

# Bob Mollette

## 3<sup>rd</sup> Ward Councilman

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May 1, 2006

Howard Baughman, Council President  
728 Second Street  
Portsmouth, Ohio 45662

David Kuhn, Solicitor  
728 Second Street  
Portsmouth, Ohio 45662

**Re: Request for Witnesses at the May 15, 2006 Tim Loper Public Hearing**

A Public Hearing is scheduled for May 15, 2006 at 2:00pm at the City Municipal Building. The Public Hearing will determine the election and qualification of Mr. Tim Loper as the 1<sup>st</sup> Ward representative per Section 8 of the City Charter.

At this time, to investigate and evaluate the qualifications of Mr. Tim Loper as the 1<sup>st</sup> Ward Representative, I am requesting per Section 40 of the City Charter to subpoena the following witnesses to be placed under oath to testify at this Public Hearing:

1. Timothy L. Loper
2. Teresa Loper, wife of Timothy Loper
3. David Kuhn, City Solicitor
4. Steven Mowery, Scioto County Board of Elections Chairman
5. Ted Journey, Property owner of 519 1/2 Third Street
6. Robert Forrey, Challenger and 1<sup>st</sup> Ward Resident

This advance notice is to ensure sufficient time for notification of the witnesses and for preparation of council in the questioning of witnesses.

Respectfully,



Bob Mollette, 3<sup>rd</sup> Ward Council

rwm

cc: w/attachments (City Charter - Section 3, 8, & 40)  
Council (4)  
Jim Kalb, Mayor  
Trent Williams, Auditor  
Jo Ann Aeh, Clerk (Record)

**COUNCIL****SECTION 3. POWERS, ELECTION, TERM, VACANCIES.**

Except as otherwise provided in this Charter, all legislative powers of the City shall be vested in a Council consisting of one member nominated and elected from each ward in said City. The terms of the members of Council shall be for four years in Wards 1, 3 and 5, beginning on the first Monday in January, 1986, and for four years in Wards 2, 4 and 6, beginning on the first Monday in January, 1988. The members elected in Wards 2, 4 and 6 for the term beginning on the first Monday in January, 1986, shall serve for a term of two years. If a vacancy occurs in the Council, except as the result of a recall election, some eligible person from the ward in which the vacancy occurs, shall be chosen within thirty (30) days by a majority vote of the remaining members of Council to fill the unexpired term. If, however, the remaining members of Council fail to fill such vacancy within said thirty (30) days, said vacancy shall be filled by a committee consisting of the President of Council, or in case the office of the President of Council be vacant, the Vice-President, the City Auditor and the City Solicitor, who shall certify their selection to the City Clerk.

Each member of Council elected, or appointed, from a ward shall have resided in said ward not less than six (6) months, and each member of Council elected from a ward shall have been for at least five (5) years immediately preceding his election and during the term of his office shall continue to be, a resident of the City of Portsmouth, Ohio. Any member of Council elected from a ward shall forfeit his office if he removes from said ward, and then Council shall at once fill the vacancy for the unexpired term. Each member of Council, either elected or appointed shall have the qualifications of an elector of the City. Except where authorized by law, no Council Member shall hold any other elected public office, or any other City office or City employment, during the term for which elected or appointed to Council. The Council may redivide the City into wards upon the basis of its population in the manner provided by general law, provided that such redivision shall not abridge the term of any member of Council elected or appointed thereto, nor shall any person be chosen a member of Council in divided or newly created wards except he be nominated and elected as provided herein.

(Amended 11-5-85; 5-7-02)

**SECTION 4. MEETINGS OF COUNCIL.**

At seven o'clock P.M. on the first Monday in January following a regular municipal election the Council shall meet at the usual place for holding Council meetings and the newly elected members shall assume the duties of office. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than twice each month. Special meetings may be held upon vote of the Council taken in any regular or special meeting, also, shall be called by the Clerk upon the written request of the Mayor, the President of Council or three members of the Council. Any such vote or request shall state the subject to be considered at the special meeting and no other subject shall be there considered. All meetings of the Council and of committees thereof shall be open to the public, subject to the provisions of the open meeting law of the Ohio Revised Code, presently contained in Section 121.22 therein, and the rules of the Council shall provide that citizens of the City shall have a reasonable opportunity to be heard at any such meeting in regard to any matter considered thereat.

(Amended 5-2-89)

**SECTION 5. PRESIDENT AND VICE-PRESIDENT OF COUNCIL.**

At its first meeting in January following a regular municipal election, the Council shall choose one of its members as President and another member as Vice-President. In case the members of Council, within five days after the time herein fixed for their organizational meeting, are unable to agree upon a President or a Vice-President, of such Council, then a President, or Vice-President, or both, as the case may be, shall be selected from all the members of such Council by lot conducted by the City Solicitor, who shall certify the result of such lot upon the journal of such Council. The President shall preside at meetings of the Council and perform such other duties consistent with his office as may be imposed by the Council. If a vacancy occur in the office of President, or in the case of his absence or disability, his duties shall be performed, during such absence or disability, by the Vice-President. In the absence or disability of both the President and the Vice-President, the remaining members of the Council shall select one of their number to perform the duties of President.

