman Meadows ask if there will be a cost associated with implementation and will the quarterly billing on postcards continue. Manager Allen replied that if there is any kind of a breach, we are to report that to Council. The City will be going to monthly billing but that's not because of this legislation.

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

The clerk gave a **first reading**, to a Resolution authorizing the City Manager to enter into an agreement with the Portsmouth Radio Club to utilize the Sunrise Water Tower location.

Councilman Kevin W. Johnson moved that this Resolution be adopted.

**Res. #12-14
Radio Club
at Sunrise
Water Tower**

Councilman Kevin W. Johnson asked Manager Allen if everyone was on board with this location. Manager Allen replied "yes" that he and the Fire Chief went up to the station and it was their understanding that

if the Radio Club has a problem with coding they will need to get in touch with the city to get into the station to fix it. Chief Ware is in charge of the repeater station on Sunrise Avenue and there's an understanding that if it interfered in anyway with the City's system that it would need to be removed.

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

The clerk gave a **first reading**, to a Resolution authorizing the City Manager to enter into the Ohio Water/Wastewater Agency Response Network (WARN) mutual aid agreement.

Councilman Kevin W. Johnson moved that this Resolution be adopted.

Acting Mayor Kalb commented on how nice the large camera truck is that the city will be using for the sewer projects.

Manager Allen said this program is voluntary, but if another city has a problem, they can call to see if we or another city has the component that they need. Sometimes it's hard to find pieces especially if something breaks on a weekend.

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

The clerk gave a **first reading**, to a Resolution designating a date, time and location for the Portsmouth Community Flea Market for the City of Portsmouth, to be held on Saturday, October 4, 2014 from 5:30 a.m. to 2:00 p.m. at Spartan Municipal Stadium.

Councilman Kevin W. Johnson moved that this Resolution be adopted.

Councilman Saddler stated that he would like Council's full support. They had one back in the spring and it was successful and this one we hope will be much larger.

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

STATEMENTS OR REMARKS FROM CITIZENS ON ITEMS NOT ON THE AGENDA

Sean Dunne – 1002 14th Street – He stated that this was the third time they are asking the Parks & Recreation Commissioner Rich Saddler to move forward with a motion to hold a public hearing to locate the Skate Park near Mary Ann Street and to approve a grant application from the Tony Hawk foundation to help fund the project. He had previously explained to Rich and other City Council members that Councilman Saddler had to be the person to move this forward. Mr. Dunne stated that he had finished the majority of the grant application with the assistance of a Shawnee State University student and with the help of the program director of the Tony Hawk foundation and he had included Rich Saddler's name as the author. He stated that Mr. Saddler is the Parks & Recreation Commissioner and therefore, he is the one that must move this forward. He previously asked Councilman Saddler to move forward with the public hearing in July, he refused to do so and he stated that Mr. Saddler replied that Mr. Dunne knew more about the Skate Park than he did and then went on to speak about wanting Portsmouth to receive larger portion of gambling revenue from other areas of the State. Acting Mayor Kalb interrupted Mr. Dunne at this point and advised him that he was bordering on personal references. Mr. Dunne stated that he would summarize, that Mr. Saddler has been asked twice to move this forward and won't directly say no but says anything but yes. This will not cost the city money, he has been fundraising in New York City and has raised \$1,000 and was promised \$5,000; however the delay had cost the project \$4,000. The deadline for the Tony Hawk foundation grant will be the first week in December, if he (Mr. Saddler) does not put this forward tonight the people of Portsmouth will know that he (Mr. Saddler) is ultimately the main obstacle for the Skate Park project. Councilman Meadows interrupted and addressed Mayor Kalb and stated that he doesn't see where this is anything but a personal attack on Councilman Saddler. Mr. Dunne said it wasn't a personal attack, the evidence shows that he's (Mr. Saddler) refusing to put this forward. Councilman Saddler ask Solicitor Haas if he would be able to comment and Solicitor Haas replied that he could do so in his report. Mr. Dunne continued by saying that the Skate Park is an economic benefit for the city and that he had sat through a City Council meeting where he listened to people trying to get \$5.00 from a disused fire engine and that the conversation had been going on for over a year. This project is offering the city a six digit investment with no strings attached and they've met with obstruction. Skate Parks have been shown to benefit both the mental and physical health of young people that use them; he hasn't heard discussion of concern about the mental and physical health of young people in the community and the only time that he had heard a discussion of physical or mental health of the people of Portsmouth was when certain members of this Council, one of whom he had been addressing, expressed concern for the City Manager who had been exhausted from his international holiday to Guatemala and that was the only time that he had heard City Council address concerns about the physical or mental health interest of this city. He stated then that they "want a motion tonight for a public hearing as they have overwhelming support throughout the 2nd Ward and throughout the city and have petitions with over 400 signatures of support including from the surrounding area". He concluded by saying that if it didn't move forward with a public hearing, it would be obvious that he (Mr. Saddler) doesn't want to deal with the project.

