

BLACK DIAMOND CITY COUNCIL MINUTES

August 18, 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; Jamey Kiblinger, Police Chief; Mike Kenyon, City Attorney; Peter Altman, City Labor Attorney and Brenda L. Martinez, City Clerk.

At 7:00:39 p.m. Mayor Benson announced the Council would be going into an executive session as allowed by RCW 42.30.140(4) to discuss collective bargaining with City Labor Attorney Altman. The executive session was anticipated to last 30 minutes with no final action following the session.

At a ten minute extension was announced 7:30 p.m.

The meeting was called back to order at 7:40:07 p.m.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson announced she received a letter from Gomer Evan's sister and read an excerpt. The whole letter is attached and incorporated into the minutes. She instructed the City Clerk to email a copy of it to the Councilmembers.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to move the consent agenda to be after public comments. Motion **passed** with all voting in favor 5-0.

PUBLIC COMMENTS:

Peter French, Bonney Lake commented that he works for the Enumclaw School District and noted being one of the project managers for the Black Diamond Elementary School project. He read a statement from Superintendent Mike Nelson into the record as Mr. Nelson was unable to attend. This statement is attached and incorporated into the minutes.

Judy Goodwin, Black Diamond commented on the resolution before Council regarding the Traffic Mitigation Agreement with the Enumclaw School District. She noted supporting this resolution and urged Council to support the kids and pass it tonight.

Brock Deady, Black Diamond announced that his wife Councilmember Tamie Deady was named Civil Servant of the Year for Black Diamond. He highlighted the volunteer work she does around the Community.

Melody Mann, Black Diamond asked about the TBD fee and wondered if other money could be used to fund streets. She also asked if people had a say in this fee and inquired as to what projects the money will fund. She stated not being able to afford this fee and not being able to afford the front end alignments due to the shape of our roads and wondered where she could bill that to.

Robbin Taylor, Black Diamond discussed the Six Year Transportation Improvement Plan and the schedule of when it has been before Council and the actions taken on it. She also discussed the ramifications for not passing this plan and the need for Council to get work done for the City.

Kristen Bryant, Bellevue discussed making comments before Council on the Six Year Transportation Improvement Plan. She noted her comments were that there wasn't a clear and detailed breakdown of some of the projects that had multiple funding sources and it might be relevant to identify Transportation Benefit District money; there was not a lot of background information provided in an easy and accessible format to the public that led to how that TIP was put together. She also noted not seeing anything that has addressed that comment. She then read a prepared written statement into the record regarding the voluntary traffic mitigation agreement which is attached and incorporated into the minutes.

Judith Carrier, Auburn discussed enjoying the Labor Day celebration in Black Diamond for over 50 years. She noted attending the July 21 Council meeting and the Council needing to know that what they approve is best for the City. She commented on three Councilmembers expressing appreciation for the Labor Day Committee and volunteers. She discussed key documents not being available to Councilmembers on the 21st and noted that finally on July 29th a packet of information came to only one member of the Council for this event. She then discussed the schedule of approval for fire review, WSDOT review and the three separate permits that were issued on the 25th. She added these were not necessary and may be illegal. She discussed when things go to committee they are there for review and to ask questions so members know what they are approving. She asked how many times the Labor Day permit has come before Council and noted this permit has never come before Council, however it did come before Council on the 21st.

CONSENT AGENDA:

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

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to amend the motion to pull out check number 43820 (Kenyon Disend claim voucher) and the meeting minutes of July 21 and August 7 and have them placed under new business for discussion.

There was discussion between Councilmembers as to why these items were being pulled from the consent agenda and placed under new business for discussion.

Vote: Amended motion **passed** 3-2 (Edelman, Deady). Main motion as amended **passed** 5-0. The Consent Agenda was approved as follows:

- 1) **Claim Checks** – August 18, 2016 - No. 43800 through No. 43849 and EFTs in the amount of \$107,019.69 (Excluding check number 43820 -Kenyon Disend voucher)
- 2) **Payroll** – July 31, 2016 – No. 19175 through No. 19193 (voids 18773, 18795, 18829, 19183, 19188) and EFTs in the amount of \$268,305.28

PUBLIC HEARINGS: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

Resolution regarding Voluntary Traffic Mitigation Agreement with Enumclaw School District

Public Works Director Boettcher discussed being very busy with this project and highlighted the actions that have taken place on the project. He stated now that we approved SEPA we need to resolve the traffic issue. The City has reviewed and accepted a proposed pro rata share traffic and safety mitigation contribution proposed by the school district and supported by their transportation technical report. He noted as the appointed professional engineer for the City and fulfilling authority of his role he has reviewed the methodology of the proposal, the equitability, the nexus to the affected intersections and the proportionality of what is proposed. He stated his role is to assess and determine that concurrency requirements have been met as well as in concert with the Planning Director and evaluation of the impacts through SEPA. He noted this being a common type of agreement to address traffic mitigation which allows the school district to move forward with their project and pay a pro rata share of the equitable fix of four intersections. He encouraged Council support so they could move forward on the school project.

Councilmember Edelman encouraged passage of this resolution tonight.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to table this to the Growth Management Committee.

There was discussion among Councilmembers and staff on this issue with the focus being the information before Council, the role of staff, who determines concurrency, the action before Council, the project schedule, questions Councilmembers may have, timing of this issue coming before Council, and the use of committees for items before Council.

City Attorney Kenyon asked for a 10 minute executive session on potential litigation as authorized by RCW 42.30.110(1)(i).

