

# Bob Mollette

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

1705 Franklin Blvd.  
Portsmouth, Ohio 45662

Phone: 740-353-0099  
email: [mollette@mollette.info](mailto:mollette@mollette.info)  
website: [www.mollette.info](http://www.mollette.info)

Correspondence#: 07-027

February 19, 2007

Jim Kalb, Mayor  
728 Second Street  
Portsmouth, Ohio 45662

Trent Williams, Auditor  
728 Second Street  
Portsmouth, Ohio 45662

David Kuhn, Solicitor  
728 Second Street  
Portsmouth, Ohio 45662

Re: **February 13, 2006 - Request for Disclosure of Public Information and Records**

A written *Public Records Request* dated February 13, 2006, was written to the Mayor and the Police Chief, by a 3<sup>rd</sup> Ward constituent, which has yet to receive the appropriate action (attached). At the request of the 3<sup>rd</sup> Ward constituent I became involved. I requested the appropriate actions to the Public Records Request by our Mayor and Solicitor in a letter written on March 27, 2006, #06-025 (attached). This memo is a follow-up to the two previous requests and will include the Auditor. The Auditor is being included in the current Public Records Request due to the "Portsmouth Police Law Enforcement Trust Fund and Mandatory Fine Fund" being relinquished to our Auditor's office as directed by the State Auditor's office. I am concerned one (1) year has passed without the execution of this *Public Records Request*. I feel it is our obligation as public servants to comply with all laws.

I trust you are aware the Public Records Law was recently revised by our Ohio 126<sup>th</sup> General Assembly and signed by our Governor on December 27, 2006. It appears these requirements have additional liabilities and fines for failure to comply with the law.

Section 149.43.(A) states in "*Section (C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section, or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(1) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.*"

The Ohio Sunshine Laws Public Records Act (R.C. 149.33) evolved from the principle that Ohio's citizens are entitled to access the records of their government. To advance that principle, the Public Records Act is to be interpreted liberally in favor of disclosure. It means where a decision to disclose a record is a close call, a public office should disclose it.

The obligations of a Public Office must include prompt inspection of public records; prompt means without delay and copies must be provided within a reasonable amount of time. The Public Office should quickly conduct a review of circumstances and facts to determine if the records are immediately available. The Public Office should acknowledge receipt of the Public Records Request and provide a reasonable timeline for pickup of requested documents. At this time, I am requesting the Public Records Request receive the legal respect of your immediate attention and request a prompt resolution for your constituent and 3<sup>rd</sup> Ward resident. We must work within the light of the Sunshine to provide the public services we are elected to perform.

I will be waiting for your written response to this memo. Also, should you have any questions about my desires to maintain public records public feel free to contact me.

As always, I welcome your thoughts and ideas on the above matters.

Respectfully,

A handwritten signature in black ink, appearing to read "Bob Mollette", with a long horizontal line extending to the right.

Bob Mollette, 3<sup>rd</sup> Ward Advocate and Representative on City Council

rwm

cc: w/attachments

Charles Horner, Police Chief

Council (5)

Jo Ann Aeh, Clerk (Record)

# Bob Mollette

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

1705 Franklin Blvd.  
Portsmouth, Ohio 45662

Phone: 740-353-0099  
email: [mollette@mollette.info](mailto:mollette@mollette.info)  
website: [www.mollette.info](http://www.mollette.info)

Correspondence#: 06-025

March 27, 2006

Jim Kalb, Mayor  
728 Second Street  
Portsmouth, Ohio 45662

David Kuhn, Solicitor  
728 Second Street  
Portsmouth, Ohio 45662

Re: **February 13, 2006 Request for Disclosure of Public Information and Records**

I was notified by your constituent and 3<sup>rd</sup> Ward resident a *Public Records Request* was made to you and Police Chief Charles Horner per the attached letter dated February 13, 2006. At least six (6) weeks have past with no response from the City concerning the *Public Records Request*.

The Ohio Sunshine Laws Public Records Act (R.C. 149.33) evolved from the principle that Ohio's citizens are entitled to access the records of their government. To advance that principle, the Public Records Act is to be interpreted liberally in favor of disclosure. It means where the decision whether to disclose a record is a close call, a public office should disclose it.

The obligations of a Public Office must include prompt inspection of public records; prompt means without delay and copies must be provided within a reasonable amount of time. The Public Office should quickly conduct a review of circumstances and facts to determine if the records are immediately available or if records are not available immediately. The Public Office should acknowledge receipt of Public Records Request and write a receipt letter confirming substance of the request and explain the situation to the requestor which informs that records will be available on a reasonable period of time.

I am requesting the Public Records Request receive the legal respect of your immediate attention to resolve the request and establish a timeline for resolution of this request by your constituent and 3<sup>rd</sup> Ward resident.

We must work within the light of the Sunshine to provide the public service we are elected to perform; as always, I welcome your thoughts on the above matters discussed here.

Contact me should you have any questions with my desires to maintain public records public. I will be waiting for your written response to this memo.

Respectfully,



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

rwm

cc: w/attachment

Charles Horner, Police Chief  
Trent Williams, Auditor  
Council (5)  
Jo Ann Aeh, Clerk (Record)

February 13, 2006

To: James Kalb, Mayor  
Charles H. Horner, Chief of Portsmouth, Ohio Police

Re: Request for Disclosure of Public Information and Records  
Ohio Freedom of Information Act Title I Ch. 149. Sec 49

Your office maintains or has the ability to obtain public records pertaining to The Portsmouth Police Law Enforcement Trust Fund & Mandatory Fine Fund. Also known as the "Portsmouth Police Department Special Account" which according to the last records this account was maintained at Star Bank and was in complete control of Chief Horner. As stated under the Ohio Sunshine Laws or public records laws pursuant to Ohio Revised Code 2933.43 all these record are subject to availability.

According to records provided by you these figures were reported.

Mandatory Drug Fines	Year, 2004 Balance on hand	\$65,036.53
	2003 Balance on hand	\$58,051.28
	2002 Balance on hand	\$54,239.44

Law Enforcement Trust fund. Or account.

Total Expenditures in 2004	\$75,286.46	Year, 2004 Balance on hand	\$200,994.20
		2003 Balance on hand	\$200,033.04
		2002 Balance on hand	\$195,838.70

I am requesting a complete itemized up to date accounting of this fund including copies of canceled checks showing to whom or what all monies were expended for, from 2002 to present date 2006. Also records of all payouts and copies of these as monies spent on equipment, supplies and services, showing what these monies were spent on, and to where it was spent. Also the expenditure other was listed, I would like a list of what this \$30,000 OTHER consisted of. Please provide all copies of all expenditures in this account from 2002 to present 2006, canceled checks and receipts.

In the event that you determine that all or some portions of the requested documents or pieces of information is exempt from release, please send me written notification of such action and identify any exemptions that is invoked. I further request the release of any portion of the documents or pieces of information that you feel are not exempt.

I would like to thank you in advance for your assistance. If you have any questions regarding this public records request, please contact me at the below address.

Sincerely, Harald Daub

1221 22<sup>nd</sup> Street  
Portsmouth, Ohio 45662