

Bob Mollette

3rd Ward Councilman

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Correspondence#: 06-018

March 8, 2006

Honorable Council Members
728 Second Street
Portsmouth, Ohio 45662

Re: **Sunshine Laws and Deliberations in Public Meetings**

I am requesting Council to use caution and not discourage open discussion by the legislative body for the City of Portsmouth. Consider the potential to violate the Ohio Sunshine Laws while expressing desires to avoid deliberations during City Council Meetings to expedite the meetings.

As documented in the February 27, 2006 City Council Meeting minutes, 2nd Ward Councilman Mr. David Malone read a statement prior to the legislative portion of the agenda in which Councilman Malone requested and was granted an opportunity to "make a few observations" "Mr. Malone reminded members of Council that the purpose of these meetings is to carry out the business of the City. He said it is not a forum for debate whether they agree or disagree with one another. He said we know what the issues are and what our positions are on those issues as we have done our own personal investigation before coming to the meetings. He said he would hope they all would show respect for one another even though they may disagree with one another's views. Mr. Malone said if everyone came prepared tonight, as they should, then they should be able to move forward expeditiously and not have to be here until after ten o'clock tonight."

As documented in the Miscellaneous Business from City Council, 2nd Ward Report Mr. Malone stated "In response to accusations of members of Council trying to circumvent the Sunshine Laws he advised everyone he was not trying to circumvent any laws. He further stated that it would be an injustice to the residents of his ward for him to come to meetings uninformed and unable to make intelligent decisions. He said the meeting is not the place to ask all your questions and if he wants answers from the Mayor, it is right and fair that he be able to get those answers from the Mayor."

The Ohio Revised Code 121.22 (A) requires public officials "to take official action and to conduct all deliberations upon official business in open meetings unless the subject matter is specifically exempted by law." The Sunshine Law is designed to prevent elected officials from "meeting secretly to deliberate on public issues without accountability to the public." (State ex rel. Cincinnati Post v. Cincinnati (1996), 76 Ohio St.3d 540, 668 N.E.2d 903) As the Supreme Court of Ohio recognized "One of the strengths of American government is the right of the public to know and understand the actions of their elected representatives. This includes not merely the right to know a government body's final decision on a matter, but the ways and means by which those decisions were reached." (White v. Clinton Cty. Bd. Of Commrs. (1996), 76 Ohio St.3d 416, 419, 667 N.E.2d 1223)

My concern, during the legislative session of the meeting a First Reading was given to an ordinance authorizing the Mayor to purchase approximately 1 acre of property located behind the Portsmouth Filtration Plant in an amount not to exceed \$6,000.00. The property is needed for the planned expansion to accommodate the MIEX (Magnetic Ion Exchange) Water Filtration Treatment System. I previously requested additional information from the Mayor (#06-013 dated February 20, 2006 published @ www.molletteinfo) concerning these proposed improvements at the plant.

The Mayor stated that he had offered to respond to my questions at his office and include the Public Utilities Waterworks Director and others to explain and provide answers to any follow-up questions I may have. I suggested the Mayor include time for the Waterworks Director to update Council and the public during the Council Meeting as to how the City arrived at this point of purchasing property. The public's representatives (City Council) will be asked to issue a \$3 million debt in support of this improvement in the near future and communication is critical to include the citizens. I was discouraged by the fact that no public discussion occurred at this meeting.

I later obtained written information and included a verbal discussion with the Mayor on February 28, 2006, which was documented in my correspondence #06-016 dated March 2, 2006 (published @ www.mollette.info).

Again, I support creating an environment dedicated to Sunshine that will encourage open communications. This communication will provide the opportunity for the city's resources, the people, to be integrated into the solutions and not the victims of the system.

As always, I welcome your thoughts on these and any matters discussed here. Contact me should you have any comments or questions.

Respectfully,



Bob Mollette, 3rd Ward Council

rwm

cc: Jim Kalb, Mayor
David Kuhn, Solicitor
Trent Williams, Auditor
Jo Ann Aeh, Clerk (Record)