

## RESOLUTION R-2016-35

### A RESOLUTION TO APPROVE THE JUDGMENT OF THE MAYOR TO SEPARATE THOMAS DENVIR FROM THE POLICE DEPARTMENT.

WHEREAS, on June 5, 2016 Thomas Denvir, in his capacity as an Officer with Village of Windham Police Department made a determination to release to the community without expert medical evaluation a suspect who advised that the theft of an ax, duct tape, two knives, a hasp and a flashlight was "OK" because the voices in the suspect's head said it was alright; and

WHEREAS, after conducting an in person interview with Officer Denvir in conformity with Windham Police Department Standard Operating Procedure Article 17, paragraph 10, the Chief of Police, Eric Breiding determined Officer Denvir had committed Gross Neglect of Duty and recommended to the Mayor that Officer Denvir be separated from employment with the Windham Police Department; and

WHEREAS, the Mayor of the Village of Windham independently investigated the actions of Officer Denvir and in conformity with ORC Section 737.19(B) and Windham Police Department Standard Operating Procedure Article 17, paragraph 11. rendered an independent Judgment separating Officer Denvir from the Police Department; and

WHEREAS, Attorney Frank Cimino, on behalf of Officer Denvir delivered to the Fiscal Officer of the Village of Windham, a timely filed an appeal of the Judgment of the Mayor to the Village Council, a procedure authorized by ORC 737.19(B) and Windham Police Department Standard Operating Procedure Article 17, paragraph 11.; and

WHEREAS, Officer Denvir's Appeal of the Mayor's Judgment was heard by the Village Council on August 30, 2016 and after adjournment the hearing was completed on September 1, 2016, at which time the Council confirmed the Mayor's Judgment to separate Officer Denvir from the Windham Police Department by a roll call vote of five in favor and one opposed; and

WHEREAS, Windham Police Department Standard Operating Procedure Article 17, paragraph 14. indicates that an appeal to the Portage County Common Pleas Court may brought in cases of separation from the Department and further provides in the final sentence "Such appeal shall be made within ten days from the date the finding of the Village Council is adopted by Resolution."

NOW, THEREFORE BE IT ORDAINED by the Council of the Village of Windham, Portage County, Ohio at least two-thirds (2/3) of all members elected thereto concurring:

**Section 1:** The Village Council of Windham, Portage County Ohio. hereby enacts this Resolution to confirm the Mayor's Judgment to separate Officer Thomas Denvir from the

Windham Police Department by a vote of 5-1 on September 1, 2016 and to comply with Windham Police Department Standard Operating Procedure Article 17, paragraph 14.

**Section 2:** This Resolution is expressly found to be administrative action by the Village Council, effective immediately on passage by Council and approval by the Mayor, and as such not subject to any delay in effective date.

**Section 3:** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were conducted an open meeting of this Council, excepting that at the request of Thomas Denvir and his Counsel Frank Cimino, the testimony on such appeal from the Mayor's Judgment was accepted in executive session as a disciplinary matter pursuant to the authority of ORC 121.22 (G)(1) and that deliberations of this Council were also held in executive session based on *TBC Westlake, Inc. v. Hamilton Cty. Bd. of Revision* (1988), 81 Ohio St.3d 5 and/or R.C. 121.22(G), all in compliance with the Ohio Revised Code.

Passed in Council on First Read September 27, 2016.

Vote of Council:      Ayes: 5  
                                 Nays: 0

Attest:

Approved:

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Fiscal Officer, Cheree Taylor

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Mayor, Deborah Blewitt

Approved as to Legal Form:

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Solicitor, Thomas Reitz