

**TOWN OF WEDDINGTON
SPECIAL TOWN COUNCIL MEETING
MONDAY, MARCH 18, 2013 – 3:30 P.M.
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Special Session at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104 on March 18, 2013, with Mayor Walker F. Davidson presiding.

Present: Mayor Walker F. Davidson, Mayor Pro Tem Daniel Barry, Councilmembers Werner Thomisser, Pamela Hadley and Barbara Harrison, Town Attorney Anthony Fox, Finance Officer Leslie Gaylord and Town Administrator Amy S. McCollum

Visitors: Bill Price, Judy Johnston, Ken Evans, Genny Reid, Jack Parks and Richard Natale

Item No. 1. Open the Meeting. Mayor Walker F. Davidson called the March 18, 2013 Special Town Council Meeting to order at 3:31 p.m. There was a quorum.

Item No. 2. Review and Consideration of Resolution Requesting a Local Act from the North Carolina General Assembly Authorizing the Town to Enter into Binding Multiple Year Agreement for Funding of Volunteer Fire Departments. Attorney Anthony Fox reviewed with the Council the different versions of a Resolution that they were given. He stated, "Version 1 was the version initially sent out to the Council on Friday. Version 1a was an attempt to clean up some of the language. It still reflects the same context authorizing the Town to enter into a long range binding funding agreement with the local volunteer fire departments serving the citizens of the Town. Version 2 adds to Version 1 by clarifying that the Town could enter into both long range agreements for purposes of funding assistance as well as service agreements with one or more of the volunteer fire departments serving the Town."

Councilwoman Pamela Hadley - Where it talks about the projected cost is approximately \$700,000, since it says approximately would we be covered if it were \$900,000 or \$1.1 million?

Attorney Fox - It is not an exact number. You could certainly change that. One other thing I failed to mention is Version 2 leaves blank the term of the funding agreements for a certain term of years. I thought it would be helpful to have a term that you would like these things to run if the General Assembly sees fit to pass a local act along these lines.

Councilwoman Hadley - We are not bound to the \$700,000 since it says approximately?

Attorney Fox - It says approximately \$700,000. It does not tie it to that but if you think it is going to be double that you may want to put it a little higher.

Councilwoman Hadley - My other question is that it seeks for those agreements to bind future Town Councils to such commitments. I am sure this legally needs to be in there but also feel like in addition to binding it also protects the citizens of Weddington to a level of service. I wonder if that is something that should be considered or not.

Attorney Fox - That is really policy. One of the reasons that you do a local act is to make sure that this commitment is a firm commitment that cannot be changed.

Mayor Davidson - I am opposed to binding future Councils because I have to look at some of the things that have been said in the past. On November 14, 2011, we had just had an election and two new

