

# BLACK DIAMOND CITY COUNCIL MINUTES

January 21, 2016

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

## CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular meeting to order at 7:00 p.m. and led us all in the Flag Salute.

## ROLL CALL:

**PRESENT:** Councilmembers Deady, Morgan, Edelman, Weber and Pepper.

**ABSENT:** None

Staff present were: Seth Boettcher, Public Works Director; Mayene Miller, Finance Director; Jamey Kiblinger, Police Chief; Barbara Kincaid, Community Development Director; Carol Morris, City Attorney and Brenda L. Martinez, City Clerk.

Councilmember Pepper let the Mayor know that after roll call she intends to move for a reordering of the agenda.

## APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

### Police – Chief Kiblinger

Chief Kiblinger discussed the quarterly employee recognition awards they give in the department and the process of how officers are nominated. She noted receiving two nominations for the last quarter from Sgt. Brian Martinez and Sgt. Brian Lynch for the award to go to Bill Riepl the departments Reserve Officer. Chief Kiblinger stated that Officer Riepl has put in over 1,000 volunteer hours to the department. Sgt. Martinez and Stg. Lynch read their nomination letters into the record and are attached and incorporated into the minutes.

Chief Kiblinger presented Reserve Officer Riepl with his award.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to amend the agenda to move item #9 Resolution No. 16-1069 to immediately after public comments and prior to item 3 and reordering the remaining items accordingly. Motion **passed** 4-1 (Edelman)

## **CONSENT AGENDA:**

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Pepper to adopt the Consent Agenda. Motion **passed** with all voting in favor (5-0). The Consent Agenda was approved as follows:

- 1) **Claim Checks** - January 21, 2016 - No. 43080 through No. 43135 and EFTs in the amount of \$147,078.81
- 2) **Payroll** - December 31, 2015, No. 18737 through No. 18756 and ACH payment in the amount of \$267,673.75

## **PUBLIC COMMENTS:**

Robert Taeschner, Black Diamond commented on discussing with his college students that all art is a reflection of the time and place it was created. He believes all laws are too. He discussed coming to Black Diamond in 1960 and his love for the area and the importance for him to be a citizen in a city and would like folks who live in Black Diamond determine what will be done in Black Diamond.

Peter Kellerman, Kent discussed the definition of insanity and how current things have been done has not benefited anyone. He discussed traffic issues and applauded Councilmembers Pepper and Morgan for the changes they are implementing as it in line with what the voters want.

Johna Thomson, Black Diamond commented on the changes to the Council rules and discussed how these rules need to be looked at periodically and revised. She noted there being a lot of changes to the rules and hopes each Councilmember takes the times to consider each and every change as these are the rules by which Council operates under. She also discussed the change in the form of government being voted down and not understanding why we need a Council President.

Brock Deady, Black Diamond updated Council on scheduled activities at the gym. He commented on the resolutions before Council tonight and noted from his point of view these would be best handled in a workstudy so it is an exchange of ideas. He stated he doesn't feel this is being done the right way and they should be taken off the agenda. He also discussed the committees that are being put forth and noted not seeing a committee for parks and cemetery and feels this is an important committee.

Robbin Taylor, Black Diamond read into the record her written comments which are attached and incorporated into the minutes.

Gayle Loon, an attorney and open governments advocate noted she is here tonight at the request of a client who resides in Black Diamond. She discussed what her role is at the meeting tonight. She read a quote from Thomas Jefferson and also discussed listening to the audio recording from the January 7<sup>th</sup> meeting as requested by her client and after doing so she also reviewed the RCWs, Roberts Rules, and the Council Rules and was

provided an email regarding a special meeting notice. She discussed the special meeting and stated giving no opinion on the content and spoke only to the procedure that was used under the Open Public Meetings Act which was proper and not a violation. She discussed not agreeing with the parliamentarian who expressed an opinion at that meeting in regards to Council rule 3.1 where nine days advanced notice is required for documents. She noted reading this rule as only applying to regular meetings; not special meetings and therefore there was no violation. She further discussed the special meeting requirements as laid out in the Council rules. Again, she noted there was no violation to the Open Public Meetings Act and refusing to post that notice...

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to allow her additional time to speak. Motion **passed** (3-2, Edelman, Deady)

Councilmember Edelman called for a Point of Order and asked how much time is allowed.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to allow this speaker a fair amount of time. Motion **passed** (3-2, Edelman, Deady).

Ms. Loon continued speaking about motions for amendments to the agenda or pulling items from the agenda. She noted not agreeing that the Mayor may remove items from the agenda once the agenda has been published and approved, which it had been on this occasion. Allowing this effectively gives the Mayor veto power over any agenda item and that is not what separation of powers requires. She discussed committees and appointments of committee members and referred to Council rules. She noted this being in the purview of the Council; not the Mayor. She then discussed a motion for reconsideration at this meeting by Councilmember Weber and the parliamentarians saying it couldn't be reconsidered as it had already been acted upon and no evidence was given to the Council that would have indicated that was true. She pointed out the Council rules that pertain to reconsideration and noted Councilmember Weber was properly following this process and there was no evidence that anything had been done to rely on that motion being passed. She cautioned the Council that unless you are prepared to provide that proof you open yourself up to criticism as well as potential liability. She stated that the City Attorney's rationale that it couldn't be reconsidered because it had acted simply wasn't something that was on the table. Her last topic was on use of confidential information and is based on her clients concerns and as well as her experience. She noted open government not just being an interest of hers, but a passion and believes it should be the passion of every citizen. She discussed the use of having the City Attorney review every document can be over used and abused. She discussed agencies inappropriately label documents as confidential when in fact they are not. In order to ensure that the decisions of the Council are based on solid data and solid legal advice she encouraged the use of the label confidential judiciously. In closing, she discussed her clients concern that the last council meeting was not repeated and as a citizen of this city he wants to see adherence to the rules, appropriate observation and adherence to the roles of each and every one and to see the business of this city gets done right, expeditiously and as an expression of the will of the people.

Carol Lynn Harp, Black Diamond commented on situations always changing and stretching beyond ones comfort zones, because that is where improvement lies. She discussed the Mayor needing to take care of all her chicks.

