



**CITY OF BLACK DIAMOND**  
**August 11, 2016 Regular Work Session**  
25510 Lawson Street, Black Diamond, Washington

**6:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL**

**WORK SESSION:**

- 1) Six Year Transportation Improvement Program - Mr. Boettcher
- 2) Continuation of Council Rules of Procedure
- 3) Adjournment

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b>	<b>Agenda Date: July 21, 2016</b>	<b>AB16-034C</b>
<b>Resolution adopting the 2017-2022 Six Year Transportation Improvement Program</b>	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barb Kincaid	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): Planning for various budgets		
Fund Source: Various	Public Works – Seth Boettcher	X
Timeline: As per individual project schedules	Court – Stephanie Metcalf	
<b>Agenda Placement:</b> <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
<b>Attachments: Resolution 16-xxx; Six Year Transportation Improvement Program; Project Map; In Process and Completed Projects Map</b>		
<p><b>SUMMARY STATEMENT:</b> The City is required to update its Six Year Transportation Improvement Program (TIP) annually per Revised Code of Washington (RCW) 35.77.010 and file the TIP with the Washington State Department of Transportation (WSDOT).</p> <p>Most grant programs require projects to be on the City’s Six Year TIP. The City is required by State law to update the TIP annually before July 1<sup>st</sup> of each year.</p> <p><b>FISCAL NOTE (Finance Department):</b> The TIP is a Financial Plan that is required to be updated, approved and filed with the State of Washington annually before July 1 of each year. This is a plan and not a budget and has no current financial impact. The Public Works TIP Projects will be included in the 2017-2022 Capital Improvement Plan that the city is currently preparing. Future financing of Transportation projects are anticipated to be covered by Grants, Real Estate Excise Tax (REET) and other local Funding options</p>		
<b>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 16-xxx (Clerk to assign number at adoption), approving the 2017-2022 Six Year Transportation Improvement Program.</b>		

**RECORD OF COUNCIL ACTION**

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
June 16, 2016	Consensus to leave open to July 7 mtg	
July 7, 2016	Postpone to July 21 mtg – Passed 3-2	
July 21, 2016		

RESOLUTION NO. 16-\_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
APPROVING THE 2017-2022 SIX YEAR  
TRANSPORTATION IMPROVEMENT PROGRAM**

**WHEREAS**, per RCW 35.77.010, the City is required to annually update its Six Year Transportation Improvement Program (TIP) before July 1<sup>st</sup> of each year and file the updated Transportation Improvement Program with the Washington State Department of Transportation within thirty days of adoption; and

**WHEREAS**, per RCW 35.77.010, the purpose of the requirement for annual updates is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program; and

**WHEREAS**, it is also an eligibility requirement of many grant programs that the City update its Transportation Improvement Program as required by RCW 35.77.010; and

**WHEREAS**, per RCW 35.77.010, a public hearing was held on the proposed updates to the Transportation Improvement Program;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, DOES RESOLVE AS FOLLOWS:**

**Section 1.** The City Council does hereby approve the 2017-2022 Six Year Transportation Improvement Program, a copy of which is attached as Exhibit "A" and incorporated herein by reference.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS \_\_\_\_\_ DAY OF \_\_\_\_  
\_\_\_\_\_, 2016.**

CITY OF BLACK DIAMOND:

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

Attest:

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

# City of Black Diamond 6 Year Transportation Improvement Plan 2017 - 2022

2017-2022 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM  
EXHIBIT "A"

**Legend**

Heading	Color
*Light Street Maintenance	Light Green
*Major Street Maintenance	Light Orange
Street Reconstruction	Light Blue
Capacity Adding Project	Light Purple
Safety Project	Light Yellow
Pedestrian	Light Cyan

\*See note at end of document

Rank	Year	Improvement	From	To	Type of Improvement	Length in Miles	Estimated Cost	Funding
1	2017	General Street Improvement	N/A	N/A	Use for opportunities to leverage private funds, short overlays, chip sealing, crack sealing, patch work, addressing minor safety problems	N/A	\$30,000/year; \$180,000 total	Local City Funds
1	2017	Roberts Drive Rehabilitation, Ph. 1	100' west of Rock Creek Bridge	City Hall	Leveling, Overlay, Bridge maintenance, sidewalks, pedestrian lighting, widening	0.31	\$ 1,118,130	Grant/ TIB, Developer, Local City Funds
2	2017	224th Safety Improvements at Covington Creek	N/A	N/A	Guard Rail on the shoulder of the road at Covington Creek	N/A	\$ 35,000	Real Estate Excise Tax or Grant
3	2017	232nd Ave. SE Chip Seal	SE 288th St. Covington Creek	End of road SE 307th Place	Chip seal, excluding portion from SE 293rd to back of Pond @ Greenbrier	0.77	\$ 100,000	Grant/ TIB, Local City Funds
3	2017	224th overlay	Covington Creek	across Roberts Drive south to A2	Asphalt Overlay	1.40	\$ 160,000	Grant/ TIB, Local City Funds
4	2017	New Arterial "Annexation Rd"	Lk Sawyer Rd	Annexation Rd.	New Street Grid Capacity	0.7	\$ 2,900,000	Developer Funded
5	2017	Lake Sawyer Road Extension	Roberts Drive	Annexation Rd.	New Street Grid Capacity	0.5	\$ 1,800,000	Developer Funded
6	2018	Roberts Drive Rehabilitation, phase 2	City Hall	King County Library	Grind, patch, replace panels, crack sealing, shoulder widening	0.23	\$ 200,000	Pavement Preservation Grant, Local City Funds

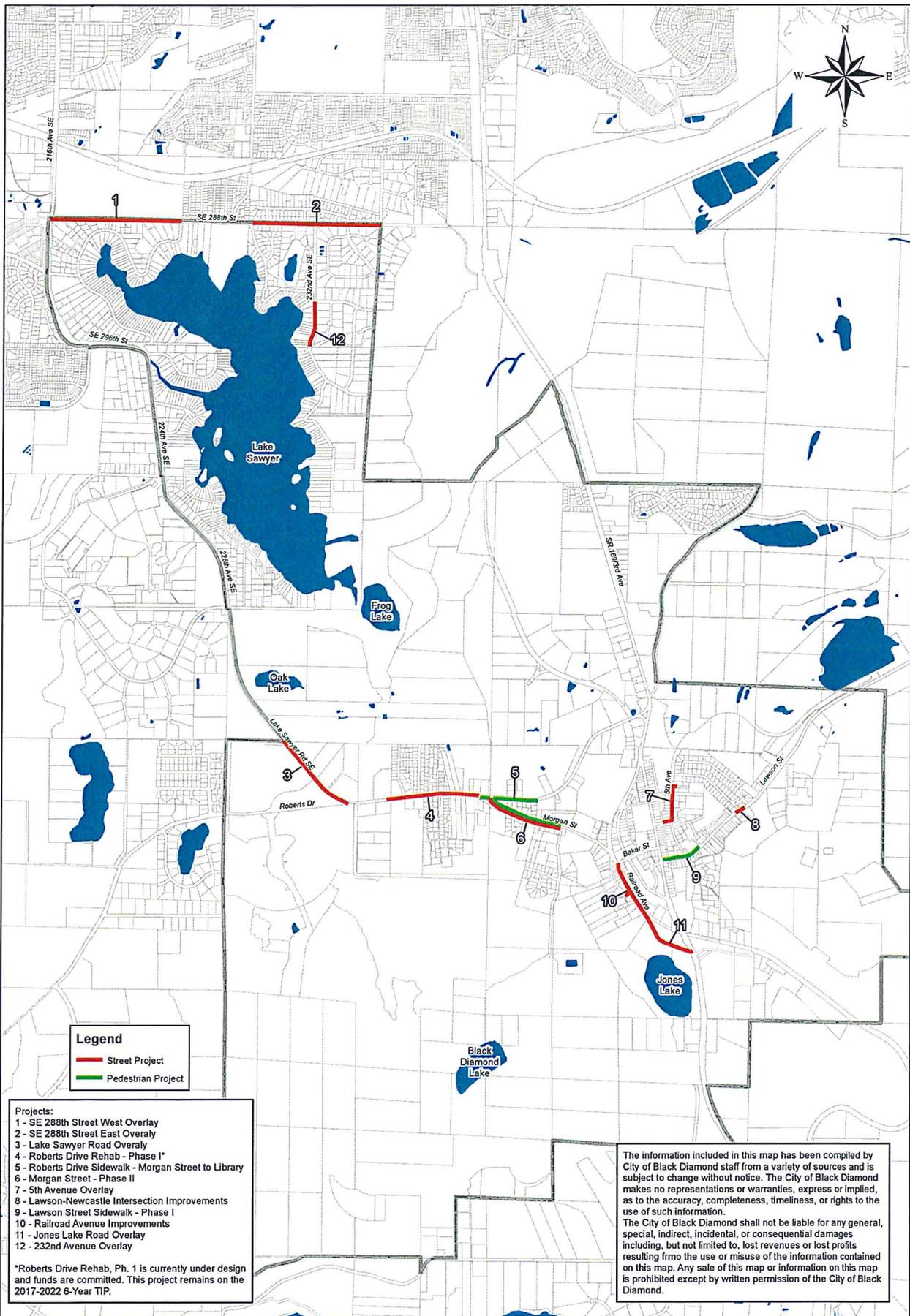
2017-2022 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM  
EXHIBIT "A"

Rank	Year	Improvement	From	To	Type of Improvement	Length in Miles	Estimated Cost	Funding
6	2018	Morganville Ph. I - Morgan Drive	Dail Dr.	Buena Vista Dr.	Patching and overlay, including Alpine Dr.	0.40	\$ 110,000	Grant/ TIB, Local City Funds
7	2018	Lawson Connector	SR 169	Lawson Street	New Street Grid Capacity	0.60	\$ 3,200,000	Developer Funded
8	2019	Roberts Drive/SR 169 Intersection Improvements	N/A	N/A	Two lane Roundabout or Signalize Intersection	N/A	\$ 7,777,000	Developer Mitigation and Grant
9	2019	216th Ave. SE Overlay	SE 288th St.	SE 296th St.	Patch and overlay	0.41	\$ 160,000	Grant/ TIB, Local City Funds
10	2019	Lawson Street Sidewalk, Ph. II	6th Ave.	Newcastle Dr.	5-foot sidewalk on the north side of Lawson Street	0.19	\$ 395,000	Grant/Safe Routes to School, Developer Mitigation
11	2019	Ravensdale / 169 interim intersection improvements	N/A	N/A	Signal or ?	N/A	\$ 700,000	Developer funded and possible grant
12	2020	Roberts Drive Rehabilitation, phase 3	King County Library	S.R. 169	Widening and overlay, sidewalk, street lighting, and stormwater improvements	0.56	\$ 1,700,000	TIB Grant, Local City Funds
13	2020	Hammond/Baker/ 5th/6th Overlay	N/A	N/A	Widening and overlay	0.39	\$ 141,000	Grant/ TIB, Local City Funds
13	2020	Lawson Street Ph. I	S.R. 169	HL Botts Dr. SE	Surface grinding, select panel replacement, shoulder widening	0.37	\$ 165,000	Grant/ TIB, Local City Funds
13	2020	Morganville Ph. II - Union Drive	Roberts Dr.	South end of road	Patching and overlay, including Highland Dr.	0.34	\$ 95,000	Grant/ TIB, Local City Funds
14	2020	Park St. & SR 169 Intersection Safety Improvements	N/A	N/A	Site distance improvements	N/A	\$ 30,000	Local City Funds, Developer Funds
15	2020	North Connector	169	South to new commercial and multi family housing	New minor arterial connection to SR 169 with signal	0.25	\$ 1,000,000	Developer Funded

2017-2022 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM  
EXHIBIT "A"

Rank	Year	Improvement	From	To	Type of Improvement	Length in Miles	Estimated Cost	Funding
16	2020	Intersection Roberts Drive & Lake Sawyer Extension	N/A	N/A	New Roundabout	N/A	\$ 1,000,000	Developer Funded
17	2021	229th Ave. SE/ SE 292nd Pl.	228th Ave. SE	232nd Ave. SE	Chip sealing, crack sealing, including 236th Ave. SE between SE 291st & SE 293rd	0.50	\$ 60,000	Grant/ TIB, Local City Funds
17	2021	James/Park/Baker/4th/2nd	N/A	N/A	Patching and overlay, including some widening	0.39	\$ 108,000	Grant/ TIB, Local City Funds
18	2021	Railroad Avenue & Jones Lake Road Pedestrian Facilities	SR 169 & James St.	SR 169 & Jones Lake Road	Sidewalk extensions and roadway widening to add bike lanes	0.88	\$ 440,000	Grant Funds
19	2021	Ravensdale / 169 intersection	N/A	N/A	Intersection realignment & signal or roundabout	N/A	\$ 8,000,000	Developer Funded & grant
20	2021	Intersection Roberts Drive & Annexation Road	N/A	N/A	New roundabout	N/A	\$ 1,000,000	Developer Funded
21	2022	Diamond Glen Neighborhood Improvements	N/A	N/A	Patching, crack sealing, and overlay	0.26	\$ 135,000	Grant/ TIB, Local City Funds
22	2022	Morgan Creek Neighborhood Roads Preservation	N/A	N/A	Seal Coat	1.19	\$ 107,000	Local City Funds
23	2022	Lawson Street Ph. II	HL Botts Dr. SE	City Limits	Chip sealing, crack sealing	0.41	\$ 45,000	Grant/ TIB, Local City Funds
24	2022	Intersection 216th Ave SE & SE 288th Street	N/A	N/A	Signalization or Roundabout	N/A	\$ 1,400,000	Developer funded
<b>TOTAL ALL PROJECTS</b>							<b>\$ 34,261,130</b>	

*\*NOTE: The City has identified the need for maintenance on these streets. There are more projects in these categories than can be funded or completed in six years. Projects in the earlier years have a higher probability of getting funded and completed. Projects in the later years have a lower probability of being funded and completed. If funding does become available and is secured for any project on the list, it will be moved to the top of the list for construction.*



**Legend**  
 Street Project  
 Pedestrian Project

- Projects:**  
 1 - SE 288th Street West Overlay  
 2 - SE 288th Street East Overlay  
 3 - Lake Sawyer Road Overlay  
 4 - Roberts Drive Rehab - Phase I\*  
 5 - Roberts Drive Sidewalk - Morgan Street to Library  
 6 - Morgan Street - Phase II  
 7 - 5th Avenue Overlay  
 8 - Lawson-Newcastle Intersection Improvements  
 9 - Lawson Street Sidewalk - Phase I  
 10 - Railroad Avenue Improvements  
 11 - Jones Lake Road Overlay  
 12 - 232nd Avenue Overlay

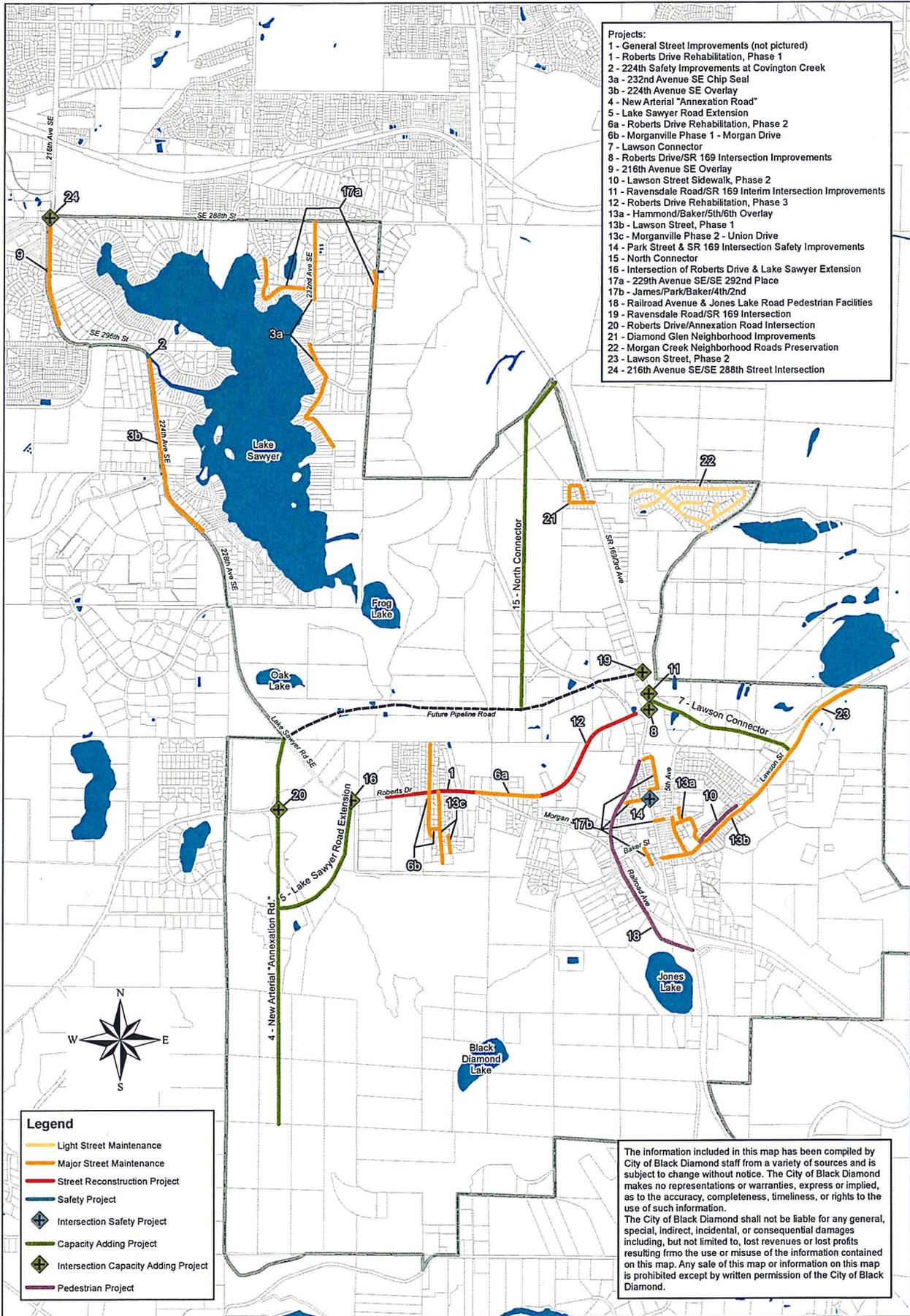
\*Roberts Drive Rehab, Ph. 1 is currently under design and funds are committed. This project remains on the 2017-2022 6-Year TIP.

The information included in this map has been compiled by City of Black Diamond staff from a variety of sources and is subject to change without notice. The City of Black Diamond makes no representations or warranties, express or implied, as to the accuracy, completeness, timeliness, or rights to the use of such information. The City of Black Diamond shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of the City of Black Diamond.



Author: Scott Hanis  
 Revised: June 10, 2016

## In Process & Completed Projects Last 6 Years



- Projects:**
- 1 - General Street Improvements (not pictured)
  - 1 - Roberts Drive Rehabilitation, Phase 1
  - 2 - 224th Safety Improvements at Covington Creek
  - 3a - 232nd Avenue SE Chip Seal
  - 3b - 224th Avenue SE Overlay
  - 4 - New Arterial "Annexation Road"
  - 5 - Lake Sawyer Road Extension
  - 6a - Roberts Drive Rehabilitation, Phase 2
  - 6b - Morganville Phase 1 - Morgan Drive
  - 7 - Lawson Connector
  - 8 - Roberts Drive/SR 169 Intersection Improvements
  - 9 - 216th Avenue SE Overlay
  - 10 - Lawson Street Sidewalk, Phase 2
  - 11 - Ravensdale Road/SR 169 Interim Intersection Improvements
  - 12 - Roberts Drive Rehabilitation, Phase 3
  - 13a - Hammond/Baker/5th/6th Overlay
  - 13b - Lawson Street, Phase 1
  - 13c - Morganville Phase 2 - Union Drive
  - 14 - Park Street & SR 169 Intersection Safety Improvements
  - 15 - North Connector
  - 16 - Intersection of Roberts Drive & Lake Sawyer Extension
  - 17a - 229th Avenue SE/SE 292nd Place
  - 17b - James/Park/Baker/4th/2nd
  - 18 - Railroad Avenue & Jones Lake Road Pedestrian Facilities
  - 19 - Ravensdale Road/SR 169 Intersection
  - 20 - Roberts Drive/Annexation Road Intersection
  - 21 - Diamond Glen Neighborhood Improvements
  - 22 - Morgan Creek Neighborhood Roads Preservation
  - 23 - Lawson Street, Phase 2
  - 24 - 216th Avenue SE/SE 288th Street Intersection

- Legend**
- Yellow line: Light Street Maintenance
  - Orange line: Major Street Maintenance
  - Red line: Street Reconstruction Project
  - Blue line: Safety Project
  - Diamond with cross: Intersection Safety Project
  - Green line: Capacity Adding Project
  - Diamond with plus: Intersection Capacity Adding Project
  - Purple line: Pedestrian Project

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Author: Scott Hanis  
 Revised: June 10, 2016

## 2017-2022 Transportation Improvement Program

**RESOLUTION NO. 15-1009**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
REVISING THE CITY COUNCIL RULES OF PROCEDURE**

**WHEREAS**, the City Council of the City of Black Diamond adopted Resolution No. 14-948 adopting new Council Rules of Procedure; and

**WHEREAS**, the City Council wishes make revisions to the Council Rules of Procedure;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, DOES RESOLVE AS FOLLOWS:**

**Section 1.** The City Council hereby adopts the revised City Council Rules of Procedure as set forth in the attached Exhibit A.

