



**A RESOLUTION OF THE COUNCIL FOR THE TOWN OF ABINGDON
CONSENTING TO COMPROMISE PENDING LITIGATION FILED IN
THE CIRCUIT COURT OF WASHINGTON COUNTY, VIRGINIA AGAINST
THE TOWN COUNCIL OF ABINGDON, VIRGINIA, ET AL**

WHEREAS, there is pending litigation in the Circuit Court of Washington County, Virginia, namely, *Kevin Sandenaw, Plaintiff* (hereinafter "Sandenaw") vs. *Cathy C. Lowe* (hereinafter "Lowe"), *Deborah C. Icenhour* (hereinafter "Icenhour"), *Robert M. Howard* (hereinafter "Howard"), *Richard Humphreys* (hereinafter "Humphreys"), and *Town Council of Abingdon, Virginia* (hereinafter "Council"), *Defendants, Case Nos. CL17-1697, CL17-1826, CL17-1831, CL17-1625* (hereinafter "pending Litigation"); and

WHEREAS, Town Council members Lowe, Howard and Humphreys issued and signed a document instructing Town Attorney Icenhour to make a formal request, on behalf of Council, to the Circuit Court of Washington County requesting a judicial opinion regarding fellow Council member M. Cynthia Patterson (hereinafter "Instruction"); and

WHEREAS, Icenhour then drafted and sent a letter, purporting to be from Council, to the Circuit Court of Washington County making that request (hereinafter "Letter to the Court"); and

WHEREAS, the Letter to the Court contained attacks on the character of Council member M. Cynthia Patterson that were based, in part, on allegations involving her personal life; and

WHEREAS, Lowe, Howard, Humphreys and Icenhour took the aforementioned actions without the knowledge of Council members Wayne Craig and M. Cindy Patterson, and without the authorization of Council, obtained through compliance with the open meeting provisions of the Virginia Freedom of Information Act; and

WHEREAS, Sandenaw filed an action in Washington County General District Court against Council, Lowe, Howard, Humphreys and Icenhour alleging that the aforementioned actions of Lowe, Howard, Humphreys and Icenhour violated the Virginia Freedom of Information Act; and

WHEREAS, the Washington County General District Court issued a judgment that defendants thereby violated the Virginia Freedom of Information Act; and

WHEREAS, defendants, including Council, appealed the judgment to the Circuit Court of Washington County; and

WHEREAS, Sandenaw and Council desire to resolve the pending Litigation as it pertains Council; and

THEREFORE, BE IT RESOLVED that Council after due consideration ratifies the proposed Settlement Agreement between the Council and Sandenaw, by hereby agreeing to following:

1. The issuance of the Instruction and its tender to the Town Attorney were not actions of Council. Those actions were not properly authorized, nor ratified, by Council and/or Town of Abingdon.

2. The issuance and delivery of a Letter to the Court were not actions of Council. Those actions were never properly authorized or ratified by Council, but merely purported to be actions of Council, which they were not.

3. The Council disavows and repudiates the actions of Lowe, Howard and Humphreys with respect to the Instruction.

4. The actions of Lowe, Humphreys, Howard and Icenhour with respect to the Instruction and Letter to the Court cannot and shall not be imputed to Council and neither Council nor the Town of Abingdon bear any responsibility for those actions.

5. Neither Council nor the Town of Abingdon has violated the Virginia Freedom of Information Act with respect to the aforementioned actions of Lowe, Humphreys, Howard and Icenhour, the Instruction and/or the Letter to the Court, or the allegations set forth in the pending Litigation.

6. Sandenaw agrees to dismiss his claims against Council with prejudice.

7. Sandenaw and Council shall pay his or its own attorney fees. Sandenaw shall not be entitled to attorney's fees, costs or any other relief, monetary or otherwise, from Council, Town of Abingdon, members of Council, and/or employees of the Town of Abingdon, excluding the remaining defendants in the pending Litigation, nor shall any of the aforementioned persons or entities be entitled to attorney's fees from Sandenaw.

8. This Resolution does not address, resolve or terminate Sandenaw's claims against the remaining defendants in the pending Litigation. Nonetheless, Sandenaw shall indemnify Council and the Town of Abingdon for any liability incurred to either one or more of the remaining defendants should Sandenaw obtain a judgment against one or more of the remaining defendants.

BE IT FURTHER RESOLVED, Council continue to be committed to open government and to compliance with the Virginia Freedom of Information Act.

TOWN OF ABINGDON, VIRGINIA

By: Wayne Craig
Wayne Craig, Mayor

By: Tony Sullivan
Tony Sullivan, Interim Town Manager

The undersigned Clerk of the Council for the Town of Abingdon, Virginia, certifies that the foregoing constitutes a true and correct copy of a resolution adopted at a meeting of the Council for the Town of Abingdon, held on August 6, 2018. I hereby further certify that such a meeting was a regular meeting, duly called and held, and that during the consideration of the foregoing resolution, a quorum was present. I further certify that the minutes of such meeting reflect how each member of Council voted with respect to the adoption of the foregoing resolution as follows:

Member	Attendance	Vote
Wayne Craig, Mayor	yes	aye
Cindy Patterson, Vice Mayor	yes	aye
Al Bradley	yes	aye
Donna Quetsch	yes	aye
Derek Webb	yes	aye

WITNESS MY HAND and the seal of the Town of Abingdon as of August 6, 2018.

(SEAL)

Kimberly S. Kingpley
Clerk, Town of Abingdon