Cindy Wheeler, Black Diamond, commented on the power of the people being paramount in our government and that is why it is so important to choose good people. She discussed the Planning Commission being a representation of our government the City saying they wanted to be represented by people who live here or are running a business here. She discussed Ordinance No. 16-1072 being written by an employee who was not here when this code was revisited and changed. She noted this legislation being a major migration from what the citizens want.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to allow the speaker a fair amount of time to finish her comments.

Councilmember Edelman stated the need to define the amount of time given that Council has a lot of items the agenda.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to allow Mrs. Wheeler an additional three minutes. Motion **passed** as amended with all voting in favor (5-0).

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to amend her motion from a fair amount of time to three minutes. Motion **passed** with all voting in favor (5-0).

Cindy Wheeler continued and asked Council to not accept Ordinance No. 16-1072 and to clarify the code as was the intention 2 ½ years ago and to replace the word community with the word city and retain the language in the forfeiture clause.

Judy Carrier, Black Diamond discussed attending the January 7<sup>th</sup> Council meeting and noted leaving this meeting dismayed and confused. She discussed the election from last year. She stated supporting the rules being proposed by Councilmembers Morgan and Pepper as more work can be done with more input. In closing she noted the city needed the balance of power as it is currently unbalanced.

Kristen Bryant, Bellevue noted growing up in Black Diamond. She commented on being involved in various aspects of civic life in Black Diamond over the past five years and gave examples. She commented being glad to see new Council rules that have a different process to get the ideas in early and added these changes are procedural.

Bob Edelman, Black Diamond commented on going through the proposed rules very carefully and noted not understanding the motivation for the changes and hopes the proponents for the changes will explain them.

Brian Derdowski, Issaquah commented on it being a full house at the meeting and noted this participation is an asset and hopes the new Council will find new ways to encourage this. He commented on the speaking time and encouraged Council to take a soft approach to this. He discussed how the Council President in Kent also acts as the Mayor Pro-Tem. He further discussed the wide latitude available to Council on how to conduct city business.

Dave Ambur, Lake 12 commented on people being more comfortable with rules they have been living with rather than being forced by new people coming in and commented on the process that should have been taken with adoption of these rules. He noted that some changes in the rules seem okay, others are way out of line and some he does not know what the effect will be. He discussed the development in the City and noted Crown Development will probably not be the last developer on this property. He commented that Council needs to be treating each other with respect and get along and work together.

Aaron Scott, Black Diamond believes getting people from Kent to be on our committees is wrong, however many people out of the city have done wonderful things for Black Diamond which makes it difficult to decide who should help and who shouldn't He discussed YarrowBay shuffling their feet and noted his wife is trying real hard to create a balance and to do things on Council. He commented on the importance of working together as that's what the changes are intended to do.

Raymond Siburkis, Black Diamond commented on being a resident of Washington for 33 years and moving to Black Diamond as it is a small community. He stated had he known of the happenings in Black Diamond with the Council and development he may not have moved here. He discussed the election results from November and asked that Council get along rather than this chaos.

Jared Mauerman, Black Diamond commented on the YarrowBay project and noted not wanting to see the City change with the development that is being proposed.

#### **Resolution No. 16-1069, revising the Council Rules of Procedure**

Mayor Benson asked each Councilmember the following questions:

Councilmember Pepper

1) Did you get the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Pepper responded yes.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand that? Councilmember Pepper responded I read it and understand the idea that is being presented.

Councilmember Weber

1) Did you get the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Weber responded I did.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand that? Councilmember Weber responded yes.

Councilmember Edelman

1) Did you get the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Edelman responded I did.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand that? Councilmember Edelman responded I do.

Councilmember Morgan

1) Did you read the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Morgan responded I did.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand that? Councilmember Morgan responded she didn't get that too clearly necessarily from all the things that she read no.

Councilmember Deady

1) Did you read the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Deady responded I did.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand? Councilmember Deady responded I do.

Councilmember Morgan stated these rule changes appear before the Council in this form that sadly has not had the review she described was the concept at the January 7<sup>th</sup> meeting and the reason for this is because City officials were trying to rush the process she described and demanded product prematurely. She noted the behavior on the part of the Mayor and Attorney has resulted in an imperfect product and has also instructed many changes as the Council needs to have a format where they can bring the public's needs into the rule making in the City. She also noted there are citizens who agree to live under the rules and they are the citizens who pay for the city's existence. She discussed needing some Council committees as that is where the deliberations happen and this helps Council to make better more thoughtful decisions and suggest that Council pass this resolution for now and steam ahead with more refined rules. She mentioned it being suggested by her and the public to hold workstudies as they continue this process and also mentioned getting input which will all be considered when it is decided on all the final changes.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to adopt Resolution No. 16-1069, revising the Council Rules of Procedure

City Attorney Morris commented on Councilmember Morgan not understanding the letter from the city's insurance carrier and read into the record an excerpt from Roger Neal of Association of Washington Cities Risk Management Service Agency where he states to City Attorney Morris "In your review you raised numerous concerns about potential violations of law if the draft rules are adopted as presented. We concur with your concerns about the draft rules potentially, or actually being in conflict with state laws. Potentially knowingly violating state law by the council raises serious concerns for Risk Management Service Agency, the City of Black Diamond's risk pool. If the City adopts these rules without making the modifications suggested, there is a good chance that in the event of a lawsuit related to the application of these Council rules, such as a violation of the Open Public Meetings Act, the Risk Management Service Agency will follow the provision of Coverage Agreement. I call your attention to Part II Section 7. Exclusions". Ms. Morris continued to read from this email which it attached and incorporated into the minutes.

Ms. Morris also referred to case law she found in her search and pointed out that Council can't change their role and then become the Mayor. There is a separation of powers here, which is why our strong congress can't change the laws and become the President of the United States. She read excerpts from RCW 35A.12.100 regarding the Mayor is the Chief executive and administrative officer of the city, in charge of all departments and employees. He or she shall have general supervision of the administration of city government and all city interests. From the Washington State Supreme Court she then read from a case called *Roehl v. Public Utility District No. 1 of Chelan County* saying where the enabling legislation under which a municipal or quasi-municipal corporation derives its power confides legislative or discretionary functions in particular officials or boards, such functions may not be delegated to others, unless the enabling legislation provides otherwise, however, those in whom such functions repose may delegate to others the performance of duties of a purely ministerial or administrative nature.

