



JAMES D. KALB
MAYOR

CITY OF PORTSMOUTH
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PORTSMOUTH, OHIO 45662

May 12, 2008

Bob Mollette
Third Ward Councilman
1705 Franklin Avenue
Portsmouth, Ohio 45662

RE: Correspondence Number 08-015, New Roof on Martings' Building Annex

Dear Mr. Mollette,

Obviously, the replacement roof in the correspondence referenced above makes the annex property more attractive to potential buyers and puts an end to the water running down the stairs and walls. I consider this a prudent investment.

Attached is a copy of Council Minutes showing our former Solicitor stating that the City has the right and responsibility to protect its assets. The money used for repairing the roof had been previously appropriated and the project was properly bid. I feel confident that the investment in a new roof will be returned upon sale or use of the building.


I will also take advantage of this correspondence to address your "Request for Assistance" from Ohio Auditor of State Mary Taylor, CPA (correspondence #08-017). As you are aware, we have been looking at making some changes in the way our court security is handled. You obviously do not recall the discussion we had at the time we were preparing the 2008 Operating Budget. At that time, we discussed our plans to replace the 'contract' employees from the Sheriff's Department with two new city employees. Pursuant to this plan, we budgeted money in the "Personnel" lines instead of "Others" for court security. A simple transfer of funds will correct this minor error.



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I cannot fathom why you would, entirely on your own, contact a State Agency and insinuate the necessity of outside help to force compliance with the law. Are you truly unobservant to the fact that there is money for court security in a different line, or did you desire an opportunity to malign your fellow Portsmouth officials?

Regards,


James D. Kalb, Mayor
City of Portsmouth

cc: Auditor Trent Williams
Solicitor Michael Jones
Chief Charles Horner
Clerk Jo Ann Aeh
Honorable Council Members
The Honorable Mary Taylor, State Auditor

JDK/wjj

DAYTON LEGAL BLANK, INC.

The Clerk gave a second reading to an ordinance repealing Ordinance No. 69 of 2005 that was passed on September 26, 2005, which repealed ordinance No. 33 of 2004 that was passed on June 28, 2004, which authorized the suspension of work on a new city building (former Marting's Building).

Defeated

Councilman Malone moved to suspend the rule requiring an ordinance be read on three separate dates.

There were no questions or comments. The roll was called. VOTE: ayes 5 (Baughman; Malone; Mollette; Albrecht) - nays 1 (Mohr) The rule was suspended.

Councilman Malone made a motion to pass the ordinance.

Councilman Mollette, noted the ordinance being considered for repeal to be Ordinance #69, which, he said "returned back to Section 8 of Tanner Stone contract which moves forward with the Marting's renovation". Mr. Mollette expressed his support of the passage of this ordinance because he felt it would "save the taxpayers time of waiting for a May ballot", which he said, based on "all" his constituents and their concerns is "they do not want to move forward with this Marting's building". He again reiterated his remarks with regards to "options" and "a plan". Vice President Mohr expressing confusion asked the Solicitor if there was anything in the court case or anywhere else that says the money has to be given back to the City and the City return the building. The Solicitor acknowledged there to be no such order. Mr. Mohr then noted that if the work does not continue then the City has a building for which it paid \$2,000,000.00 and there will not be any chance of having 1.4 million returned to the City. Mr. Mohr advised Mr. Mollette that he has spoken with many of his third ward constituents who are confused and believe the court ruled that if the City returns the building the Foundation will return the purchase price. Mr. Mohr noted that the City would have a \$2,000,000.00 "eye sore" sitting in the downtown. He further noted that the City does have plans, which he said were actually stopped with the original ordinance. He said he could not phantom why the City would want to "just throw away \$2,000,000.00 and the possibility of a refund of 1.4 million. Councilman Mollette acknowledged Council to be in a position of owning the property and that there is a lot of confusion regarding it. Mr. Mollette preceded to overview the circumstances resulting in the City's ownership and reiterated his disagreement with the City's ability to look at options and provide a plan. He said the plans he wants is "an overall outlook considering the options". He further stated there to be a "serious communication and a serious accountability between the citizens and their City government between what is the next step our city Government is going to do on a City offices". Mr. Mollette again restated his opinion with regard to a plan and options. Mr. Mollette stated that the only reason this is a topic of discussion now instead of moving forward with a plan with three year old construction costs, is because of the referendum petition. He suggested a new facility and claimed the new Cornerstone Church to have been constructed for "over \$4,000,000.00" and questioned "renovating an old building in an undesirable location versus a new building". Vice President Mohr felt it to be important that the voters know that if they decide not to renovate the Marting's building that will leave \$2,000,000.00 of City funds just sitting there. He said he could not foresee himself wanting to waste \$2,000,000.00 in tax money and risking not getting a return of 1.4 million dollars of that tax money. He claimed the best option to be to accept the 1.4 million, which makes the purchase of the building at about \$400,000.00. He also felt the renovations could be done for \$3,000,000.00. In response to the Mayor inquiring as to what would happen should the voters turn down the renovations and the City is left with an ordinance that does not allow any money to be spent on the Marting's building and asking if there were some way for him to spend money to obtain updated figures or repair the roof on the Marting's building, the Solicitor advised that Council would have to make a decision as to what to do with that building since it is owned by the City. Mr. Kuhn stated that normally maintenance expenses would be permitted, saving they are not affected by the Court order. He further stated that Council would have to authorize any expenditure, including updating the plans on the Marting's building. Mr. Kuhn noted that the referendum only addresses remodeling and improving the building, saying nothing can stop general maintenance in order to preserve your assets and keeping them from being destroyed. Councilman Malone said he felt repealing this ordinance would put this situation back to where it was in June of 2004 until Council sees what the constituents do with regard to the referendum. He said he felt if the citizens want the City to move forward, this ordinance can be reconsidered. In response to Vice President Mohr asking if the City can do anything to the building, other than maintenance, if the citizens vote for this referendum, the Solicitor said if the electors vote to repeal the ordinance that permitted work to be done it would mean there is no authority to go ahead with the original plan but the City would still own the property and would have the authority to decide what to do with that property. The Solicitor advised there to be no authority prohibition authorizing the Mayor or whoever to come up with new plans for a new use. Councilman Mollette for clarification stated that by repealing this ordinance there would be no need to take the issue to the ballot. With regard to Ord. #33 of 2004, Mr. Mollette noted this ordinance suspended work on the Marting's building as it pertained to Section 8 of the contract with Tanner and Stone. Mr. Mollette reiterated remarks made previously by him with regard to the injunction filed by he and his wife and the Judge's determination and reviewed all the events that followed. Mr. Mollette expressed his belief that another firm could be used and again expressed his opinion with regard to options. In response to the Mayor asking if Mr. Mollette were requesting updated plans and cost estimates for the Marting's building, Mr. Mollette stating this was not about him and a plan and saying it has to do with constituents and taxpayers, reiterated his remarks regarding options and a plan. He said once these options and various plans are evaluated, "You can decide and you can consider losing, not being able to take credit for some money that was a part of an agreement but you also have to consider, if we are expending \$7,000,000.00 to recover \$1,000,000.00. The Mayor, noting that the City cannot spend anymore money with Tanner and Stone, stated that in order to have accurate cost figures on the renovation of the Marting's building it would be necessary to hire another architect to provide this service. He further noted it would be unethical for another architectural