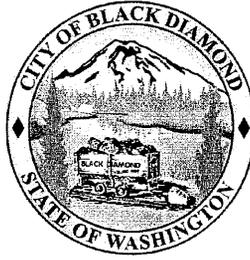
**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF  
FEBRUARY, 2015.**

CITY OF BLACK DIAMOND:

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

Attest:

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



# RULES OF PROCEDURE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON

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# RULES OF PROCEDURE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON

## SECTION 1 – AUTHORITY

In accordance with RCW 35A.12.120, the Black Diamond City Council hereby establishes the following rules for the conduct of Council meetings, proceedings and business. These rules shall take effect upon adoption by resolution of the Council and until such time as they are amended or new rules are adopted in the manner provided for by these rules.

### *References.*

RCW 35A.12.100 (Duties and authority of the mayor — Veto — Tie-breaking vote): “The mayor shall be the chief executive and administrative officer of the city, in charge of all departments and employees, with authority to designate assistants and department heads. The mayor may appoint and remove a chief administrative officer or assistant administrative officer, if so provided by ordinance or charter.<sup>[1]</sup> He or she shall see that all laws and ordinances are faithfully enforced and that law and order is maintained in the city, and shall have general supervision of the administration of city government and all city interests. All official bonds and bonds of contractors with the city shall be submitted to the mayor or such person as he or she may designate for approval or disapproval. He or she shall see that all contracts and agreements made with the city or for its use and benefit are faithfully kept and performed, and to this end he or she may cause any legal proceedings to be instituted and prosecuted in the name of the city, subject to approval by majority vote of all members of the council. The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmembers with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money. He or she shall report to the council concerning the affairs of the city and its financial and other needs, and shall make recommendations for council consideration and action. He or she shall prepare and submit to the council a proposed budget, as required by chapter 35A.33 RCW. The mayor shall have the power to veto ordinances passed by the council and submitted to him or her as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all councilmembers plus one more vote. The mayor shall be the official and ceremonial head of the city and shall represent the city on ceremonial occasions, except that when illness or other duties prevent the mayor's attendance at an official function and no mayor pro tempore has been appointed by the council, a member of the council or some other suitable person may be designated by the mayor to represent the city on such occasion.”

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<sup>1</sup> For reference, the City of Black Diamond does not operate under a city charter.

RCW 35A.11.020 (Powers vested in legislative bodies of noncharter and charter code cities): "The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people: PROVIDED, That nothing in this section or in this title shall permit any city, whether a code city or otherwise, to enact any provisions establishing or respecting a merit system or system of civil service for firefighters and police officers which does not substantially accomplish the same purpose as provided by general law in chapter 41.08 RCW for firefighters and chapter 41.12 RCW for police officers now or as hereafter amended, or enact any provision establishing or respecting a pension or retirement system for firefighters or police officers which provides different pensions or retirement benefits than are provided by general law for such classes.

Such body may adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the city, and may impose penalties of fine not exceeding five thousand dollars or imprisonment for any term not exceeding one year, or both, for the violation of such ordinances, constituting a misdemeanor or gross misdemeanor as provided therein. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such a body alternatively may provide that violation of such ordinances constitutes a civil violation subject to monetary penalty, but no act which is a state crime may be made a civil violation.

The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition, sale, ownership, improvement, maintenance, protection, restoration, regulation, use, leasing, disposition, vacation, abandonment or beautification of public ways, real property of all kinds, waterways, structures, or any other improvement or use of real or personal property, in regard to all aspects of collective bargaining as provided for and subject to the provisions of chapter 41.56 RCW, as now or hereafter amended, and in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns.

In addition and not in limitation, the legislative body of each code city shall have any authority ever given to any class of municipality or to all municipalities of this state before or after the enactment of this title, such authority to be exercised in the manner provided, if any, by the granting statute, when not in conflict with this title. Within constitutional limitations, legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state as provided in RCW 66.08.120, 82.36.440 [repealed], 48.14.020, and 48.14.080."

## SECTION 2 – COUNCIL MEETINGS

- 2.1 Meetings Shall be Open to Public. All meetings of the City Council shall be open to the public and all persons shall be permitted to attend any meeting of this body, except as provided in Chapter 42.30 RCW (the Open Public Meetings Act). Under RCW 42.30.040, no person at the meeting shall be required to register or provide other information, to complete a questionnaire, or otherwise comply with any other conditions as a precondition to be allowed to attend. However, persons wishing to address the Council or otherwise present information to the Council during a Council meeting may be requested to register and identify themselves and their home address. Persons who disrupt a meeting of the Council may lose the right to be present for the remainder of the meeting. See *Section 2.10*.
- 2.2 Agenda. The City Clerk shall be responsible for preparing agendas for all City Council meetings that specify the time and place of the meeting and set forth a brief general description of each item to be considered by the Council. The agenda is subject to approval by the Mayor or the Mayor's designee.
- 2.3 Minutes. The City Clerk shall cause to be prepared action minutes of all of the Council meetings, which minutes shall contain an account of all official actions of the Council. Council meetings shall be electronically recorded and retained for the period of time as provided by State law. No changes shall be made to minutes except by motion approved by a majority of the Council at a properly noticed meeting.
- 2.4 Schedule of Regular Meetings. In accordance with BDMC 2.04.010, the regular meetings of the City Council shall be held on the first and third Thursdays of every month at 7:00 p.m. in the City Hall Council Chambers located at 25510 Lawson Street, Black Diamond, Washington. The regular meeting location may be changed by a majority vote of the City Council. Special Council Meetings will be held on the second Thursday of the month at 6:00 p. m. Town Hall meetings shall be held bi-monthly (Jan, Mar, May, July, Sept, Nov) on the second Thursday of the month at 7:00 p.m. following the Special Council Meeting.in the City Hall Council Chambers located at 25510 Lawson Street, Black Diamond, Washington. The Town Hall Meeting will be adjourned by 9:00 p.m. unless otherwise amended by a majority vote of the Council.
- 2.5 Quorum Required. A quorum shall be required to transact Council business. The presence of a majority of the whole membership of the Council who are also eligible to vote at a Council meeting shall constitute a quorum. Should less than a quorum be present at the time of roll call, any Councilmember present may, upon belief that late arrival of one or more Councilmembers will enable a quorum to be created, make a motion that the Council meeting be recessed for up to one hour; should a quorum still be lacking at the end of the recess period, the

meeting shall be adjourned. As authorized under RCW 42.30.090, the City Clerk may adjourn the meeting if all Councilmembers are absent.

- 2.6 Holidays. Should a scheduled Council meeting fall on a legal holiday, the meeting shall be rescheduled to the next business day that is not a legal holiday or to another day certain by majority vote of Councilmembers present.
- 2.7 Study Sessions. Study sessions, or meetings to review upcoming and pertinent business of the City, may be scheduled as special meetings of the Council subject to the same notification procedures set forth below for special meetings.

Special Meetings. In accordance with chapter 42.30 RCW, a special meeting of the City Council may be called by the Mayor or at the request of any three (3) Councilmembers by written notice delivered to each Councilmember.

Emergency Meetings. In accordance with RCW 42.30.070 and .080, if, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by the City Council to meet the emergency, the Presiding Officer of the Council may provide for a meeting site other than the regular meeting site and the public meeting notice requirements shall be suspended during the emergency.

- 2.8 Executive Sessions. An executive session is a Council meeting that is closed except to the Council, the Mayor, the City Administrator, the City Attorney and staff members or others authorized to attend by the Mayor or a majority of Councilmembers present. In accordance with RCW 42.30.030 and .110, other persons and members of the public are prohibited from attending executive sessions.

Executive sessions may be held during regular Council meetings, Special Council meetings, or Council Study Sessions. In addition, the Council may retire to hold an executive session during one of these meetings. When this occurs, the portions of the meeting that are not part of the executive session shall continue to be open to the public. Prior to convening an executive session, the Presiding Officer shall make an announcement that an executive session is being held and inform the public when the executive session shall end; provided that, the ending time of an executive session may be extended by announcement of the Presiding Officer. Executive sessions may only be called to consider such matters as authorized by RCW 42.30.110.

- 2.9 Cancellation of Meetings. The Mayor, or in the absence of the Mayor the Mayor Pro Tem, or any three members of Council may cancel a meeting and upon proper notice given by the City Clerk.
- 2.10 Disruption of Meetings. As authorized by RCW 42.30.050, should any Council meeting be interrupted by a person or group of persons so as to render the

orderly conduct of such meeting unfeasible, such person or persons causing the interruption may be ordered removed from the meeting and prohibited from returning to attend the remainder of the meeting. If necessary to restore order, the Council may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the Councilmembers present. In such a session, final disposition may be taken only on matters that appear on the agenda. The Council shall allow any members of the public or representatives of the media who were not participating in the disturbance to attend any session that follows the disturbance, except an executive session, provided that the Council is not prohibited from establishing a procedure for readmitting individuals who were not responsible for disturbing the orderly conduct of the meeting.

### **SECTION 3 – REGULAR COUNCIL MEETING ORDER OF BUSINESS**

- 3.1 Preparation of Council Agenda. All items to be included on the agenda for consideration at a Council meeting should be submitted to the City Clerk in full no later than 10:00 a.m. nine days prior to the scheduled Council meeting. Once the agenda has been finalized and provided to the Council, items added to the agenda may be declined to be considered by the Council at the meeting for which the agenda was prepared, until a future Council meeting date, which date shall be specified by the Council.

The form of agenda of a Regular City Council meeting shall be as follows:

- 3.2 Call to Order. The Presiding Officer shall call the meeting to order.
- 3.3 Flag Salute. The Presiding Officer shall lead the flag salute. However, the Presiding Officer may designate a Councilmember or other person to lead the flag salute.
- 3.4 Roll Call. The City Clerk will call the roll and determine whether quorum is satisfied. *See Subsection 2.5.*
- 3.5 Appointments, Announcements, Proclamations and Presentations.
- 3.5.1 *Appointments.* In accordance with the Black Diamond Municipal Code and these Rules of Procedure, individuals appointed by the Mayor to hold positions within City government or on various committees, boards and commissions may require confirmation by the Council. Where confirmation is required, the vote of the Council may be preceded by discussion in executive session. *See SECTION 17 and SECTION 18.*
- 3.5.2 *Announcements.* An announcement is a brief statement that informs the public of an event or happening of general interest. However, it cannot be a statement regarding a subject prohibited below *Subsection 3.5.4*

3.5.3 *Proclamations.* A proclamation is an official announcement made by the Mayor or the City Council regarding a non-controversial event, activity or special interest group which has had a major city-wide impact. The Mayor will read the proclamation and may invite guests to speak on the topic for no more than five (5) minutes.

3.5.4 *Presentations.* Any person(s) or organization(s) wishing to make a presentation to the Council must first submit a completed "Request to be on Council Agenda Form" with the City Clerk. The request should be made at least two weeks prior to the intended Council date. The Mayor or the Mayor's designee will determine if the proposed presentation is approved and will notify the applicant of the selected meeting date. If the presentation is not approved, the Mayor or the Mayor's designee will notify the applicant of the decision and the reason(s) for the decision. Presentations will not last more than five (5) minutes in length or unless at the request of the Mayor or Mayor's designee. Upon motion and approval of a majority of Councilmembers present, the Council may authorize presentations and may determine their length.

*Prohibited Topics.* Except as authorized or required by RCW 42.17A.555, no person may use this time to address the Council for the purpose of assisting a campaign for election of a person to any office or for the promotion of, or opposition to, any ballot proposition. Further, no person may use this time to address the Council for the purpose of advertising

3.6 Consent Agenda. Approval of the Consent Agenda, including items considered to be routine and non-controversial, may be approved by one motion. Any Councilmember may remove any item from the Consent Agenda for separate discussion and action. Items on the Consent Agenda include but are not limited to the following:

- a. Approval of minutes.
- b. Fixing dates for public hearings and appeals.
- c. Approval of claims, vouchers and payroll, bid awards and contracts.
- d. Approval of property as surplus.
- e. Authorization of grant applications.
- f. Approval of interlocal agreements.
- g. Other items designated by the City Council.

- 3.7 Public Comments. Members of the audience may comment on any matter related to City business during the Public Comment period. See *Section 10*.
- 3.8 Legislative Public Hearings. Individuals may comment on legislative decisions regarding matters of policy. See *SECTION 11*.
- 3.9 Quasi-judicial Hearings. More formal proceedings are held to determine the legal rights of specific parties, which include the receipt of proponent and opponent testimony. See *SECTION 11*.
- 3.10 Agenda Modifications. The Presiding Officer shall announce any changes to the Council's published agenda.
- 3.11 Unfinished Business. Unfinished business consists of subjects discussed by the Council at a previous regular or special meeting and which have been placed on the agenda for additional discussion or resolution.
- 3.12 New Business, Ordinances and Resolutions.
- 3.12.1 *New Business*. New business shall mean topics or issues that have not previously been before the City Council for discussion or other action, other than ordinances and resolutions.
- 3.12.2 *Ordinances*. Ordinances prescribe general, uniform, and permanent rules of conduct and constitute the local law of the City of Black Diamond. See Subsection 9.1.
- 3.12.3 *Resolutions*. Resolutions concern matters of special, temporary, or ministerial character and express the opinion or mind of the City Council. See Subsection 9.2.
- 3.13 Department Reports. Department Directors may report on action and activities of their respective departments.
- 3.14 Mayor's Report. The Mayor may report on significant activities since the last regular meeting, inquire on matters of general City business, or initiate investigation or action on a matter of concern.
- 3.15 Councilmember Reports. Councilmembers may report on Council committee discussions or other significant activities since the last regular meeting, or on matters of general City business, or may initiate investigation or action on a matter of concern.
- 3.16 City Attorney Report. The City Attorney may report on legally significant events or activities.

- 3.17 Public Comments. Members of the audience may request to comment on any issue discussed during the Council meeting. Comments will be allowed subject to the time limits and other restrictions in *SECTION 10*.
- 3.18 Executive Session. In accordance with RCW 42.30.030 and .110, executive sessions are closed to the general public. See *Subsection 2.8*.
- 3.19 Adjournment. With no further business to come before the Council, the Presiding Officer may adjourn the meeting.
- 3.20 Recess. The foregoing agenda may be interrupted for a stated time as called by the Presiding Officer to recess for any reason, including executive sessions.
- 3.21 Town Hall Meetings. Town Hall meetings are informal events that provide the City Council and members of the Black Diamond community an opportunity to discuss emerging issues and matters of local or general concern. See *SECTION 12*.

## **SECTION 4 – PRESIDING OFFICER**

### **4.1 Who Shall Act as Presiding Officer.**

4.1.1 The Mayor shall act as Presiding Officer at all meetings of the Council unless absent; in the absence of the Mayor, the Mayor Pro Tem will act as Presiding Officer. If both the Mayor and Mayor Pro Tem are absent and a quorum is present, the Council shall elect one of its members to serve as Presiding Officer until the return of the Mayor or Mayor Pro Tem. See *SECTION 13*.

### **4.2 Duties of Presiding Officer.** The duties of the Presiding Officer shall be to:

4.2.1 Preserve order and decorum at all meetings of the Council and cause the removal of any person from any meeting for disorderly conduct.

4.2.2 Observe and enforce all rules adopted by the Council.

4.2.3 Recognize Councilmembers in the order in which they request the floor, and recognize every Councilmember who wishes an opportunity to speak; provided that, the mover of a motion shall be permitted to debate it first; provided further that, the Presiding Officer may allow discussion of an issue prior to the stating of a motion when such discussion would facilitate wording of a motion.

### **4.3 Reordering Items on Agenda.** Without the necessity of any vote thereon, Presiding Officer may present matters before the Council for discussion,

consideration and voting in a different order than they appear in the agenda when matters on the agenda are able to be placed under more than one classification or category.

- 4.4 Limitations on Political Speech. Except where the Council is properly considering a motion regarding whether the City shall take an official position on a political issue in accordance with RCW 42.17A.555, no Black Diamond elected official shall use a Council meeting to express an opinion in support of or in opposition to a candidate for public office or a ballot measure. See *also* SECTION 19.

## **SECTION 5 – COUNCILMEMBERS**

### 5.1 Councilmember Attendance at Meetings.

- 5.1.1 Excused Absence. Councilmembers shall inform the Mayor or City Clerk in advance if the Councilmember will be unable to attend, or will be late to attend, any Council meeting. The Presiding Officer shall then announce during roll call that the Councilmember will be absent or late. Any absence following prior notice to the Mayor or City Clerk shall be noted in the minutes as an excused absence. Absence at a scheduled Council meeting due to sudden illness or emergency shall be noted in the minutes as an excused absence due to illness or emergency.
- 5.1.2 Excessive Absence Shall Create Vacancy. In accordance with RCW 35A.12.060, a Councilmember's position shall be deemed vacant if that Councilmember has three (3) consecutive unexcused absences from Regular Council meetings.
- 5.1.3 Telephonic or Other Electronic Attendance. Any Councilmember may attend any Council meeting by telephone, video conference, or other electronic means as long as all other persons present at the meeting can hear or otherwise understand all comments made and questions asked by the Councilmember and the Councilmember can hear or otherwise understand all comments made and questions asked by all other persons speaking at the meeting. The City Clerk shall reflect in the meeting minutes Councilmember attendance by telephone, video conference, or other electronic means.
- 5.2 Remarks. Councilmembers desiring to speak shall address the Presiding Officer and, when recognized, shall confine their remarks to matters currently under discussion, provided that a Councilmember may move to have a different matter considered by the Council, subject to these Rules of Procedure.
- 5.3 Questioning. Any Councilmember, including the Presiding Officer, shall have the right to question any individual, including members of the staff, on matters

germane to the issue properly before the Council for discussion. Under no circumstances shall such questioning be conducted in a manner that would constitute a cross-examination of or an attempt to ridicule or degrade the individual being questioned.

- 5.4 Limitations on Political Speech. Except where the Council is properly considering a motion regarding whether the City shall take an official position on a political issue in accordance with RCW 42.17A.555, no Black Diamond elected official shall use a Council meeting as an occasion to express an opinion in support of or in opposition to a candidate for public office or a ballot measure. *See also SECTION 19.*

## **SECTION 6 – DEBATES**

- 6.1 Speaking to the Motion. Councilmembers may speak on the motion at the time the motion is before the Council.
- 6.2 Interruption. No Councilmember, including the Presiding Officer, shall interrupt or argue with any other member while such member has the floor, other than the Presiding Officer's duty to preserve order during meetings as provided in *Subsection 4.2.1* of these rules.
- 6.3 Courtesy. In the discussion, comments, or debate of any matter or issue, all speakers, including the Presiding Officer and Council members, shall be courteous in their language and deportment, and shall not discuss or comment on personalities, or indulge in derogatory remarks or make insinuations about any other Councilmember, or any member of the staff or the public, but shall at all times confine their remarks only to those facts which are germane and relevant to the question or matter under discussion.
- 6.4 Violations. If a Councilmember violates these rules on debates, the Presiding Officer shall call such member to order, and the offending member shall be silent except to explain or continue in order. If the Presiding Officer violates these rules on debate or fails to call other members to order, any other Councilmember may, under a point of order, call the Presiding Officer or such other offending member to order, and the person being called to order shall be silent except to explain or continue in order.
- 6.5 Challenge to Ruling. Any Councilmember shall have the right to challenge any action or ruling of the Presiding Officer or other member, as the case may be, in which case the decision of the majority of the Councilmembers present shall govern.

