

Bob Mollette

3rd Ward Councilman

1705 Franklin Blvd.
Portsmouth, Ohio 45662

Phone: 740-353-0099
email: mollette@mollette.info
website: www.mollette.info

Correspondence#: 07-037

April 19, 2007

Jim Kalb, Mayor
728 Second Street
Portsmouth, Ohio 45662

David Kuhn, Solicitor
728 Second Street
Portsmouth, Ohio 45662

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

Re: Transparency and Accountability Builds Trust and Integrity

I am disappointed by the disruptions that were allowed to take place at the March 12, 2007 and March 27, 2007 City Council Meetings, which transformed a lawful meeting into a circus sideshow. These disruptions must be given the proper attention by Council. Council must eradicate the circus sideshow so the real challenges and issues of Portsmouth, Ohio may be discussed and solved. I believe the past chaos has created a poor public opinion of our City government. These same events have raised my concerns because of the elevated level of intimidation being exerted by certain elected and appointed officials to publicly discredit my integrity and reputation as an elected public servant.

In an effort to address the false accusations and implied wrongdoing from the March 12, 2007, City Council Meeting I prepared correspondence #07-034, dated March 20, 2007, with optimism these inappropriate actions would cease. After the March 27, 2007, City Council Meeting I again attempted to address the false accusations with correspondence #07-035, dated April 2, 2007, which requested Council to work the real issues at hand and cease the erratic behavior that encourages the circus sideshow atmosphere. Both correspondences are posted on my website www.mollette.info, Letter page.

I believe transparency and accountability must be our goals for a successful City government and to gain the trust and respect of our community. Elected and appointed officials must adhere to the Portsmouth City Charter and Codified Ordinances as well as state law when applicable. These laws must be followed as written and not selectively or creatively applied only to particular events or towards selective individuals. We must eliminate the double standards. Council has the right to punish its members for disorderly behavior and with notice may expel a member for disorderly conduct or violation of the rules. Council also has the power to inquire into the conduct of any department, office or officer of the City and to make investigations as to municipal affairs. Council should consider formalizing a process for reporting alleged inappropriate conduct or wrongdoing, and take appropriate action in a timely manner. To assist Council a complaint form should be developed to document all pertinent information in which to substantiate claims. I believe this process would provide a means for regaining trust and integrity by taking ownership of our problems and taking actions to avoid similar events. Council members are the representatives for the citizens and we must be working on their behalf to solve our problems. The City Charter provides the authority for Council to be proactive and I recommend Council seize the opportunity for resolving citizen's problems and avoid costly legal entanglements.

I encourage all Council members to review and become familiar with the appropriate City Charter Sections, the Codified Ordinances, and Council Rules for reducing the circus sideshow atmosphere at our City Council Meetings. I have prepared an informal list of items that I feel may be appropriate; Section 8 Rules of Council; Section 40 Investigations by Council or Mayor; Section 160 Oath of Office; 509.03 Disorderly Conduct,

Intoxication; 509.04 Disturbing a Lawful Meeting; 525.02 Falsification; 525.07 Obstructing Official Business; 525.13 Interfering with Civil Rights and Ohio Revised Code 2921.03 Intimidation. This is not an inclusive list and others may be recommended.

The following events are a matter of record. I believe a review by Council would be reasonable to understand our problems and deter similar events from occurring in the future.


