

RESOLUTION R-2013-14

A RESOLUTION RETAINING THOMAS REITZ, ATTORNEY AT LAW, AS SOLICITOR FOR THE VILLAGE OF WINDHAM, OHIO, AND FIXING HIS FEES FOR THE PERIOD FROM JUNE 1, 2013 TO MAY 31, 2014 AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the Village of Windham has determined to provide for legal representation of the Village by hiring a Village Solicitor; and

WHEREAS, the Village has determined that the compensation and other terms of the appointment of Thomas Reitz as Solicitor for the Village as set forth in this Resolution are fair and reasonable to the Village; and

WHEREAS, Thomas Reitz has agreed to provide the legal services as set forth hereafter; and

WHEREAS, the Village wishes to engage the services of Thomas Reitz as Solicitor.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF WINDHAM, OHIO, two thirds of the members elected thereto concurring;

SECTION 1: That Thomas Reitz be retained as Solicitor for the Village of Windham, Ohio, for the period beginning June 1, 2013, and ending May 31, 2014 upon the terms and conditions set forth in substantial conformity with the attached Exhibit "A", which the Mayor and the Fiscal Officer are hereby authorized to sign.

SECTION 2: This Ordinance shall be effective June 1, 2013.

SECTION 3: Ordinances and Resolutions inconsistent herewith are hereby repealed.

SECTION 4: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance 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 action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5: That this Resolution is declared an emergency measure becoming effective immediately upon its passage by Council and approval by the Mayor so as to provide continuous and uninterrupted legal representation to the Village of Windham.

Passed in Council on First Reading as an Emergency on April 23, 2013

Vote of Council: Ayes: Mr. Garrett, Mr. Snyder, Ms. Blewitt, Mrs. Barrett, Mrs. Miranda, Mrs. Prem
Nays: None.

ATTEST:

APPROVED:

Lloyd Billman, Fiscal Officer

Mayor, Robert W. Donham, II

Approved as to form:

Thomas Reitz, Solicitor

RESOLUTION R-2013-14 Exhibit "A"
AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT, made this _____ day of May 2013, by and between the Village of Windham, Ohio, a municipal corporation organized and existing under the laws of the State of Ohio, by and through its Mayor and Village Fiscal Officer, hereinafter referred to as "Village" and Thomas Reitz, an attorney at law licensed under the laws of the State of Ohio, hereinafter referred to as "Attorney Reitz".

IT IS MUTUALLY AGREED AS FOLLOWS:

1. The Village hereby retains and employs Attorney Reitz as its Village Solicitor. It shall be the duty of the Solicitor to act as attorney and legal counsel for the Village and to prosecute and defend all actions, and to coordinate for the Village any litigation that involves representation by insurance companies engaged by the Village or by outside Council selected by the Village Council, by and against the Village or any department or officer thereof during the term of his employment; to render timely legal opinions to Village Council and any department or officer of the Village upon request; to draft or supervise the phraseology of any contract, lease or other documents or instruments, to which the Village may be a party; and upon request to draft Ordinances covering any subjects within the power of the Village. Attorney Reitz will make himself available for the monthly regularly scheduled Council Meetings, and upon request of the Mayor for special meetings of Council. Upon request of the Mayor, Attorney Reitz shall attend or make a member of the Law Firm Christley, Herington & Pierce available for attendance at the Planning and Zoning, Safety, Personnel and Rules, Finance/Investment, Utilities, and any other specific meetings that involve litigation and possible litigation.
2. The Village shall pay Attorney Reitz the hourly rate of One Hundred Fourteen and 45/100 Dollars (\$114.45) per hour during the period of his service to the Village under this Agreement.
3. Attorney Reitz shall also be paid Ninety Dollars (\$90.00) per case for prosecution appearances in the Portage County Municipal Court and the hourly rate set forth in paragraph 2. if a trial is involved.

4. Attorney Reitz shall furnish, on a monthly basis, an itemized statement of the hours chargeable to the Village and the Village shall forthwith pay same. Time records shall be kept by Attorney Reitz and submitted to the Fiscal Officer of the Village.
5. All sums to be paid to Attorney Reitz as the Solicitor (excepting only those amounts paid as the result of collection as set forth in paragraph 7. herein) shall be treated as compensation subject to the Ohio Public Employees Retirement System (O.P.E.R.S.), meaning that the Village shall withhold sufficient monies from these sums to submit employee contributions on behalf of the person(s) designated, and the Village shall also make, from funds other than those compensation payments, the necessary Employer contributions to O.P.E.R.S. required as a result of the compensation payments made pursuant to this Agreement. The Village recognizes that as a result of these payments it may also be called upon to make payments to the Ohio unemployment compensation and worker's compensation funds which the payment of these sums would necessitate. However, nothing contained herein shall be construed as entitling Attorney Reitz to other employment benefits, be they vacation, sick leave, health care benefits or other similar benefits, solely because such compensation is being treated as wages.
6. In the event an Assistant Solicitor is needed, as is provided for in Paragraph 1. of this agreement, the Assistant Solicitor shall be an attorney who is admitted to practice law in the State of Ohio and approved by Mayor and Council. Any Assistant Solicitor who is a member of Christley, Herington and Pierce shall be paid under this agreement at the rate of \$121.00 per hour as an independent contractor for legal services and not an employee of the Village. The Assistant Solicitor shall also be paid Ninety Dollars (\$90.00) per case for prosecution appearances in the Portage County Municipal Court and the hourly rate if a trial is involved. In addition, the engagement of paralegals, law clerks and/or investigators, process servers, etc. will be billed to the Village as expenses and/or advances incurred by the Solicitor or his Assistant.
7. Attorney Reitz shall handle all collection matters assigned to him by the Village of Windham, including income tax and utilities, at a rate 30% of the amounts collected plus out-of-pocket expenses. 30% of the amounts collected means all amounts collected as the result of actions by Attorney Reitz, including but not limited to pre and post judgment interest, regardless of whether the interest accrued before or after the matter was turned over for collection, and the return or reimbursement to the Village of court costs. The amounts paid to Attorney Reitz under this Paragraph 7 shall not be subject to the Ohio Public Employees Retirement System as set forth in Paragraph 5 of this Agreement. Said payment shall be paid to the law firm of Christley, Herington & Pierce for services rendered by Attorney Reitz.
8. The parties further agree to be bound by the OHIO RULES OF PROFESSIONAL CONDUCT adopted by the Ohio Supreme Court and effective since February 2007.
9. This Agreement shall be in effect for the period beginning June 1, 2013 and ending on May 31, 2014.

IN WITNESS WHEREOF, the parties hereto have set their hands to this Agreement the day and year above set forth.

Solicitor

Village of Windham

Thomas Reitz, Esq.

Robert W. Donham, II, Mayor

Lloyd Billman, Village Fiscal Officer

I, Lloyd Billman, Village Fiscal Officer of the Village of Windham, Ohio, hereby certify that the funds necessary to pay for all costs associated with this Agreement either currently exist within the funds of the Village of Windham, or are in the normal process of collection, and will be available at the point in time when they are to be expended.

Lloyd Billman, Village Fiscal Officer