## SECTION 7 – PARLIAMENTARY PROCEDURES AND MOTIONS

- 7.1 Robert's Rules Supplementary. Except as provided in these Rules of Procedure, all City Council meetings shall be governed by *ROBERTS RULES OF ORDER, NEWLY REVISED* (latest edition). The City Attorney shall act as Parliamentarian when present; otherwise, the City Clerk shall act as Parliamentarian. If the Parliamentarian determines that a procedural issue is not adequately addressed by these Rules of Procedure or by Robert's Rules, the Council may handle the issue in any way that the majority of members who are present agrees is appropriate and which, in the opinion of the Parliamentarian, is not prohibited by law. Notwithstanding the foregoing, the proceedings of the Council may be conducted in an efficient and consensus-based manner.
- 7.2 Motions.
- 7.2.1 If a motion does not receive a second, it dies.
- 7.2.2 *Matters that do not constitute a motion include:* nominations; withdrawal of motion by the person making the motion; request for a roll call vote; point of order or privilege. Because these matters are not motions, a second is not needed.
- 7.2.3 A Councilmember may abstain from voting on a motion because of a conflict of interest or to preserve the appearance of fairness, but cannot then participate in discussion or argument about the motion. See *Subsection 8.3*.
- 7.2.4 A motion that receives a tie vote is deemed to have failed; provided that, except where prohibited by RCW 35A.12.100 or other law, the Mayor shall be allowed to vote to break a tie vote.
- 7.2.5 When making motions, Councilmembers shall be clear and concise and not include arguments for the motion within the motion.
- 7.2.6 After a motion has been made and seconded, Councilmembers may discuss their opinions on the issue prior to the vote.
- 7.2.7 A motion may be withdrawn by the maker of the motion at any time without the consent of the Council.
- 7.2.8 A "motion to table" is non-debatable and shall preclude all amendments or debates of the issue under consideration. A motion to table is to be used in instances where circumstances or situations arise which necessitate the interruption of the Councilmembers' consideration of the matter then before them. A motion to table, if passed, shall cause the subject matter to be tabled until the interrupting circumstances or situations have been

resolved, or until a time certain, if specified in the motion to table. To remove an item from the table in advance of the time certain requires an affirmative vote of at least a majority of the whole membership of the Council.

- 7.2.9 A “motion to postpone to a certain time” is debatable and amendable and may be reconsidered at the same meeting. The question being postponed must be considered at a later time at the same meeting, or may be postponed to a date certain at a future Regular or Special City Council meeting.
- 7.2.10 A “motion to postpone indefinitely” is debatable but not amendable, and may only be reconsidered at the same meeting if it receives an affirmative vote of at least a majority of Councilmembers present.
- 7.2.11 A “motion to call for the question” shall immediately close debate on the main motion and is not debatable. This motion must receive a second and fails without an affirmative vote of at least all of the Councilmembers present minus one. Debate is reopened if the motion fails.
- 7.2.12 A “motion to amend” is a motion to modify the wording of a pending motion before that pending motion is voted upon by the Council, by inserting, adding, striking out, striking out and inserting, or substituting language. A motion to amend must be seconded. However, some motions cannot be amended. *See Subsection 7.2.13.*
- 7.2.13 *Motions that cannot be amended include:* motion to adjourn; motion to lay on the table; motion to take from the table; motion for roll call vote; motion to reconsider; point of order; motion to amend. (A motion to amend an amendment is allowed.)
- 7.2.14 Amendments shall be voted on first, then the main motion as amended (if the amendment received an affirmative vote).
- 7.2.15 Debate of the motion only occurs after the motion has been moved and seconded.
- 7.2.16 The Mayor, City Attorney or City Clerk shall repeat the motion prior to voting by the Council.
- 7.2.17 The City Clerk shall take a roll call vote, if requested by the Mayor, City Attorney, a Councilmember, or as required by law.
- 7.2.18 When a question has been decided, any Councilmember who voted in the majority may move for reconsideration, but no motion for reconsideration of a vote shall be made until the next Regular City Council meeting.

7.2.19 These rules may be amended, or new rules adopted, by a majority vote of the full Council at a Regular or Special City Council meeting.

7.3 Waiver of Rules. The Council may, by motion that carries with an affirmative vote of at least a majority of the whole membership of the Council, waive, suspend, or modify these Rules of Procedure.

## **SECTION 8 – VOTING**

8.1 Voice Vote. In general, voice votes shall be used. Voice votes are a generalized verbal indication by the Council as a whole of “yea or nay” on a matter, the outcome of which vote shall be recorded in the official minutes of the Council. Silence of a Councilmember during a voice vote shall be recorded as a vote with the prevailing side, except where the Councilmember abstains from participation, discussion and voting because of a stated conflict of interest, to preserve the appearance of fairness, or for other good cause. See *Subsection 8.3*. The Presiding Officer shall announce the outcome of each voice vote immediately thereafter and the result of each vote shall be recorded in the minutes.

8.2 Roll Call Vote. A roll call vote may be requested by the Mayor or by any Councilmember. When a roll call vote has been requested, the Clerk shall call upon each Councilmember and request an individual “yes or no”. The Presiding Officer shall announce the result of the vote immediately thereafter and the result of the vote shall be recorded in the minutes.

8.3 Abstentions.

8.3.1 *Abstention allowed for conflict of interest or appearance of fairness.* It is the responsibility of each Councilmember to vote when requested on a matter before the full Council. However, a Councilmember may abstain from discussion and voting on a question because of a stated conflict of interest or to preserve the appearance of fairness. Should the City Attorney indicate that the Mayor or a Councilmember is required to abstain from further participation on an issue, the affected person must abstain except where abstention would result in a lack of a quorum (or lack of a majority vote where required by law). See *Subsection 8.6.1*. Failure to abstain may cause delay in proceedings to allow court intervention. See *Subsection 8.6.3*.

8.3.2 *Notice of intent to abstain required.* Notice of intent to abstain shall be given prior to any discussion or participation on the subject matter or as soon thereafter as the Mayor or Councilmember perceives a need to abstain.

8.3.3 *Need to abstain shall be confirmed by City Attorney.* Prior to the time that the Mayor or a Councilmember gives notice of intent to abstain, the

affected person shall confer with the City Attorney to determine if abstention is truly required. If the intended abstention can be anticipated in advance, the conference with the City Attorney should occur prior to the meeting at which the subject matter is scheduled to come before the City Council. If that cannot be done, the affected person should advise the City Council that he or she has an "abstention question" that he or she wants to review with the City Attorney. A brief recess should then be taken for that purpose.

- 8.3.4 *Abstaining member shall advise the Council and end participation.* After conferring with the City Attorney, the Mayor or Councilmember wishing to abstain from a vote because of a conflict of interest or to preserve the appearance of fairness shall so advise the Council, and shall then remove and absent himself or herself from the Council's deliberations and considerations of the motion, and shall have no further participation in the matter.
- 8.4 Votes by Mayor. Except where prohibited by law, the Mayor may only vote to break a tie vote of the Council and only with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money.
- 8.5 Votes by Councilmember Serving as Presiding Officer. In accordance with RCW 35A.12.110, a Councilmember serving as Presiding Officer in the absence of the Mayor shall have the same rights to vote on matters before the Council as the person would otherwise have as a Councilmember.
- 8.6 Effect of Challenges Based on Conflict of Interest or Appearance of Fairness.
- 8.6.1 *If abstention removes quorum or majority.* Should the City Attorney determine that the participation of the Mayor or a Councilmember in discussion and voting on an issue would be a conflict of interest or appear to violate the appearance of fairness doctrine, or any specific part of chapter 42.36 RCW, that person shall abstain from further participation unless, as provided by RCW 42.36.090, a challenge to a member or members of the decision-making body would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law; in such cases, any challenged member(s) shall be permitted to fully participate in the proceedings and vote as though the challenge had not occurred if the member(s) publicly disclose the basis for disqualification prior to rendering a decision and each party has a full opportunity to present regarding the information relating to the issues. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine.

8.6.2 *Refusal to Abstain.* Should the Mayor or a Councilmember refuse to abstain from participation and voting on an issue after the City Attorney has determined that abstention is necessary, the challenged person may be disqualified from participating and voting on that issue upon a vote to disqualify that is passed by a majority of the other Councilmembers present who are eligible to vote on the underlying issue.

8.6.3 *Failure to Abstain.* Should the Mayor or a Councilmember fail to abstain from participation and voting on an issue where that officer knows or should have known that a conflict of interest is present or that the appearance of fairness would be compromised, such failure to abstain by the Mayor or Councilmember shall be presumed to constitute a lack of good faith for purposes of officer indemnity under RCW 4.96.041; provided that, nothing herein shall preclude the Council from determining that the Mayor or Councilmember acted in good faith upon a failure to abstain.

8.7 Failure to Vote. In the absence of an abstention on the basis of a conflict of interest, appearance of fairness, or other good cause, an abstention or failure to vote of a Councilmember present at the proceeding shall constitute an affirmative vote on the proposition or motion before the Council.

## **SECTION 9 – ORDINANCES AND RESOLUTIONS**

9.1 Ordinances. All ordinances shall be reviewed by the City Attorney. No ordinance shall be prepared or presented to the Council unless requested by two members of the Council, the Chair of a Council Committee, the Mayor, or the City Administrator. Unless waived, all ordinances shall be in writing, and the titles thereof shall be read aloud by the Presiding Officer prior to a vote being called. A motion and a second are required to bring an ordinance to a vote.

In accordance with RCW 35A.12.120 and .130, an ordinance must be adopted by the affirmative vote of at least a majority of the whole membership of the Council, subject to the Mayor's approval and Council reconsideration of a mayoral veto; provided that, public emergency ordinances require an affirmative vote of at least a majority plus one of the whole membership of the Council. A public emergency ordinance is one designated to protect public health, public safety, public property, or public peace.

In accordance with RCW 35A.12.160, either the full text of the ordinance or a summary shall be published as soon as practicable in the City's designated official newspaper after adoption. An ordinance becomes effective five (5) days after publication unless otherwise specified in the ordinance or as required by law.

9.2 Resolutions. Resolutions may be prepared or presented to the Council at the request of two Councilmembers, the Chair of a Council Committee, the Mayor, or

the City Administrator. All resolutions shall be in writing, and the titles thereof shall be read aloud by the Presiding Officer prior to a vote being called on their passage. A request for a full reading of a resolution need not be seconded.

Discussion and debate by the City Council on resolutions will be held prior to the vote on a resolution. Prior to voting on passage of a resolution, the Council may decide by majority vote to amend the resolution or direct staff to review the proposed resolution and make a report to the Council.

A resolution must be passed by an affirmative vote of at least a majority of the whole membership of the Council; if passed, the resolution becomes effective immediately.

## **SECTION 10 – PUBLIC COMMENTS**

- 10.1 Requesting to Speak. During the Public Comment period, members of the audience may comment on any matter related to City business. Persons addressing the Council who are not specifically scheduled on the agenda will be requested to fill out the speaker sign-in sheet at the City Clerk's desk, then step up to the podium, give their name and address for the record. All remarks must be addressed to the Council as a whole. The City Clerk shall serve as timekeeper. The Presiding Officer may make exceptions to the time restrictions when warranted. *See Subsection 3.5 for requests to make special presentations to the Council.*
- 10.2 Time Limit. Comments are limited to three (3) minutes per person. The Presiding Officer may adjust the time restrictions when warranted by special circumstances and after approval of a majority of Councilmembers present.
- 10.3 Advertising or Promoting Political Cause is Prohibited. Except as authorized or required by RCW 42.17A.555, no person may address the Council for the purpose of assisting a campaign for election of a person to any office or for the promotion of, or opposition to, any ballot proposition. Further, no person may address the Council for the purpose of advertising any item, service, or product for profit or otherwise.
- 10.4 Other Prohibited Remarks. Any person who causes actual disruption by making personal attacks, using hate speech, making slanderous remarks or other disruptive conduct while addressing the Council shall be barred from further participation by the Presiding Officer, unless permission to continue is granted by a majority vote of Councilmembers present.

## **SECTION 11 – LEGISLATIVE AND QUASI-JUDICIAL HEARINGS**

- 11.1 Legislative Hearings. Legislative public hearings are held to obtain public input on legislative decisions on matters of policy and in some instances are required by state law.
- 11.1.1 Before opening a legislative public hearing, the Presiding Officer shall state the hearing procedures.
  - 11.1.2 The Department Director or the Director's designee shall present the issue to the Council and respond to questions.
  - 11.1.3 A person may speak for up to five (5) minutes. A person may speak for up to ten (10) minutes if representing a group of two or more. No one may speak for a second time without the approval of the Presiding Officer, and only after everyone who wishes to speak has had an opportunity. The Presiding Officer may make exceptions to the time restrictions when warranted by the circumstances; provided that, the Council upon a motion and majority vote of Councilmembers present, may also make exceptions to the time restrictions or may overrule an exception granted by the Presiding Officer.
  - 11.1.4 The City Clerk shall serve as timekeeper during legislative hearings.
  - 11.1.5 After the speaker has used his or her allotted time, Councilmembers may ask questions of the speaker and the speaker may respond, but may not engage in further debate.
  - 11.1.6 The hearing will then be closed to public participation and open for discussion among Councilmembers.
  - 11.1.7 The Presiding Officer may request to change or modify the procedures at a particular meeting or hearing, but the decision to do so may be overruled by a majority vote of Councilmembers present.
  - 11.1.8 When necessary in the interests of fairness or when required by circumstances, the hearing may be recessed and continued to a date certain upon approval by a majority vote of Councilmembers present.
- 11.2 Quasi-judicial Hearings. Quasi-judicial hearings involve the legal rights of specific parties and afford procedural due process, which may include receiving testimony, making a record of the evidence considered by the Council and issuing specific Council findings. The following procedures shall apply:
- 11.2.1 Before opening a quasi-judicial hearing, the Presiding Officer shall state the hearing procedures.

- 11.2.2 The Department Director of the department most affected by the subject matter of the hearing, or said Director's designee, shall be afforded fifteen (15) minutes to present the City's position and findings. City staff shall be available to respond to Council questions.
- 11.2.3 The proponent or applicant spokesperson shall speak second and be allowed fifteen (15) minutes for presentation. The proponent may divide up the fifteen (15) minutes between more than one speaker and may reserve time to be added to the maximum time for rebuttal. Council may ask questions.
- 11.2.4 The opponent spokesperson, if any, shall speak third and be allowed fifteen (15) minutes for presentation, may divide up the fifteen (15) minutes between more than one speaker, and may reserve time to be added to the maximum time for rebuttal. Council may ask questions.
- 11.2.5 Each side shall then be allowed five (5) minutes for rebuttal, with the proponent spokesperson speaking first, followed by the opponent spokesperson. Any time reserved from the speaker's presentation may be added to the five minute limit.
- 11.2.6 After the proponent and opponent have used their speaking time, ten (10) minutes shall be allowed for the Council to ask further questions of the speakers, who shall be entitled to respond but who must limit their response to the question asked.
- 11.2.7 The City Clerk shall serve as timekeeper during these hearings. By motion and majority vote of Councilmembers present, the Council may extend the times provided in this Subsection 11.2.
- 11.2.8 When necessary in the interests of fairness or when required by circumstances, the hearing may be recessed and continued to a date certain upon approval by a majority vote of Councilmembers present; provided that, the record is closed for the entire period of continuance and only Councilmembers who were present for the earlier portion of the hearing, or Councilmembers who have had the opportunity to consider the entirety of the record (verbatim transcript or audio and/or visual recording), may participate when the hearing resumes. Examples of reasons to allow a recess include, but are not limited to, absence of a necessary party due to illness or emergency; request for additional argument on an issue by a majority vote of the Council; inability to complete the hearing due to circumstances beyond the parties' control, such as power failure or natural disaster.
- 11.2.9 Consistent with RCW 42.30.140(2), the Council may consider the matter in an executive session or otherwise.

- 11.2.10 Except as otherwise allowed by law, after the Council has publicly considered the arguments and evidence presented, the Council shall then vote on the issue that was the subject of the hearing.

## **SECTION 12 – TOWN HALL MEETINGS**

- 12.1 Purpose. Town Hall meetings provide a forum for Council members and community members to discuss City initiatives, emerging issues and community concerns, opinions and preferences regarding specific topics affecting the Black Diamond community, and for the City to respond to community questions. It is not the purpose of Town Hall meetings to take final action on any matter before the City Council.
- 12.2 Town Hall Agenda. The scheduling, agenda preparation and public comment period for Town Hall meetings shall conform to these Rules of Procedure, except that public comment may be limited to specific topics identified in the Town Hall meeting agenda. The speakers should limit their time to 10 minutes, to allow time for all speakers to speak. A second round of comment will be allowed, and speakers will be limited to three minutes. The Presiding Officer shall retain authority to impose rules of procedure to ensure open discussion during the Town Hall meeting, that people with opposing or different viewpoints receive an equal opportunity to speak, that everyone receive an opportunity to speak before any one speaker receives a second opportunity to speak, and that order and decorum is maintained. When necessary to ensure that everyone receive an opportunity to speak, the Presiding Officer shall retain authority to limit all persons' remarks to an equal period of time.
- 12.3 Staffing. City staff and the City Attorney shall not be required to attend Town Hall meetings unless otherwise directed by the Mayor; with the exception that, the City Clerk, or designee, shall attend Town Hall meetings for the purpose of keeping a journal of the minutes of the meeting and to act as the City Council's parliamentarian in the absence of the City Attorney.

## **SECTION 13 – MAYOR PRO TEMPORE SELECTION PROCESS**

Annually at the first meeting of a new Council, the members thereof, by majority vote, shall designate one of their members as Mayor Pro Tempore for such period as the Council may specify. The Mayor Pro Tempore shall serve in the absence or temporary disability of the Mayor. In the event the Mayor Pro Tempore leaves, the Council shall, by a majority vote, designate one of the remaining Councilmembers as Mayor Pro Tempore.

## **SECTION 14 – SELECTING A COUNCIL MEMBER PRO TEMPORE OR FILLING A VACANT COUNCIL POSITION**

- 14.1 Selecting a Councilmember Pro Tempore. In accordance with RCW 35A.12.065, in the event of extended excused absences or disability of a Councilmember, the remaining members by majority vote may appoint a Councilmember Pro Tempore to serve during the period of absence or disability.
- 14.2 Filling Vacant Council Position. In the event that an unexpired Council position becomes vacant, the City Council has ninety (90) days from the occurrence of the vacancy to appoint, by majority vote of a quorum of the Council, a qualified person to fill the vacancy in accordance with Chapter 42.12 RCW. The Council may make such appointment at its next regular meeting, or at a special meeting called for that purpose.

## **SECTION 15 – COUNCIL MEETING STAFFING**

- 15.1 The City Administrator or the City Administrator's designee must attend all meetings of the Council, unless excused.
- 15.2 The City Attorney shall attend all meetings of the Council unless excused, and upon request, may provide comment, either written or oral, on legal questions. An assistant city attorney shall attend meetings when the City Attorney has been excused or is unable to attend due to illness or emergency.
- 15.3 It shall be the responsibility of each Department Head to ensure that a department representative or other City staff attend as necessary to present the department's agenda items to the Council and answer Council member questions.

## **SECTION 16 – COUNCIL RELATIONS WITH STAFF**

- 16.1 The Mayor, City staff and Councilmembers shall respect the different roles each officer plays in a successful City and will strive to treat each other with courtesy and respect when questions, comments or criticism are expressed in a public meeting.
- 16.2 City staff will acknowledge the Council as policy makers, and the Councilmembers will acknowledge the Mayor and City staff as administrators of the Council's policies.
- 16.3 All written informational material requested of City staff by any individual Councilmember that the requesting Councilmember then intends to reference or introduce at a Council meeting shall be submitted or made available to all Councilmembers prior to being referenced or introduced at the meeting, unless other reasons preclude such distribution, in which case the reasons shall be

communicated by the requesting Councilmember to the Mayor or the Mayor's designee and such reason provided to all Councilmembers.

- 16.4 Councilmembers shall not attempt to coerce or influence City staff in the administration of personnel, the awarding of contracts, the selection of consultants, the processing of development applications or purchases of City licenses or permits.
- 16.5 Councilmembers shall not attempt to change or interfere with the operating rules and practices of any City department.
- 16.6 No Councilmember shall direct the Mayor or City staff to initiate any action or prepare any report that is significant in nature, or initiate any project or study, without the consent of at least a majority of the whole membership of the Council.
- 16.7 Individual requests for information can be made directly to Department Directors unless otherwise determined by the Mayor. If the request would create a change in work assignments or City staffing levels, the request must be made through the Mayor.

## **SECTION 17 – APPOINTMENT BY MAYOR & CONFIRMATION BY CITY COUNCIL – WHEN REQUIRED**

- 17.1 Mayor's Power to Appoint. In accordance with RCW 35A.12.090, the Mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service; provided that, in accordance with BDMC 2.08.020, each officer may hire any employee assigned to his or her department.
- 17.2 Confirmation by Council. In accordance with RCW 35A.12.090, confirmation by the City Council of mayoral appointments of officers and employees is required when City ordinance provides for the confirmation of such appointments. In addition, the City Council may require confirmation of mayoral appointments by the Council whenever the qualifications for the office or position have not been established by City ordinance.

## **SECTION 18 – COUNCIL COMMITTEES AND CITIZEN ADVISORY BOARDS**

- 18.1 Council Standing Committees.
  - 18.1.1 *Establishment.* The City Council, by a majority vote of at least the whole membership of the Council, is authorized to establish Council Standing Committees to provide recommendations on major policy items to the City Council.