1. At the March 27, 2007, Regular City Council Meeting the payment of \$5,000 was authorized for a citizen's first amendment rights being violated. Keep in mind the significance of these actions, the City Codified Ordinances Section 525.13 Interfering with Civil Rights states (a) No public servant, under the color of his office, employment or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right and (b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree (ORC 2921.45). The City Codified Ordinances Section 501.99 Penalties for Misdemeanors states (2) Fines for a misdemeanor of the first degree, not more than one thousand dollars (\$1,000) and (b) Jail Terms for a misdemeanor of the first degree, not more than one hundred eighty days. I believe Council should be assured this type of conduct will not reoccur to avoid future legal entanglements.
2. At the March 15, 2007, Special City Council Meeting for the 2007 Annual Operating Budget, it appeared the Mayor attacked and intimidated a Councilman by questioning his integrity by accusing him of coming unprepared to City Council Meetings. This Councilman made the motion that resulted in the removal of the Mayor's salary increase in the 2007 Operating Budget. This act could be considered a form of intimidation (ORC 2921.03).
3. At the March 15, 2007, Special City Council Meeting, held specifically for passing the 2007 budget ordinance, the Mayor showed contempt towards me by stating, "He did not know how the City of Portsmouth had survived the last 100 years without a Mollette on Council." This is disrespectful and unbecoming for a Mayor to attack a Councilman and the citizen's advocate in this manner and may be considered a form of intimidation (ORC 2921.03). I encourage critical discussions and debates to reach the best solutions with our limited resources, but I am discouraging any further disrespect and disruptions of this nature. This is beyond the point of discussing.
4. At the March 12, 2007, Regular City Council Meeting, I believe the Chief of Police, by his demeanor, temperament, and political position as the chief law enforcement official was allowed to disrupt a lawful meeting (Section 509.04) with the intent to intimidate (ORC 2921.03) a public servant in the discharge of his duties. The lawful meeting turned into a circus sideshow, which must not be condoned. The Chief of Police requested an investigation into my conduct as a Councilman for publishing an alleged confidential document. My belief is the objective of these attacks during a public meeting is to discourage transparency in our City government. To discourage me from providing information on my website www.mollette.info with the implications of wrongdoing on my part and attempting to discredit my reputation in public by creating a media frenzy in which to intimidate and silence open communication. It was reported "mounds of documents," have been collected against me in order to give an appearance of an ongoing investigation; even though an official investigation has not been formally requested. At this time I am making a formal document request for these "mounds of documents." My website is storage for public records that I receive as a representative. I encourage citizens to become informed and voice their opinions. My website does promote a questioning attitude that may lead some informed citizens to be critical of their City government, which is protected by the First Amendment to the United States Constitution. I look forward to resolving this complaint as needed.
5. At the March 12, 2007, Regular City Council Meeting the 6th Ward representative interrupted a citizen at the microphone while he was expressing his distress over the purchase of SUV police vehicles by stating "you are lying." The citizen was expressing his concern over the police department purchase of three (3) less fuel efficient new Ford Expeditions SUV's, two (2) new Ford 500's, and ten (10) new LTD Crown Victoria police cruisers instead of the fifteen (15) cruisers that was originally discussed in the 2006 CIP Budget. This may be considered disorderly behavior (509.03) and disturbing a lawful meeting (509.04) .

6. At the March 12, 2007, Regular City Council Meeting, during the 2007 Operating Budget discussion, the Mayor took on a threatening demeanor and insisted, "not to call the budget in a deficit again." I encourage critical discussion and debate to reach the best solution with our limited resources, but I am requesting any further threats of intimidation (ORC 2921.03) to cease.
7. In my correspondence #07-029 dated February 26, 2007, I requested our Solicitor to evaluate the potential legal entanglements and taxpayer abuse concerning a one (1) year old Public Records Request dated February 13, 2006. No actions have been taken to date. I also requested evaluation and enforcement of City Ordinances to establish elected officials on Southern Ohio Growth Partnership (SOGP) Board of Trustees, including a review of the appropriateness of a twenty (20) year water contract. No actions have been taken to resolve.
8. In my correspondence #06-030 dated April 17, 2006, I requested accountability for unprofessional, unwarranted, and unacceptable actions and behavior displayed at the April 10, 2006, Regular City Council Meeting. No action has been taken.
9. I believe the Solicitor's opinion dated February 28, 2006, creatively read the charter language to allow a 1st Ward representative to move outside his Ward and maintain his Council seat in direct conflict with the language of the City Charter was improper. This opinion created much controversy and needless attention to the operation of our City government. We must encourage the City Charter to be followed as written and not creatively read.
10. In my correspondence #06-010 dated January 31, 2006, I expressed my disappointment in the Mayor's response to concerns expressed at the lack of communication within our local government. I believe the Mayor's letter dated January 26, 2006, was meant to be disrespectful and intimidating (ORC 2921.03). I requested a response to the serious allegations made and received no response to date.
11. In my correspondence dated September 19, 2005, I requested Council President to consider accountability for unprofessional, unwarranted, and unacceptable actions and behavior displayed in the City Clerk's office on September 12, 2005, prior to a Regular City Council Meeting to be evaluated. No actions were taken.

Evaluate the merits of empowering Council to enforce the City Charter and Codified Ordinances by implementing the Complaint Form. Encourage Council to be proactive in resolving citizen complaints to avoid costly legal entanglements.

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

Respectfully,



Bob Mollette, 3rd Ward Advocate and Representative on City Council

rwm

cc: Council (4)
Mark Kuhn, County Prosecutor, 602 Seventh Street, Rm. 310, Portsmouth, Ohio 45662
Joe Griffith, *Dagger, Johnson, Miller, Ogilvie & Hampson LLP*
Jo Ann Aeh, Clerk (Record)