(Amended 11-3-87)

**SECTION 6. SALARY OF COUNCIL MEMBERS AND PRESIDENT OF COUNCIL.**

Each member of the Council shall receive a salary of six hundred dollars (\$600.00) a year, provided that the member selected to serve as President of Council shall receive a salary of one thousand dollars (\$1,000.00) per year, which salary shall be payable in equal monthly installments, and shall give bond in the sum of one thousand dollars (\$1,000.00), with some bonding company regularly accredited to do business in the State of Ohio, or at least two freeholders resident of Scioto County, Ohio as sureties thereof, to the approval of the Sinking Fund Commission, and the premium of such bond may be paid by the City. The bonds of the members of Council shall be filed with the Sinking Fund Commission and by it recorded in a book provided for such purpose.

**SECTION 7. CITY CLERK.**

The Council shall choose a City Clerk and such other employees thereof as are necessary, who shall serve at the pleasure of the Council. The Clerk shall attend the Council as its secretary, shall keep its journal and other records, and make an annual report, giving a summary of its proceedings and shall perform such other duties as are given him by this Charter or which may be prescribed by ordinance.

**SECTION 8. RULES OF COUNCIL.**

The Council shall be the judge of the election and qualification of its members and, in such cases, shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the Council in any such case shall be subject to review by the courts. The Council shall determine its own rules and order of business and keep a journal of its proceedings. It shall have power to compel the attendance of absent members, may punish its members for disorderly behavior and, by vote of not less than all of the members elected to Council less two, may expel a member for disorderly conduct or the violation of its rules; but no member shall be expelled unless notified of the charge against him and given an opportunity to be heard in his own defense. For each absence of a member of Council from a regular meeting of the Council, unless excused by a majority vote of all members thereof there shall be deducted from his salary a sum equal to two percent of the annual salary of such member. Absence from five consecutive regular meetings shall operate to vacate the seat of a member unless such absence is excused by the Council by a motion or resolution setting forth such excuse and entered upon the journal.

**SECTION 36. ESTABLISHMENT OF DEPARTMENTS.**

There shall be a Department of Law, a Department of Finance and Audits, and such other departments and officers as may be established by ordinance.

(Adopted 11-4-41.)

**SECTION 37. ONE PERSON AS HEAD OF TWO OR MORE OFFICES.**

The Mayor may appoint the same person as the head of more than one department or office, and except as otherwise provided in this Charter may himself act as head of any department or office; but the Department of Law shall not thus be joined with any other department or office, and the Mayor shall not act as head of the Department of Finance or of any office therein.

**SECTION 38. NUMBER OF ASSISTANTS AND SUBORDINATES, HOW FIXED.**

The number of assistants and other subordinates to be employed in or by each department or office shall be fixed by the Council, unless the Council authorize the Mayor to determine the number of such assistants and subordinates in and for any department or office subject to the appropriations made therefor.

**SECTION 39. ADVISORY BOARDS.**

The Mayor may appoint a board of citizens qualified to act in an advisory capacity to the head of any department or office. The members of any such board shall serve without compensation and it shall be their duty to consult and advise with the director or other officer, as the case may be, but not to direct the conduct of the department or office. Recommendations of any such board shall be in writing and shall become a part of the records of the department or office to which they relate. The head of the department or office for which an advisory board is appointed shall be chairman of all meetings thereof.

**SECTION 40. INVESTIGATIONS BY COUNCIL OR MAYOR.**

The Council, the Mayor or any person or committee authorized by either of them, shall have power to inquire into the conduct of any department, office or officer of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence.

**DEPARTMENT OF LAW****SECTION 41. ELECTION, QUALIFICATIONS AND DUTIES OF CITY SOLICITOR.**

A City Solicitor shall be elected as herein provided, and his term of office shall be for four (4) years, commencing on the first Monday in January next following his election, and shall serve until his successor is elected and qualified. Should a vacancy occur for any reason in the office of the City Solicitor, the Council shall appoint some eligible person for the unexpired term. The City Solicitor shall be an elector of the City, and an attorney at law who shall have practiced in the courts of the State of Ohio for at least five years. He shall perform all of the duties imposed upon the chief legal officers of cities by the general laws of the State of Ohio, and beyond the competence of this Charter to alter or require. The salary of the City Solicitor, the number of assistants and employees and their salaries shall be fixed by Council, but such assistants and employees shall be appointed and may be removed by the City Solicitor, at will.

(Adopted 11-2-54.)