

# BLACK DIAMOND CITY COUNCIL MINUTES

September 1, 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, Weber and Pepper.

**ABSENT:** Councilmember Edelman (excused).

Staff present: Seth Boettcher, Public Works Director; Andy Williamson, Interim Community Development Director/MDRT/Ec Dev Director; Kris Chatterson, Police Officer; David Linehan, City Attorney, and Brenda L. Martinez, City Clerk.

## APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson read into the record the following proclamation.

**WHEREAS,** behavioral health is an essential part of health and one's overall wellness; and

**WHEREAS,** prevention of mental and/or substance use disorders works, treatment is effective, and people recover in our area and around the nation; and

**WHEREAS,** preventing and overcoming mental and/or substance use disorders is essential to achieving healthy lifestyle, both physically and emotionally; and

**WHEREAS,** we must encourage relatives and friends of people with mental and/or substance use disorders to implement preventive measures, recognize the signs of a problem and guide those in need to appropriate treatment and recovery support services; and

**WHEREAS,** an estimated 400,000 people in King County are affected by these conditions; and

**WHEREAS,** to help more people achieve and sustain long-term recovery, the U.S. Department of Health and Human Services (HHS), the Substance Abuse and

Mental Health Services Administration (SAMHSA), the White House Office of National Drug Control Policy (ONDCP), the King County Behavioral and Recovery Division, and the City of Black Diamond invite all residents of Black Diamond to participate in National Recovery Month (Recovery Month);

**NOW, THEREFORE**, I, Carol Benson, Mayor of the City of Black Diamond, on behalf of the Black Diamond City Council, call upon Black Diamond residents to observe the month of September with appropriate programs, activities, and ceremonies supporting this year's Recovery Month and do hereby proclaim in the City of Black Diamond, the month of September 2016 as a month to recognize National Recovery Month.

Mayor Benson announced a reordering of the agenda. Under unfinished business the July 21 minutes will be item no. 3 and under new business items 3 -10 will now be 4 – 11.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Morgan to move the consent agenda after public comments. Motion **passed** with all voting in favor 4-0.

#### **PUBLIC COMMENTS:**

Judy Goodwin, Black Diamond thanked Council for the opportunity to speak. She asked Council three questions 1) Where they are at on mediation?, 2) What's happening on the work sessions to develop new Council Rules?, and 3) Any idea of when the comprehensive plan will be ready for public hearing?

#### **CONSENT AGENDA:**

##### **Item 2 - August 18, 2016 Council Minutes**

Councilmember Pepper asked that the minutes from August 18 be pulled from the consent agenda and placed under new business.

##### **Item 1 - Claim Checks – September 1, 2016 - No. 43850 through No. 43896 and EFTs in the amount of \$91,400.68**

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to move the claim checks from the consent agenda and place them at the end of the meeting. Motion **passed** 3-1 (Deady).

It was clarified that the August 18<sup>th</sup> minutes will be item no. 12 under new business and the claim checks will be item no. 13 under new business.

#### **PUBLIC HEARINGS: None**

#### **UNFINISHED BUSINESS:**

### **Item 3 - July 21, 2016 Minutes**

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to table the July 21, 2016 minutes. Motion passed 3-1 (Deady).

### **NEW BUSINESS:**

#### **Item 4 – AB16-047, Resolution Accepting Jones Lake Road Overlay Project**

Public Works Director Boettcher briefed Council on the completed project.

A **motion** was made by Councilmember Deady to adopt a resolution accepting the Jones Lake Road Overlay Project by Lakeridge Paving Company as complete according to the contract documents. (Motion died due to motion to table which takes precedence)

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to table this item. Motion **passed** 3 -1 (Deady).

#### **Item 5 – AB16-048, Resolution Approving Tough Mudder Special Event Permit SEP16-0014**

MDRT/Interim Community Development Director Williamson discussed with Council the Tough Mudder Special Event Permit.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Deady to adopt a resolution authorizing the Mayor to execute an agreement with Tough Mudder, LLC approving Special Event Permit SEP16-0014. Motion **passed** 4-0.