She read from another authority saying the duties and powers imposed upon the mayor, designated departments and officers are considered in the nature of public trust and cannot be delegated or surrendered to other officers or departments, therefore the Council has no authority to pass a resolution which purports to strip the Mayor of his or her duties as established in state law and transfer them to the Mayor Pro-Tem who has no duties at all under state law unless and until the Mayor is absent or disabled. The Mayor makes decisions regarding the agenda based on staffing needs and the City budget. Members of the Council may propose agenda items, but the Mayor makes the final determination on matters included in the agenda. She noted people may be interested in reading this material from the insurance provider and stated it is not confidential and she can hand those out to anyone who is interested.

She again cautioned Council that before they adopt any rules you are under notice now that the insurance pool says that if you take action on this and there is a lawsuit that arises as a result you may not have coverage – the City may not have coverage and members may have to rely on their own personal insurance policy.

Councilmember Pepper commented the proposed changes are being brought forth because the Council on 1/7/16 was not able to conduct business. She also commented it is necessary to address those underlying issues before they can do anything else. As to the raised concern about insurance she noted there is no immediate crisis that could possibly ensue from adopting these changes tonight. It is her understanding that the rules that have been on the books for two or more years have language that possibly conflicts with the powers of the Mayor, yet we have been functioning without lawsuits and with insurance coverage. Nothing in our Council rules should be interpreted in a way that conflicts with state law. Nothing in the new rules is intended to conflict with state law. There are actually some conflicts that aren't part of changes that were suggested and she thinks it is very clear that she has put a lot of thought in to supporting these changes. She noted there is a resolution coming up tonight that supports continued future review of the rules so the public can continue to participate as well as the Mayor and the Councilmembers. She noted possible amendments can be looked at after the passage of this resolution tonight. She also noted the problem with waiting is they (Council) have no way to do committee work now and as a Councilmember with legal responsibilities to the voters she cannot vote on a legislation that has not been thoroughly reviewed and understood and committees are the best way to do this. She discussed the revised committee structure offers improved public participation and process and the other changes in the rules are also important to clarify the issues from their last meeting. She stated they must move forward as the risk of not adopting this tonight is much greater than the risk of waiting. In closing she stated feeling very strongly about the opportunity for public participation – people are interested and want to have a say. She noted wanting to pass this so they can get on with the business of getting this in the fashion the public and Council and hopefully the lawyers can come to some kind of terms.

Councilmember Edelman commented on Council having an opportunity on the 7<sup>th</sup> of January to pass a resolution which gave committee appointments by the Mayor and three Councilmembers chose not to support it and instead came in with their own agenda and that is why it was pulled. She also commented on the City having a strong Mayor form of government and noted being one of the folks that wrote part of the resolution that went to proposition 1 and to the voters and noted she was mistaken on this issue. She discussed the voters not passing this proposition as they wanted to keep the current form of government of a strong Mayor. She stated she does not support this and does not see where they are allowing any discussion of the content of it and will be voting no. She commented if this is passed there is a violation of the Open Public Meetings Act by putting three Councilmembers on the committees – that is a quorum. She discussed the committee structure as it is now and the process of how items were brought forward to the Council. She again noted not supporting this in any way shape or form without having a workstudy to go line by line.

Councilmember Deady commented that at the last Council meeting she asked for a workstudy to go over these Council rules. She further commented she has spent over 20 hours going over this material and doing research. She noted getting advice from the City Attorney as did all the Councilmembers and reading the advice from the City's insurance carrier and stated she will not be supporting this and will be voting no on Resolution No.

16-1069 and will follow the City Attorney's advice. She also commented on being supportive in the change of government, however it was voted down. She believes we need to listen to our citizens and do what they have asked and that is a strong Mayor.

Councilmember Weber commented on reading this resolution and all the confidential memos from the Attorney. He noted this is what the public is asking for – they are asking for the separation of the legislative and the executive. They want more participation and in no way does he want the Mayor's job. He also noted a lot of the changes are needed to move forward as they can't make a valid opinion or vote on a resolution that hasn't been through a committee or some sort of review. He believes with voting on this resolution they can move forward and amendments can be made. He further commented this being a living document (Council rules) so something can be established to move forward and that's what's important; he advocates for public communication and communication is a two way street and that's what this is about – trying to draw the public in to get more participation.

Councilmember Morgan thanked Attorney Morris for reading her letter into the record because those emails that came to her were marked as confidential and because they were marked confidential she couldn't share them with the public and they were directions and concerns about these Council rules and she was put in a box as she couldn't say why she needed to make changes to the public because they were marked confidential. She asked if all those memos...

City Attorney Morris stated the only thing she read from was the email from the insurance provider and a portion of case law that she included in her memo. Ms. Morris said she is not going read through her confidential memo to the public, however certainly anyone can get a copy of the letter from the insurance provider.

Councilmember Morgan asked City Attorney Morris if it would be possible to make a list of what could be made public as for her everything was marked confidential. City Attorney Morris responded yes.

City Attorney Morris pointed out something that hasn't been mentioned at all and that is the violation of the Open Public Meetings Act by having committees that have three Councilmembers on them. She noted previously the City had committees comprised of two Councilmembers and now they will be comprised of three Councilmembers on all the committees which means that when you take action under the rules you are going to be taking action to vote to do pass, meaning you are taking final action on resolutions and other matters that come before the Council. She further noted that at these committee meetings when you take final action there is nothing left to do – it doesn't come back to the Council because the committee has already acted on it. She feels there is a basic misunderstanding of the process of a do pass on a resolution by the three Councilmembers, means that the resolution passed and if you did that at a committee meeting without any legal review as the rules have been crafted so there is no attorney review of anything. She added it also states in the rules that City staff input is all eliminated. The language in the rules that said the committees would work in conjunction

with City staff has all been eliminated and she doesn't think they understand the cost to the city as a result of these new procedures. If you have three councilmembers on every committee then the City Clerk is going to have to give notice of every single one of those committee meetings individually every single time as special meeting. This additional notice is going to have to be given out every single time and if the attorney is going to be attending these meetings she will need to be given notice of it. She noted having a schedule and other clients and may not be able to attend all the committee meetings where they are taking final action. If you are going to cut the staff out and are just going to act together in your committee and are keeping out Councilmember Edelman and Councilmember Deady and you're keeping the staff and attorney out she doesn't see how this is the way government needs to function and you can see why the insurance provider is telling you you're exposing yourself to liability. She doesn't know of any City that operates this way of having committees comprised of three Councilmembers where they take final action outside of a City Council meeting or any city that is so enthusiastic about taking action without input from the City Attorney. She discussed the meeting and rules being drafted without being sent to her and she had to get a hold of them to provide Council with her input. She noted items usually come to the City Attorney for review and then they go on the agenda, however apparently that is not the way the Council wants to work it or work it with the committees either and that is why the insurance provider has made the opinion they have.

