

Bob Mollette

3rd Ward Councilman

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Gregory Caudill
Caudill & Associates, CPA
725 Fifth Street
Portsmouth, Ohio 45662

Charles F. Barga, CPA
Chief Auditor/Audit Division - Athens Region
743 East State Street
Athens Mall Suite B
Athens, Ohio 45701

Trent Williams
Portsmouth City Auditor
728 Second Street
Portsmouth, Ohio 45662

Re: City of Portsmouth FY 2008 Audit Meeting

I was contacted by Greg Caudill of Caudill & Associates, CPA on February 3, 2009 and agreed to participate in a meeting on March 10th to discuss the FY 2008 City of Portsmouth Audit. I appreciate the opportunity to discuss unresolved concerns expressed as a public official seeking support to encourage positive change in the City of Portsmouth. Keep in mind all letters [##] and responses mentioned within this letter may be found on my Council website at www.mollette.info under the "Letters" page. I have summarized unresolved concerns expressed to City elected officials for your convenience and appropriate actions.

Cell Phones & Credit/Debit Card Policy

I prepared a letter [#08-018] dated May 8, 2008 to request the Mayor and City Auditor to improve accountability to our taxpayers and implement a cell phone and credit/debit card policy as recommended from yearly audit findings dating back to, at least, 2004. The Mayor responded in a letter dated May 12, 2008 stating all concerns of the State Auditor will be addressed prior to the next audit (2008). During 2008, City Council was not apprised, involved, or adopted new policies. I am requesting the auditor to confirm and critique these policies as needed.

Engineering Contractual Line Item No. 101.663.5299 Appropriation

I prepared a letter [#08-030] dated August 28, 2008 to request a legal opinion from the City Solicitor concerning public money appropriations without identifying a revenue source. The City Council Meeting minutes may be reviewed at the link: <http://www.ci.portsmouth.oh.us/government/minutes/2008/08-25-08.pdf>.

On September 3, 2008 the Solicitor gave his opinion council always had, and continues today to have the authority to appropriate funds. I believe this response implied following the laws were at the discretion of the majority of the legislative body. I forwarded the issue with letter [#08-031] dated September 8, 2008 to request the assistance of the Attorney General of Ohio and Ohio Auditor of the State to discourage legislative approval of expenditures without identifying a revenue source. Also on November 11, 2008 I again requested the assistance of the Auditor of the State through letter [#08-034] to follow-up this issue.

Municipal Court Fund Line Item No. 101.111.5299 Sheriff (Court Security)

I prepared a letter [#07-061] dated December 27, 2007 to encourage discussion after my review of the proposed 2008 Operating Budget. I requested additional information (Item #5) concerning the proposed new municipal court security program with a timeline for completion.

The concern was the 2008 Operating Budget reflected \$8,000 for contractual/sheriff services when the City has previously contracted with the Scioto County Sheriff's Department in 2006 for \$78,052, \$80,366 in 2007, and \$88,374 within a 2008 renewal proposal.

I prepared a letter [#08-003] dated February 14, 2008 to list my objections, concerns, and unanswered questions from letter [#07-061] for the proposed budget. Again, I requested a plan with a timeline for the transition to the City supplied court security officers otherwise I warned this budget item may be under funded by as much as \$45,374.

After no response I prepared a letter [#08-017] dated May 2, 2008 to document my growing concern expressed at the April 28, 2008 City Council Meeting that expenditures must not exceed the approved 2008 Operating Budget without prior approval. I requested the assistance of the Auditor of State to encourage and assure compliance with proper auditing and appropriate actions. On May 12, 2008 the Mayor responded in a letter stating "A simple transfer of funds will correct this minor error."

On May 12, 2008 the Auditor of State responded in a letter to confirm they will provide this issue to Caudill & Associates and request they review the issue as part of the 2007 Audit. They will also request Caudill to provide the Auditor of State the results of their procedures and the reporting of any discrepancies found.

I requested the assistance of the Auditor of the State through letter [#08-034] dated November 11, 2008 to assess this issue after the 2007 Audit was released September 11, 2008 with no apparent findings or comments associated with this issue. Keep in mind the 2008 Year End Expense Report supplied to Council on March 9, 2009 indicates a combined appropriation of \$101,382.66.

Marting Building Annex Roof Replacement

On April 15, 2008 a local newspaper reported the City decided to replace the existing roof on the former Marting's Building Annex with the lowest bid at \$49,500, but the final price will depend on the substructure condition. The article quoted the Auditor stating the money to pay for the project was coming from the Capital Improvement Fund. I prepared letter [#08-015] dated April 21, 2008 requesting documentation as to whom and when the City decided to replace the roof on the Marting's Building Annex; the documentation that approved the Capital Improvement Fund (CIP) expenditure; the documentation to justify spending taxpayer dollars for a new roof on a building the City intends to sell; and documents pertaining to any marketing performed for the Marting's Building Annex to date.