Councilmembers and a Mayor were coming on. Councilman Thomisser said, "I vote to invoke Rules of Procedure #16 to prevent the reconsideration of this item for six months." The Council then was discussing fire service. He wanted to prevent the new Council from discussing this matter further until April. I did not appreciate that as somebody coming on the Council trying to fix a problem. On April 2, 2012, we had a meeting over at the church about fire service and we were going to move forward with another step with the municipal fire service and Dan Barry made the motion to carry these two steps out. Before that he made a speech selling this to the people of Weddington and he said the following: *By creating a municipal service district like we are talking about doing we are allowing the citizens to make that determination. How many folks in this room showed up this year to elect the officers at their volunteer fire department? Only three people raised their hands. What happens in a volunteer fire department model, they take your money, they tax you and they deliver a service and buy equipment and property. But once they own that property, they do not turn it back over to you when they are done with it. There are restrictions on that property. It can only be used by other charities or other fire companies. We are giving the authority to somebody else to tax, to take your property and then you have no recourse. There were only three people in this room that participated in that process. When we create a municipal fire district, you get to participate in that process every two years because a majority of this board is up for reelection and you will determine the fire service model in this Town and what is going to be delivered and what the expectations are.* That was what was said to the people. I agreed with that and we were on board with that together. We were not going to bind the people. I believe I would rather see stated in the Resolution that 24/7 coverage is driving the need for the renovations and not necessarily the obsolescence of the building. Pam, you are right the number is somewhere between \$700,000 and \$900,000. The next paragraph in the Resolution states that the Town wishes to participate in the current capital funding needs of the Providence VFD and the future capital needs of the other Volunteer Fire Departments. Anthony, I assume that we may want to put in there future capital needs of Providence VFD. It looks like you just got future capital needs of other volunteer fire departments. I don't know if you want to put all volunteer fire departments. We talk about tax increases. The suggestion that I made to Council was to ask for land and property to have something for recourse. If we get into the business of doing capital projects like the County or other municipalities have done we are going to be asked and we cannot afford all of them. One deterrent would be this partnering that we have talked about with exchanging assets. The next paragraph in the Resolution states that the Town seeks the authority to establish binding funding agreements and fire protection agreements with one or more of the volunteer fire departments and seeks for those agreements to bind future Town Councils to such commitments and to withstand any change in membership of the Town Council. That is going against the wishes of the people. We have elections every two years. Why would we do that? The last paragraph states the following: *Now, Therefore, Be it Resolved That the Town requests that the North Carolina General Assembly adopt a Local Act authorizing the Town to enter into long-term binding service agreements and capital funding agreements with one or more of the Volunteer Fire Departments providing fire protection services to the citizens of the Town and for the agreements to be binding on all future Town Councils throughout the duration of the agreements.* I am opposed to that. Anthony, I asked for a State Statute that gives us an exemption. I don't believe there is a State Statute but there was case law. How can the State Legislature protect us from something that is not a statute? They cannot protect us from the North Carolina Court System.

Attorney Fox - A local act is equivalent to a statute. Our powers as cities derive from whatever powers the General Assembly gives us. We do not have home rule in this State. Our powers come from the General Assembly. They can give power, take away or limit power. If the General Assembly were to adopt this Local Act it would set the rule under which this issue would be dealt with as a matter of State law.

Councilwoman Harrison – Walker, so you are saying in December 2013 if there is a new Mayor and two new Councilmembers and the first thing that they do is want to dissolve with the Providence VFD you would rather have that and you would think that would be the wishes of the Town people?

Mayor Davidson - I do not want that to happen. I want that to be allowed to happen.

Councilwoman Harrison – Why?

Mayor Davidson - Because the people get to choose every two years just like it was stated earlier. If people run on that platform and they win they should be able to carry out the wishes of the people. If they do not run on that platform and then they switch on people, I don't like that and we do not have any recourse regarding that right now. One solution that I talked with Anthony about was a different local act allowing us to have recall elections in the Town of Weddington to prevent what you are talking about. If people run this way and they say they want to do this and they win, they should have the right to carry that out.

Councilwoman Harrison - What if they do not run that way? I think we do a disservice to Providence VFD and to ourselves on something that we worked so hard to have it negated in a year or every two years because people don't know what it took to identify every parcel and could potentially harm fire service in this Town and that is what you want?

Mayor Davidson - I want them to have the ability and the freedom to do that. That is their right. I don't want that to happen. But that is their right.