Res. #13-14
Water/Waste
Water
Response
Network
WARN
Mutual Aid
agreement

Res. #14-14
Community
Flea Market

Lisa Silhavy 1013 Kent Street, Apt. 1-J – She was present to speak about the Skate Park. She passed out a proposal and information about how a Skate Park can benefit our community. In the research that she has done, it does sociologically help with the community and will also help grow the economy. She stated that we live in a city that has declined and to have a Skate Park the city would benefit by inviting people from all over the country to come and this project would give back to the community. Having this vehicle would help put in new stores that sell Skate Boards and Skate Board safety equipment. This would assist in the mental and physical health of the children in our area, we need to reach out to those and what better place to reach out than the people at Shawnee State University who is the 2nd highest employer in the city of Portsmouth. There may be kids that come from low socioeconomic classes, they would be introduced to college students and fraternities and would find out about events that they have not been exposed to. A benefit for having it next to the City Garage is that the Police park their cars there and this would be ample opportunity for the Police to come over and bridge that gap between the youth, the City of Portsmouth and the Police. She stated that she could list all of the negative things about making sure that it will be taken care of, but with the fraternities, sororities and the sociology club moving this project forward we will not stand by and let it fall apart as a University.

Mark Harner – Sciotoville – He spoke about vacating the alleyways by his business. The City Manager explained that it was on the Manager’s Agenda to discuss.

Connie Blair – 2422 Scioto Trail – Two weeks ago she received a call from her neighbor saying that someone from the city had removed her garbage cans, she’s handicapped and could not get out there in time. She called the Service Department and was told that someone reported that she had 6 garbage cans and she stated that she does not. Approximately 8 years ago she purchased her garbage cans and for an extra can it would be \$5.00, but that there would be no more charges on the cans. She was told that it was a new fee and she had to pay \$5.00 extra on each extra can that the garbage men had to pick up over the one the city provides. She was advised to call the Water department as they do the billing, the Water Department advised her that the Service Department is the one that tells them what to bill. She repeated what she had already stated.

Wendi Waugh – 2894 Circle Drive – She spoke on behalf of the Skate Park, she represents Connex, SOMC and their association for improvements within the city. On behalf of those entities they are very supportive of the Skate Park, Park Development, Bike and Activity Route development. She said she believed that all the activity benefits have been addressed and she ask for City Council’s support. She stated that she understood road blocks and trust that Council wants to do what’s right for the city. She asked how they could work together to get some of these things going.

Students there to show their support of the Skate Park were as follows:

Zach Burton, Cory James, Brett Carlyse, Carson Tucker, Jill Garner, Abby Brinkman, (two others whose names were not audible).

MISCELLANEOUS BUSINESS AND REPORTS:

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

1. She received Oath of Office for Paul Thomas Lancaster as Sergeant of Police.
2. She received a request from the Ohio Division of Liquor Control for a “C2” permit for Clarks Pump N Shop, Inc. located at 1026 Gay Street Portsmouth, OH which has been approved.