At 8:36 p.m. the Mayor recessed the meeting for an executive session. Mayor Benson, Councilmember Deady and Councilmember Edelman attended the executive session. Councilmembers Morgan, Weber and Pepper declined to attend the executive session. City Attorney Kenyon re-entered the Chambers and individually asked Councilmembers Morgan, Weber and Pepper if they would like to participate in the executive session and again they declined.

Mayor Benson called the meeting back to order at 8:46 p.m.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to authorize the Mayor to execute an agreement with the Enumclaw School District for contribution to improvements at four intersections impacted by the new Black Diamond Elementary School Project.

Councilmember Pepper stated to the Chair that there is already a motion and second on the floor. City Attorney Kenyon confirmed that there was a pending motion to table before the executive session and there should be a vote on that motion unless that motion was ruled out of order which he hadn't heard. Mayor Benson ruled the previous motion to table out of order as there are no Council committees.

Councilmember Pepper appealed the decision of the Chair and was ruled out of order.

Councilmember Edelman called the question.

City Attorney Kenyon clarified for the record that the motion to table was ruled out of order by the presiding officer and given that, that motion is no longer on the floor. The motion on the floor is a motion to authorize the Mayor to execute the Traffic Mitigation Agreement and that's what Council is voting on now.

Vote: Motion **passed** 4-1 (Morgan).

Kenyon Disend Claim Voucher

Councilmember Weber discussed being concerned that the contracts being authorized by the Mayor under her \$15,000 authority are serial contracts and circumventing the hiring of a full time Attorney. Mayor Benson noted she has the authority to hire the City Attorney and state law requires the City to have an attorney and if Council won't approve the contract she can approve them over and over as it's required by law.

Councilmember Weber noted bringing this issue up before when discussing building permitting and noted the Mayor had the authority to do a contract and the Mayor's response back was to call a special meeting. He added if he understands correctly (needs to go back and look at the email) that according to the state auditor that's kind of a red flag when you are continually doing serial contracts. Mayor Benson commented that she had a conversation with the state auditor on this and it is ok as the City has to have an attorney.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to pay claim check #43820 for Kenyon Disend in the amount of \$15,126.54. Motion **passed** 4-1 (Morgan).

Minutes of July 21, 2016 and August 4, 2016

Councilmember Pepper discussed pulling the minutes of August 4th and July 21 as two citizens reached out concerned that their public comments were not reflected as accurately as they could be.

There was Council discussion on the August 4th minutes.

A **motion** was made by Councilmember Weber to postpone approval of these minutes until the next regularly scheduled meeting and give time to go back and listen to the audio.

There was Council discussion on the July 21st minutes.

Councilmember Weber **withdrew** his motion.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Pepper to amend the August 4th minutes to include the two emails for those citizens. Motion **passed** with all voting in favor 5-0.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to postpone action on the July 21st minutes to the next regular Council meeting on September 1, 2016. Motion **passed** 3-2 (Edelman, Deady).

DEPARTMENT REPORTS:

Police - Chief Kiblinger distributed and reviewed with Council the Black Diamond Police Department Report/Update for August 2016.

Community Development – Interim Community Development Director Williamson reported on the Tough Mudder event that is coming to the City. He noted the special event permit will be coming before Council at their September 1st meeting and distributed information to Council regarding this event. He urged Council to call him with any questions they may have as there is a need for Council action at the meeting on September 1st.

In addition, Mr. Williamson distributed the DKS claim voucher along with the information requested during the last Council meeting by Councilmember Morgan and the agreement of Council if he brought the requested information forward, Council would approve the payment. He noted following Council's direction and stated he is hopeful that there will be Council action on this tonight.

Councilmember Weber noted appreciating taking Councilmember Morgan's and his suggestion and asked if this action needed to be done by resolution. City Attorney Kenyon stated there is no legal requirement to have it approved by resolution – it can be done by a motion.

Councilmember Morgan commented on wanting to make sure that the spending authority of the Mayor applies in the future.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman to take the DKS Voucher off the table and approve payment. Motion **passed** with all voting in favor 5-0.

MAYOR'S REPORT:

Mayor Benson reported that Judge Dane will be attending the next Council meeting to give an update on the Court. She also reported attending the SCATBd meeting, one year celebration of life for Greg Goral. She discussed attending Chief for a Day and would like to bring them to a future Council meeting for introductions.

COUNCIL REPORTS:

Councilmember Deady discussed how she makes times to address issues with staff when working a full time job in November and December. She noted attending the Port of Seattle Tour, Chief for a Day, and the one year celebration of life for Greg Goral.

Councilmember Morgan reported on the budget and financial workshop she attended. She highlighted topics and points of discussion from this workshop.

Councilmember Edelman reported she attended a meeting on August 11 with the Mayor, Finance Director and Councilmember Deady to review the vouchers, the one year celebration of life for Greg Goral, Chamber Luncheon on August 17th, Port of Seattle Tour, and Chief for a Day.

Councilmember Weber commented that the children from Black Diamond Elementary School will be attending JJ Smith this school while the new school here in Black Diamond is being built. He also noted the School District has done a great job in getting that facility ready for the kids. He thanked the Boys Scouts who were in attendance at the meeting.

Councilmember Pepper commented on the need for a professional parliamentarian at the Council meetings. She noted having known parliamentary process in different settings and the need to have a registered parliamentarian so the roles and duties of all can be done. She also noted needing to work on points of order and other areas and believes it's exciting that Black Diamond is getting a new elementary school.

ATTORNEY REPORT: None

PUBLIC COMMENTS: None

ADJOURNMENT:

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adjourn the meeting. Motion **passed** with all voting in favor (5-0). The meeting ended at 9:33 p.m.

ATTEST:

Carol Benson, Mayor

Brenda L. Martinez, City Clerk