

# Teresa Mollette

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February 11, 2008

Honorable Council Members  
Michael Jones, Solicitor  
Jim Kalb, Mayor  
728 Second Street  
Portsmouth, Ohio 45662

## **RE: Pay Raise Concerns**

According to the proposed City of Portsmouth 2008 Operating Budget both the Solicitor and Mayor's position have built-in raises beginning January 1, 2008. I have a problem with both these pay raises mutually from an ethical position and Ohio law perspective.

According to the Ohio Ethics Commission, Advisory Opinion 91-008, December 5, 1991 (Attachment 1) in-term pay raises for the positions of Mayor and City Solicitor are prohibited by Division (E) of Section 102.03 of the Ohio Revised Code (ORC).

Syllabus by the Commission:

- Division (D) of Section 102.03 of the Revised code prohibits a city mayor from approving the enactment of an ordinance which grants him an increase in compensation, and from otherwise using his authority or influence, formally or informally, to secure an increase in compensation.
- Division (E) of Section 102.03 of the Revised Code prohibits a city mayor from accepting, for the duration of his term, an increase in compensation enacted by city council during his current term of office. A mayor is bound by this prohibition regardless of whether he approves the ordinance, disapproves the ordinance, or does not return the ordinance to council.
- A city law director is prohibited by Division (E) of Section 102.03 of the Revised Code from accepting, for the duration of his term, an increase in compensation enacted by city council during his current term of office.

Also according to ORC, Title [7] VII Municipal Corporations, Chapter 731: Organization,

### **731.07 Salaries shall not be changed during term:**

The salary of any officer of a city shall not be increased or diminished during the term for which he was elected or appointed. This section does not prohibit the payment of any increased costs of continuing to provide the identical benefits provided to an officer at the commencement of his term of office.

Unless otherwise provided, all fees pertaining to any office shall be paid into the city treasury.

Effective Date: 01-09-1981

The Portsmouth City Charter necessitates if the Charter is silent the ORC will dictate.

**Portsmouth City Charter, Section 165. GENERAL LAWS TO APPLY**

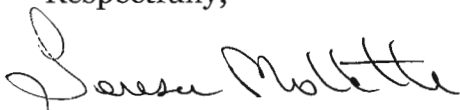
“All general laws of the State applicable to municipal corporations now or hereafter enacted and which are not in conflict with the provisions of this Charter or with ordinances or resolutions hereafter enacted by the Council shall be applicable to this City; provided however that nothing contained in this Charter shall be construed as limiting the power of the Council to enact any ordinance or resolution not in conflict with the Constitution of the State or with the express provisions of this Charter.”

Within the Portsmouth City Charter in-term pay is not covered. In-term pay however, is covered Under ORC Title [7] VII Municipal Corporations, Chapter 731: Organization, 731.07 Salaries shall not be changed during term (See ORC Section above).

With the facts offered above I can only assume and rationalize that not only would it be unethical for the Mayor and the Solicitor to accept raises within their term, but it would be against the laws of our city and the State of Ohio.

Prior to passage, by City Council, of the 2008 Operating Budget Ordinance the raises consciously built into this budget for both the Mayor's position and the Solicitor's position should be eliminated.

Respectfully,



Teresa Mollette

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cc: JoAnn Aeh, City Clerk  
Ohio Ethics Board  
8 East Long Street, 10<sup>th</sup> Floor  
Columbus, Ohio 43215  
Marc Dann, Attorney General  
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