- 18.1.2 *Mayoral Appointment/Council Confirmation.* The Mayor shall appoint the members of each Council Standing Committee with the Committee Chair appointed from the membership of the Council. Membership of any given committee may include no more than two (2) Councilmembers, including the Committee Chair. Annually at its first meeting in January, or as soon thereafter as practicable, the Council upon a majority vote of at least the whole membership of the Council shall confirm or decline the Mayor's appointments to Council Standing Committees.
- 18.1.3 *Agenda Setting/Proceedings.* The agenda setting and proceedings of each Council Standing Committee shall be as follows:
- a. The Committee Chair will work with the Mayor and City staff to finalize the agenda to help guide the direction of the meeting.
  - b. If the Committee Chair is unable to attend a scheduled meeting, the remaining Councilmember member shall chair the meeting.
  - c. In instances where a committee member cannot be present at a committee meeting, it is the responsibility of that member to contact an alternate Councilmember to attend in his or her place.
  - d. Committees may forward issues with or without changes to staff for recommendation to the City Council. Reports on the activities of the committees may be given under the Council Reports section of the Council agenda by the Committee Chair.
  - e. Matters forwarded from a Council Standing Committee to the City Council as a whole will remain at that level unless requested to be returned to Committee by a majority of the Council.
  - f. Matters may be removed from Council Standing Committees and brought before the Council as a whole by a motion of the Council receiving an affirmative vote of at least a majority of the whole membership of the Council.
  - g. Should a Council Standing Committee be split on whether a matter should be approved, the matter may move forward to Council without a recommendation. It is the Mayor's responsibility to bring matters before Council.
  - h. Frequency of Council Standing Committee meetings shall be determined by the Mayor and Committee Chair
  - i. Any direction from the Council Standing Committee for work to be performed by staff must be approved by the Mayor.

- j. Audience participation at a Council Standing Committee meeting is at the discretion of the Committee Chair.

18.1.4 *Standing Committees Authorized.* Standing Council committees may include, but shall not be limited to:

- a. *Budget/Finance/Administration Committee:* The Budget, Finance and Administration Committee, in conjunction with City Staff, may consider matters related to the financial issue of the City, including the annual and capital budgets including revenues and expenditures, sales of bonds, general fiscal and financial conditions, voucher approval, rates and fees, audit and operations of the City, including but not limited to, facilities and properties computerization, periodic budget and financial reports, and policy matters related to personnel, in coordination with the finance and administration departments.
- b. *Parks/Cemetery Committee:* The Park and Cemetery Committee, in conjunction with City Staff, may consider matters related to planning and implementation of park and recreational facilities, capital improvement program, trails and cemetery.
- c. *Planning/Community Services Committee:* The Planning and Community Services Committee, in conjunction with City Staff, may consider matters of a non-quasi-judicial nature related to community growth and development, including but not limited to, planning of the physical, economic, aesthetic and social development of the City, comprehensive plan, zoning code, and housing, annexation policies, code enforcement. This committee may also consider matters not included in other committee's scopes of authority.
- d. *Public Safety Committee:* The Public Safety Committee, in conjunction with City Staff, may consider issues related to the public health, safety and welfare of the citizens of Black Diamond including but not limited to, law enforcement, fire safety, court, hazardous materials, animal control, special events and emergency services.
- e. *Public Works Committee:* The Public Works Committee, in conjunction with City Staff, may consider matters related to water, sewer, solid waste, recycling, utility franchises, storm water management, transportation, capital improvement program, transit, streets, street lighting, signalization and street local improvement.

18.2 Task Force Committees and Intergovernmental Groups.

18.2.1 The Mayor or a majority of the whole membership of the City Council may establish Task Force Committees on an *ad hoc* basis to consider matters that require a special approach or emphasis. Task Force Committees may be established and matters referred to them at Council study sessions. The Mayor shall appoint Council representatives to intergovernmental councils, boards and committees. Such appointments and their terms shall be communicated to the Council by the Mayor as soon as practical.

18.2.2 Task Force Committees shall consider all matters referred to them. The Chair of each Task Force Committee shall report the findings of the Committee to the Council. Committees may refer items to the Council with no Committee recommendation. Once the Committee's findings have been delivered to the Council, the Committee's duties shall be considered complete and the Committee dissolved, unless specifically re-tasked by the Council.

18.3 Advisory Boards, Committees and Commissions. Citizen advisory boards, committees and commissions may be established by ordinance from time to time, and shall consist of citizens appointed pursuant to the establishing ordinance and serving in the capacity and for the purposes indicated in the ordinance; such boards, commissions and committees shall act in an advisory capacity to the City Council.

**SECTION 19 – SPEAKING WHEN REPRESENTING THE CITY COUNCIL**

19.1 An Official City Position Requires a Public Vote. The City does not have an official position on any issue, whether the issue is political or non-political in nature, unless in accordance with RCW 42.17A.555, the City Council has taken a public vote and at least a majority of the whole membership of the Council votes to adopt the position. Failure of a majority of the Council to vote in favor of a position pursuant to RCW 42.17A.555 shall not constitute adoption of a contrary position; in such cases the City shall continue to have no official position on the issue.

19.2 Personal Opinions Must Be Distinguished From City Positions on an Issue.

19.2.1 *Speaking to persons about issues.* Whenever the Mayor or a Councilmember is speaking to a person or group of persons and the Councilmember expresses an opinion on an issue, whether the issue is political or non-political, the Mayor or Councilmember must clearly state whether the opinion represents the official position of the City of Black Diamond and its City Council, or whether it is only the speaker's personal opinion.

- 19.2.2 *Speaking on behalf of the City.* If the Mayor or a Councilmember appears on behalf of the City before another governmental agency, a community organization, or through the media, for the purpose of commenting on an issue, the Mayor or Councilmember must state the official position of the City Council, if known, on such issue. Personal opinions and comments which differ from those of the official position of the Council may be expressed only if the speaker clarifies that these statements do not represent the City Council's position.
- 19.2.3 *Expressing the views of other Councilmembers.* Prior to representing the position of an elected City official on an issue to the media, another government agency, a community organization, or members of the public, the Mayor and Councilmembers must have permission from that elected official; provided that, presenting how another elected official voted in an official public vote of the Council shall not require permission.

## **SECTION 20 – TRAVEL AUTHORIZATION**

The City Council shall authorize and approve expenditures of city funds to pay for travel-related costs only in accordance with an adopted budget, and/or chapters 2.56 and 2.57 BDMC and/or the City's adopted administrative.

**SECTION 21 CONFIDENTIALITY**In General. Certain information is required to be kept confidential under state or federal law. The Mayor and Councilmembers must keep such information confidential when that information has been provided to them by City staff or otherwise becomes known to them during the performance of their duties in office. Confidential information includes, but is not limited to, certain personnel and employment information, certain information regarding pending labor and other contracts, and certain information regarding negotiations for the sale or purchase of property. It is the duty of the Mayor and each Councilmember to consult with the City Attorney should the official have a question about whether any particular information is confidential and may not be released.

- 21.2 Executive Sessions. The Mayor and Councilmembers must keep confidential all written materials and verbal information provided to them during Executive Sessions and may not provide them to persons not present during Executive Sessions, unless, after consultation with the City Attorney, such provision will not violate the confidentiality of Executive Session, or will not violate some other legal exemption or legal privilege..

# City Council Rules of Procedure

Date of Adoption: 02/05/2015

Resolution No. 15-1009

### Council Rules Comparison

Council Rule Revision	Authority	Morris	Talmadge	Ward	RMSA
Resolution 16-1069 legality					
Duties of the Mayor	RCW 35A.12.100	x		x	x
2.2 Notice of Preliminary Agendas	RCW 35A.12.160		x	x	
2.2 Approval of Council Agendas	RCW 35A.22.288, 35A.12.160,	x		x	x
2.2 Authority of Mayor Pro Tem	RCW 35A.12.065 The Mayor Pro tem serves in the absence or temporary disability of the mayor	x	x	x	
Preparation of Council Meeting Agenda	RCW 35A.12.100	x			
2.4 Town Hall Meetings					
2.7 Special Meetings					x
2.8 Executive Session	RCW 42,30.110				x
2.9 Cancellation of Meetings Authority	RCW 35A.12.100				x
3.1 Legality of Quorum on Council Committees		x			x
3.4 Roll Call--Add additionas/deletions/approval of agenda		x	x page 8 3rd paragraph		x
3.5.4 Scheduling of Presentations	RCW 35A.12.100		x page 9 2nd paragraph		x
3.6 Public Comments	Confusion with section 10	x			
3.19 Adjournment			x		x
4.2	Without the necessity of a vote thereon, the Presiding Officer may present atters before the council for discussion.	x			x
4.4 Limitations of Political Speech					
5.1.1 Excused Absence					x
8.3 Abstentions	RCW 42.23.070				x
8.3.2 Notice of intent to abstain					x
Pages 15 & 16 missing					x
8.3.3 Abstention confirmation by City Attorney					x
9.1 Ordinances	RCW 35A.12.100				x
9.1 Resolutions	Obtain Legal Review	x	x		
10.2 Public Comments Time Limits	Majority vote of Council	x	x		
12 Town Hall Meetings					
13 Mayor Pro Tempore					x
13 Council President	None	x			x

Council Rules Comparison

Council Rule Revision	Authority	Morris	Talmadge	Ward	RMSA
15.2 City Attorney Attendance at committee meetings	Attorney General Opinion No. 1997 No. 7	x	x		
15.3 Council Directing Staff	RCW 35A.12.100	x	x		
16.5 Directing Staff	Put old language back in-- legal issue		x		x
18.1.1 Staff Support to Committee Meetings	RCW 35A.12.100	x	x		x
18.1.3(d) "Sign Out"		x	x page 8 last paragraph		x
18.1.4(a) Eliminated working with City Staff		x	x		x
18.1.4(b) Quasi Judicial Review in Committees		x	x legal issue		x
18.1.4c Eliminated working with City Staff		x	x		x
19.1 An Official City Position...Public Vote					x
19.2 Speaking...					x
21.2 Executive Session Confidentiality	RCW 42.23.070(4)	x	x		x

RECEIVED  
CLERK OFFICE

JUL 14 2016

BY: Council member  
Edelman

# REFERENCE – PROPOSED TABLE OF CHANGES

Rules Version (Date)	Rule #	Rule Text	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Proposed July 14	See note	<i>The Rule 3.1 on preparation of the agenda should be put into Rule 2.2, putting the agenda preparation details and approval in one place.</i>		
Proposed July 14	2.4	Schedule of Regular Meetings. In accordance with BDMC 2.04.010, the regular meetings of the City Council shall be held on the first and third Thursdays of every month at 7:00 p.m. in the City Hall Council Chambers located at 25510 Lawson Street, Black Diamond, Washington. The regular meeting location may be changed by a majority vote of the City Council. Special Council Meetings will be held <del>on the second Thursday of the month at 6:00 p. m. and on other days</del> as required to accommodate the work of the Council Standing Committees (see Section 18). <del>“Work sessions” and “Town Hall” meetings shall be held bi-monthly (Jan, Mar, May, July, Sept, Nov) on the second Thursday of the month at 7:00 p.m. following the Special Council Meeting in the City Hall Council Chambers located at 25510 Lawson Street, Black Diamond, Washington as specified in BDMC 2.04.010.</del> The Town Hall Meeting will be adjourned by 9:00 p.m. unless otherwise amended by a majority vote of the Council.	<p><u>Update to avoid repeating BDMC, which over the long run means extra work to maintain and risk of inconsistency.</u></p> <p>Public comment supporting the proposed change shown was received at the Feb 11 Gov Ops committee meeting.</p>	
Not changed. See comment	2.5	Quorum Required. A quorum shall be required to transact Council business. The presence of a majority of the whole membership of the Council who are also eligible to vote at a Council meeting shall constitute a quorum. Should less than a quorum be present at the time of roll call, any Councilmember present may, upon belief that late arrival of one or more Councilmembers will enable a quorum to be created, make a motion that the Council meeting be recessed for up to one hour; should a quorum still be lacking at the end of the recess period, the meeting shall be adjourned. As authorized under RCW 42.30.090, the City Clerk may adjourn the meeting if all Councilmembers are absent.	<p>RMSA’s Roger Neal felt the language about the quorum was unnecessary.</p> <p>Neal also uses “Roberts Rules” – he clearly does not contemplate that the mayor may unilaterally decide not to follow Roberts rules. Such unorthodox behavior that has potential for the executive branch to interfere with the legislative branch probably would create concern for the Risk Management pool.</p>	

Proposed July 14	3.1 (note: this should be moved / added to 2.2)	<p><u>Preparation of Council Agenda.</u> Items of New Business to be included on the agenda for first reading at a Council meeting should be submitted to the City Clerk <b><i>with council introduction</i></b> seven days prior to the scheduled Council meeting. Items should also be sent to the Mayor Pro Tempore for assignment to Council Committee. This allows the preliminary agenda to be prepared and public notice issued prior to the Council meeting.</p> <p>Items of Unfinished Business that have received a recommendation from a Council standing committee or have been removed from Council Committee for placement on next regular council agenda by the committee chair two or more days prior to the meeting should be placed on the next available Regular Council Meeting Agenda.</p> <p>To avoid unnecessary revisions at the meeting itself, Agenda Items submitted after these timeframes days should be added to the agenda and revised notice given as needed, but the Council may defer the items until the next Council meeting date. Nothing in these rules is intended to prevent the Council from revising its agenda at a Regular Council meeting as Council business warrants.</p> <p><del>Preparation of Council Agenda. All items to be included on the agenda for consideration at a Council meeting should be submitted to the City Clerk in full no later than 10:00 a.m. nine days prior to the scheduled Council meeting; provided that items that have received a "do pass" recommendation from a Council Standing Committee may be placed on the next available Regular Council Meeting Agenda. Once the agenda has been finalized and provided to the Council, items added to the agenda may be declined to be considered by the Council at the meeting for which the agenda was prepared, until a future Council meeting date, which date shall be specified by the Council.</del></p>	<p>This incorporates comment given to Gov Ops committee Feb 11 regarding timing of recommendations from committees and the number of days ahead of the next regular meeting.</p> <p>Language about tabling or postponing to future meeting date is removed because the Council uses the rules outlined in Section 7 to postpone any item as it wishes (the prior language was redundant).</p>	<p>Page 6:          “There is no doubt Washington law gives the Council the right to determine its own rules, procedures, and order of business. RCW 35A.12.120 and 35A.11.020 so provide. Such a provision is entirely consistent with long held principles of law that legislative bodies have the right to regulate their own internal affairs.”</p>
Proposed July 14	3.5 (new)	<p><u>Approval of or Updates to Agenda.</u> The Council shall approve or amend the meeting agenda. This does not preclude the Council from revising the agenda at any other time.</p>	<p>Roberts Rules and various attorneys agree this should be part of the agenda.          A public comment was also made to the Gov Ops committee that this should be incorporated.</p>	
Proposed July 14	3.10 or old 3.9	<p><del>Agenda Modifications. The Presiding Officer shall announce any changes to the Council's published agenda.</del></p>	<p>This is replaced with Council Rule proposal 3.5. The Council will approve or amend the agenda by vote of the council.</p>	

Not changed	5.1.1	5.1.1 Excused Absence. Councilmembers shall inform the Mayor or City Clerk in advance if the Councilmember will be unable to attend, or will be late to attend, any Council meeting. The Presiding Officer shall then announce during roll call that the Councilmember will be absent or late. Any absence following prior notice to the Mayor or City Clerk shall be noted in the minutes as an excused absence. Absence at a scheduled Council meeting due to sudden illness or emergency shall be noted in the minutes as an excused absence due to illness or emergency.	Quote with Emphasis added: <b><u>“Any absence following prior notice</u></b> to the Mayor or City Clerk <b><u>shall be noted in the minutes as an excused absence.”</u></b>  The language is clear. The Council has decided that notice to the Mayor or Clerk constitutes an excused absence. This is a decision of the council, made by passing these rules. This has been the Rule for many years.	
Not changed	7.2.16	The Mayor, City Attorney or City Clerk shall repeat the motion prior to voting by the Council.	Note that this should be followed and rarely has been this year.	
Proposed July 14	13.2	<u>The Office of Council President is created to perform such duties as may be assigned by Council Rules and other duties assigned or delegated by the Council.</u> Annually at the first meeting of a new Council, or soon thereafter, the members thereof, by majority vote, shall designate one of their members as Council President. <del>The Council President shall perform such duties as may be assigned by Council Rules.</del>	Some thought the old language sufficiently created the office of Council President, but some felt it was not clear, so this has been re-worded for future clarification.  Section 2.2 and section 18 provide certain duties for the Council President related to setting meetings and agendas.	
Not changed	16.5 (in 2015, this was 16.6)	No Councilmember shall direct the Mayor or City staff to initiate any action or prepare any report that is significant in nature, or initiate any project or study, without the consent of at least a majority of the whole membership of the Council.	This was unchanged from the old rules. It says the council can direct the mayor or staff. Of course, in reality they cannot. They can take a vote to have a report or project or study prepared, but the mayor does not have to abide. The point is this did not invalidate the rules.	

With additional wording change " <u>prop</u> <u>osed</u> " July 14	18.1.1	... Upon submittal by a Councilmember, Mayor, or City Administrator, all <b><u>proposed</u></b> ordinances and resolutions shall be referred by the Mayor Pro Tempore to the Council Standing Committee that has jurisdiction over the subject matter of the legislation. ...		
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# REFERENCE – HISTORICAL TABLE OF CHANGES

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	2.2	<p>Agenda. The City Clerk shall be responsible for preparing agendas for all City Council meetings that specify the time and place of the meeting and set forth a brief general description of each item to be considered by the Council. The agenda is subject to approval by the Mayor Pro-Tempore and Council President... <del>or the Mayor's designee.</del></p>	<p>The Council is responsible and accountable for setting its own Agenda. It is customary for Councils to approve their agendas at the start of a meeting. However, in order to provide a public notice, it is necessary for a published agenda to be prepared. The rule change provides for the Council to delegate its authority to set the agenda for public notice to two elected representatives of the Council, the Mayor Pro Tempore and the Council President. The alternative of delegating the agenda to the Mayor only works where the Council and Mayor are in close agreement about the business of the city. In a strong mayor form of government, the Council is an equal branch of government and needs to preserve its authority to conduct its business and not be blocked from taking action on an issue simply because it wasn't included for public notice by the Mayor.</p> <p>Opportunity is provided for input from the Mayor and others by requesting a council "introduction" of any item. Mayor Pro Tem and Council Pres will approve all items that have a council sponsor.</p> <p>Items for the agenda can come from anyone, but all require a council member sponsor to appear on the agenda for first reading.</p>	<p>Page 6: "The broad statutory powers given to the Council to manage its internal affairs, would allow the approval of the agenda under Rule 2.2 to be placed in the Mayor Pro-Tempore and Council President."</p> <p>"While statute provides that the Mayor is the presiding officer, there is no statute that specifically provides that the Mayor /Presiding Officer controls the agenda of the legislative assembly. Control of the agenda is intrinsic to controlling the internal affairs of the Council, a matter statute gives to Council alone. Saying what is on the agenda may affect staffing needs and budgets does not mean the Mayor therefore gets control."</p> <p><i>Additionally from page 3:</i> RCW 35A. 11.020 entitled "Powers vested in legislative bodies of noncharter and charter code cities" gives sweeping powers to the Council as the City's legislative body. It provides in applicable part:</p> <p>The legislative body of each code city shall have the power to organize and regulate its internal affairs within the provisions of this title and its chapter, if any, and to define the functions, powers, and duties of its officers and employees ...</p> <p>Such body may adopt and enforce ordinances of all kinds relating to, and regulating its local or municipal affairs and appropriate to the good government of the city ...</p> <p>The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law.</p> <p>Under this provision, any question as to the power of the Council is resolved in favor of Council power unless that power is specifically denied it by law.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	2.9	<p>Cancellation of Meetings. <del>The Mayor, or in the absence of the Mayor the Mayor Pro Tem, or a</del> Any three members of Council may cancel a meeting <del>and</del> upon proper notice <del>given by the</del> <u>given to the</u> City Clerk.</p>	<p>If the Council wishes to meet, the mayor should not be able to prevent the meeting. The state law specifically contemplates that the mayor might not attend because state law creates the Mayor Pro Tempore to fill in during absence of mayor.</p> <p>In plain language, the MRSC handbook says "it is the Council's meeting."</p>	
Passed Jan 21	3.1	<p>Preparation of Council Agenda. All items to be included on the agenda for consideration at a Council meeting should be submitted to the City Clerk in full no later than 10:00 a.m. nine days prior to the scheduled Council meeting; <u>provided that items that have received a "do-pass" recommendation from a Council Standing Committee may be placed on the next available Regular Council Meeting Agenda.</u> Once the agenda has been finalized and provided to the Council, items added to the agenda may be declined to be considered by the Council at the meeting for which the agenda was prepared, until a future Council meeting date, which date shall be specified by the Council.</p>	<p>See "powers of the mayor" in the RCW, and see "powers of the Council."</p> <p>The RCW does not give the mayor power over the agenda because no RCW says they mayor writes or approves the agenda. The Council's authority over its internal affairs clearly affords the Council the decision over how to set its own agenda.</p>	

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	3.5.4	<p>Presentations. Any person(s) or organization(s) wishing to make a presentation to the Council <del>must</del> <u>should</u> first submit a completed "Request to be on Council Agenda Form" with the City Clerk. <del>The request should be made at least two weeks prior to the intended Council date. The Mayor or the Mayor's designee will determine if the proposed presentation is approved and will notify the applicant of the selected meeting date. If the presentation is not approved, the Mayor or the Mayor's designee will notify the applicant of the decision and the reason(s) for the decision. Presentations will not last more than five (5) minutes in length or unless at the request of the Mayor or Mayor's designee. Upon approval by the Mayor Pro Tempore and the Council President and at least one other Council member prior to the meeting, or</del> <u>Upon motion and approval of a majority of Councilmembers present at the meeting, the Council may authorize presentations and may determine their length.</u></p>	<p>The presentation recommendation by Talmadge-Fitzpatrick is not legally required. We may at times find it cumbersome to have a vote of the council at a prior meeting about a future presentation, and it certainly would be cumbersome to wait until meeting night. I liked the idea of delegating two councilmembers to take care of these details. If they do it in a way the council does not like, the council could change the rules and take away their responsibility. The Council can ALWAYS take a majority vote to authorize a presentation at any regular meeting.</p> <p>THE RULES OF PROCEDURE ARE SO THAT WE DON'T HAVE TO DO EVERY PROCEDURAL DECISION BY A VOTE AT THE MEETING.</p>	<p>The revised amendments to Rule 3.5.4 relate to presentations. Two- week notice is a good idea, was not mandatory previously, and does allow for better planning. Instead of arguing about whether the Mayor or someone else needs to approve the presentation, the Council may simply want to use the language in the last sentence that upon motion and approval of a majority of Councilmembers present at the meeting, the Council may authorize presentations and may determine their length..</p>
Passed Jan 21	3.6	<p>Public Comments. Members of the audience may comment on any matter related to City business during the Public Comment period. <i>See Section 10.</i></p>	<p>Public comment was moved to <i>before</i> the Consent Agenda. Reason: The public may want to comment on the consent agenda and the Council should hear those comments before voting.</p>	
Passed July 7 Proposal for July 14 also shown with double underline.	3.7 (Due to add of 3.5, this is now 3.7, not 3.6)	<p><u>Public Comments. Members of the audience may comment on any matter related to City business during the Public Comment period. <a href="#">If the comment is related to an item that has a separate comment period on the agenda, the presiding officer will inform the <del>the</del> speaker that if they would like their comment to be part of the legal record for that item, the speaker should make those comments during the separate comment period for that specific matter.</a> See Section 10 <u>and Section 11.</u></u></p>	<p>Propose change to remove typo where "the" is added twice in a row, and add "and Section 11" to the end.</p> <p>Clarify how to handle public comments when there is a separate comment period for certain agenda item(s).</p>	<p>Page 9: "Care must be taken in regard to revised Rule 3.6, not to confuse a general public comment period for items not on the agenda with specific matters where public comments become part of the record for legal reasons. A reference to Section 11 would improve clarity here."</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	3.7 (3.8 in latest proposal )	Consent Agenda. Approval of the Consent Agenda, including items considered to be routine and non-controversial, may be approved by one motion. <u>All Consent Agenda items shall be made available to the Councilmembers in their Council Packet.</u> Any Councilmember may remove any item from the Consent Agenda for separate discussion and action.	Note that the agendas prepared this year have been out of order – Consent Agenda should come after public comment.  Remember when we switched places for the public comments to appear on the agenda before the consent agenda at the time we asked that the consent agenda be part of the packet available on line for the public in case they had input on the consent agenda for us as it is their money we spend.	
Passed Jan 21	3.19	Adjournment. With no further business to come before the Council, the Presiding Officer may adjourn the meeting <u>upon motion and majority vote of the Council.</u>		
Passed Jan 21	3.20	Recess. The foregoing agenda may be interrupted for a stated time as called by the Presiding Officer or <u>any three Councilmembers</u> to recess for any reason, including executive sessions		
Passed July 7	3.21	<u>Recess.</u> The foregoing agenda may be interrupted for a stated time as called by <del>the Presiding Officer or any three Councilmembers</del> to recess for any reason, including executive sessions.	It is the council's meeting. A recess should be by vote of Council.  Revise 3.20: Clarify that a majority of the council present must approve a recess.	
Passed Jan 21	4.3	Reordering Items on Agenda. <u>Any three Councilmembers may reorder items on the Agenda.</u> <del>Without the necessity of any vote thereon, Presiding Officer may present matters before the Council for discussion, consideration and voting in a different order than they appear in the agenda when matters on the agenda are able to be placed under more than one classification or category.</del>	Public comment to Gov Ops committee also said, as did RMSA and Talmadge, that this was unnecessary.	Page 7: "The power to control its own agenda also allows the Council to divest the Mayor of the power to reorder items on the agenda as is proposed in amendment to Rule 4.3."

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	7.1	Robert's Rules Supplementary. Except as provided in these Rules of Procedure, all City Council meetings shall be governed by ROBERTS RULES OF ORDER, NEWLY REVISED (latest edition). The City <del>Attorney</del> Clerk shall act as Parliamentarian. <del>when present; otherwise, the City Clerk shall act as Parliamentarian.</del>	Everyone at the city has a copy of Roberts and has been using it, so the committee is not seriously interested in change away from it at this time.	Page 9: "Revised Rule 7.1 provides the City Clerk shall be the parliamentarian. That is legally acceptable. The section also provides that Robert's Rules of Order will govern. As noted supra, the Legislature uses Reed's Parliamentary Rules. The Council may wish to utilize these since they are probably better designed for legislative bodies."
Passed Jan 21	7.2.4	A motion that receives a tie vote is deemed to have failed; provided that, <del>except where prohibited by RCW 35A.12.100 or other law,</del> the Mayor shall be allowed to vote to break a tie vote <u>when authorized by RCW 35A.12.100.</u>		Page 8: "The revised changes to the rules of procedure providing that the Mayor has the right to vote in the case of a tie in accordance with RCW 35A.12.100 is acceptable since it comports with the statutory requirements."
Passed Jan 21	7.2.11	A "motion to call for the question" shall immediately close debate on the main motion and is not debatable. This motion must receive a second and fails without an affirmative vote of at least <u>a majority of</u> all of the Councilmembers present <del>minus one</del> . Debate is reopened if the motion fails.	The unproductive repetitive comments at this year's meetings demonstrate why this is necessary.	
Passed Jan 21	8.4	<del>8.4 Votes by Mayor. Except where prohibited by law, the Mayor may only vote to break a tie vote of the Council and only with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money.</del>		
Passed July 7	8.5.4	This line of the table is only included because there was a numbering change (technical formatting error)– 8.5.4 was skipped in Jan 21 rules, and it went straight to 8.5.5.	In July 7 version, Formatting/numbering typo that existed Jan 21 was fixed.	
Passed Jan 21	8.5.5	Failure to Vote. In the absence of an abstention on the basis of a conflict of interest, appearance of fairness, or other good cause, an abstention or failure to vote of a Councilmember present at the proceeding shall <u>be recorded as a vote on the prevailing side.</u> <del>constitute an affirmative vote on the proposition or motion before the Council.</del>		

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	9.1	<p>Ordinances. <u>All ordinances must be introduced by a Councilmember and placed on the first available City Council Agenda for first reading and assignment by the Mayor Pro Tempore to the Council Standing Committee with jurisdiction over the subject matter of the ordinance.</u> <del>All ordinances shall be reviewed by the City Attorney.</del> No ordinance shall be prepared or presented to the Council unless requested by two members of the Council, the Chair of a Council Committee, the Mayor, or the City Administrator. Unless waived, all ordinances shall be in writing, and the titles thereof shall be read aloud by the Presiding Officer prior to a vote being called. A motion and a second are required to bring an ordinance to a vote. <u>Every ordinance should be reviewed by the City Attorney during Council Standing Committee review or before consideration by the City Council on final adoption,</u></p> <p>...</p> <p>Resolutions. <u>All resolutions must be introduced by a Councilmember and placed on the first available City Council Agenda for first reading and assignment by the Mayor Pro Tempore to the Council Standing Committee with jurisdiction over the subject matter of the resolution.</u> Resolutions may be prepared or presented to the Council at the request of two Councilmembers, the Chair of a Council Committee, the Mayor, or the City Administrator. All resolutions shall be in writing, and the titles thereof shall be read aloud by the Presiding Officer prior to a vote being called on their passage. A request for a full reading of a resolution need not be seconded.</p>	<p>The mayor Pro Tem has a specific duty to assign to committees here. The mayor pro tem is paid slightly more than the other councilmembers, so adding additional work to that person is more fair.</p> <p>On the other hand, we could contemplate creation of Council Vice-President to take on Council duties assigned in the Council Rules of Mayor Pro Tem, as some people have found it confusing that the Mayor Pro Tem has additional city/council duties not assigned in state law.</p> <p>Regarding Attorney review: We have had some very very minor changes in an ordinance from time to time, and for this reason it should be mandatory. Additionally, if a councilmember gets an ordinance from an example in place in another city or from another attorney, they may reasonably judge that it is not needed and save the city money. The memo does not say it would be illegal to keep our rules as they are, so we should keep them as they are. The Council expects and trust its members to seek competent attorney review when needed.</p>	<p>Page 9: "Revised Rule 9.1 removes the mandatory review of ordinances by the City Attorney. It replaces it with language that the City Attorney "should" review ordinances. Since ordinances are laws adopted by the City, we suggest keeping the mandatory review procedure.</p> <p>Revised Rule 9.1 is silent about review by the City Attorney. Resolutions can constitute City policy. Review by the City Attorney is suggested, at least as to resolutions that could affect City policy and potential legal liability."</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	10.1	<p>Requesting to Speak. During the Public Comment period, members of the audience may comment on any matter related to City business. Persons addressing the Council who are not specifically scheduled on the agenda will <del>be requested to fill out the speaker sign-in sheet at the City Clerk's desk, then</del> step up to the podium, give their name and address for the record. All remarks must be addressed to the Council as a whole. The City Clerk shall serve as timekeeper. <u>Upon motion by a Councilmember without objection, or upon a vote of a majority of Councilmembers,</u> <del>t</del>The Presiding Officer <u>will allow</u> <del>may make</del> exceptions to the time restrictions <del>when warranted</del>. <i>See Subsection 3.5 for requests to make special presentations to the Council.</i></p>		
Passed Jan 21	10.2	<p>Time Limit. Comments are limited to three (3) minutes per person. The <u>Council Presiding Officer</u> <del>may</del> adjust the time restrictions when warranted by special circumstances and after approval of a majority of Councilmembers present.</p>		

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	11.1.3	<p>Section 11.1 Legislative Hearings ...</p> <p>A person may speak for up to five (5) minutes. A person may speak for up to ten (10) minutes if representing a group of two or more. No one may speak for a second time without the approval of the <u>Council</u> Presiding Officer, and only after everyone who wishes to speak has had an opportunity. The <del>Presiding Officer</del> <u>Council</u> may make exceptions to the time restrictions when warranted by the circumstances; provided that, the <del>Council</del> upon a motion and majority vote of Councilmembers present, may also make exceptions to the time restrictions or may overrule an exception granted by the <del>Presiding Officer</del>.</p>		
Passed Jan 21	11.1.5	<p>Section 11.1 Legislative Hearings ...</p> <p>After the speaker has used his or her allotted time, Councilmembers may ask questions of the speaker and the speaker may respond, but may not engage in further debate.</p>		
Passed Jan 21	<del>11.1.7</del>	<p>Section 11.1 Legislative Hearings ...</p> <p>The <del>Presiding Officer</del> may request to change or modify the procedures at a particular meeting or hearing, but the decision to do so may be overruled by a majority vote of Councilmembers present.</p>	<p>It's the Council's meeting. Changing the procedures at a particular meeting should be achieved with decision-making authority the Council has as defined elsewhere.</p>	

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	13	<p>SECTION 13 – MAYOR PRO TEMPORE <u>AND COUNCIL PRESIDENT</u> SELECTION PROCESS</p> <p>Annually at the first meeting of a new Council, the members thereof, by majority vote, shall designate one of their members as Mayor Pro Tempore for such period as the Council may specify. The Mayor Pro Tempore shall serve in the absence or temporary disability of the Mayor. In the event the Mayor Pro Tempore leaves, the Council shall, by a majority vote, designate one of the remaining Councilmembers as Mayor Pro Tempore.</p> <p><u>Annually at the first meeting of a new Council, or soon thereafter, the members thereof, by majority vote, shall designate one of their members as Council President. The Council President shall perform such duties as may be assigned by Council Rules.</u></p>	<p>State law seems sufficient without the addition of language suggested by RMSA?</p> <p>The mayor pro tempore may also be assigned other duties in addition to the mayor pro tempore duty that are available to her because she is a council member not because he is a Mayor pro tempore. (Black Diamond has never appointed a non-council member as Mayor Pro Tempore.)</p>	
Passed Jan 21	15.2	<p>Section 15 – Council Meeting Staffing...</p> <p>15.2</p> <p><u>The City Attorney shall attend all meetings of the Council and Council Standing Committees upon request by, unless excused, a Council Standing Committee chair or any three Councilmembers, and upon request by a Councilmember, may provide comment, either written or oral, on legal questions. An assistant city attorney shall attend meetings when the City Attorney has been excused or is unable to attend due to illness or emergency.</u></p>	Older wording, see next table row.	

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed July 7	15.2	The City Attorney shall attend meetings of the Council and Council Standing Committees upon request by a Council Standing Committee chair or any three Councilmembers, and <del>upon request by a Councilmember</del> , may provide comment, either written or oral, on legal questions.	<p>Removed language that may be confusing on whether the attorney can provide advice. The city attorney can provide advice as his or her professional judgment finds warranted.</p> <p>Remember the committee has a section that says they can ask the attorney questions. As cost savings the attorney is not necessary. Attorney didn't come to old committee meetings.</p> <p>The previous language did not preclude the attorney from giving advice at other times. It doesn't say that the council will control what legal advice the attorney provides.</p>	Page 9: "Revised Rule 15.2 purports to designate what meetings the City Attorney attends and when the City Attorney may provide legal advice. The Council cannot control what legal advice the City Attorney provides. Instead of having this rule create problems relative to the role of the City Attorney, it is recommended that the City Attorney, or his or her deputy, attend full Council meetings and other types of meetings as necessary and have this specified in the contract for legal services."
Passed Jan 21	15.3	<del>It shall be the responsibility of each Department Head to ensure that a department representative attend or other City staff attend as necessary to present the department's agenda items to the Council and Council Standing Committee meetings and answer Council member questions.</del>		
Passed July 7	15.3	<del>It shall be the responsibility of each Department Head to ensure</del> <u>is recommend that department heads review committee schedules and if needed send that a department representative to attend Council and Council Standing Committee meetings and answer Council member questions. Department heads are also encouraged to give input to scheduling of committees and committee agendas to coordinate staff attendance if needed.</u>	Agreed with Talmadge -Fitzpatrick. Passing this Rule was in compliance with the old rule 16.6 now 16.5 – which contemplates that a Council vote can be taken that sets the council position with regard to direction to the mayor or staff ... with that rule, we recognized it is not enforceable if the mayor doesn't wish to take the action. But the Council position is on the record to provide the council's wishes to the mayor. The new 15.3 clarified that Council cannot direct staff to attend committee meetings, and replace with language recommending attendance and coordination as needed.	Page 9-10: "Revised Rule 15.3 purports to direct City staff as to attendance at meetings. The Council does not have supervisory authority over City staff.  It is recommended this provision be removed. It is suggested the former language be used with the addition of Council committee meetings."
Passed Jan 21	16.4	Councilmembers shall not attempt to coerce <del>or influence</del> City staff in the administration of personnel, the awarding of contracts, the selection of consultants, the processing of development applications or purchases of City licenses or permits.		Page 10: "Revised Rule 16.4 removes the words "or influence" City staff. This change is probably warranted since "influence" is a broad, vague term that any inquiry could cause certain individuals to claim it was impermissible "influence." The Council may wish to insert "direct" in its place. See next discussion."

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	16.5	<del>Councilmembers shall not attempt to change or interfere with the operating rules and practices of any City department.</del>	<p>It is important to remember that the RCW gives the Council the power to designate by ordinance the duties of appointive officers, who are often department heads. Therefore, including this language may create confusion when trying to update an ordinance on an appointive position. As the attorney stated, the revised language does not permit interference with the running of a department, so it is completely legal to remove it.</p> <p>Attorneys Talmadge and Fitzpatrick Clearly states that the new rule as changes is not illegal. I prefer to keep unnecessary things out of the rules and don't recommend change.</p>	Page 10: "Revised Rule deleting the old 16.5 is not recommended. The Council's role is legislative and it acts as a policy maker. It is legally dangerous to have Council or members of it attempt to interject themselves into the running of City departments that fall under the Mayor's jurisdiction . While the deletion does not permit that, the deletion might be construed as authorizing that."

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Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	18.1.1	<p>Establishment. The City Council, by a majority vote of at least the whole membership of the Council, is authorized to establish Council Standing Committees. <u>Upon submittal by a Councilmember, Mayor, or City Administrator, all ordinances and resolutions shall be referred by the Mayor Pro Tempore to the Council Standing Committee that has jurisdiction over the subject matter of the legislation. No ordinance or resolution shall be placed on the Council Agenda for final action unless it has received a "do-pass" or "no recommendation" recommendation by a Council Standing Committee; provided that this provision shall first apply to the Regular Council Meeting scheduled for February 18, 2016; and provided that any ordinance or resolution may be relieved from committee and placed on the Council Agenda for action by any three Councilmembers.</u> <del>to provide recommendations on major policy items to the City Council.</del></p> <p><del>Mayoral Appointment/Council Confirmation. The Mayor shall appoint the members of each Council Standing Committee with the Committee Chair appointed from the membership of the Council. Membership of any given committee may include no more than two (2) Councilmembers, including the Committee Chair. Annually at its first meeting in January, or as soon thereafter as practicable, the Council upon a majority vote of at least the whole membership of the Council shall confirm or decline the Mayor's appointments to Council Standing Committees.</del></p>	<p>The Tal-Fitz comment on staffing costs not being relevant to the internal organization of the council is useful, given the mayor's latest report on staffing costs.</p>	<p>Page 8: "Issues have arisen in regard to appointments to committees. This is an internal matter relating to the internal organization of the Council. Accordingly, it is within the power of the Council to specify how such appointments are made."</p> <p>Page 10: "Revised Rule 18.1.1 has established a process to allow the appointment of committees. That is an internal matter of organization of the Council. The Mayor has no role in deciding or continuing the committees as adopted by Council. Increased staffing and cost are matters that the Mayor may appropriately bring before Council to be addressed."</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	18.1.2	<p><u>Appointment of Council Standing Committee Chair and Members. Annually at its first meeting in January, or as soon thereafter as practicable, the Council upon a majority vote of at least the whole membership of the Council shall approve the membership and Chairs of the Council Standing Committees. Committee Chairs and members may be removed or added by a majority vote of the full Council at a Regular or Special City Council meeting."</u></p>	<p>Controlling its own committees is a basic right of the Council.</p>	
Passed Jan 21	18.1.3. a and b	<p><del>18.1.2</del> <u>18.1.3</u> <u>Agenda Setting/Proceedings. The agenda setting and proceedings of each Council Standing Committee shall be as follows:</u></p> <p>a. <u>The Committee Chair shall set the Committee schedule and agenda. will work with the Mayor and City staff to finalize the agenda to help guide the direction of the meeting. All meetings shall be noticed in the same manner as Council meetings and be conducted in accordance with the Open Public Meetings Act RCW 42.30. Whenever possible, Committee meetings shall be conducted on week-day evenings. The Mayor Pro Tempore and the President of the Council shall work with Committee Chairs to coordinate committee schedules so as to avoid conflicts, allow participation by appropriate staff, and enable the efficient conduct of Regular Council Meetings.</u></p> <p>b. <u>The Committee Chair shall designate a member of the committee to act as Vice-Chair. If the Committee Chair is unable to attend a scheduled meeting, the Vice-Chair remaining Councilmember member shall chair the meeting.</u></p>	<p>Regarding Committee meetings, the RCW clearly contemplates that the Council can schedule a Council meeting, by saying any 3 members can call a meeting and also by providing for a Mayor Pro Tem or appointment of other presiding officer in absence of mayor.</p>	

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed July 7	18.1.3. a.	<p>The Committee Chair shall set the Committee schedule and agenda. All meetings shall be noticed in the same manner as Council meetings and be conducted in accordance with the Open Public Meetings Act RCW 42.30 and noticed as <u>committee meetings using the process traditionally used by the City Clerk to notice committee meetings.</u> Whenever possible, Committee meetings shall be conducted on week-day evenings. The Mayor Pro Tempore and the President of the Council shall work with Committee Chairs to coordinate committee schedules so as to avoid conflicts, allow participation by appropriate staff, and enable the efficient conduct of Regular Council Meetings.</p>	<p>Added clarification on notice for committee meetings.</p> <p>Note that the Mayor’s attorney recommended both Committee notice as well as special meeting notice. So, Accordingly, so far this year when committee meetings are noticed, the Clerk was noticing committee meetings both ways and this wasn’t an issue.</p>	<p>Page 8: “We are aware that having three members of Council serve on a committee has some special legal requirements. Because three persons is a majority of Council, special attention must be paid to requirements of the Open Public Meetings Act. RCW 42.30. The Act's requirements are triggered at any point that the governing body of a public agency has a meeting as defined by the Act. RCW 42.30,090. As a committee of Council, it is a "governing body" when it "acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." RCW 42.30.020(2). If the committee takes any "action," it is subject to the Act. The definition of "action" is quite broad under Washington law. See AGO 2010 No. 9. Accordingly, commensurate with the aforementioned AGO, public notice and following the other requirements of the Open Public Meeting Act should be given both for the committee meeting and also as a meeting of the Council. Rule 18.1.3a should be clarified to provide notice for both the committee and the Council to insure compliance with the Open Public Meeting act.”</p>
Passed Jan 21	18.1.3. c	<p><u>Under the direction of the Chair, Council Standing Committees shall review all ordinances and resolutions. The Committee may amend and forward to the Council with a "do pass" recommendation all legislation that has been referred to it by the Mayor Pro Tempore. The Committee may also forward legislation to the Council with "no recommendation". Matters Legislation may be held in Committee by the Chair; provided that the Committee may be relieved of legislation by a majority vote of the whole membership of the Council.</u></p> <p><del>18.1.3 In instances where a committee member cannot be present at a committee meeting, it is the responsibility of that member to contact an alternate Councilmember to attend in his or her place.</del></p>	<p>The committee meeting notice and rules on recommendations address the concerns about action, making it clear that committees only take certain actions. See also legal memo on this subject by attorney K. George.</p> <p>Additional comment: the old committee system also took action of making recommendations to full council when only two council members were in attendance. Having it noticed properly in the new system is more open and more compliant with OPMA.</p>	<p>Page 10: “Revised Rule 18.1.3(d) references resolutions being "signed-out." It is not clear what that means. If the term is to be used, it should be defined. "Approved" might be the more operative term.”</p>

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Passed July 7	18.1.3.c	<p>Under the direction of the Chair, Council Standing Committees shall review all ordinances and resolutions. The Committee may amend and forward to the Council with a "do pass" recommendation all legislation that has been referred to it by the Mayor Pro Tempore. The Committee may also forward legislation to the Council with "no recommendation". <u>A committee recommendation does not constitute enactment of any ordinance or resolution.</u> Legislation may be held in Committee by the Chair; provided that the Committee may be relieved of legislation by a majority vote of the whole membership of the Council.</p>	<p>Add clarification that recommendations do not enact resolutions or ordinances.  In order to further protect the city, given the broad definition of "final action", we have selected the word "enactment" to be even more clear.</p> <p>Recommendations of committees were and are spelled out as the committees' authority. No authority was given or probably could be given to enact anything.  Note that committee meeting notices included the statement for all items subject to getting a recommendation: "Action may be taken in the form of a recommendation to the full council per rule 18.1.1." Perhaps the council would like to include this notice requirement in the rules?</p> <p>Kathy George: "But if all the committee does is recommend passage by the full council, then regardless of whether the full council has formally granted any decision-making authority to the committee, the council still retains the final decision-making authority"</p> <p>From Attorney Kathy George, who is an expert in Open Public Meetings Act. Feb 4 Letter (see appendix):  III. Can A Majority of Members, Acting As a Committee, Recommend Legislation to the Full Council?  You also asked whether the OPMA permits a majority of the council, acting as a standing committee, to recommend adoption of a proposal by the full council. The answer is yes, again assuming that notice and openness requirements are met.</p> <p>...if all the committee does is recommend passage by the full council, then regardless of whether the full council has formally granted any decision-making authority to the committee, the council still retains the final decision-making authority. ..."</p>	<p>Page 8: "While there is a proper concern as to whether the action of a three- person committee could constitute "final action" by the Council, this concern can be overblown. Legislative bodies sometimes move to consider matters as a Committee of the Whole, with every member of the body serving on the committee. That does not constitute final action. Final action does not occur until the bill or proposed ordinance is considered by the entire legislative body. That makes sense because although a matter may receive a three-person vote in committee, a member of Council could change his or her mind depending on what is learned after the committee meeting and during Council debate. To better protect the City's interest, we suggest that that the rules specifically provide that any matter considered by a committee that receives a "do-pass" recommendation is NOT final action by the Council and that final action does not occur until the matter is passed by a majority of the Council as a whole."</p>

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Passed Jan 21	18.1.3.d	<p><u>At the discretion of the Chair, recommendations on resolutions and ordinances may be "signed out" of the Committee with the signatures of at least a majority of the Committee members, and forwarded to the full Council.</u></p> <p><del>Committees may forward issues with or without changes to staff for recommendation to the City Council. Reports on the activities of the committees may be given under the Council Reports section of the Council agenda by the Committee Chair.</del></p> <p><del>18.1.5 a. Matters may be removed from Council Standing Committees and brought before the Council as a whole by a motion of the Council receiving an affirmative vote of at least a majority of the whole membership of the Council.</del></p>	<p>The council would like to exercise the other rules first and then implement a sign out, could be modeled after Tacoma council rules where there is a sign-out sheet.</p>	<p>Page 10: "Revised Rule 18.1.3(d) references resolutions being "signed-out." It is not clear what that means. If the term is to be used, it should be defined. "Approved" might be the more operative term."</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	18.1.3.e And 18.1.3.f and g	<p>Should a Council Standing Committee be split on whether a matter should <u>receive a "do pass" recommendation, the Chair of the Standing Committee may refer the matter to the Council without recommendation</u>, be approved, the matter may move forward to Council without a recommendation. It is the Mayor's responsibility to bring matters before Council.</p> <p><del>b. f. Frequency of Council Standing Committee meetings shall be determined by the Mayor and Committee Chair</del></p> <p><del>d. Any direction from the Council Standing Committee for work to be performed by staff must be approved by the Mayor.</del></p> <p><del>e. Audience participation at a Council Standing Committee meeting is at the discretion of the Committee Chair <u>or by the majority vote of the committee</u>.</del></p>	<p>Regarding recommendation on "do pass". It's a recommendation from the committee. These existed in the old system.</p> <p>Regarding mayor solely determining committee schedule: Not logical. If the Council wants to have a committee meeting and the mayor has a staffing issue, the Council clearly has authority under state law to decide to meet anyway. The legislative body (council) is not a department managed by the mayor, nor is it subject to any control by the staff. To not allow meetings if there is not staff or mayor agreement would clearly be a violation of the council's legal authority.</p>	<p>From page 2: RCW 35A. 11.020 entitled "Powers vested in legislative bodies of noncharter and charter code cities" gives sweeping powers to the Council as the City's legislative body. It provides in applicable part:</p> <p>The legislative body of each code city shall have the power to organize and regulate its internal affairs within the provisions of this title and its chapter, if any, and to define the functions, powers, and duties of its officers and employees ...</p> <p>Such body may adopt and enforce ordinances of all kinds relating to, and regulating its local or municipal affairs and appropriate to the good government of the city ...</p> <p>The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law.</p> <p>Under this provision, any question as to the power of the Council is resolved in favor of Council power unless that power is specifically denied it by law.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	18.1.4. a	<p>Budget/Finance/Administration Committee: The Budget, Finance and Administration Committee, <del>in conjunction with City Staff, may</del> <u>shall</u> consider matters related to the financial issues of the City, including the annual <u>and long term</u> <del>and</del> capital budgets <u>and plans</u> including <u>but not limited to</u> revenues and expenditures, sales of bonds, general fiscal and financial conditions, voucher approval, rates and fees, audit and operations of the City, including but not limited to, facilities and properties computerization, periodic budget and financial reports, and policy matters related to personnel., <del>in coordination with the finance and administration departments.</del> <u>This Committee may also consider matters not included in other Committee's scopes of authority.</u></p>	<p>The committee would only involve itself within Council authority. Any or all of these areas could be subject to policy or legislative updates which are the Council's purview.</p>	<p>Page 10: "Revised Rules 18.1.4(a)(b)(c) all remove language the committees work "in conjunction with City staff." Obviously to be effective, the committees should work with City staff. However, the deletion is appropriate in that its inclusion intimates the Council is controlling staff. Language suggesting the committees should work with appropriate staff who could assist the committee might be considered with the proviso that the Council is not directing or controlling staff."</p>
Passed Jan 21	18.1.4. b	<p><del>b. Parks/Cemetery Committee: The Park and Cemetery Committee, in conjunction with City Staff, may consider matters related to planning and implementation of park and recreational facilities, capital improvement program, trails and cemetery.</del></p> <p><del>c. _____</del></p> <p><del>d. _____</del></p> <p><del>e. <u>Growth Management, Land Use and Planning/Community Services Committee: The <u>Growth Management, Land Use and Community Services Committee</u> Planning and Community Services Committee, in conjunction with City Staff, may <u>shall</u> consider matters of a non-quasi-judicial nature related to community growth and development, including but not limited to, planning of the physical, economic, aesthetic and social development of the City, comprehensive plan, zoning code, and housing, annexation policies, <u>and</u> code enforcement. <u>The Committee shall consider matters related to transportation planning and concurrency. Unless prohibited by the BDMC or other law, the Committee shall consider matters related to project permit review, Development Agreements and the MDRT.</u> This committee may also consider matters not included in other committee's scopes of authority.</u></del></p>		

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed July 7	18.1.4. b	<p>Growth Management, Land Use and Community Services Committee: The Growth Management, Land Use and Community Services Committee , shall consider matters related to community growth and development, including but not limited to, planning of the physical, economic, aesthetic and social development of the City, comprehensive plan, zoning code, and housing, annexation policies, and code enforcement. The Committee shall consider matters related to transportation planning and concurrency. Unless prohibited by the BDMC or other law, the Committee shall consider <u>policy or municipal code</u> matters related to project permit review, Development Agreements and the MDRT.</p>	<p>The Committee cannot and would not conduct quasi-judicial matters. The reference is about city code on this topic. When any change to that part of the code comes up it would go through this committee.</p> <p>Added clarifying language that the Growth Management Committee would consider quasi-judicial matters where it pertains to city policies or code. (A clause was already included that the committee would not consider matters prohibited by law.)</p>	<p>Page 10-11: "Revised Rule 18.1.4(b) appears to allow the Committee to conduct quasi-judicial matters. This cannot be done commensurate with Washington law. Quasi-judicial matters are for the entire Council.</p> <p>Restoring the language relating to quasi-judicial is recommended. Similarly, the language allowing a committee to consider project permit review, development agreements and MDRT is concerning while recognizing prohibitions by law, why Council would act in these areas is not clear nor is it clear how the determination is made as to what was prohibited by law. Greater clarity is recommended here. If the Council wishes to enter that arena, it should consider appropriate ordinance changes defining its role, provided they comply with Washington law."</p>
Passed Jan 21	18.1.4. c	<p><del>c. <u>Government Operations and Administration Committee: Public Safety Committee: The Government Operations and Administration Committee.</u> The Public Safety Committee, in conjunction with City Staff, may <u>shall</u> consider issues related to the <u>operations and administration of City Departments and shall consider issues related to public health, safety and welfare of the citizens of Black Diamond including but not limited to, law enforcement, fire safety, court, hazardous materials, animal control, special events and emergency services. The Committee shall consider matters related to water, sewer, solid waste, recycling, utility franchises, storm water management, transportation, capital improvement program, transit, streets, street lighting, signalization, street local improvement, planning and implementation of park and recreational facilities, trails and cemetery. This Committee may also consider matters not included in other committee's scopes of authority.</u></del></p> <p><del>f. <u>Public Works Committee: The Public Works Committee, in conjunction with City Staff, may consider matters related to water, sewer, solid waste, recycling, utility franchises, storm water management, transportation, capital improvement program, transit, streets, street lighting, signalization and street local improvement.</u></del></p>		

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed Jan 21	18.2.1	<p>The Mayor or a majority of the whole membership of the City Council may establish Task Force Committees on an ad hoc basis to consider matters that require a special approach or emphasis. Task Force Committees may be established and matters referred to them at Council study sessions. <del>The Mayor shall appoint Council representatives to intergovernmental councils, boards and committees. Such appointments and their terms shall be communicated to the Council by the Mayor as soon as practical.</del> <u>The Council shall designate its representatives to intergovernmental councils, boards and committees by a majority vote of the whole Council.</u></p>		
Passed Jan 21	18.3	<p>Advisory Boards, Committees and Commissions. Citizen advisory boards, committees and commissions may be established by <u>resolution or ordinance</u> from time to time, and shall consist of citizens appointed pursuant to the establishing <u>resolution or ordinance</u> and serving in the capacity and for the purposes indicated in the ordinance; such boards, commissions and committees shall act in an advisory capacity to the City Council.</p>		
Passed Jan 21	21.2	<p>Executive Sessions. The Mayor and Councilmembers must keep confidential all written materials and verbal information provided to them during Executive Sessions and may not provide them to persons not present during Executive Sessions, unless, after consultation with the City Attorney, such provision will not violate the confidentiality of Executive Session, or will not violate some other legal exemption or legal privilege; <u>provided that this provision does not apply to verbal information or written materials that are not authorized by the Open Public Meetings Act RCW 42.30 to be discussed in executive session.</u></p>		

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	Attorneys Talmadge Fitzpatrick - Hired by City to Review Council Rules
Passed July 7	21.2	<p>Executive Sessions. The Mayor and Councilmembers must keep confidential all written materials and verbal information provided to them during Executive Sessions and may not provide them to persons not present during Executive Sessions, unless, after consultation with the City Attorney, such provision will not violate the confidentiality of Executive Session, or will not violate some other legal exemption or legal privilege; provided that this provision does not apply to verbal information or written materials that are not authorized by the Open Public Meetings Act RCW 42.30 <u>or other law</u> to be discussed in executive session.</p>	<p>The July 7 rules clarified that additional laws, not just RCW 42.30 (the OPMA) may also require that Councilmembers not disclose executive session information.</p> <p>However, there is a concern that abuse of executive sessions must be prevented. Therefore, all councilmembers and the mayor should be aware that if they discuss something not authorized by state law to be discussed in executive session, there is no requirement of confidentiality. If a councilmember has a question, they would certainly consult with an attorney, but if the law is plain, there is no need for the expense of the attorney to make a determination.</p> <p>If the behavior is so risky, then the mayor may wish to consider the effect of disclosing confidential information on Council resolutions from the attorney without the agreement of the Council.</p>	<p>Page 11: "Revised Rule 21.2 is not recommended . Disclosing information from Council executive sessions could impose personal liability on a member of Council, and possibly cause the City to incur legal liability. Also, the language suggests that members of the Council can individually determine what information is appropriate to executive session. These are legal determinations best left to the City Attorney."</p>

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REFERENCE – RMSA COMMENTS

Rules Version (Date)	Rule #	Text Changed	<i>Gov Ops Committee Comments</i>	RMSA Insurance pool
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Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	2.2	<p>Agenda. The City Clerk shall be responsible for preparing agendas for all City Council meetings that specify the time and place of the meeting and set forth a brief general description of each item to be considered by the Council. The agenda is subject to approval by the Mayor Pro-Tempore and Council President...<del>or the Mayor's designee.</del></p>	<p>The Council is responsible and accountable for setting its own Agenda. It is customary for Councils to approve their agendas at the start of a meeting. However, in order to provide a public notice, it is necessary for a published agenda to be prepared. The rule change provides for the Council to delegate its authority to set the agenda for public notice to two elected representatives of the Council, the Mayor Pro Tempore and the Council President. The alternative of delegating the agenda to the Mayor only works where the Council and Mayor are in close agreement about the business of the city. In a strong mayor form of government, the Council is an equal branch of government and needs to preserve its authority to conduct its business and not be blocked from taking action on an issue simply because it wasn't included for public notice by the Mayor.</p> <p>Opportunity is provided for input from the Mayor and others by requesting a council "introduction" of any item. Mayor Pro Tem and Council Pres will approve all items that have a council sponsor.</p> <p>Items for the agenda can come from any of the below, but all require a council member sponsor to appear on the agenda, for first reading</p> <ul style="list-style-type: none"> <li>a. Council Committee Chair persons.</li> <li>b. City Staff through their Mayor contacting the appropriate councilperson.</li> <li>c. Citizen or citizen group through contacting the appropriate councilperson. Items for second reading will need to be referred back to the agenda by the council committee where they have been considered.</li> </ul>	<p>RMSA believes that if you check Roberts, you will find that it is the Council that approves the agenda, usually as the second item of business after the opening. Also the Council may amend the agenda at a regular council meeting. The agenda at a special council meeting is limited to the items that were on the agenda when the special meeting notice is distributed to the Council and posted."</p> <p>"Your city attorney has raised her concerns about this language and RMSA agrees with her concerns."</p> <p><i>Mayor's attorney:</i> "Currently, the Mayor approves the Council meeting agenda. An amendment is proposed to change this to the Mayor Pro Tempore and the Council President (there is no Council President currently, and nothing in the Rules address the appointment of a Council President or his or her duties, other than by recent amendments to the rules as noted in the January proposed changes.)</p> <p>The Mayor Pro Tern has no authority unless the Mayor is absent .or disabled. Pursuant to RCW 35A.12.065:</p> <p>"Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as may pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. . . ."</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Not changed.  See comment	2.3	Minutes. The City Clerk shall cause to be prepared action minutes of all of the Council meetings, which minutes shall contain an account of all official actions of the Council. Council meetings shall be electronically recorded and retained for the period of time as provided by State law. No changes shall be made to minutes except by <del>motion</del> <b>approved</b> by a majority of the Council at a <del>properly</del> <b>noticed</b> meeting.	Council should discuss.	Roger Neal crossed out unnecessary words as shown at left.
See comment	2.5	Quorum Required. A quorum shall be required to transact Council business. The presence of a majority of the whole membership of the Council who are also eligible to vote at a Council meeting shall constitute a quorum. Should less than a quorum be present at the time of roll call, any Councilmember present may, upon belief that late arrival of one or more Councilmembers will enable a quorum to be created, make a motion that the Council meeting be recessed for up to one hour; should a quorum still be lacking at the end of the recess period, the meeting shall be adjourned. As authorized under RCW 42.30.090, the City Clerk may adjourn the meeting if all Councilmembers are absent.	Roger Neal felt the language about the quorum was unnecessary. Interesting comparison to their later language about some part of the Council acting on behalf of the whole (see Rule 12).  Neal also uses “Roberts” – he clearly does not contemplate that the mayor may unilaterally decide not to follow Roberts rules.	Roberts address the issue of a quorum. Other than recessing or adjourning a meeting, without a quorum you don't have a meeting, so there is no reason to require a quorum to transact business. If you did so, that could be considered as a violation of the OPMA.

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Not changed	2.7	<p>Study Sessions. Study sessions, or meetings to review upcoming and pertinent business of the City, may be scheduled as special meetings of the Council subject to the same notification procedures set forth below for special meetings.</p> <p>Special Meetings. In accordance with chapter 42.30 RCW, a special meeting of the City Council may be called by the Mayor or at the request of any three (3) Councilmembers by written notice delivered to each Councilmember.</p>	<p>Agreed, that study sessions and business meetings must comply with OPMA.</p> <p>Simply copying RCW into the rules is almost never a good idea – it is redundant. Instead a reference to the RCW is sufficient and protects us from having to spend administrative time to update our Rules if state law is updated.</p>	<p>[1] Study sessions need to be conducted in accordance with the Open Public Meetings Act.</p> <p>[2] RMSA recommends adding the following provisions to Special Meetings: ... <i>he then pastes RCW 42.30.080</i></p>
Not changed	2.7	<p>Emergency Meetings. In accordance with RCW 42.30.070 and .080, if, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by the City Council to meet the emergency, the Presiding Officer of the Council may provide for a meeting site other than the regular meeting site and the public meeting notice requirements shall be suspended during the emergency.</p>	<p>Regarding Mr. Neal’s comment, it seems the “presiding officer” language is better because state law specifically contemplates that the Council can have a different presiding officer if the mayor is unavailable, and an emergency meeting (due to earthquake, etc) may be exactly that case.</p>	<p>[3] In the case of a city, the "Presiding Officer" is the Mayor. You may want to replace "Presiding Officer" with "Mayor".</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Not changed	2.8	<p>Executive Sessions. An executive session is a Council meeting that is closed <del>except to the Council, the Mayor, the City Administrator, the City Attorney</del> and staff members or others authorized to attend by the Mayor or a majority of Councilmembers present. <del>In accordance with RCW 42.30.030 and .110, other persons and members of the public are prohibited from attending executive sessions.</del></p> <p>... (</p>		<p>[4] This is not a requirement under RCW 43.20.110. The public and media are prohibited from attending an Executive Session, but others including staff, consultants or experts may be allowed in Executive Session if authorized by the Mayor or a majority of the Council present. As an example, during labor negotiations you may want your negotiator to be present in an Executive Session.</p>
Not changed	2.8	<p>...</p> <p>Executive sessions may be held during regular Council meetings, Special Council meetings, <del>or Council Study Sessions</del>. In addition, the Council may retire to hold an executive session during one of these meetings. When this occurs, the portions of the meeting that are not part of the executive session shall continue to be open to the public. Prior to convening an executive session, the Presiding Officer shall make an announcement that an executive session is being held and inform the public when the executive session shall end; provided that, the ending time of an executive session may be extended by announcement of the Presiding Officer. Executive sessions may only be called to consider such matters as authorized by RCW 42.30.110.</p>	<p>Regarding comment 12, the city attorney did not raise concerns about rule 2.8, which was not changed by the current council and existed in previous versions of the Council rules. As pointed out, rcw 42.30.110 may not be the only law that applies here. See Rules section 21...</p>	<p>[10] Per RCW 42.30.110(2) you must include the purpose of the Executive Session. The stated purpose announcement can either state the RCW such as RCW 42.30.110(1) actual paragraph, or under RCW 42.30.110(1) (d) "to review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs"</p> <p>[11] RMSA recommends that you add language stating that no votes, straw poles, or decisions shall be made in Executive session.</p> <p>[12]Your City Attorney raises some very serious concerns about the proposed wording. You should follow her advice to avoid potential liability for taking action in conflict with state law.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Proposed July 14	3.1  (note: this should be moved / added to 2.2)	<p><u>Preparation of Council Agenda.</u> Items of New Business to be included on the agenda for first reading at a Council meeting should be submitted to the City Clerk <i>with council sponsor</i> seven days prior to the scheduled Council meeting. Items should also be sent to the Mayor Pro Tempore for assignment to Council Committee. This allows the preliminary agenda to be prepared and public notice issued prior to the Council meeting.</p> <p>Items of Unfinished Business that have received a recommendation from a Council standing committee or have been removed from Council Committee for placement on next regular council agenda by the committee chair two or more days prior to the meeting should be placed on the next available Regular Council Meeting Agenda.</p> <p>To avoid unnecessary revisions at the meeting itself, Agenda Items submitted after these timeframes days should be added to the agenda and revised notice given as needed, but the Council may defer the items until the next Council meeting date. Nothing in these rules is intended to prevent the Council from revising its agenda at a Regular Council meeting as Council business warrants.</p> <p><del>Preparation of Council Agenda. All items to be included on the agenda for consideration at a Council meeting should be submitted to the City Clerk in full no later than 10:00 a.m. nine days prior to the scheduled Council meeting; provided that items that have received a "do pass" recommendation from a Council Standing Committee may be placed on the next available Regular Council Meeting Agenda.. Once the agenda has been finalized and provided to the Council, items added to the agenda may be declined to be considered by the Council at the meeting for which the agenda was prepared, until a future Council meeting date, which date shall be specified by the Council.</del></p>	<p>This incorporates comment given to Gov Ops committee Feb 11 regarding timing of recommendations from committees and the number of days ahead of the next regular meeting.</p> <p>Language about tabling or postponing to future meeting date is removed because the Council uses the rules outlined in Section 7 to postpone any item as it wishes (the prior language was redundant).</p>	<p>[1] [2] See your City Attorney's advice on this matter.</p> <p>Talmdage-Fitzpatrick Page 6:          “There is no doubt Washington law gives the Council the right to determine its own rules, procedures, and order of business. RCW 35A.12.120 and 35A.11.020 so provide. Such a provision is entirely          consistent with long held principles of law that legislative bodies have the right to regulate their own internal affairs.”</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Proposed July 14	3.5 (new)	<p><u>Approval of or Updates to Agenda.</u> The Council shall approve or amend the meeting agenda. This does not preclude the Council from revising the agenda at any other time.</p>	<p>Roberts Rules and various attorneys agree this should be part of the agenda.</p> <p>A public comment was also made to the Gov Ops committee that this should be incorporated.</p>	<p>[3]You may want to consider adding an agenda item to allow for additions, deletions or amendments to the agenda. This is typically an option. Council will need to approve any changes to the agenda. This applies to Regular meetings only. The Agenda for a Special meeting can not be amended.</p>
Passed Jan 21	3.5.4	<p>Presentations. Any person(s) or organization(s) wishing to make a presentation to the Council <del>must</del> <u>should</u> first submit a completed "Request to be on Council Agenda Form" with the City Clerk. <del>The request should be made at least two weeks prior to the intended Council date. The Mayor or the Mayor's designee will determine if the proposed presentation is approved and will notify the applicant of the selected meeting date. If the presentation is not approved, the Mayor or the Mayor's designee will notify the applicant of the decision and the reason(s) for the decision. Presentations will not last more than five (5) minutes in length or unless at the request of the Mayor or Mayor's designee. Upon approval by the Mayor Pro Tempore and the Council President and at least one other Council member prior to the meeting, or</del> <u>Upon motion and approval of a majority of Councilmembers present at the meeting,</u> the Council may authorize presentations and may determine their length.</p>	<p>The presentation recommendation by Talmadge-Fitzpatrick is not legally required. We may at times find it cumbersome to have a vote of the council at a prior meeting about a future presentation, and it certainly would be cumbersome to wait until meeting night. I liked the idea of delegating two councilmembers to take care of these details. If they do it in a way the council does not like, the council could change the rules and take away their responsibility. The Council can ALWAYS take a majority vote to authorize a presentation at any regular meeting.</p> <p>THE RULES OF PROCEDURE ARE SO THAT WE DON'T HAVE TO DO EVERY PROCEDURAL DECISION BY A VOTE AT THE MEETING.</p>	<p>[1] RMSA agrees with your City Attorney's concerns.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed July 7  Proposal for July 14 also shown with double underline.	3.7  (Due to add of 3.5, this is now 3.7, not 3.6)	<u>Public Comments.</u> Members of the audience may comment on any matter related to City business during the Public Comment period. <u>If the comment is related to an item that has a separate comment period on the agenda, the presiding officer will inform the <del>the</del> speaker that if they would like their comment to be part of the legal record for that item, the speaker should make those comments during the separate comment period for that specific matter. See Section 10 and Section 11.</u>	Propose change to remove typo where “the” is added twice in a row, and add “and Section 11” to the end.  Clarify how to handle public comments when there is a separate comment period for certain agenda item(s).	[2]  RMSA recommends that you include provisions to allow citizen participation during a public hearing. In addition to the issues raised by your City Attorney, there are other public hearings that you must conduct. The most obvious being the required budget hearings.
Passed Jan 21	3.19	Adjournment. With no further business to come before the Council, the Presiding Officer may adjourn the meeting <u>upon motion and majority vote of the Council.</u>		[1] Since under Roberts, you must have a motion and a second before a vote, having the words "upon motion and" are redundant with Roberts.
Passed July 7	3.21	<u>Recess.</u> The foregoing agenda may be interrupted for a stated time as called by <del>the Presiding Officer or any three Councilmembers</del> to recess for any reason, including executive sessions.	It is the council’s meeting. A recess should be by vote of Council.  Revise 3.20: Clarify that a majority of the council present must approve a recess.	RMSA agrees.

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	4.3	<p>Reordering Items on Agenda. <del>Any three Councilmembers may reorder items on the Agenda. Without the necessity of any vote thereon, Presiding Officer may present matters before the Council for discussion, consideration and voting in a different order than they appear in the agenda when matters on the agenda are able to be placed under more than one classification or category.</del></p>	<p>Public comment to Gov Ops committee also said, as did RMSA and Talmadge, that this was unnecessary.</p>	<p>[3] This is partially why RMSA recommended adding an agenda item near the start of the meeting for any amendments to the agenda.</p>
Not changed	4.4	<p>Limitations on Political Speech. Except where the Council is properly considering a motion regarding whether the City shall take an official position on a political issue in accordance with RCW 42.17A.555, no Black Diamond elected official shall use a Council meeting to express an opinion in support of or in opposition to a candidate for public office or a ballot measure. See also SECTION 19.</p>	<p>Council discussion?</p>	<p>[1] RMSA suggests that you also consider adding language prohibiting using city facilities or revenues for political purposes.</p>
Not changed	5.1.1	<p>5.1.1 Excused Absence. Councilmembers shall inform the Mayor or City Clerk in advance if the Councilmember will be unable to attend, or will be late to attend, any Council meeting. The Presiding Officer shall then announce during roll call that the Councilmember will be absent or late. Any absence following prior notice to the Mayor or City Clerk shall be noted in the minutes as an excused absence. Absence at a scheduled Council meeting due to sudden illness or emergency shall be noted in the minutes as an excused absence due to illness or emergency.</p>	<p><b><u>“Any absence following prior notice</u> to the Mayor or City Clerk <u>shall be noted in the minutes as an excused absence.”</u></b></p> <p>The language is clear. The Council has decided that notice to the Mayor or Clerk constitutes an excused absence. This is a decision of the council, made by passing these rules. This has been the Rule for many years.</p>	<p>[2] You may want to check Roberts. It is a common mistake that the Mayor or Clerk can issue the absence. We believe this should be by Council action.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Not changed	7.2.5	When making motions, Councilmembers shall be clear and concise and not include arguments for the motion within the motion.		[1] recommend the word "should" instead of "shall". Shall is mandatory, should is permissive.
Not changed	8.3			*extensive comments, see appendix.
Not changed	9.1	<p>...</p> <p>Discussion and debate by the City Council on resolutions will be held prior to the vote on a resolution. Prior to voting on passage of a resolution, the Council may decide by majority vote to amend the resolution or direct staff to review the proposed resolution and make a report to the Council.</p> <p>...</p>	<p>The Council did not change this rule this year. Agree that the Council does not direct staff, and the mayor can choose not to follow a Council decision that purports to direct staff. But more importantly this shows that the old rules went unchallenged and allowed this kind of language.</p> <p>Perhaps the original language was intended to mean that unless requested by the Council, the mayor and staff would refrain from making a review and report. This would be acceptable where the mayor and staff were not involved in the writing of the resolution.</p>	[1] Council should not direct staff, rather Council should request that the Mayor works with staff to review the proposed resolution. Again the proposed language conflicts with the basic separation of powers where the Council sets policy and the Mayor is the CEO for the city and it is the Mayor's responsibility to direct the day-to-day operations of the city and of the staff.

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Proposed July 14.	12.2	<p><u>Town Hall Agenda</u>. The scheduling, agenda preparation and public comment period for Town Hall meetings shall conform to these Rules of Procedure, except that public comment may be limited to specific topics identified in the Town Hall meeting agenda. The speakers should limit their time to 10 minutes, to allow time for all speakers to speak. A second round of comment will be allowed, and speakers will be limited to three minutes. The <del>Presiding Officer</del> <u>Council</u> shall retain authority to impose rules of procedure to ensure open discussion during the Town Hall meeting, that people with opposing or different viewpoints receive an equal opportunity to speak, that everyone receive an opportunity to speak before any one speaker receives a second opportunity to speak, and that order and decorum is maintained. When necessary to ensure that everyone receive an opportunity to speak, the <del>Presiding Officer</del> <u>Council</u> shall retain authority to limit all persons' remarks to an equal period of time.</p>	Discussion?	<p>RMSA recommends that you include a sentence to address that Town Hall Meetings are to be conducted under the provisions of RCW 42.30 Open Public Meetings Act if a majority of the Council is present, or if a minority of the Council present is acting on behalf of the Council as a whole. The same is true for "study sessions", Council training, Council retreats etc. It doesn't matter what the gathering is called, if the a majority of the Council is present, or a minority of Council members are acting on behalf of the Council the gathering should be considered as an open public meeting and operated under RCW 42.30.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	13	<p>SECTION 13 – MAYOR PRO TEMPORE <u>AND COUNCIL PRESIDENT</u> SELECTION PROCESS</p> <p>Annually at the first meeting of a new Council, the members thereof, by majority vote, shall designate one of their members as Mayor Pro Tempore for such period as the Council may specify. The Mayor Pro Tempore shall serve in the absence or temporary disability of the Mayor. In the event the Mayor Pro Tempore leaves, the Council shall, by a majority vote, designate one of the remaining Councilmembers as Mayor Pro Tempore.</p> <p><u>Annually at the first meeting of a new Council, or soon thereafter, the members thereof, by majority vote, shall designate one of their members as Council President. The Council President shall perform such duties as may be assigned by Council Rules.</u></p>	<p>State law seems sufficient without the addition of language suggested by RMSA?</p> <p>Morgan comment: I observe that the mayor pro tempore may also be assigned other duties in addition to the mayor pro tempore duty that are available to him because he is a council member not because he is a Mayor pro tempore. (Black Diamond has never appointed a non-council member as Mayor Pro Tempore.)</p>	<p>Under RCW 35A.12.065, "any qualified person" may serve as Mayor Pro Tempore. The appointment is not limited to Council members.</p> <p>RMSA suggests that you include language which describes the authority of the Mayor Pro Tempore. Here is suggested language:</p> <p>Occasionally the Mayor may be absent from Council meetings or temporarily not available to serve the city. When the Mayor is temporary absent, the Mayor Pro Tempore will preside at meetings of the council, may administer oaths, and sign instruments in the absence of the Mayor. A Council member acting as Mayor Pro Tempore generally retains his or her councilmanic vote.</p>
Not changed.	16.3	<p>All written informational material requested of City staff by any individual Councilmember that the requesting Councilmember then intends to reference or introduce at a Council meeting shall be submitted or made available to all Councilmembers prior to being referenced or introduced at the meeting, unless other reasons preclude such distribution, in which case the reasons shall be communicated by the requesting Councilmember to the Mayor or the Mayor's designee and such reason provided to all Councilmembers.</p>	<p>It seems the RMSA had a problem with the system in place under the old rules, as well as some of the direct conversations with staff we have heard some of the council allude to this year.</p>	<p>This sentence appears to conflict with renumbered 16.5 below. Generally it is inappropriate for Council members to have direct contact with staff. Rather, Council members should direct their requests for information through the Mayor. The Mayor is the person responsible for directing staff and setting priorities in accomplishing the Council's policies. Renumbered 16.5 below addresses this issue appropriately.</p>

Rules Version (Date)	Rule #	Text Changed	<i>Gov Ops Committee Comments</i>	RMSA Insurance pool
	16.5 (in 2015, this was 16.6)	No Councilmember shall direct the Mayor or City staff to initiate any action or prepare any report that is significant in nature, or initiate any project or study, without the consent of at least a majority of the whole membership of the Council.	This was unchanged from the old rules. It says the council can direct the mayor or staff. Of course, in reality they cannot. They can take a vote to have a report or project or study prepared, but the mayor does not have to abide. The point is this did not invalidate the rules.	...Renumbered 16.5 below addresses this issue appropriately.

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Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	18.1.1	<p>Establishment. The City Council, by a majority vote of at least the whole membership of the Council, is authorized to establish Council Standing Committees. <u>Upon submittal by a Councilmember, Mayor, or City Administrator, all ordinances and resolutions shall be referred by the Mayor Pro Tempore to the Council Standing Committee that has jurisdiction over the subject matter of the legislation. No ordinance or resolution shall be placed on the Council Agenda for final action unless it has received a "do-pass" or "no recommendation" recommendation by a Council Standing Committee; provided that this provision shall first apply to the Regular Council Meeting scheduled for February 18, 2016; and provided that any ordinance or resolution may be relieved from committee and placed on the Council Agenda for action by any three Councilmembers.</u> <del>to provide recommendations on major policy items to the City Council.</del></p> <p><del>Mayoral Appointment/Council Confirmation. The Mayor shall appoint the members of each Council Standing Committee with the Committee Chair appointed from the membership of the Council. Membership of any given committee may include no more than two (2) Councilmembers, including the Committee Chair. Annually at its first meeting in January, or as soon thereafter as practicable, the Council upon a majority vote of at least the whole membership of the Council shall confirm or decline the Mayor's appointments to Council Standing Committees.</del></p>	<p>The Tal-Fitz comment on staffing costs not being relevant to the internal organization of the council is useful, given the mayor's latest report on staffing costs.</p>	<p>[1] R. Neal says "of at least the whole membership" is Redundant language. If a quorum of the Council isn't present then you don't have a meeting. And if a quorum (3 members) of the Council are the only members in attendance, then those three individuals may take action and final action. Perhaps what you want to say is At least three affirmative votes are needed to establish a Council Standing Committee.</p> <p>[2] These are procedures that may be more appropriate to be formatted as a separate section. RMSA is also very concerned about the structure/procedures for Standing Committees as proposed. Your City Attorney has raised a number of valid concerns about the proposed structure of Standing Committees. RMSA recommends that you give the comments from your legal counsel serious consideration.</p> <p><i>R. Neal had another comment box that was blank on this.</i></p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
With additional wording change "proposed" July 14	18.1.1	... Upon submittal by a Councilmember, Mayor, or City Administrator, all <b>proposed</b> ordinances and resolutions shall be referred by the Mayor Pro Tempore to the Council Standing Committee that has jurisdiction over the subject matter of the legislation. ...		[3] RMSA recommends adding the words "proposed" drafts of" before ordinances. These written instruments only become ordinances or resolutions after a majority vote of the Council.
Passed Jan 21	18.1.2	<u>Appointment of Council Standing Committee Chair and Members. Annually at its first meeting in January, or as soon thereafter as practicable, the Council upon a majority vote of at least the whole membership of the Council shall approve the membership and Chairs of the Council Standing Committees. Committee Chairs and members may be removed or added by a majority vote of the full Council at a Regular or Special City Council meeting."</u>	<i>RMSA memo had numbered comments, many of which were strikethrough without text explanation.</i>	[1-6] Same comment as above in 18.1.1  Language not needed. The only place a Council may vote is at Regular meeting, or at a Special meeting (if the item is on the posted agenda of the Special Meeting).
Passed Jan 21	18.1.3. a and b	<del>18.1.2</del> <u>18.1.3</u> <u>Agenda Setting/Proceedings. The agenda setting and proceedings of each Council Standing Committee shall be as follows:</u>  a. <u>The Committee Chair shall set the Committee schedule and agenda, will work with the Mayor and City staff to finalize the agenda to help guide the direction of the meeting. All meetings shall be noticed in the same manner as Council meetings and be conducted in accordance with the Open Public Meetings Act RCW 42.30. Whenever possible, Committee meetings shall be conducted on week-day evenings. The Mayor Pro Tempore and the President of the Council shall work with Committee Chairs to coordinate committee schedules so as to avoid conflicts, allow participation by appropriate staff, and enable the efficient conduct of Regular Council Meetings.</u>  b. <u>The Committee Chair shall designate a member of the committee to act as Vice-Chair. If the Committee Chair is unable to attend a scheduled meeting, the Vice-Chair remaining Councilmember member shall chair the meeting.</u>	Question: when he says "role of mayor" is it referring to schedule of meetings as it pertains to staff?  The RCW clearly contemplates that the Council can schedule a Council meeting, by saying any 3 members can call a meeting and also by providing for a Mayor Pro Tem or appointment of other presiding officer in absence of mayor.	[7-10] This [see Gov Ops Question] is the role of the Mayor, and the draft language gives power to the Mayor Pro Tempore that is not included in the RCW's. Also you don't have the position of a Council President under RCW 35A.

