

## RESOLUTION NO. R-2007-30

A RESOLUTION AUTHORIZING DAVID COMSTOCK, ATTORNEY AT LAW, TO FILE LITIGATION OVER ISSUES CONCERNING THE VILLAGE OF WINDHAM FIRE DEPARTMENT AND ITS PARTICIPATION IN THE TOWNSHIP FIRE DISTRICT AT A FEE OF \$105.00 PER HOUR PLUS ANY COURT COSTS ADVANCED AND DECLARING AN EMERGENCY

**WHEREAS**, the Windham Village Council during the July 17, 2007 meeting accepted the recommendation of the Exploratory/Advisory Committee to form a Joint Fire District with the Windham Township Trustees; and

**WHEREAS**, the Village Council and Mayor all signed and delivered a letter to the Township Trustees on July 19, 2007 expressing hope that the Trustees would also accept the Committees recommendation with Councils expectations of 1) beginning discussion 2) have a resolution forming a J.F.D. agreed to and signed by November 1, 2007 and a new J.F.D and Board Members to begin on January 1, 2008; and

**WHEREAS**, the Township Trustees thereafter hired legal counsel for legal advice concerning the Fire District, the Fire Department and the Joint Fire District recommendations; and

**WHEREAS**, the Windham Village Council felt a need to hire our own legal counsel, David (Chip) Comstock, at our August 21, 2007 meeting to check our legal position as well; and

**WHEREAS**, the Windham Village Council and Mayor unanimously signed a proposal to the Windham Township Trustees and delivered the proposal at their Trustees Meeting on September 5, 2007; and

**WHEREAS**, the Village and Township Attorneys convinced their respective clients to each issue a press release announcing that the two parties would be meeting to begin discussions on the potential formation of a Joint Fire District and that they would move forward with the scheduling of a first meeting to occur in October 2007; and

**WHEREAS**, the first meeting did occur on October 16, 2007 and progress was made by discussions on issues of concern, deciding the framework for gathering information, to prepare a joint press release and planning for the next meeting; and

**WHEREAS**, the Township Trustees abruptly changed their previous decisions by voting at their November 1, 2007 meeting (5 days before the general election) to reject the Exploratory Committees recommendation and to stop meeting with the Village concerning a Joint Fire District; and

**WHEREAS**, due to the Township Trustees recent action, the Windham Village Council is forced to have Attorney David Comstock file litigation; and

**WHEREAS**, the Village believes that the current operation of the Windham Township Fire District is illegal, and that legal action is necessary to judicially declare the rights of the parties, and to limit the action that the Township can take with respect to collecting taxes or billing residents of the Village; and

**WHEREAS**, this matter is an emergency affecting the health, safety and welfare of the residents of the Village of Windham as well as its ability to operate it's Fire Department free from interference;

**NOW THEREFORE, BE IT RESOLVED** by the Council of the Village of Windham, three-fourths or more of the members elected thereto concurring that:

**Section One:** That David Comstock, Attorney at Law, is hereby authorized to file litigation over issues concerning the Village of Windham Fire Dept and its participation in the Township Fire District at a fee of \$105.00 per hour plus any Court costs advanced.

**Section Two:** It is hereby determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council, and of any of its committees that resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

**Section Three:** This Resolution is hereby declared to be an emergency measure necessary to preserve the public health, safety, morals and general welfare of the inhabitants of the Village of Windham, Ohio and this Resolution shall go into full force and effect immediately upon its passage by three-fourths (3/4's) of the members of Council.

Passed in Council this 15th day of November, 2007.

Vote of Council:      Ayes: R. Barrett, R. Donham, M. Garrett, S. Garrett, J. Minotti, P. Snyder  
                             Nays: None.

ATTEST:

APPROVED:

\_\_\_\_\_  
Village Fiscal Officer

\_\_\_\_\_  
Mayor

I do hereby certify this to be a true and accurate copy according to the records in this Office.

\_\_\_\_\_  
Village Fiscal Officer