Vote: Motion **passed** (3-2, Edelman, Deady).

## **PUBLIC HEARINGS: None**

## **UNFINISHED BUSINESS:**

### **Resolution No. 15-1060, adopting Facility Use Policy**

City Attorney Morris reported this item was postponed from the December 17, 2015 Council meeting. She noted these rules are necessary in order to allow public use of City facilities and outlines the process for reserving the gym, associated fees, and insurance requirements.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt Resolution No. 16-1060, adopting a Facility Use Policy.

Councilmember Pepper stated she loves the idea of the gym as it is a destination for people in Black Diamond. She noted there being no committee review of this and would like to see it go to committee and she recommends it go to the Budget, Finance and Administration Committee.

Brock Deady reported meeting with staff to answer questions he had regarding excluding people from using the gym especially those under the age of eighteen. He noted that since he is the one that is present during open gym kids under eighteen can participate.

Vote: Motion **passed** with all voting in favor (5-0).

## **NEW BUSINESS:**

### **Resolution No. 16-1066, authorizing a contract with NexisLexis for credit card services for the Court**

Finance Director Miller reported investigating many options for the Court to provide credit card services. She noted other Courts use this company and one of the benefits is it is available 24 hours allowing people to pay their fines online.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Deady to adopt Resolution No. 16-1066, authorizing the Mayor to execute an agreement with NexisLexis VitalChek Network Inc., for the online credit card payment service for the Municipal Court.

Vote: Motion **passed** with all voting in favor (5-0).

### **Ordinance No. 16-1071, amending Black Diamond Municipal Code section 10.44.030 regarding Traffic Safety School**

Chief Kiblinger reported the City currently charges a fee of \$200.00 for traffic safety school. However, RCW 46.83.080 does not allow the City to charge a fee in excess of the penalty of the infraction. She noted most infractions start at \$136.00 and go up, depending on the violation. She also added that during the next fee schedule update this change will be made on the schedule.

Councilmember Edelman commented that during the upcoming budget process there will be time spent on reviewing the fee schedule.

Councilmember Pepper stated having some concerns and would have preferred this item went to committee.

Councilmember Deady suggested acting on this item tonight rather than taking it through a committee.

Councilmember Weber wondered if the City would need to give out refunds.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt Ordinance No. 16-1071, relating to traffic safety school, changing the fee charged by the City for the school so that it is not in excess of the penalty for an unscheduled traffic infraction, as limited by RCW 46.83.080, amending Black Diamond Municipal Code section 10.44.030.

Vote: Motion **passed** with all voting in favor (5-0).

**Resolution No. 16-1067, authorizing Addendum to Valley Communications Agreement**

Chief Kiblinger reported this being the City's annual addendum with Valley Communications for police dispatch services. She also noted there being no dollar increase for 2016.

There was Council discussion on this item.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt Resolution No. 16-1067, authorizing the Mayor to execute the addendum to the agreement with Valley Communications for dispatch services.

Vote: Motion **passed** with all voting in favor (5-0).

**Resolution No. 16-1068, extension of Joint Public Works Interlocal Agreement with Maple Valley and Covington**

Public Works Director Boettcher reported the City has had an interlocal agreement they have operated under since 2011 with Covington and Maple Valley. He discussed utilizing it with training opportunities and joint crack sealing projects. He stated this is an extension of the current agreement and will expire on December 31, 2020. He recommended Council consider approving this extension.

There was Council discussion on this item.

Councilmember Morgan stated she feels this needs to go to committee so she can better understand and answer any questions people may have.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt Resolution No. 16-1067, authorizing the Mayor to sign the Second Amendment to the Interlocal Agreement between the Cities of Maple Valley, Covington, and Black Diamond for joint public works operations and cooperative purchasing, which extends the agreement until December 31, 2020. Motion **passed** with all voting in favor (5-0).

**Ordinance No. 16-1072, amending Black Diamond Municipal Code regarding Planning Commission qualifications**

Community Development Director Kincaid discussed the proposed ordinance amends Chapter 2.24 of the Black Diamond Municipal Code regarding Planning Commission qualifications. She reported five of the seven positions needing to be replaced on the Planning Commission and during the recruitment process it was noticed there was an inconsistency in code.

She stated that in subsection B, planning commission members can reside in the community at least 180 days of the each year or be owners of a business with a physical

presence in the city. In subsection D, the “failure” of a planning commission member to either reside in or be a business owner in the city constitutes “forfeiture of office”.

She noted staff is recommending that Council adopt the proposed ordinance as it retains the intent of Black Diamond Municipal Code section 2.24.010(B) by allowing planning commission members to be selected from the community, but provides better definition of the community. She added the ordinance defines community to include persons living within the city limits as well as those living in the city’s urban growth area (UGA) boundary and potential annexation areas (PAA). She further added the reason for including the UGA/PAA in the definition of community is to meet the intent of the ordinance to maintain an equitable balance of geographic representation of the community.

She also discussed housekeeping changes in the Ordinance. In subsection C it is recommended to strike the word may and replace it with the word shall and the typo in subsection E to strike the word service and replace it with the word serve. Another change is to take the terms out of subsection A.

Councilmember Morgan discussed the meaning behind the word community to those who reside in Black Diamond. She also requested that this go to a committee before adopting to give the public a chance to comment.

Councilmember Weber would like to see the word community changed to city as stated by the citizens. He was curious about subsection A where it states terms expire on December 31, but members of the planning commission shall continue to serve until their successor is appointed and qualified.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt Ordinance No. 16-1072, relating to the qualifications of the planning Commission, establishing that members must reside in the community at least 180 days of each calendar year or be owners of a business with a physical presence within the City, amending Black Diamond Municipal Code Section 2.24.010.

City Attorney Morris asked if changes were going to be made and if so she discussed the changes that would need to be made in the Ordinance.

In section 2.24.010(B) the sentence beginning with “members of the planning commission” it would read “Members of the planning commission shall be limited to individuals who reside in the city at least one hundred eighty days each calendar year or owners of businesses with a physical presence within the city”. Eliminate the sentence that starts with “For purposes of this section” and keep the last sentence in this section. In section 2.24.010(D) in the sentence that starts with “Failure” it would say “Failure of a planning commission member to” and add the words “qualify as provided in section B shall constitute forfeiture of office” and eliminate the words “either reside in the community or be a business owner with a physical presence”. She also discussed someone in the public saying the words “the City” were omitted somewhere in the document which was a typo and when the document is finalized it will be added back in.

Councilmember Deady discussed research she did on other cities regarding their Planning Commission qualifications. She also discussed changes she pushed for on the recruitment and interview process for Planning Commission members.

Councilmember Weber noted this being an important issue and would like to see a cleaned up copy of the Ordinance before voting.

Councilmember Deady commented she has no problem with changing the word "community" to "city".

Councilmember Pepper stated she regretfully can't support this ordinance at this time and she has received feedback that citizens would like to be represented by commissioners who live in Black Diamond.

City Attorney Morris recapped the proposed changes again.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to amend her motion to include the City Attorney's suggested changes.

Vote: Motion **passed** as amended with all voting in favor (5-0).

#### **Resolution No. 16-1070, appointing a Council President**

Councilmember Morgan stated placing this item on the agenda along with Councilmember Pepper. She discussed the purpose of the President of the Council is to be the focal point for the ordinances and the resolutions as they come to Council committees to sort them out. She added the Mayor Pro-Tem and the Council President would sort those as they come in and assign them to committee for review and after review they would then go forward to the Mayor in a more formalized rendition. She also added this is under development.

There was Council discussion on this issue.

A **motion** was made by Councilmember Pepper to adopt Resolution No. 16-1070 appointing a Council President.

Councilmember Pepper withdrew her motion.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to approve Pat Pepper as Council President.

Councilmember Edelman stated she believes this position is not needed on a Council of five members and does not support it.

Vote: Motion **passed** (3-2, Edelman, Deady).

### **Resolution No. 16-1071, appointing Standing Committee Members and Chairs**

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to adopt Resolution No. 16-1071, appointing Standing Committee Members and Chairs.

Councilmember Edelman stated these meetings violate the Open Public Meetings Act and will not attend any committee meeting where there are three Councilmembers present and does not support this.

Councilmember Deady announced she will not be attending these meetings where three Councilmembers are present and making decisions.

Councilmember Weber stated his understanding of these committees is to bring in more of the public when they are able to attend. He does not feel this would be a violation of the Open Public Meetings Act as they would be special meetings that will be noticed.

There continued to be Council discussion on this item.

City Attorney Morris discussed whether or not this is a violation of the Open Public Meetings Act and stated it is a violation because they are going to have three members taking final action and normally what you would do at these committee meetings is review them and forward to the City Council. If you do a do pass as stated in the rules you've taken final action. So there is the problem of the City Clerk who has to give special meeting notice for all the committee meetings and noted the additional staff time that will be needed and lastly you will be taking final action at a committee meeting. She noted the issue is why there are three Councilmembers on these committees – that's the problem.

Vote: Motion **passed** (3-2, Edelman, Deady).

### **Resolution No. 16-1072, initiating review of Council Rules of Procedure**

Councilmember Morgan reported adoption of this resolution is to initiate a review of Council Rules of Procedure with the 1 – 7 ideas stated in the resolution being the objectives. She also noted there will be a workstudy scheduled for Council and the public.

Councilmember Deady referred to Section 2 of the proposed resolution and is concerned that two Councilmembers are surveying other Councilmembers and stated this is a violation of the Open Public Meetings Act and noted she will not be voting on this resolution.

Councilmember Edelman asked why a resolution is needed to initiate a review of Council Rules and Procedures and why isn't that a normal course of business throughout the year – there is no need for a special resolution on this. She also noted Councilmember Morgan making comments that are kind of contrary to what is being said here and noted she will not be supporting it.

City Attorney Morris commented that based on what has been said tonight along with the materials submitted she suggested that if this is to be passed, Section 2 be amended to state that someone will consult with the City Attorney and someone would also take into account the comments from the City's insurance provider, unless the new rules are also proposed to be violative of state law and will expose the Council and individuals to liability because they don't have any insurance.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to adopt Resolution No. 16-1072, initiating review of Council Rules of Procedure.

Vote: Motion **passed** (3-2, Edelman, Deady).

### **DEPARTMENT REPORTS: None**

### **MAYOR'S REPORT:**

Mayor Benson reported attending the SCATBd meeting and the Chamber luncheon.

### **COUNCIL REPORTS:**

Councilmember Deady reported attending the Public Issues Committee meeting, the SCATBd meeting, Enumclaw School District meeting and the Chamber luncheon.

Councilmember Morgan discussed why she cancelled the January 12 joint meeting with the Planning Commission. She stated one of her colleagues on the Council was advising the public at the January 7 meeting that citizens should not come to the joint meeting because it was just for Council and planners and also stated they would not be allowed to talk, which she commented could be true. She also added not wanting to actively discourage the public from attending a properly noticed meeting.

Councilmember Edelman reported attending the Public Issues Committee meeting, SCA Networking dinner and the Chamber luncheon.

Councilmember Weber announced there is a short course in local planning at 6:30 p.m. on January 28<sup>th</sup> at the City of Covington Council Chambers.

Councilmember Pepper announced she will be attending that meeting on the January 28<sup>th</sup>, another meeting on that date in Olympia on Parliamentary and a meeting on Saturday on open government.

### **ATTORNEY REPORT: None**

### **PUBLIC COMMENTS:**

Gayle Loon, Seattle objected to having her address on the record as that is a violation of the Open Public Meetings Act and encouraged the Council to consider doing away with this requirement for speaking. She also discussed having three Councilmembers on a committee does not persay violate the Open Public Meetings Act. If all three do attend and conduct business I would agree that they do. She noted seeing the wisdom to assigning three to each committee, but as long as only two are present no action can be taken that would be violative of the Act. In closing she clarified the removal of agenda items that she spoke to earlier. She stated in its simplest form the Mayor cannot remove from the agenda or from discussion an item that has been brought forward by another Councilmember.

City Attorney Morris clarified that RCW 42.30.040 A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his or her name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. Mayor Benson commented on needing to change this rule.

Bob Edelman, Black Diamond wondered if there was a lawsuit on the Council rules would it be on those who voted in the affirmative or does that include his wife as she voted against the proposed changes to the rules. He commented on the three resolutions that were voted in earlier and the majority supported. He hopes it doesn't mean that they had formed a committee in advance and discussed these either together or had a serial meeting on these as both would be illegal. He also noted that committee meetings have always been open to the public and sometimes the public did attend.

Brian Derdowski, talked about his days on the King County Council and applauded Council for the changes that were made tonight. He commented on them putting forth a program that takes items to the public for more input. He stated being astonished and has never witnessed an attorney who would solicit a lawsuit and build a case for it right in the public. He encouraged everyone to go to a conference on Saturday with the Coalition for Open Government. He noted the information Council has been receiving tonight is significantly incorrect and misleading. He also noted if people understood these laws (Open Public Meetings Act and Public Records Act) and are comfortable and committed to them they will be your friend and you will never allow some attorney to use it as a club to take away the power that the people vested in you. He hopes if there are any confidential memos that were unilaterally released to the City's insurance agent in order to threaten you that all of those memos are made public. He commented with his understanding of the Public Records Act and said those documents are subject to public disclosure. He discussed the public in Black Diamond needing a civics lesson on the separation of powers and the proper responsibilities of staff and attorneys and what it means for courageous people to stand up to innuendo, misleading information and intimidation and stick to their guns even though they are rookies and have never held public office before and all they bring to the party is a desire to serve the public to the best of their ability.

Judy Watson, Black Diamond commented on being upset and appalled with what happened tonight. She wondered if Councilmembers Morgan, Pepper and Weber are

working for the people of Black Diamond or are they working for a few people of Black Diamond. She discussed in 2012 people voting for a strong Mayor form of government and wished people would come to the meetings and witness what happens from people who are supposed to be representing all the citizens.

Terry Yandovich, Black Diamond also commented being appalled by what has happened with this board for the last two years and asked that citizens give these members a chance. She noted the members are not being given the respect that is due and as a new resident she would not move to Black Diamond again because of what she has seen take place in the last two years.

Brock Deady, Black Diamond wanted to make sure that the no votes are counted as Tamie Deady voted no on the first item and the last three items. He also noted the sculpture in the Chambers needing red flags so it doesn't become an accident waiting to happen.

Robbin Taylor, Black Diamond asked for a couple of extra minutes.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Weber to allow her extra minutes. Motion **passed** with all voting in favor (5-0).

Robbin Taylor, Black Diamond discussed the need to abide by the law. She also discussed the papers brought out by Councilmember Morgan and not following her own words on public participation. She commented on the discouragement of having three Councilmembers and ending up with a City Council of three seats rather than five seats. She also commented on a meeting she attended earlier this week for Save Black Diamond.

Bill McDermand, Black Diamond discussed getting Tamie Deady elected and her going south. He noted working on getting Janie Edelman elected too. He commented being disgusted with the way Janie and Carol act and asked the Council to give the new members time.

Kristen Bryant, discussed going to an informal meeting at the Bakery. She noted the only rule change that was proposed was one and who puts the committee appointments. She discussed feeling shut out in the past and is glad to see things will be getting moved to committees.

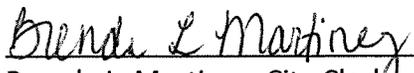
#### **EXECUTIVE SESSION: None**

#### **ADJOURNMENT:**

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to adjourn the meeting. Motion **passed** with all voting in favor (5-0).

ATTEST:

  
\_\_\_\_\_  
Carol Benson, Mayor

  
\_\_\_\_\_  
Brenda L. Martinez, City Clerk



**CITY OF BLACK DIAMOND  
POLICE DEPARTMENT**

**Inter-office  
MEMORANDUM**

**TO:** Chief J. Kiblinger  
**FROM:** Commander B. Martinez  
**DATE:** January 12, 2016  
**SUBJECT:** Nomination

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I nominate Officer Bill Riepl for this term's Exceptional Employee. As a Reserve Police Officer for our department, Officer Riepl has demonstrated his willingness to be a team player by his countless hours of volunteer work. Although he has a fulltime job, he still makes himself available to provide quality police services for our community. He also has demonstrated his willingness to learn by accepting feedback from other officers and supervisors in order to make him a better police officer and to make others safer. This positive attitude and willingness to be a team player is an example of some of our core values and is a reflection of his character.

Officer Riepl also writes very detailed reports and has shown a passion for traffic safety. His stats show that he has taken a pro-active approach in making the city safer by enforcing traffic laws. Officer Riepl also updated our traffic safety school program and did a fantastic job in making this program one of the best in the State.

For the aforementioned attributes, I am nominating Officer Riepl for this term's exceptional employee.



**CITY OF BLACK DIAMOND  
POLICE DEPARTMENT**

**Inter-office  
MEMORANDUM**

**TO:** Chief Kiblinger  
**FROM:** Sergeant Lynch  
**DATE:** January 14, 2016  
**SUBJECT:** Tri-Annual Employee Nomination

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I am writing this memo as a nomination of Officer Riepl for the employee of the trimester. Recognizing Officer Riepl for just the last four months of 2015 seems lacking, when in reality for the past two years this department has been lucky enough to have a member so completely dedicated to its values and mission as Officer Riepl has been. Not only does he work patrol shifts every Friday and Saturday religiously, he is always available for department trainings, and special events in the community. Officer Riepl also issued the second highest infractions and criminal traffic citations in the department during the last four months of 2015.

I would like to specifically point out that during the last few months of the year Officer Riepl took it upon himself to completely overhaul the Black Diamond Traffic School power point. Officer Riepl improved the overall quality of the program by adding updated videos, statistics, and training content that finally made the presentation one that the officers can be proud of.

In closing I feel that Officer Riepl is more than deserving of this recognition. His willingness to wear our uniform expecting only the personal gratification of knowing he is making a difference in his community as payment should be a reminder to us all of why we all entered this profession on the first place.

Sergeant Brian Lynch  
Black Diamond Police Department

The Revised Code of Washington (RCW) 35A.12.120 gives authority to City Councils to establish rules on how the City Council will conduct the business of the City.

Page 2 of the Council Rules begins with RCW 35A.11.020 (Powers vested in legislative bodies...). This section states in part "The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title...;" (Title 35A) "...and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights..."

It appears that some on this Council wish to expand the duties of the Mayor Pro Tempore. The Mayor Pro Tempore is specifically spoken to in 35A.12.065 and 35A.13.035 and the wording of each section is exactly the same. These RCWs strictly limit the power of the Mayor Pro Tempore to serving in the Mayor's stead in case of absence or temporary disability, and it is given no further power. Nowhere in any of these descriptions will you find the clause "...and other duties as assigned".

Expanded list of duties for the mayor pro tempore include:

- Preside over mayoral duties in the absence of the mayor – per RCW
- Assign Ordinances and Resolutions to the Council Standing Committees
- Approve presentations to Council
- Coordinate Standing Committee schedules with available staff
- Approve the Agenda

If you pass these new Council Rules tonight you will be in blatant violation of the RCWs and you will be acting outside the scope of the Laws of Washington State.

- Do the three Councilmembers Morgan, Weber and Pepper truly wish to begin acting outside the Law?
- Is this how you plan to govern, by passing a document which allows you to act outside of the Law? If so, what other unlawful steps do you plan on taking?
- If you vote this in, you will immediately open yourselves up personally to sanctions, fines and lawsuits, and this can include your spouse.

I cannot stress this strongly enough, you will be stepping beyond the powers given by the Revised Code of Washington and into unlawful territory. Remember, your name goes on your vote, it does not matter who coached you to vote for this, you own it. Whoever tells you that you can safely vote for this will not be the one facing those sanctions, fines and lawsuits. They will skate and you will sink.

Mayor Benson, I request when this comes to a vote, that a roll call vote be taken.

I attended the Save Black Diamond meeting Tuesday evening on Jan 19th. I was dismayed over the disingenuous manner in which the freedom of relationship between Council and the Public was characterized. It was stated more than once that the mayor will not allow Councilmembers to speak with the public. It was also stated that the Councilmembers elected four years ago never put any legislation on the agenda, and that the Council did not have much authority to run the Council.

There were three gentlemen at this meeting whom I have never seen at Council meetings. They got spun up over these statements and could not believe that citizens were being shut out of the government process by the mayor and that this could happen in Black Diamond. I was surprised that none of the other participants in this meeting, most who have sporadically attended Council meetings, did not speak up against this outright fabrication.

In the revised Council Rules it says that Ordinances and Resolutions will have a first reading at a meeting of the Council as a whole, then be assigned to a Committee for further consideration, then sent back to the Council with a "pass/do not pass" recommendation. The process described Tuesday evening was that Council Committees and the Public would meet around the table where ideas for legislation would be bounced around, refined and then sent to the Council as a whole for consideration.

While I champion every call for public participation and the "voice of the people" being heard, these meetings were characterized as an informal meeting where people sit around spit balling. But in reality they will be formal meetings governed by the RCWs and the Public will only be able to discuss what is on the agenda. Any ideas for anything not on the agenda will need to be voiced by citizens to their Councilmembers outside of a formal meeting, much like it has been done for decades.

I believe there is a "pie in the sky" feeling regarding the fact that if you "print and Agenda, they will come" and Public participation will increase. I would point out that there is an Agenda posted for every Council meeting and yet those sitting around the tables Tuesday night either do not attend, or attend sporadically. Changing meetings to the evenings and posting an Agenda is not a magic formula for increased public participation.

It appears that SBD is a group that just swallows whatever information is shoveled out to them. My hope is that the SBD group will begin to realize that those leading the meeting Tuesday night were not even being honest with the group which supports them. It is incumbent upon Citizens to find the truth about government dealings for themselves. We are the watchdogs over those we elect. But the sad truth is when we sit back and allow our elected officials to spoon feed us their version of the "truth", we absolutely end up with the kind of government we deserve.

**Brenda Martinez**

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**From:** Carol Morris <carol\_a\_morris@msn.com>  
**Sent:** Wednesday, January 20, 2016 4:50 PM  
**To:** Carol Benson; Brenda Martinez  
**Subject:** FW: Black Diamond -- confidential  
**Attachments:** 1 Policy v admin chart and executive sessions.docx; 6 Council Evaluation 1.docx; 7 Sample Council Principals.docx; prpsed amend council rules.pdf

HI: please send the attachments and the e-mail below from Roger Neal to all of the Councilmembers. Thanks.

**Carol Morris, Morris Law, P.C.**

3304 Rosedale Street N.W., Suite 200

Gig Harbor, WA 98335

(253) 851-5090

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[carol@carolmorrislaw.com](mailto:carol@carolmorrislaw.com)

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**From:** rogern@awcnet.org  
**To:** carol\_a\_morris@msn.com  
**Subject:** RE: Black Diamond -- confidential  
**Date:** Thu, 21 Jan 2016 00:33:13 +0000

Carol,

Thank you for sharing with RMSA the *draft* Rules of Procedure of the City Council of the City of Black Diamond. Since you sent this to RMSA as a confidential document, I am replying only to you. If in your opinion, it is appropriate to share with other officials in the City of Black Diamond, you have our permission to do so.

In your review you raise numerous concerns about potential violations of law if the *draft* rules are adopted as presented. We concur with your concerns about the *draft* rules potentially, or actually being in conflict with state laws. Potentially knowingly violating state law by the Council raises serious concerns for RMSA, the City of Black Diamond's risk pool. If the City Council adopts these rules without making the modifications suggested, there is a good chance that in the event of a lawsuit related to the application of these Council rules, such as a violation of the Open Public Meetings Act, the RMSA will follow the provisions of the Coverage Agreement. I call your attention to Part II Section 7. EXCLUSIONS

## 7. EXCLUSIONS

This Agreement does not cover, and the Pool shall not be obligated to make any payment or defend any "suit" in connection with or relating to:

A. "Bodily injury" or "property damage" that:

I. Arises out of an actual or alleged harm intentionally caused by the "covered party" or the actual or alleged willful misconduct by a "covered party" to cause "bodily injury" or "property damage." This provision applies even if the "bodily injury" or "property damage" that actually occurs is different or greater than that which was intended by the "covered party;"

II. Arises out of an act that the "covered party" knew or should have known would more probably than not cause "bodily injury" or "property damage." This provision applies even if the "bodily injury" or "property damage" that actually occurs is different or greater than that which the "covered party" knew or should have known would be caused by the act;

III. Arises out of sexual contact, physical abuse or molestation of any person by a "covered party," or by any "employee" of or "authorized volunteer" for a "covered party;"

IV. Any claim or suit for damages which alleges liability or damages arising wholly or in part from any wrongful employment practice as that term is defined in Part VII of this Agreement. Coverage for such claims is excluded herein regardless of whether or not coverage is extended in whole or in part under the terms and conditions of Part V Employment Practices Liability Coverage.

However, this exclusion 'A' does not apply to:

a. "Bodily injury" resulting from an assault or battery which a "covered party" commits for the purpose of preventing injury to persons or damage to property; or

b. "Bodily injury" resulting from corporal punishment; or

c. "Bodily injury" resulting from a "covered party's" acts in performance of official police duties.

However, this exception 'c.' does not apply if:

a. The "covered party" acted maliciously;

b. The "covered party" acted with actual knowledge that the conduct violated the injured person's civil rights; or

c. The "covered party" knowingly acted outside the course and scope of his or her official police duties.

B. "Bodily injury" or "property damage" that:

I. Arises out of the violation of any criminal statute, ordinance or governmental regulation, or the violation of any other statute, ordinance or governmental regulation, by a "covered" party for which a "covered party" knew or should have known

II. Arises out of the actual or alleged violation of the Public Records Act (RCW 42.56) and/or the Open Public Meetings Act (RCW 42.30).

Actual coverage will be assessed and a determination made if the RMSA will defend the City of Black Diamond based on the actual circumstances of the suit when filed, and the Coverage Agreement terms and conditions.

RMSA has offered numerous comments and recommendations throughout the *draft* rules. In light of your concerns as the City of Black Diamond City Attorney, and RMSA's recommendations, we hope that the Council will not take final action on these rules until they have had a chance to fully digest the negative impacts of such action. RMSA is available to review future draft rules for the City of Black Diamond City Council.

Here is a summary of RMSA's other concerns with the *draft* rules.

1. There appears to be an effort to mix the roles of the Council with the roles of the Mayor and staff. Council needs to understand that their role is to set policy, and it is the Mayor's role to carry out that policy and run the day-to-day operations of the city. Many councilmembers across the state think that it is their responsibility to direct staff, and be involved with "running" the city. This is clearly not the case, and the statutes are very clear about the need for separation of powers within a city.
2. I've attached a one page summary that shows the separation of powers between the policy makers and the administration. I've also attached two other documents that might be beneficial for the Council.
3. RMSA is concerned about the structure of all the Standing Committees, as they appear to be functioning on behalf of the Council.
4. RMSA is concerned about how the *draft* rules were developed. If they were developed independently by three or more Council members their actions in developing these rules may have been in violation of the Open Public Meetings Act.
5. The section on executive sessions is weak. As you know, too many Councils approach executive sessions as a way to not have the tough discussion/decisions made in Open Public Meeting. Councils need to remember that the OPMA is to be liberally construed and there are a limited number of exceptions to the OPMA where a council can go legally into executive session.

MRSC's publication Mayor Council Handbook is a great resource and every elected official should have their own copy. It also has a great example of Sample City Council Rules of Procedure for Mayor-Council Code Cities such as Black Diamond. The entire publication can be accessed at: <https://www.awcnet.org/Portals/0/Documents/Publications/MayorCouncilmemberHandbook.pdf>. MRSC's publication Knowing the Territory is also a great free resource for cities.

RMSA is available to provide training in the basic Public Officials Principles covering such topics as the role of the Council the role of the administration, OPMA, executive sessions, meeting dynamics.

Let me know if you have any other questions.

**Roger Neal**

RMSA Program Manager

Member Pooling Programs

Association of Washington Cities

*Disclaimer: Public documents and records are available to the public as provided under the Washington State Public Records Act (RCW 42.56). This e-mail may be considered subject to the Public Records Act and may be disclosed to a third-party requestor.*

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From: Carol Morris [mailto:carol\_a\_morris@msn.com]

Sent: Tuesday, January 19, 2016 3:06 PM

To: Roger Neal <roger@awcnet.org>; Lynda Hummel, CPCU, ARM <lyndah@awcnet.org>

Cc: bmartinez@ci.blackdiamond.wa.us; cbenson@ci.blackdiamond.wa.us

Subject: Black Diamond -- confidential

Good afternoon: Three Black Diamond Councilmembers have proposed that the City amend the Council rules (attached). I have identified some problems with these amendments in a confidential memo (also attached).

I discussed this with the Mayor, and she asked me to forward this to you so that you could provide us with information on the issue whether, if the amendments were adopted, the City's insurance coverage might be affected by these amendments. This is a very long memo, so I highlighted the sections that I thought which would be of most interest to you.

The three Councilmembers asked that this be adopted in a special meeting last week and because that was unsuccessful, they now ask that this be on the Council agenda for this Thursday. In other words, time is of the essence!

Thanks for your help.

**Carol Morris, Morris Law, P.C.**

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Gig Harbor, WA 98335

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F: (360) 850-1099

[carol@carolmorrislaw.com](mailto:carol@carolmorrislaw.com)

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