City Attorney Linehan stated that in light of the fact that Council voted to table item #4 regarding the acceptance of the Jones Lake Overlay Project he recommended an executive session tonight so the Council can bring it off the table before we conclude. The executive session will be in accordance with RCW 42.30.110(1)(i) to discuss litigation risks associated with an indefinite delay in approval of the project. He noted this is just a recommendation for the Mayor and Council's consideration.

#### **Item 6 – AB16-049, Resolution Authorizing an Agreement with Parametrix, Inc. – Surveying Services for MDRT**

MDRT Director Williamson reported as the director of this team and per the contract which is a 15 year binding contract his department has special needs such as surveying, traffic, civil etc. He added the contracts before Council will allow him to fulfill his obligations on the Development Agreement.

There was Council discussion on the contract.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to table this item.

MDRT Director Williamson stated he is playing by the Council rules and is here for a first reading; not for a table. Discussion continued with the focus being the process for a first reading.

MDRT Director Williamson stated for the record that he is fulfilling his obligation under the development agreement by bringing these contracts for a first reading to the Council in enough time to be passed so staff can continue their work and not be in violation of the development agreement, but if Council tables it and not knowing when it will come off the table that is not in the spirit of what the development agreements says that we will work in the spirit of collaboration to timely expedite their (OakPointe) things to meet the inspections on time. He again stressed he needs these consultants and added he is asking Council rather than to table it when we don't know when it will come back, if you would postpone to the next council meeting then Council and himself can engage and have a conversation over the next couple of weeks and work through any issues and he can fine tune the document and hopefully get passage. That seems to be in the spirit of cooperation with staff trying to work with Council. He stated he is asking if Council can set the next reading for the next Council meeting and between those two weeks he can discuss issues with Councilmembers as his door is open. He offered that as a suggestion and noted respecting the process of the Council.

Discussion continued on this item with Councilmember Morgan proposing to do an extension on the contracts. City Attorney Linehan noted that the contracts are essentially an extension of the existing contracts and is suggesting an extension is not a solution because of Council wanting first readings on items.

**Vote:** Motion **passed** 3-1 (Deady).

City Attorney Linehan again suggested an executive session to discuss imminent threat of litigation that will result if these contracts are not expeditiously approved.

#### **Item 7 – AB16-050, Resolution Authorizing an Agreement with Parametrix, Inc. for Traffic Engineering Services for the MDRT**

MDRT Director Williamson suggested to be expeditious tonight that Council do a blanket motion to table all the contracts related to the MDRT if that is what they want to do. Mr. Williamson went on the record to make very clear that the staff recommends that the Council accept this as their first reading on each one of these contracts and that staff has met Council's timely requirements and they are set for the second reading. So he as a staff member has met his legal obligation.

A **motion** was made by Councilmember Pepper to table the rest of these and taking into consideration what Mr. Williamson has expressed very clearly for the record.

Councilmember Pepper **withdrew** her motion.

MDRT Director Williamson clarified for the record that the items to be tabled are (AB16-049, Parametrix Surveying contract was preciously tabled):

- AB16-050 – Resolution Authorizing an Agreement with Parametrix, Inc. - Traffic Eng. Svc. - MDRT
- AB16-051 – Resolution Authorizing an Agreement with RH2 - Civil – MDRT
- AB16-052 – Resolution Authorizing an Agreement with Perteet –Environment- MDRT
- AB16-053 – Resolution Authorizing an Agreement with HWA Geosciences – MDRT

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to table these items 049, 050, 051, 052, and 053. Motion **passed** 3-1 (Deady).

#### **Item 11 – AB16-054, Resolution Authorizing an Agreement with DKS Associates**

MDRT Director Williamson thanked Council for their guidance in helping him work through the last issue with DKS. He noted DKS is not under BergerABAM and would like to get this second item passed. He discussed the three key elements of the comprehensive plan with traffic being one of them. He stated he is here tonight to see if the contract can be finalized and moved forward. He asked Council to provide the guidance to move this forward and explained that traffic is not an easy concept to understand and we need to make sure our citizens have enough time to digest the information.

