

RESOLUTION NO. 17-1202

A RESOLUTION OF THE CITY OF BLACK DIAMOND REAFFIRMING THE ACTION TAKEN THROUGH THE ADOPTION OF RESOLUTION 16-1139 DETERMINING THAT THE CITY OF BLACK DIAMOND WAS TO PROVIDE THE DEFENSE FOR CERTAIN INDIVIDUALLY NAMED COUNCIL MEMBERS NAMED AS DEFENDANTS IN KING COUNTY SUPERIOR COURT #16-2-29091-4

WHEREAS, having received the individual requests from the individual Council Members named in the litigation, the matter of defending Council Members Morgan, Pepper and Weber was acted upon through the approval of the referenced resolution by a majority of the Council at its meeting of December 15, 2017, and

WHEREAS, by adopting the cited Resolution the Council intended to and did exercise the authority granted to it by BDMC 2.66.040; and

WHEREAS, in appellate decision, including including *In the Matter of the Petition to Recall Cynthia Olsen, Commissioner of the Port of Tahuya*, 134 Wn.2d 607, 116 P.3rd 378 (2005), the courts have found that an elected official may vote upon such a request that she or he makes; and

WHEREAS, the request for such defense was presented to the Council and received affirmative votes of a majority. However, the Mayor articulated a position that the adoption was not valid upon a basis contrary to the judicially approved position, as noted, that the affirmative vote of a council member upon such a request relating to defense of the council member was not violative of any state law or municipal ordinance, and

WHEREAS, thereafter having disqualified sequentially each of the three council members from voting, the request was resubmitted resulting in a vote viewed by the Mayor as denying the request.

NOW THEREFORE, the City Council of the City of Black Diamond does hereby resolve as follows:

SECTION 1. Pursuant to the applicable statutory, municipal and case law, the Council reaffirms its action taken through the adoption of Resolution 16-1139 granting the requests of Council Members Morgan, Pepper and Weber for provision of the funding for representation in the cited case, whether for services already provided or hereafter provided, and payment, including for reimbursement of moneys paid by the individual council members for such services is hereby approved and authorized.

Passed by the City Council of the City of Black Diamond, Washington at a regular meeting thereof this 7th day of December 2017.

City of Black Diamond

Invalid CB

Attest:

Brenda Martinez, City Clerk