

RESOLUTION

**SUMMERFIELD TOWN COUNCIL AUTHORIZING A LAWSUIT TO RECOVER REIMBURSEMENT AND RECEIPT OF REVENUE DUE THE TOWN OF SUMMERFIELD BEING ILLEGALLY WITHHELD BY THE STATE OF NORTH CAROLINA**

R-2002-014

**WHEREAS**, the 641 towns, cities and counties of North Carolina have long depended on tax revenues to which by law they are entitled upon collection by the Secretary of Revenue, and the General Assembly until now has historically held local governments harmless by appropriated reimbursement when one or more local revenue sources is diminished or eliminated; and

**WHEREAS**, local government revenues for FY 2001-2002 were withheld illegally for FY 2001-2002 by the Secretary of Revenue and it appears the Governor will order the Secretary to withhold FY 2002-2003 local revenues due to be paid beginning September 15, 2002, and otherwise; and

**WHEREAS**, no administrative remedy exists to correct the alleged illegal conversion of the local revenues and a genuine controversy exists about proper interpretation of the law as to ownership of the local tax revenues, and enactment of the pending clarifying legislation favoring local governments will likely not be enacted; and

**WHEREAS**, the General Court of Justice is the sole, proper and independent branch of government to make a final legal determination of the rights of the respective parties.

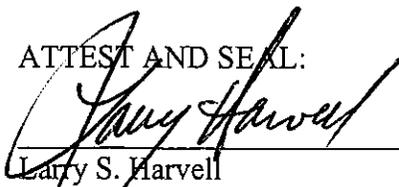
**NOW, THEREFORE, BE IT RESOLVED** that the Town of Summerfield hereby authorizes its Town Attorney to retain Boyce & Isley, PLLC, of Raleigh, North Carolina, at a cost not to exceed \$1,000.00 with all other fees, costs and expenses of litigation, if any, paid on a contingency basis not to exceed fifteen percent (15%) of any total monetary recovery by settlement or judgment or as may be ordered by the Court. Outside counsel with Summerfield Town Attorney, W. B. Trevorrow, will agree to prosecute a civil action in Wake County Superior Court to have declared the legal rights of local government to recover past tax revenues and reimbursements withheld and to enjoin withholding of future tax revenues as above set forth.

**ADOPTED** this the 1st day of October, 2002.



Dena Barnes, Mayor  
Town of Summerfield

ATTEST AND SEAL:



Larry S. Harvell  
Town Clerk