On May 2, 2008, after no response from City elected officials, I prepared letter [#08-017] requesting the assistance of the Ohio Auditor of State to confirm compliance of financial procedures for the City of Portsmouth.

On May 12, 2008 the Mayor responded in a letter stating "*I consider this a prudent investment*" and attached a copy of "*Council minutes showing our Solicitor stating that the City has the right and responsibility to protect its assets.*" The attached minutes were copied from page 4 of the February 13, 2006 City Council Meeting, which the Mayor highlighted and underlined the statements "*Mr. Kuhn stated that normally maintenance expenses would be permitted, saying 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 noting can stop general maintenance in order to preserve your assets and keeping them from being destroyed.*" The Mayor overlooked a significant statement between those two sentences. The complete minutes may be reviewed at link <http://www.ci.portsmouth.oh.us/government/minutes/2006/02-13-06.pdf>.

On May 12, 2008 the Auditor of State responded in a letter to confirm they will provide this issue to Caudill & Associates and request they review the issue as part of the 2007 Audit. They will also request Caudill to provide the Auditor of State the results of their procedures and the reporting of any discrepancies found.

I requested the assistance of the Auditor of the State through letter [#08-034] dated November 11, 2008 to assess this issue after the 2007 Audit was released on September 11, 2008 with no findings or comments associated with this issue. On November 19, 2008 the Auditor of State - Chief Auditor/Audit Division - Athens Region verbally informed the complaints had been investigated but did not warrant a management letter comment or any type of report comment.

I requested the associated public records from the Chief Auditor/Audit Division and he faxed a September 2, 2008 email between him and Gregory Caudill of Caudill & Associates. Within this email the Chief Auditor/Audit Division requested *"Did you find any problems with the issues/complaints I sent you about the City from the Mollettes?"* Greg Caudill's response *"We investigated the complaints received and didn't note anything that would warrant a management letter comment or any type of report comment. For example, we tested the compliance over contracts and didn't find anything to substantiate the Mollettes complaint."*

Also on November 25, 2008 I verbally requested all correspondence between the Auditor of State's office and Caudill & Associates regarding the Marting's Building Annex Roof Construction. The Director of the Open Government Unit/Legal Division responded December 17, 2008 and supplied the associated records. I discussed a public records request with Caudill & Associates office during a phone conversation and it was discovered the contract for the roof had **not** been evaluated because Caudill & Associates stated it was outside their scope of work for the 2007 Audit. On December 22, 2008, during a phone conversation with the Chief Auditor/Audit Division he also confirmed Caudill & Associates had not performed as requested but would assure this issue would be addressed in the 2008 Audit.

On December 29, 2008 I documented in letter [#08-037] that I had doubts that Caudill & Associates would properly evaluate complaints and assure accountability needed for public confidence. I felt auditing without accountability would adversely affect public confidence.

I prepared a letter [#09-001] dated January 26, 2009 to the Scioto County Prosecutor expressing the difficulty in obtaining an answer from certain City elected officials and auditing groups pertaining to a potential improper expenditure for a new roof on the Marting Annex. I also documented the suggested request on January 14, 2009 to the City Auditor for a formal response to my April 21, 2008 letter [#08-015]. I was perplexed by the complexity of establishing the legality of the Marting Annex roof expenditure and was concerned auditing delays may affect any statutory limitations for legal action. I am requesting the items discussed in the letter [#09-001] to be evaluated as part of the 2008 Audit because I believe the property owners tax dollars were collected in conflict with the purpose of this expenditure.

Law Enforcement Trust and Mandatory Fines

Recently the City Auditor became responsible for the Law Enforcement Trust Fund (#223.221.5299) and Mandatory Fines Fund (#225.221.5349). I am requesting the expenditures from these funds to be audited for compliance with associated records. The 2008 Year End Expense Report supplied to Council on March 9, 2009 indicates the combined appropriation of \$21,487.50 from the Mandatory Fines Fund and \$102,728.26 from the Law Enforcement Trust Fund.

In conclusion, I appreciate the opportunity to participate in the 2008 Audit and hope to encourage a positive paradigm shift to avoid future yearly audit citations and findings. I realize proper actions by City elected officials is required to avoid future findings and citations. I currently feel our elected officials lack the desire or urgency needed for positive change. I fear a government when the expense or complexity of holding that government accountable is beyond the reach of the citizen.

If you should have any comments or additional questions contact me.

Respectfully,



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

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Letters #07-061, 08-003, 08-015, 08-017, 08-018, 08-030, 08-031, 08-034, 08-037, and 09-001 including elected official responses may be found posted sequentially on my Council Information website www.mollette.info on the "Letters" page (<http://www.mollette.info/LETTERS.html>).