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 advised that with some of the heavy rains that we’ve had, there have been quite a few sewer collapses and sinkholes in the street and those continue to be repaired.
3. The Water Department continues to repair and replace fire hydrants and it is hoped that by the end of the year that all hydrants will be operational, painted and high enough so that the fire department doesn’t have to dig them out.
4. We have complaints about the grass at the cemetery, they used to have 5 employees there and now there is only two. When there’s time he tries to send people out to help that department mow, but they just don’t have enough people to mow the grass at the cemetery.
5. He noted that under The Health Department Rental properties inspected category, there haven’t been any inspections since June due to a lawsuit and those have been placed on hold.
6. He wasn’t able to meet with the Health Commissioner as there was a change in the syringe exchange program and the numbers weren’t complete.
7. Police and Fire Reports were attached.
8. He provided the response to the State Auditors request as to why we did not follow the 5 year plan that Council passed last year. The State Auditors have given him until October 3, 2014 to get a new finance recovery plan of which City Council has to approve. Since time is short, he will make a presentation to Council at the next meeting on September 22, 2014,

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 reported the following:

1. He thanked Director Rick Duncan for allowing Council to view the new Camera Truck that will help with the sewers.
2. He addressed all the people in support of the Skate Park stating that he doesn't know of anyone sitting around the table that is against a Skate Park. He explained that there was a process and it was something that cannot happen overnight. He had suggested this before to Mr. Dunne and doesn't know if it has been done, but they should contact the Community Development Department and the Director would be very helpful in finding grants and providing the requirements and putting things in a timeline.
3. He advised Ms. Blair that he's certain that the problem can be resolved.

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

City Solicitor – Solicitor Haas reported the following:

1. He stated that they have gone from being proactive on the Rental Licensing program and inspecting properties to obviously not inspecting them at all. He relayed to Council when there were nuisance complaints from tenants or neighbors, the city has been responding to those complaints. They are back to the reactive position they were in back before the lawsuit was filed and we're hopeful that there will be a resolution to that in the next few months, so the program can get back up and running.
2. He ask Council to recall the zoning changes that were made in Sciotoville for The Dollar General Store and in the process of the Dollar Store going through their machinations, they needed to take what was part of a subdivision with lots in that parcel that they purchased from the School. If you look at the old plat maps, there are lots and service strips in there and apparently due to some finance issues they've been ask to remove the lot lines and service strips and have it as one parcel. The County Auditor's office has treated it as one parcel for years, however when we went through what we thought the process was necessary to erase those lines and the County Engineer objected. The County will require the City to run the legislation back through the planning commission and then through Council as an Ordinance showing the lines removed. The property has been surveyed and they have all the work approved. The City Manager and the City Schools have signed off on it and it's all done with the exception of this final step and they've indicated to the Solicitor that this needs done by the end of the month. They own the property and he doesn't foresee anyone objecting and ask that this be placed on the next Legislative Agenda as a consent agenda item.

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

Auditor Williams – Auditor Williams was not present but the City Manager told Council if they had any questions that he would answer them. Councilman Kevin W. Johnson ask about the report provided by the County Financial Commission which is usually received in January and without that report it is hard to look at the Auditor's report to ascertain how we're doing on various income funds and enterprise funds. Manager Allen stated that he could get Councilman Johnson a copy of that report and there would be a change in the sanitation rates. Councilman Kevin W. Johnson ask the Manger if he considered Auditor Williams report a true report and he replied that it could use a description attached to it and he (Manager Allen) had requested that of him. Councilman Kevin W. Johnson expected a lot more and Manager Allen gave a summary of the report. Acting Mayor Kalb ask Manager Allen to relay to Auditor Williams that he would like to have the actual print out of the monthly reports from the Auditor and not just the e-mailed reports.

There was no motion to accept the City Auditor's report since he was not there to present it.

MISCELLANEOUS BUSINESS FROM CITY COUNCIL

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

1. He forwarded a complaint from a resident on Chillicothe Street to the City Manager.
2. He requested that the President of Council organize Council to begin outlining the methodology and other specifics regarding the end of the year evaluation of the City Manager as per his contract.