Mayor Pro Tem Barry - The General Assembly has to file all their bills within five days from now. At the last Town Council meeting when the Mayor was discussing the fire contracts, funding needs and the equity swap he lobbed the ball out there and said, "If someone has a different idea, go with it." We do need to protect the balance sheet but we need to protect the members of the Providence VFD at the same time. What I wanted to do is to get a local act filed and approved that enabled the Town to do two things. One is to enable this swap. In the event we entered into an agreement with the Providence VFD in that kind of equity relationship we also needed to have a binding service contract that reflected the same time horizon. We did not have a lot of time so I called the members of the General Assembly and asked them if they would support this and they gave me instructions on what to do. This affords us the option. Does not mean we have to do it. It gives us the ability to do it. I move that we approve Resolution R-2013-04 with the term not to exceed 10 years. It is not my intention for any agreements to go out that long but if the Town or the volunteer fire departments have to enter into borrowing instruments in order to meet their funding needs I felt like a 10-year term was okay. During the fire service district debates when I made those comments, little did I know at that time that we would be facilitating purchasing real property from the Providence VFD and being called on to structure long-term debt instruments or being put in a position where we would draw down the Town's surplus to a dangerously low level. Circumstances change, Mr. Mayor, and in my opinion in order to facilitate the renovations to code to the Providence VFD the Town Council needs to have the options of how to proceed with the financing of those needs - one would require a local act and the second is that we move forward with the capital improvement plan for Providence VFD. I felt like we need to have service agreements in place with them and the others that fell in line with the term of those agreements. It also allows us to enter into similar agreements with Stallings VFD and with the Wesley Chapel VFD. If we wait two weeks, we do not have those options.

Mayor Davidson – You and I talked from the beginning about an asset swap and that is not what changed.

All were in favor of the motion, with votes recorded as follows:

AYES:	Councilmembers Thomisser, Hadley, Harrison and Mayor Pro Tem Barry
NAYS:	None

**TOWN OF WEDDINGTON
RESOLUTION REQUESTING THE GENERAL ASSEMBLY TO ADOPT A LOCAL ACT
AUTHORIZING THE TOWN OF WEDDINGTON TO ENTER INTO LONG-TERM BINDING**

**SERVICE AGREEMENTS AND FUNDING AGREEMENTS WITH LOCAL VOLUNTEER FIRE
DEPARTMENTS SERVING THE CITIZENS OF THE TOWN
R-2013-04**

WHEREAS, fire protection services are currently provided to citizens of the Town of Weddington (the “Town”) by the Providence Volunteer Fire Department, the Stallings Volunteer Fire Department and the Wesley Chapel Volunteer Fire Department (collectively, the “Volunteer Fire Departments”); and

WHEREAS, the Town has contracted for and intends to contract for fire protection services with one or more of the Volunteer Fire Departments and seeks for those contracts to be long-term binding agreements; and

WHEREAS, certain of the Volunteer Fire Departments’ facilities are obsolete or are approaching functional obsolescence and may require funding from the Town; and

WHEREAS, the Providence Volunteer Fire Department has sought help from the Town in funding certain improvements to ensure that the Providence Volunteer Fire Department may continue to provide fire protection services to the citizens of the Town and that their facilities conform to the requirements of federal, state and local law; and

WHEREAS, the projected cost of the capital improvements for the Providence Fire Department is approximately seven-hundred-thousand dollars (\$700,000); and

WHEREAS, the Town wishes to participate in the current capital funding needs of the Providence Volunteer Fire Department and in the future capital needs of the other Volunteer Fire Departments through long term funding agreements for terms not to exceed ten (10) years; and

WHEREAS, the Town seeks the authority to establish binding funding agreements and fire protection service agreements with one or more of the Volunteer Fire Departments and seeks for those agreements to bind future Town Councils to such commitments and to withstand any change in membership of the Town Council.

NOW, THEREFORE, BE IT RESOLVED THAT the Town requests that the North Carolina General Assembly adopt a Local Act authorizing the Town to enter into long-term binding service agreements and capital funding agreements with one or more of the Volunteer Fire Departments providing fire protection services to the citizens of the Town and for the agreements to be binding on all future Town Councils throughout the duration of the agreements.

Adopted this 18th day of March, 2013.

Item No. 3. Adjournment. Councilwoman Harrison moved to adjourn the March 18, 2013 Special Town Council Meeting. All were in favor, with votes recorded as follows:

AYES:	Councilmembers Thomisser, Hadley, Harrison and Mayor Pro Tem Barry
NAYS:	None

The meeting adjourned at 3:50 p.m.

Walker F. Davidson, Mayor

Amy S. McCollum, Town Clerk