There was Council discussion on the traffic simulation modeling, the product belonging to the City, the need to let the City know if they are subcontracting anything out and who drives the two options in the contract.

A **motion** was made by Councilmember Deady to adopt a resolution authorizing the Mayor to sign a Professional Services Agreement with DKS Associates. (Motion died due to motion to table which takes precedence)

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to table this item. Motion **passed** 3-1 (Deady).

#### **EXECUTIVE SESSION:**

At 8:22 p.m. Mayor Benson announced a 10 minute executive session in accordance with RCW 42.30.110(1)(i) to discuss potential litigation with legal counsel regarding the contracts and the Jones Lake Road Overlay Project. Councilmember Deady and Mayor Benson attended the executive session with City Attorney Linehan. Councilmembers Morgan, Weber and Pepper declined to attend.

Mayor Benson called the meeting back to order at 8:32 p.m.

**Item 12 – Minutes - Council Meeting of August 18, 2016**

Councilmember Pepper stated that they would like to table the minutes.

City Attorney Linehan stated that Council is required to have minutes and tabling them implies that they may never come back; this would be a legal violation to not have published minutes. He noted he is not saying they don't have the right to table them, but with the advanced warning that failing to bring them off the table creates a lack of minutes of a public meeting which are required under the law.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to table this item. Motion **passed** 3-1 (Deady).

**Item 13 – Claim Checks – September 1, 2016 - No. 43850 through No. 43896 and EFTs in the amount of \$91,400.68**

Mayor Benson answered questions sent in by Councilmember Morgan regarding the claim checks on the agenda for approval.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to adopt the claim checks. Motion **passed** 4-0.

Councilmember Morgan noted having an item of unfinished business which is a resolution regarding professional services to hire a parliamentarian. There was a lengthy discussion between Councilmembers on this item.

**DEPARTMENT REPORTS: None**

**MAYOR'S REPORT:**

Mayor Benson reported attending the Fire Ad Hoc committee meeting.

**COUNCIL REPORTS:**

Councilmember Deady reported attending the Fire Ad Hoc committee meeting and a meeting with Mayor Benson and Finance Director Miller to review the vouchers.

Councilmember Morgan – no report.

Councilmember Weber stated whether it is good, bad, or indifferent he appreciated citizens coming out and if business was being conducted the meetings would be a lot shorter. He commented on hoping the weather cooperates with Labor Days and stated at no time was there any intent not to support Labor Days.

Councilmember Pepper talked about the Council powers as referenced by the Association of Washington Cities (AWC) and Municipal Research and Services Center (MRSC) and thanked everyone for coming out tonight.

**ATTORNEY REPORT: None**

**PUBLIC COMMENTS:**

Leslie Coulee, Black Diamond asked Councilmembers Weber, Pepper and Morgan about a meeting the three convened at the Black Diamond Bakery Coffee Shop and what was the purpose.

Terry Yankovich, Black Diamond commented that she still can not understand why three Councilmembers believe what they are doing is correct while the other three believe they are correct. She wondered when can they all come to an understanding as it is ridiculous. She discussed asking Councilmember Pepper to be invited to committee meetings and so far she hasn't been.

Andrew Williamson, representing Teamsters Local 117 reported that additional employees at the City have signed cards to begin a new unit.

Judy Goodwin, Black Diamond discussed why she asked the questions at the beginning of the meeting. She noted there being another viable alternative option for how committee meetings can happen. She discussed how committee meetings worked in the past with previous Councils and understands that arrangement could be going on today and the public can attend. She also commented on Mr. Talmadge having concerns with the way the committees were operating as well as the other three.

Judy Baxley, Black Diamond commented that she is confused on the committees. She noted reading in the handbook Council is allowed to have committees.

Discussion began among Councilmembers regarding Council Committees and the meetings that have been held so far on the Council Rules of Procedure.

**ADJOURNMENT:**

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to adjourn the meeting. Motion **passed** with all voting in favor (4-0). The meeting ended at 9:19 p.m.

ATTEST:

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Carol Benson, Mayor

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Brenda L. Martinez, City Clerk