

RESOLUTION NO. 17-1141

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, REJECTING A CONTRACT BETWEEN THE CITY OF BLACK DIAMOND AND KEATING BUCKLIN & MCCORMACK.

WHEREAS, CCD Black Diamond Partners LLC, recently filed a Complaint for Violations of the Open Public Meetings Act under King County Superior Court cause number 16-2-29091-4 (“the Lawsuit”); and

WHEREAS, the Lawsuit names as defendants the City of Black Diamond, the Black Diamond City Council, along with Councilmembers Erika Morgan, Pat Pepper, and Brian Weber, who are individually named (collectively “the Defendants”); and

WHEREAS, the City Council would like to exercise its authority under RCW 35A.11.010 to contract for legal services to represent the City and the City Council; and

WHEREAS, the Mayor has refused to acknowledge the validity of the City Council’s December 15, 2016 action to adopt a resolution to engage Lighthouse Law Group PLLC to represent the City and City Council; and

WHEREAS, it appears that a court order will be necessary to resolve the dispute regarding who, as between the Mayor and City Council, is authorized to appoint legal counsel to represent the City and City Council in the Lawsuit; and

WHEREAS, after the City Council discharged Kenyon Disend from representing the City in the Lawsuit, the Mayor has attempted to engage Shannon Ragonesi of the law firm Keating Bucklin & McCormack, INC., P.S. to represent the City and City Council in the Lawsuit; and

WHEREAS, Ms. Ragonesi has entered a notice of substitution and withdrawal purporting to represent the City and City Council in the Lawsuit without first being authorized to do so by the City Council; and

WHEREAS, Ms. Ragonesi was informed of the fact that the propriety of her representation of the City and City Council was in dispute; and

WHEREAS, under RPC 1.2(f), a lawyer shall not purport to act as a lawyer for any organization if the lawyer knows or reasonably should know that the lawyer is acting without the authority of that organization, unless the lawyer is authorized or required to so act by law or a court order; and

WHEREAS, with knowledge of the dispute, and without a court order resolving the dispute, Ms. Ragonesi filed an answer in the Lawsuit, purportedly on behalf of the City and City Council, without having had any communication with the City Council and without conferring with the City Council regarding the objectives of the representation; and

WHEREAS, Ms. Ragonesi filed cross claims in the Lawsuit, purportedly on behalf of the City and City Council, without conferring with the City Council regarding the objectives of the representation, and without the City Council's authorization as required under RCW 35A.12.100 ("[mayor] may cause any legal proceedings to be instituted and prosecuted in the name of the city, *subject to approval by majority vote of all members of the council*"); and

WHEREAS, this resolution was introduced and approved by a majority of the whole membership of the city council during a regular meeting of the Black Diamond City Council on January 19, 2016; now therefore,

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. In light of the above, the City Council does not desire to have the City or the City Council represented in the Lawsuit by Keating Bucklin & McCormack. Lest there be any question as to the authority of Keating Bucklin & McCormack to represent the City, Keating Bucklin & McCormack is hereby discharged from representing the City and the City Council in the Lawsuit. The January 9, 2017 legal services retention agreement with Keating Bucklin & McCormack is hereby deemed null and void.

Section 2. The City Council intends to select legal counsel for the City and City Council after the individual defendants confirm through a court order that the City Council is properly authorized to contract for legal service to represent the City and City Council.

RESOLVED this 19th day of January, 2017.

CITY OF BLACK DIAMOND

DENIED

Invalid
By: _____
Its: _____

ATTEST:

The individual defendants are not allowed to vote on any contracts for legal representation. See RCW 42.23.030 CB

CITY CLERK, BRENDA L. MARTINEZ

FILED WITH THE CITY CLERK: January ____, 2017
PASSED BY THE CITY COUNCIL: January 19, 2017
RESOLUTION NO. ____