2nd Ward – Councilman Saddler reported the following:

1. The next meeting for the Parks & Recreation meeting will be September 9th at 6:00
2. He thanked Manager Allen and the City Service crews for the cleanup over the Labor Day weekend as they did a wonderful job cleaning up the parade route.
3. He stated that he wouldn't go into detail regarding the Skate Park, because the previous comments that the gentleman made were a lot of untruthful statements. During one of the Parks & Recreation Committee meetings, Mr. Dunne had requested to speak regarding the Skate Park

and he did so. There was a special committee meeting at Mound Park in which Manager Allen, Mayor Kalb and some other individuals attended and it was explained to Mr. Dunne the process of what had to be done on moving forward with the Skate Park. He said that he is not the Parks and Recreation Commissioner, he is the 2nd Ward Councilman and he chairs a volunteer group of individuals who try to help out in recreational park activities and functions and it was not up to him or the Parks & Recreation committee. He stated that he cannot address the City Manager on his own and tell him to do something as that would be an action for all of Council. He doesn't know what the ladies and gentlemen of Shawnee State University have been told, but he felt they probably had not been told the truth. He can verify that a lot of these questions have been responded to via e-mail and that not only did Mr. Dunne get all the e-mails, but all of Council and the City Manager. Mr. Dunne comes very close to slanderous statements in the e-mails of not only the Councilmen but also the City Manager. He stated that he believed Mr. Dunne had a PhD and would think that he would know how to act more appropriate in a public setting when addressing a government body that is willing to do what they can for a Skate Park. As Mayor Kalb stated earlier, no one is opposed to the Skate Park but there was a process that needed to be followed. He added that he advised Mr. Dunne that he had to direct all questions to the City Manager and that there needed to be a Public Hearing. He then ask the City Manager if Mr. Dunne had ever set up a meeting with him and Manager Allen replied that he had not; he advised Mr. Dunne again to talk to the City Manager as he is in charge of the city and runs the day to day operations. Mr. Dunne had presented a completed design plan as an artist rendition of a completed skate park and that will not work because the State of Ohio would never accept that kind of plan as you need architectural drawings that are designed and approved by Engineers. Mr. Dunne is applying for the Tony Hawk grant which had about 50-100 questions, he (Mr. Dunne) pulled out a page of about 10 different questions and ask for them to be completed. Councilman Saddler was accused of not answering those question, however he had sent the questions that he had completed back to Ms. Hunt via e-mail and replied that some of the questions he could not answer and he advised Ms. Hunt that those would need to be followed up with the Service Director or the City Manager. This topic doesn't deserve anymore of the city's time and he reiterated that he's always been in favor for a Skate Park and Mr. Dunne was advised on the procedure but failed to follow them. He concluded by stating that if anyone would like to see the e-mails where the procedure was explained in detail, they will need to complete a Public Records Request through the City Clerk's office and he would be more than willing to respond and the truth would be revealed.

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

1. He stated that on August 26, 2014, he happened upon a house fire and called 911. He commended the Portsmouth Fire Department as they bravely entered the burning house. He believes they are taken for granted and wanted to publically thank them for putting their lives on the line.
2. The Personal & Performance Committee will be hosting a City Employee cookout on October 7, 2014 at 11:00 a.m. and it will take place on the green space across from the Municipal Building; in case of rain a date has been set for October 8, 2014 same time. He asked for all of Council to come and help out that day as they will be cooking hotdogs and hamburgers for the City Employees and the event does have the blessing of the City Manager. There is no charge to the City Employees as this is their way of saying thank you for the jobs they do day in and day out. He also thanked Lisa Carver of the Portsmouth Area Chamber of Commerce as they are the major sponsor for the event along with American Legion Post #23 and Shawnee Boat Club for supplying the Tables, Chairs and Grill.
3. He thanked Director Rick Duncan for having the scope equipment on the camera truck, it is state of art equipment and he understands that there are only 7 of these around the state and we have one of them.

4th Ward – Councilman Kalb had no report.

5th Ward – Councilman Meadows reported the following:

1. He stated that Councilman Saddler did an excellent job in addressing the Skate Park issue, but he added that most of the people that voiced their support were courteous, polite and respectful of Council and he appreciated it. He addressed Mr. Dunne by saying that his attitude did not help his cause and can safely say that unless there are some changes in the approach toward government officials and as long as Mr. Dunne is involved with the Skate Park, they will not have his approval.
2. He advised Council that he will not be at the next meeting as he is having a procedure that day.

6th Ward – Councilman Kleha stated that it was good to see Mr. Harner at the meeting and he was pleased to see the request and believes that it is a good idea and looks forward to supporting it. He added that Attorney Blume did an excellent job in preparing the legal description.

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