

**RESOLUTION #488**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT,  
WASHINGTON, AUTHORIZING LITIGATION AGAINST THE  
WASHINGTON STATE AUDITOR'S OFFICE FOR THE RETRACTION  
OF DEFAMATORY STATEMENTS, MONEY DAMAGES,  
AND FOR RELIEF UNDER THE PUBLIC RECORDS ACT.**

*Whereas*, pursuant to RCW 35.27.010 and RCW 4.08.110, the Town Council of the Town of Yacolt, ("*Council*"), has the legislative authority to exercise such powers as are conferred by law, including the power to sue in its corporate capacity for damages and other remedies;

*Whereas*, the Council has investigated and considered the circumstances surrounding the Washington State Auditor's Office Audit Report #1005150, and concludes that the Audit Report included actionable defamatory statements that damaged the reputations and legal rights of the Town, its citizens, and its elected and appointed representatives;

*Whereas*, the Council believes that it is in the best interests of the citizens of the Town of Yacolt to authorize the Mayor, in his discretion, to sue the Washington State Auditor's Office and other defendants in Superior Court for the retraction of defamatory statements and for the recovery of damages caused by the defamation of the Town and its officials, and to take any and all additional actions necessary and beneficial to such suit, including the filing of a Standard Tort Claim notice with the State of Washington Office of Risk Management pursuant to RCW 4.92;

*Whereas*, the Council believes that it is in the best interests of the citizens of the Town of Yacolt to authorize the Mayor, in his discretion, to pursue such litigation in conjunction with the personal claims of certain potential co-plaintiffs, including the Town's former Mayor Joe Warren, and the Town's current Public Works Director Mr. Pete Roberts;

*Whereas*, on January 29, 2013, the Town of Yacolt, through the Town Attorney, submitted a request to produce certain public records to the Public Records Officer of the Washington State Auditor's Office pursuant to the Washington Public Records Act, RCW 42.56;

*Whereas*, as of February 19, 2013, the Washington State Auditor's Office has provided no response of any kind to the Town's request for public records and is therefore in violation of the law set forth in RCW 42.56; and,

*Whereas*, the Council is in regular session this 19<sup>th</sup> day of February, 2013, and all members of the Town Council are present and have had notice of the time, place, and purpose of said meeting:

**NOW THEREFORE, be it Resolved by the Town Council of the Town of Yacolt, Washington, as follows:**

**Section 1:** That the Mayor of the Town of Yacolt is hereby authorized to file, initiate, prosecute, and otherwise pursue formal litigation against the Washington State

Auditor's Office and other defendants without further consent or action by the Council, seeking compensation for damages and the retraction of defamatory statements published by the Washington State Auditor's Office in its Audit Report #1005150.

**Section 2:** That the Mayor of the Town of Yacolt is further authorized to pursue the litigation described herein in conjunction with the personal claims of one or more co-plaintiffs arising from the defamatory statements published in Audit Report #1005150.

**Section 3:** That the Mayor of the Town of Yacolt is hereby authorized to retain the law firm of Stewart, Sokol & Gray in association with Town Attorney David W. Ridenour to pursue the litigation described herein on a contingent fee basis. The Mayor is authorized to agree that the Town shall be responsible for the costs of such litigation. The Mayor is authorized to execute appropriate fee agreements and representation letters to carry out the intent of the Council as described herein.

**Section 4:** That the Council reserves authority to approve any settlement or other final disposition of the litigation.


**Section 5:** That the Mayor of the Town of Yacolt is hereby further authorized in his discretion to file and pursue additional litigation against the Washington State Auditor's Office to compel it to comply with the Town's January 29, 2013, request for public records under the Public Records Act, RCW 42.56, and for such other remedies as may be available under the Public Records Act.

**Section 6:** That the Mayor of the Town of Yacolt is hereby authorized on behalf of the Council and the Town to execute any and all documents necessary to carry out the intent of the Council as described herein.

**Section 7:** This Resolution shall take effect immediately upon adoption by the Council.

RESOLVED by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 19<sup>th</sup> day of February, 2013.

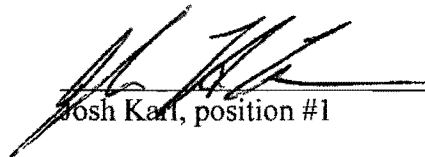
TOWN OF YACOLT

  
\_\_\_\_\_  
Jeff Carothers, Mayor

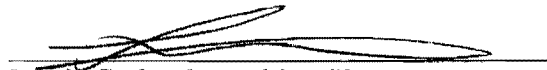
Motion for approval of the Resolution by Council member Karl\_\_\_\_\_.

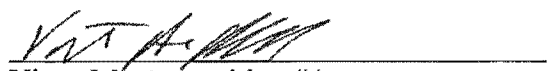
Motion seconded by Council member Myers\_\_\_\_\_.


Adopted this 19<sup>th</sup> day of February, 2013, by a majority of the Town Council:

  
Josh Karl, position #1

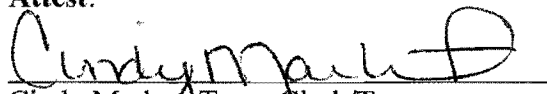
Absent  
David Hancock, position #2

  
Lewis Gerhardt, position #3

  
Vince Myers, position #4

  
Richard Urias, position #5

Attest:

  
Cindy Marbut, Town Clerk/Treasurer

Approved as to Form:

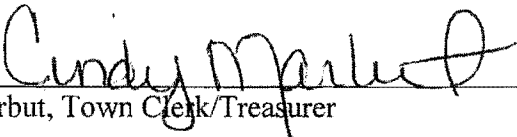
  
David W. Ridenour, Town Attorney

Ayes: Karl, Myers, Gerhardt, Urias  
Nays: \_\_\_\_\_  
Absent: Hancock  
Abstain: \_\_\_\_\_

## TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of Resolution #488 of the Town of Yacolt, Washington, entitled "A Resolution of the Town Council of the Town of Yacolt, Washington, Authorizing Litigation Against the Washington State Auditor's Office for the Retraction of Defamatory Statements, Money Damages, and for Relief Under the Public Records Act" as approved according to law by the Town Council on the date therein mentioned.

Attest:

  
\_\_\_\_\_  
Cindy Marbut, Town Clerk/Treasurer

Effective Date: February 19, 2013  
Resolution Number: 488