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	18.1.3. c	<p><u>Under the direction of the Chair, Council Standing Committees shall review all ordinances and resolutions. The Committee may amend and forward to the Council with a "do pass" recommendation all legislation that has been referred to it by the Mayor Pro Tempore. The Committee may also forward legislation to the Council with "no recommendation". Matters Legislation may be held in Committee by the Chair; provided that the Committee may be relieved of legislation by a majority vote of the whole membership of the Council.</u></p> <p><del>18.1.3 In instances where a committee member cannot be present at a committee meeting, it is the responsibility of that member to contact an alternate Councilmember to attend in his or her place.</del></p>	<p>The committee meeting notice and rules on recommendations address the concerns about action, making it clear that committees only take certain actions. See also legal memo on this subject by attorney K. George.</p> <p>Additional comment: the old committee system also took action of making recommendations to full council when only two council members were in attendance. Having it noticed properly in the new system is more open and more compliant with OPMA.</p>	<p>[12] Committees would review draft ordinances and resolutions. Your city attorney has already raised several concerns about the Standing Committee taking action on draft ordinances and resolutions. RMSA recommends that you take her comments seriously.</p> <p>[12] draft</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	18.1.3.d	<p><u>At the discretion of the Chair, recommendations on resolutions and ordinances may be "signed out" of the Committee with the signatures of at least a majority of the Committee members, and forwarded to the full Council.</u></p> <p><del>Committees may forward issues with or without changes to staff for recommendation to the City Council. Reports on the activities of the committees may be given under the Council Reports section of the Council agenda by the Committee Chair.</del></p> <p><del>18.1.5 a. Matters may be removed from Council Standing Committees and brought before the Council as a whole by a motion of the Council receiving an affirmative vote of at least a majority of the whole membership of the Council.</del></p>	<p>The council would like to exercise the other rules first and then implement a sign out, could be modeled after Tacoma council rules where there is a sign-out sheet.</p>	<p>What is "signed out"? This sounds like the drafter is trying to follow procedures such as used by the State Legislature.</p> <p>The RCW's recognize two procedures, "action" and "final action". Final action is what most people call a vote. Since under Roberts, a vote is necessary to move items under discussion to the next step, or to adopt or reject a motion for action, RMSA recommends that you follow the procedures under Roberts.</p> <p>Redundant language.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	18.1.3.e  And 18.1.3.f and g	<p>Should a Council Standing Committee be split on whether a matter should <u>receive a "do pass" recommendation, the Chair of the Standing Committee may refer the matter to the Council without recommendation</u>, be approved, the matter may move forward to Council without a recommendation. It is the Mayor's responsibility to bring matters before Council.</p> <p>b.f. _____</p> <p>e. _____ Frequency of Council Standing Committee meetings shall be determined by the Mayor and Committee Chair</p> <p>d. _____ Any direction from the Council Standing Committee for work to be performed by staff must be approved by the Mayor.</p> <p>e. _____</p> <p>f.g. _____ Audience participation at a Council Standing Committee meeting is at the discretion of the Committee Chair <u>or by the majority vote of the committee.</u></p>	<p>Regarding recommendation on "do pass". It's a recommendation from the committee. We had these before in the old system.</p> <p>Regarding mayor solely determining committee schedule: Not logical. If the Council wants to have a committee meeting and the mayor has a staffing issue, the Council clearly has authority under state law to decide to meet anyway. The legislative body (council) is not a department managed by the mayor, nor is it subject to any control by the staff. To not allow meetings if there is not staff or mayor agreement would clearly be a violation of the council's legal authority.</p>	<p>[7] Your city attorney has raised concerns about this process. It appears that the standing committees are acting on behalf of the Council, even if only two Council members are in attendance.</p> <p><i>Referring to strikeout of old letter "c." on frequency of council standing committee meetings:</i></p> <p>[10] Since it is the Mayor's responsibility to manage the staff, and every standing committee meeting has the potential for staff to prepare materials or attend the standing committee it should be the Mayor her self, in consultation with the standing committee chair who determines the frequency of standing committees.</p> <p>As already pointed out, the Mayor is ultimately responsible for implementation for the budget and for supervision of staff duties.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	18.1.4. a	<p>Budget/Finance/Administration Committee: The Budget, Finance and Administration Committee, <del>in conjunction with City Staff, may</del> <u>shall</u> consider matters related to the financial issues of the City, including the annual <u>and long term</u> <del>and</del> capital budgets <u>and plans</u> including <u>but not limited to</u> revenues and expenditures, sales of bonds, general fiscal and financial conditions, voucher approval, rates and fees, audit and operations of the City, including but not limited to, facilities and properties computerization, periodic budget and financial reports, and policy matters related to personnel, <del>in coordination with the finance and administration departments.</del> <u>This Committee may also consider matters not included in other Committee's scopes of authority.</u></p>	<p>The committee would only involve itself within Council authority. Any or all of these areas could be subject to policy or legislative updates which are the Council's purview.</p>	<p>[1-2]The drafter is inserting council members into what are not their area of responsibility. As an example, the Council does not audit the financial records, that is the responsibility of the State Auditor's office. The Council should approve vouchers and warrants. It is very appropriate for the finance committee to review the vouchers before the Council approves the vouchers.</p> <p>[3-4] The Council's role in personnel policies should be limited to adopting broad policies that apply to groups of employees and the entire staff, such as anti-harrasment, pay grades, benefits, etc. The Council is prohibited from being involved in the day-to-day personnel activities or enforcement of council adopted personnel policies.</p>
Passed Jan 21	18.1.4. b	<p><del>b. <u>Parks/Cemetery Committee:</u> The Park and Cemetery Committee, in conjunction with City Staff, may consider matters related to planning and implementation of park and recreational facilities, capital improvement program, trails and cemetery.</del></p> <p><del>c. _____</del></p> <p><del>d. <u>b.</u></del></p> <p><del>e. <u>Growth Management, Land Use and Planning/Community Services Committee:</u> The <u>Growth Management, Land Use and Community Services Committee</u> Planning and Community Services Committee, in conjunction with City Staff, may <u>shall</u> consider matters of a non-quasi-judicial nature related to community growth and development, including but not limited to, planning of the physical, economic, aesthetic and social development of the City, comprehensive plan, zoning code, and housing, annexation policies, <u>and</u> code enforcement. <u>The Committee shall consider matters related to transportation planning and concurrency. Unless prohibited by the BDMC or other law, the Committee shall consider matters related to project permit review, Development Agreements and the MDRT.</u> This committee may also consider matters not included in other committee's scopes of authority.</del></p>		<p>[5] RMSA recommends that you follow the direction given by your City Attorney as related to Land Use, Planning and Growth Management. She is an expert in these specific areas. Failure to follow both the BDMC and RCW's in this area can result in fines and penalties related to not following the statutes.</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	18.1.4. c	<p><del>c. <u>Government Operations and Administration Committee: Public Safety Committee: The Government Operations and Administration Committee. The Public Safety Committee, in conjunction with City Staff, may shall consider issues related to the operations and administration of City Departments and shall consider issues related to public health, safety and welfare of the citizens of Black Diamond including but not limited to, law enforcement, fire safety, court, hazardous materials, animal control, special events and emergency services. The Committee shall consider matters related to water, sewer, solid waste, recycling, utility franchises, storm water management, transportation, capital improvement program, transit, streets, street lighting, signalization, street local improvement, planning and implementation of park and recreational facilities, trails and cemetery. This Committee may also consider matters not included in other committee's scopes of authority.</u></del></p> <p><del>f. <u>Public Works Committee: The Public Works Committee, in conjunction with City Staff, may consider matters related to water, sewer, solid waste, recycling, utility franchises, storm water management, transportation, capital improvement program, transit, streets, street lighting, signalization and street local improvement.</u></del></p>		<p>[6] There appears to be a conflict in roles between the Government Operations and Administrative Committee and the Budget/Finance/Administration Committee.</p> <p>RMSA recommends that you follow your City Attorney's advice on the fact that the Mayor's authority is specified in state law and can not be surrendered or delegated to a committee passing an ordinance or resolution.</p>
Passed Jan 21	18.2.1	<p>The Mayor or a majority of the whole membership of the City Council may establish Task Force Committees on an ad hoc basis to consider matters that require a special approach or emphasis. Task Force Committees may be established and matters referred to them at Council study sessions. <del>The Mayor shall appoint Council representatives to intergovernmental councils, boards and committees. Such appointments and their terms shall be communicated to the Council by the Mayor as soon as practical. The Council shall designate its representatives to intergovernmental councils, boards and committees by a majority vote of the whole Council.</del></p>		<p>[1-2] Redundant language crossed out</p>

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Not changed	19.1	<p><u>An Official City Position Requires a Public Vote.</u> The City does not have an official position on any issue, whether the issue is political or non-political in nature, unless in accordance with RCW 42.17A.555, the City Council has taken a public vote and at least a majority of the whole membership of the Council votes to adopt the position.</p>	Discussion?	[3] Redundant. The requirement for a vote is already covered in the paragraph. Furthermore, per the Open Public Meetings Act, the only place a vote may be taken in in and open public meeting.
Not changed	19.2.2	<p>19.2.2 Speaking on behalf of the City. If the Mayor or a Councilmember appears on behalf of the City before another governmental agency, a community organization, or through the media, for the purpose of commenting on an issue, the Mayor or Councilmember must state the official position of the City Council, if known, on such issue. Personal opinions and comments which differ from those of the official position of the Council may be expressed only if the speaker clarifies that these statements do not represent the City Council's position.</p>		General practice is that the Mayor or City Administrator are the official spokespersons for a city. It is generally not a good idea for individual council members to be the representative or spokesperson for a city.
Not changed	20	<p>The City Council shall authorize and approve expenditures of city funds to pay for travel-related costs only in accordance with an adopted budget, and/or chapters 2.56 and 2.57 BDMC and/or the City's adopted administrative.</p>		Again, this appears to be in conflict with the separation of powers between the Mayor and the Council. Once Council approves the budget, it is the Mayor's responsibility to manage the budget. This normally includes administrative duties such as authorizing travel.

Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed Jan 21	21.2	<p>Executive Sessions. The Mayor and Councilmembers must keep confidential all written materials and verbal information provided to them during Executive Sessions and may not provide them to persons not present during Executive Sessions, unless, after consultation with the City Attorney, such provision will not violate the confidentiality of Executive Session, or will not violate some other legal exemption or legal privilege; <u>provided that this provision does not apply to verbal information or written materials that are not authorized by the Open Public Meetings Act RCW 42.30 to be discussed in executive session.</u></p>		<p>“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.”</p>

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Rules Version (Date)	Rule #	Text Changed	Gov Ops Committee Comments	RMSA Insurance pool
Passed July 7	21.2	<p>Executive Sessions. The Mayor and Councilmembers must keep confidential all written materials and verbal information provided to them during Executive Sessions and may not provide them to persons not present during Executive Sessions, unless, after consultation with the City Attorney, such provision will not violate the confidentiality of Executive Session, or will not violate some other legal exemption or legal privilege; provided that this provision does not apply to verbal information or written materials that are not authorized by the Open Public Meetings Act RCW 42.30 <u>or other law</u> to be discussed in executive session.</p>	<p>The July 7 rules clarified that additional laws, not just RCW 42.30 (the OPMA) may also require that Councilmembers not disclose executive session information.</p> <p>However, there is a concern that abuse of executive sessions must be prevented. Therefore, all councilmembers and the mayor should be aware that if they discuss something not authorized by state law to be discussed in executive session, there is no requirement of confidentiality. If a councilmember has a question, they would certainly consult with an attorney, but if the law is plain, there is no need for the expense of the attorney to make a determination.</p> <p>If the behavior is so risky, then we would ask that the mayor stop her repeated pattern of disclosing confidential information on Council resolutions from the attorney without the agreement of the Council.</p>	<p>[3] RMSA Strongly recommends that you follow your city attorney's recommendation on this issue.</p> <p>(RMSA: provided that this provision does not apply to verbal information or written materials that are not authorized by the Open Public Meetings Act RCW 42.30 (RMSA) or other law</p> <p>...</p> <p><b>Mayor's attorney:</b> Not only is this extremely risky behavior, it also ignores the fact that the OMPA is not the only law that applies to release of confidential or executive session discussions/materials. See, RCW 5.60.060(2).</p> <p>Executive sessions are confidential and the matters discussed are confidential. Under RCW 42.23.070(4), no Councilmember can disclose information that was discussed or distributed in an executive session. This prohibition also applies to confidential memos from the City Attorney sent to all Councilmembers, regardless of whether or not there was an executive session. Any Councilmember seeking to test whether or not state law can be effectively amended by this resolution should be aware that there are many adverse consequences that could result from such disclosure. As stated in RCW 42.23.050: "In addition to all other penalties, civil and criminal, the violation by any officer of the provisions of this chapter may be grounds for forfeiture of his or her office." Disclosure of confidential information could also compromise the City's position in a lawsuit or other proceeding, and expose the City and the individual Councilmembers to liability. Finally, a Councilmember disclosing confidential information contrary to legal advice (or acting without legal advice) jeopardizes the City's insurance coverage in a claim or lawsuit.</p>

## Appendix A for Rule 8.3

Council Rule:

### 8.3 Abstentions.

8.3.1 *Abstention allowed for conflict of interest or appearance of fairness.* It is the responsibility of each Councilmember to vote when requested on a matter before the full Council. However, a Councilmember may abstain from discussion and voting on a question because of a stated conflict of interest or to preserve the appearance of fairness. Should the City Attorney indicate that the Mayor or a Councilmember is required to abstain from further participation on an issue, the affected person must abstain except where abstention would result in a lack of a quorum (or lack of a majority vote where required by law). See *Subsection 8.6.1*. Failure to abstain may cause delay in proceedings to allow court intervention. See *Subsection 8.6.3*.

8.3.2 *Notice of intent to abstain required.* Notice of intent to abstain shall be given prior to any discussion or participation on the subject matter or as soon thereafter as the Mayor or Councilmember perceives a need to abstain.

8.3.3 *Need to abstain shall be confirmed by City Attorney.* Prior to the time that the Mayor or a Councilmember gives notice of intent to abstain,...

### RMSA COMMENTS ON 8.3:

[1] There is a difference between conflict of interest and appearance of fairness. RMSA recommends that you consider the following from MRSC and consider revising 8.3

According to **RCW 42.23.070** as it relates to conflicts of interest, **Prohibited acts.**

- (1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.
- (2) No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.
- (3) No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.
- (4) No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit.

### Appearance of Fairness Doctrine in Hearings

Until 1969, Washington law dealing with conflicts of interest generally applied only to financial interests, as opposed to emotional, sentimental, or other biases. The "appearance of fairness doctrine," however, which governs the conduct of certain hearings, covers broader ground. That doctrine was first applied in this state in 1969. In two cases decided in that year, the Washington State Supreme Court concluded that, when boards of county commissioners, city councils, planning commissions, civil service commissions, and similar bodies are required to hold hearings that affect individual or property rights ("quasi-judicial" proceedings), they should be governed by the same strict fairness rules that apply to cases in court. See *Smith v. Skagit County*, 75 Wn.2d 715, 453 P.2d 832 (1969); *State ex rel. Beam v. Fulwiler*, 76 Wn.2d 313, 456 P.2d 322 (1969). Basically, the rule requires that for justice to be done in such cases, the hearings must not only be fair, they must also be free from even the appearance of unfairness. The cases usually involve zoning matters, but the doctrine has been applied to civil service and other hearings as well.

As the listing also indicates, the appearance of fairness doctrine has been used to invalidate proceedings for a variety of reasons; for example, if a member of the hearing tribunal has a personal interest of any kind in the matter or takes evidence improperly outside the hearing (*ex parte*). In those cases, that member is required to completely disassociate him or herself from the case, or the entire proceeding can be overturned in court.

In 1982, the legislature reacted to the proliferation of appearance of fairness cases involving land use hearings by enacting what is now chapter 42.36 RCW. This RCW chapter defines and codifies the appearance of fairness doctrine, insofar as it applies to local land use decisions. In substance, those statutes now provide that in land use hearings:

1. The appearance of fairness doctrine applies only to "quasi-judicial" actions of local decision-making bodies. "Quasi-judicial" actions are defined as:  
actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding.

RCW 42.36.010.

2. The doctrine does not apply to local "legislative actions"  
adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

RCW 42.36.010.

Number: 2 Author: rogern Subject: Sticky Note Date: 1/20/2016 3:36:46 PM

it appears that text is missing. Normally the City Attorney does not get involved if an elected official declares a conflict of interest. The usual practice is before the debate begins, the elected official simply states that the elected official has a conflict of interest on this matter. The elected official does not need to state the nature of the conflict of interest. The recommendation is that after declaring the conflict of interest, the elected official should recuse themselves and actually leave the meeting room. This is so that there can be no assumption that the elected official's presence is influencing the deliberation on the issue. After the Council takes final action (i.e. votes) the elected official re-joins the meeting and continues as a Council member.

An abstention is when for whatever reason an elected official does not want to cast a vote. According to MRSC, Many jurisdictions have, by reference, adopted [HYPERLINK "http://www.robertsrules.org/"](http://www.robertsrules.org/) *Robert's Rules of Order* to provide guidance in matters of voting and parliamentary procedure. The basic principles in *Robert's Rules* concerning abstentions are as follows:

Abstentions are counted and noted, but not as a "yes" or "no" vote. An abstention does not affect the voting result.

A member has a right to abstain and cannot be compelled to vote.

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## Appendix – Attorney Kathy George Open Public Meetings Act Memo

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To: Patricia Pepper and Erika Morgan

From: Katherine A. George, WSBA # 36288

Re: Application of Open Public Meetings Act, Chap. 42.30 RCW

Date: February 4, 2016

Thank you for seeking guidance about how to comply with the Open Public Meeting Act (OPMA), Chapter 42.30 RCW, as members of the Black Diamond City Council. I regularly practice law in the area of open government, advocating for the right of citizens to know what their governments are doing. I also serve on the board of the Washington Coalition for Open Government and chair its legal committee. I commend you for making an exceptional effort to clarify a statute that is often muddled in confusion.<sup>1</sup>

### I. Brief Summary of the OPMA

In adopting the OPMA decades ago, the Legislature expressed the following intent:

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<sup>1</sup> The OPMA is notorious for its lack of clarity. Consider, for example, the circular language in RCW 42.30.020(3), which says: “‘Meeting’ means meetings at which action is taken.” OPMA suits are relatively rare, resulting in little guidance from the courts. In light of the scant definitions in the statute, the paucity of case law, and the strong public interest in transparency, it is prudent to err on the side of openness.

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees...and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

*See* RCW 42.30.010.

To carry out that intent, the Legislature adopted RCW 42.30.030, which says:

All meetings of the governing body of a public agency shall be open and public, and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

Thus, openness is required if: 1) a “governing body” of a public agency 2) has a “meeting.” These terms are defined in RCW 42.30.020. In a nutshell, a governing body meets when it conducts official business, including discussing or considering policies.

A governing body’s meeting must be regularly scheduled or announced at least 24 hours in advance, so that the public has a meaningful opportunity to observe the policymaking process. *See* RCW 42.30.060, RCW 42.30.070 and RCW 42.30.080. If the meeting is specially scheduled, the governing body cannot take final action on any business that was not included in the meeting announcement.

There are 15 exceptions permitting closed meetings (“executive sessions”) for specific, limited purposes such as reviewing an employee’s performance. *See* RCW 42.30.110. Before closing a meeting, the governing body chair must announce the purpose of closure and how long it will last. Under RCW 42.30.120, any member of a governing body who knowingly violates the OPMA may be personally liable for a \$100 civil penalty, and the agency must pay attorney fees for any lawsuit that proves an OPMA violation.

## II. Can Standing Committees Have a Quorum of Council Members?

You asked whether it is legal under the OPMA for a majority of council members to serve on a standing committee of a council. The answer is **yes**, as long as the committee’s meetings meet the same openness requirements that apply to full council meetings.

Washington courts have consistently held that a “meeting” of a “governing body” occurs when a majority of the full body’s members gather with the intent to conduct official business. See, for example, *Wood v. Battle Ground School District*.<sup>2</sup> Thus, when at least three members of a five-member council gather to consider official business, it doesn’t matter whether it’s called a committee meeting or a council meeting – the presence of a council majority makes it a “meeting” for purposes of requiring openness under RCW 42.30.030.

If the council plans to meet regularly as a standing committee, it should adopt a regular schedule so that the public can anticipate opportunities to attend committee meetings. RCW 42.30.070 says, “The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body.” Also, agendas for regular meetings should be posted online at least 24 hours in advance pursuant to RCW 42.30.077.

Alternatively, the council’s presiding officer or a majority of council members can call a “special meeting” each time the council meets as a standing committee. A special meeting requires public notice to be posted 24 hours in advance on the agency’s Web site and at the meeting site, at a minimum. See RCW 42.30.080(2). Unlike at a regular meeting, final action at a special meeting is limited to the matters specifically mentioned in the public notice.

There is nothing in the OPMA that limits the size of a council committee. In fact, it is not unusual for a council to have “a committee of the whole” consisting of all council members. As long as the public has the requisite notice and opportunity to attend, the governing body’s meetings will satisfy the OPMA.

### III. Can A Majority of Members, Acting As a Committee, Recommend Legislation to the Full Council?

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<sup>2</sup> 107 Wn.App. 550 (Div. 2, 2001).

You also asked whether the OPMA permits a majority of the council, acting as a standing committee, to recommend adoption of a proposal by the full council. The answer is yes, again assuming that notice and openness requirements are met.

RCW 42.30.020(2) defines “governing body” as the “committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.” So in order to constitute a “governing body” for OPMA purposes, a committee must hold a public hearing, take testimony or comments, or “act on behalf of” the full body. Last October, in *Citizens Alliance for Property Rights Legal Fund v. San Juan County*,<sup>3</sup> the Washington Supreme Court addressed for the first time what it means to “act on behalf of” a full council. If a committee was “created or specifically authorized” by the council, and “exercises actual or de facto decision-making authority on behalf of the governing body,” then it is a governing body itself for open-meeting purposes.

That decision and the statutory definition of “governing body” seem to contemplate that a full council may grant its decision-making authority to a committee. Whether that is a good idea, or even permissible under applicable city and state codes, is beyond the scope of this memo. **But if all the committee does is recommend passage by the full council, then regardless of whether the full council has formally granted any decision-making authority to the committee, the council still retains the final decision-making authority.** It is certainly possible for committee resolutions to be drafted so that recommendations are not binding, and to make clear that the committee is merely assisting in, but not assuming control of, decision-making by the full council.

A committee recommendation process can improve opportunities for public participation. Standing committees can develop an expertise in a particular policy area and hold more in-depth public meetings than the full council can. Also, a “do pass” recommendation is a clear signal to the public as to which way the political wind is blowing, and can help mobilize concerned citizens to point out information or considerations that have been overlooked.

I hope this brief memo has been helpful, and look forward to answering any additional questions you may have.