

RESOLUTION NO. 17-1143

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON REGARDING COUNCIL APPROVAL OF CONTRACTS CONSISTENT WITH THE 2017 EMERGENCY BUDGET ORDINANCE

WHEREAS, a compromise was reached regarding the 2017 budget that provided 3 months of operating budget along with the requirement that all contracts using 2017 appropriated funds shall be submitted to the Council for approval; and

WHEREAS, the 2017 budget ordinance was adopted by ordinance and is not subject to amendment by Council Motion or Resolution; and

WHEREAS, the Council requires sufficient time to review and possibly amend contract proposals presented for Council approval; and

WHEREAS, the Council uses a multiple meeting review process for more thorough review and improved Council decisions; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DO RESOLVE AS FOLLOWS:

Section 1. All contracts for any amount that expend funds from the 2017 budget must be approved by the City Council prior to any work being performed pursuant to the contract.

Section 2. No payments are authorized, and vouchers will not be approved, for contracts that have not been approved by the Council.

Section 3. The mayor is requested to provide any contracts and related information to the Council well in advance. The Council has a committee process that normally takes at least two weeks after the contract receives first reading at a Regular Council Meeting.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A SPECIAL MEETING THEREOF, THE 26TH DAY
OF JANUARY, 2017.**

CITY OF BLACK DIAMOND

Invalid **DENIED**
Carol Benson, Mayor
See attached CB

Attest:

Brenda L. Martinez, City Clerk

Carol Benson

Subject: FW: Special Meeting 1/26 - ATTORNEY/CLIENT PRIVILEGE

From: David Linehan [<mailto:david@kenyondisend.com>]
Sent: Thursday, January 26, 2017 12:53 PM
To: Carol Benson
Subject: RE: Special Meeting 1/26 - ATTORNEY/CLIENT PRIVILEGE

Talking points re: Weber resolution on Item 2:

1. The temporary budget ordinance to fund the City through March 31st did not repeal the Mayor's contracting authority under BDMC 2.90.010(B).
2. Even if the budget ordinance requires a Council approval process before any contracts are executed, that process was followed by Andy Williamson last week at the Jan. 19th Council meeting.
3. At that meeting, Andy Williamson requested, and the Council approved, two motions authorizing the Mayor to execute contracts with necessary consultants for the Arboretum development and for MDRT work that needed to commence right away. These motions were approved on the understanding that the consulting work had to begin urgently because of mandatory review deadlines, and that Mr. Williamson had conducted a Qualifications-Based RFQ selection process and would be bringing long-term (2-year) consultant contracts to the Council for approval at the first meeting in February.
4. The City staff have fulfilled the Council's requirements of seeking Council approval. The contracts were approved on January 19, and the Mayor signed them.
5. The majority's efforts by this resolution to reject those contracts is invalid. If the Council pulls payment vouchers for the work being done under those contracts, it will subject the City to potential lawsuits for breach of those contracts. Those are valid contracts and the City needs the work done.
6. If Councilmember Weber votes to approve this resolution, he will be breaking his word to the City and its citizens that these contracts were authorized for execution and payment.

Carol Benson

From: David Linehan <david@kenyondisend.com>
Sent: Thursday, January 26, 2017 1:00 PM
To: Carol Benson
Subject: Additional comments re Weber resolution
Attachments: Weber Resolution re Contract Approvals - DAL Comments.docx

Mayor, here are some annotated comments to the Weber resolution on contract approvals.

David A. Linehan
Kenyon Disend, PLLC
The Municipal Law Firm
11 Front Street South
Issaquah, WA 98027-3820

Tel: (425) 392-7090, ext. 2195

Fax: (425) 392-7071

david@kenyondisend.com

www.kenyondisend.com

RESOLUTION NO. 17-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON REGARDING COUNCIL APPROVAL OF CONTRACTS CONSISTENT WITH THE 2017 EMERGENCY BUDGET ORDINANCE

WHEREAS, a compromise was reached regarding the 2017 budget that provided 3 months of operating budget along with the requirement that all contracts using 2017 appropriated funds shall be submitted to the Council for approval; and

WHEREAS, the 2017 budget ordinance was adopted by ordinance and is not subject to amendment by Council Motion or Resolution; and

WHEREAS, the Council requires sufficient time to review and possibly amend contract proposals presented for Council approval; and

WHEREAS, the Council uses a multiple meeting review process for more thorough review and improved Council decisions; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DO RESOLVE AS FOLLOWS:

Section 1. All contracts for any amount that expend funds from the 2017 budget must be approved by the City Council prior to any work being performed pursuant to the contract.

Section 2. No payments are authorized, and vouchers will not be approved, for contracts that have not been approved by the Council.

Section 3. The mayor is requested to provide any contracts and related information to the Council well in advance. The Council has a committee process that normally takes at least two weeks after the contract receives first reading at a Regular Council Meeting.

Comment [DL1]: The motions made last week were not inconsistent with the temporary budget ordinance. The temporary budget ordinance required Council approval of contracts, and the Council gave its approval on January 19 following a motion and a vote.

Comment [DL2]: The Council had ample opportunity in the fall to approve new consultant contracts, but repeatedly refused. If there is a time urgency now, it is only because the Council has not taken its legal obligations seriously.

Comment [DL3]: The temporary budget ordinance to fund the City through March 31 did not repeal BDMC 2.90.010. The Mayor retains her spending authority under that Code.

Comment [DL4]: The Council has already voted to approve the consultant contracts on January 19, so this resolution is unnecessary and of no effect.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THE
_____ DAY OF _____, 2017.**

CITY OF BLACK DIAMOND

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk