

BLACK DIAMOND CITY COUNCIL MINUTES

August 4, 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: Seth Boettcher, Public Works Director; Andy Williamson, Interim Community Development Director/MDRT/Ec Dev Director; Kathy Allen, Deputy City Clerk; Jamey Kiblinger, Police Chief; David Linehan, City Attorney, and Brenda L. Martinez, City Clerk.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson introduced and welcomed the City's new Deputy City Clerk Kathy Allen. She also discussed that three attorney have said the Council Rules are illegal as well as the committee meetings. She noted sending out an official memo regarding not using the City Seal or Letterhead for illegal committee meetings.

CONSENT AGENDA:

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to approve the Consent Agenda.

Councilmember Morgan stated she can't vote for the consent agenda until after hearing from the citizens. She also discussed attending a Budget Workshop and noted reimbursing the City for the \$200 cost.

Councilmember Pepper stated she would like to move the consent agenda to after public comment on the agenda. Mayor Benson replied there is already a motion and a second on the floor.

Vote: Motion **failed** 2-3 (Morgan, Weber, Pepper). The Consent Agenda as follows was not approved:

1) **Claim Checks** – August 4, 2016 - No. 43760 through No.43799 and EFTs in the amount of

\$50,457.94

2) Minutes – Joint Council/Planning Commission meeting of June 7, 2016

PUBLIC COMMENTS:

Edward Bergman, Black Diamond commented on moving to Black Diamond 19 years ago to be in a rural area. He stated he knows he cannot stop growth, but we can certainly limit it and slow it down. He further commented on attending City Council meetings in Redmond and SeaTac and as individuals being boisterous he has never seen a City Council act towards each other as he sees it here. He also discussed an article in the Voice of the Valley on the Black Diamond Labor Days permit.

Carol Lynn Harp, Black Diamond asked about the process for paying vouchers. Mayor Benson explained that checks are entered into the system and some checks may have early release so no penalties are assessed and the remainder are then released after the Council meeting.

Bill McDermand, Black Diamond noted supporting the Council and the tone at the meetings is the same as in the past. He stated the Mayor should not be interrupting the meeting and if this would stop work would get done and order would be restored.

Dwayne, Black Diamond commented that he voted for all the Councilmembers and the Mayor. He commended them for their hard work and service. He noted expecting all elected officials to have a basic understanding of the different branches of government and how they work. He reminded Council that if that understanding is broken then this is all a waste of time. He further commented on Council forgetting the elementary basics of how to conduct work in this chamber.

Robbin Taylor, Black Diamond read an excerpt from the AWC Mayor Councilmember handbook Chapter 10 where it says the duties of the Mayor at a meeting is to protect the Council from frivolous or delaying motions by refusing to recognize them. She commented on an article in the paper where Councilmember Morgan stated the Labor Days permit was sprung on them. She discussed the committee meeting she attended where it was recommended to bring the Labor Day permit to the floor tonight to approve even though they have already been issued.. She noted everyone being at fault on the Labor Days permit and referred to Black Diamond Municipal Code 2.59.020(B)(1) where it says sponsored events of the City do not require a special event permit. She noted this being a failing of all involved and encouraged all to become better acquainted with code.

Kristine Hanson, Black Diamond discussed the consent agenda and being approved before public comments and wondered why it is hard for Council to adopt as staff is available before the meetings to answer any questions Council may have. She encouraged Council to listen to the people in the room tonight and get some work done. She further commented that if the three Councilmembers can't do the job they were elected to do then to step down and let someone else do the job.

Bob Edelman, Black Diamond discussed the normal procedure used for the consent agenda. He noted this being the first time when an entire consent agenda has been turned down without any discussion on the items. He noted he may be wrong, but he believes that all those items have been turned down and will not appear on the regular agenda.

Angelina Taylor, Port Orchard, spoke in regards to the consent agenda and asked how those items can get back on the agenda tonight.

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

DKS Claim Voucher

Councilmember Weber stated he would heed his time to Councilmember Pepper as she is waiting to be noticed.

Councilmember Pepper stated that under unfinished business she would like to have an item for reconsideration. She **moved** to reconsider the resolution on the Labor Days event permits. Mayor Benson called her out of order as those permits were already approved. Councilmember Pepper appealed the decision of the chair. Mayor Benson again called her out of order as the permit has been approved.

Mayor Benson called for a recess of the meeting at 7:18 p.m. The meeting was called back to order at 7:27 p.m. and Mayor Benson noted moving on to the DKS Claim Check.

Mayor Benson noted reconsideration cannot be done on an item that is already decided. Councilmember Pepper appealed the decision of the Chair. Again, Mayor Benson noted you cannot appeal the decision when we already have a permit. Councilmember Pepper asked in what way a rule is being violated.

Councilmember Pepper requested information on the part of the parliamentary procedure. Mayor Benson asked City Attorney Linehan that if something has already been considered and the permits have already been issued is there any reason to be reconsidering it.

City Attorney Linehan responded as a parliamentary matter he is here to provide advice as it is the chairs decision to make. He noted it would be out of order for a Councilmember to appeal the decision of a chair when the decision of the chair is based on a matter of decorum or a ruling of decorum. Also if the motion is presented it is his opinion and is the Chair's decision that an illegal motion would be out of order and that decision is not appealable.

Mayor Benson called the motion illegal and out of order because the permits have already passed. Councilmember Pepper again appealed the decision of the Chair. Mayor Benson ruled her out of order.

Councilmember Morgan stated that as a person who voted on the prevailing side she needs to bring this item back for reconsideration to get certain information that was discovered in the record. Mayor Benson called her out of order as this item is already passed.

City Attorney Linehan noted that only comments germane to the pending issue are in order, which is the DKS Claim Voucher. He added that his advice is other permit issues are not germane, however it is the Chair's decision.

Councilmember Weber commented on item #3 the DKS voucher being voted down and does not understand why it keeps coming back on the agenda. He noted there being no contract with DKS.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to remove this item from the agenda.

Council discussion continued on this item.

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

Yvonne Ward Claim Voucher

Councilmember Weber commented on having some legal questions that need to be answered by an independent legal source. He added Kenyon Disend has a conflict of interest in answering the questions because their contract is similar to the Ward contract. He noted requesting documents from the City that have not been received. He further noted it being odd to him that if he as a Councilmember requests documents it becomes a public disclosure request.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to hire an independent attorney to advise the Council on attorney payments and that the Council shall select the attorney.

Discussion ensued between Councilmembers on this item.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to table this item until there is independent legal review on it.

Mayor Benson noted the Council having no hiring or firing authority. There was a question as to whether or not it could be tabled or did it need to be postponed.

City Attorney Linehan commented that in Robert's Rules of Order a motion to lay on the table is not debatable, is not amendable, must be moved and seconded, and requires a majority vote. Once an item is laid on the table it stays on the table until a motion to take from the table is in order, which can occur at any future meeting.

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

NEW BUSINESS:

Resolution authorizing the hiring of a Professional Parliamentarian for Council meetings

Mayor Benson stated this item is on the agenda as it was timely received. She also stated this resolution is illegal as Council has no authority to hire someone and asked that Council remove it from the agenda.

Councilmember Morgan began to read the resolution. Mayor Benson called her out of order.

Mayor Benson called for a five minute recess at 7:53 p.m. The meeting was called back to order at 7:59 p.m.

There was discussion between Councilmembers on this item with the focus being on the process, is there a need for this service and how the Council would pay for it.

Councilmember Edelman asked for the record to reflect that Councilmember Morgan's husband flipped them off when leaving the room.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to send Agenda Bill No. 16-045 regarding hiring of a professional parliamentarian to the Government Operations Committee. Motion **passed** 3-2 (Deady, Edelman).

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman to reconsider and bring back the Consent Agenda for a vote. Motion **passed** with all voting in favor (5-0). The consent agenda was approved as follows:

- 1) **Claim Checks** – August 4, 2016 - No. 43760 through No.43799 and EFTs in the amount of \$50,457.94
- 2) **Minutes** – Joint Council/Planning Commission meeting of June 7, 2016

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to reconsider the resolution on the Labor Days permit. Mayor Benson called her out of order as the permits were already issued.

DEPARTMENT REPORTS:

Community Development – Interim Community Development Director Williamson discussed with Council the DKS claim voucher and noted staff being locked in a no work scenario because of this. He asked Councilmembers to provide him with input on what type of documentation was needed to get this item approved.

Councilmember Morgan stated she would like to see something on the invoice that states “paid in full” for services up to a certain date. She noted this will prevent DKS from coming back and asking for more money.

Mr. Williamson thanked Council for their help on this issue and will be working with DKS to provide the requested documentation to bring back before Council at the August 18, 2016 Council meeting.

MAYOR’S REPORT:

Mayor Benson reported on the nine items that have been taken off Council agendas and wondered if Council would like to add back any of these items on to tonight’s agenda.

COUNCIL REPORTS:

Councilmember Deady reported attending the finance meeting, the Hometown Christmas garage sale and went on a tour of The Villages site and encouraged other Councilmembers to schedule one with Mr. Williamson. She also commented on the process for Councilmember statements.

Councilmember Morgan read a prepared statement into the record which is attached and incorporated into the minutes.

Councilmember Edelman noted she too went on a tour of the construction site at The Villages MPD with Mr. Williamson. She noted meeting with the Finance Director and the Mayor to go over the claim vouchers, attended the Hometown Christmas garage sale and National Night Out.

Councilmember Weber thanked everyone in attendance for coming out. He noted that whether they are for or against he appreciated them for taking the time out of their schedule to attend the meetings.

Councilmember Pepper discussed supporting the Labor Days event and the common form of government the City has (executive, legislative and judicial branches). She read from the Talmadge letter regarding the agenda, presiding officer, Council action and referred to the Katherine George memo. She reported attending the AWC Budget Workshop Conference and commented on the sessions she and Councilmember Morgan attended.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Angelina Taylor, Port Orchard discussed the Attorney’s advice from the last meeting regarding the DKS contract. She also discussed the Ward claim voucher and noted the services were received and performed.

Kristine Hanson, Black Diamond inquired as to how many weeks the DKS claim voucher has been on the agenda. Councilmember Morgan replied it was presented to Council in February. Ms. Hanson discussed informing every citizen of a need for a recall of the three Councilmembers so the City can move forward.

Pam McCain, Black Diamond voiced her personal frustration with the lack of any decision making coming out of the meetings. She discussed the decorum at the joint Council/Planning Commission meetings where there is respect and work actually being done.

Bill McDermand, Black Diamond commented he had hoped he would see change tonight, but didn't. He stated he hopes the dang gavel busts soon. He referred to a conversation he had with former Mayor Dave Gordon. He asked for respect and the need to get their act together.

Brock Deady, Black Diamond commented on seeing a breakthrough tonight with a staff member begging Council for information on what is needed to get the DKS claim voucher passed. He noted attending meetings in the past where staff has asked Council what was needed to get this past and Council giving no information. He hopes the information Councilmember Morgan gave Mr. Williamson will be ok and the DKS claim voucher will be passed soon.


Robbin Taylor, Black Diamond stated she bets the DKS claim voucher will be probably be voted down even with the paid in full status. She discussed document needing to take in account the Comprehensive Plan. She commented on a statement made at a committee meeting and noted she is never out of control – she is uncompromising when it comes to good government. She also reminded Council the budget is the citizen's money and the citizens not being happy with what they are doing with it.

Councilmember Weber commented on being a taxpayer in Black Diamond too and it making no sense for him to do bad things with the budget.

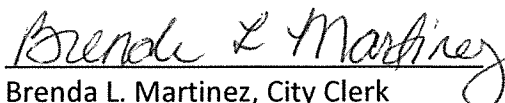
ADJOURNMENT:

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Deady to adjourn the meeting. Motion **passed** with all voting in favor (5-0). The meeting ended at 8:50 p.m.

ATTEST:



Carol Benson, Mayor



Brenda L. Martinez, City Clerk


Brenda Martinez

From: Duane Garcia <duane@nwreonline.com>
Sent: Wednesday, August 17, 2016 10:20 AM
To: Brenda Martinez
Subject: City Council Meeting Minutes August 4th 2016
Attachments: Untitled Document.docx

Hi Brenda,

I have reviewed the City Council meeting minutes of August 4, 2016. I noticed that my comment was not accurately notated in the City Council meeting minutes as compared to the audio version. The most salient thought from my short time at the podium was completely missed and was not included in the meeting minutes. The concept of separation powers between the executive and legislative branches of our city government was not included. I am concerned, since the meeting minutes are of public record, I know that you want it to be accurate. I have attached a copy of the words I spoke that day and will give you a copy of my words the next time I speak at City Council. I thank you for your time and the work you do for the City.

Duane Garcia
NWREOnline.com
805-694-8682



Good Evening! My name is Duane and I live in Black Diamond. I would like you to know that I have voted for everyone of you. I commend you for your hard work and service because this work takes away time that we should be spending with our families. I understand that you are not professional politicians and I don't expect you to be. With all due respect, I do expect you to have a basic elementary understanding of how separate branches of government work and why there are checks and balances placed in our modern western style of government. The executive branch cannot tell the legislative branch of government what to do. Remember that. If that is broken, this is all a waste of time.

I would like to use this chamber as a teaching aide to show my grandchildren how small government works, but I can't, because you seem to have forgotten the elementary basics of how to conduct work in this chamber.

Thank you!

