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February 18, 2009

Bob Mollette
3rd Ward Councilman, Portsmouth City Council
1705 Franklin Blvd.
Portsmouth, Ohio 45662

Dear Mr. Mollette:

I am in receipt of your letter dated January 26, 2009. This letter questions an expenditure of city monies to repair and or replace a roof on the city owned Marting Annex. Your letter indicates that you have addressed these concerns to the Ohio State Auditor and these concerns have been forwarded to Caudill and Associates, the City of Portsmouth independent auditor for years 2007, and presumably 2008.

Your letter asks for my involvement in obtaining a legal opinion on the legality of this expenditure. Your letter also asks for me to investigate this matter. I believe you are aware that although the Prosecutor's Office is vested with some general investigative powers, the resources made available to this office and the authority granted by statute are directed toward prosecution and not investigation. The Prosecuting Attorney's office is not a primary investigative agency. Also, this office is not permitted to give legal opinions to other governmental entities or their representatives nor is this office authorized to represent other governmental entities or their representatives, unless expressly provided by statute.

However, I did confirm with a representative of Caudill and Associates that they are aware of your concerns and will review the matter when conducting the 2008 City of Portsmouth Audit. In that they are the independent auditors for the City of Portsmouth, I believe they are in the best position to review the legality and propriety of the financial transactions of the City of Portsmouth. Certainly if an audit would show findings for recovery, due to unlawful transactions, I would take action according to law.

If you should have any questions or comments, please feel free to contact my office.

Very truly yours,

Mark E. Kuhn
Prosecuting Attorney

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**cc: Jim Kalb, Mayor of the City of Portsmouth
Michael Jones, Portsmouth City Solicitor
Trent Williams, Portsmouth City Auditor
Michael Mearan, 1st Ward Councilman, Portsmouth City Council
Greg Caudill, Caudill & Associates
David Green, Scioto County Auditor
Mary Taylor, Auditor of the State of Ohio
Richard Cordray, Ohio Attorney General
Jo Ann Aeh, Clerk of Records**