

## BLACK DIAMOND CITY COUNCIL MINUTES

April 7, 2016

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

### CALL TO ORDER, FLAG SALUTE:

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

### ROLL CALL:

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

**ABSENT:** None

Staff present: Carol Morris, City Attorney; Seth Boettcher, Public Works Director; Andy Williamson, MDRT/Ec Dev Director; Barbara Kincaid, Community Development Director; Peter Altman, Labor Attorney; and Mary Jane Bohn, Deputy City Clerk

Councilmember Pepper **moved** was made by Councilmember Pepper to waive the council rules to allow the council to consider this resolution immediately. She noted the reason for doing this is because the resolution is an amendment to the council agenda.

Councilmember Edelman noted being handed seven resolutions and asked which resolution Councilmember Pepper is referring to.

Councilmember Pepper stated this motion waives the rules to place this resolution before the Council and asked for a second. Councilmember Morgan **seconded** the motion.

Councilmember Pepper stated this is about adopting, recognizing, and documenting the Council approved agenda for its April 7 Council meeting.

Again, a **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to waive the council rules to allow the council to consider this resolution immediately. A resolution of the City Council of the City of Black Diamond, King County Washington adopting, recognizing and documenting the council approved agenda for its April 7 Council Meeting. She further **moved** to adopt this resolution. The resolution changes tonight's agenda. This is the agenda that the Mayor Pro-Tem Morgan and herself approved on Sunday and asked to be noticed and distributed to you. She also stated preparing supplemental packets for everyone.

Councilmember Pepper stated on the new agenda it is **item #7**.

There was Council discussion around this.

A point of order was called by Councilmember Pepper to please confine remarks to the motion on the floor.

Councilmember Morgan read the whereas statements and the sections of the resolution into the record.

A point of order was called by Councilmember Morgan noting she has the floor.

Council discussion continued.

A point of order was called by Councilmember Weber stating Councilmember Morgan has the floor.

Council discussion continued.

A point of order was called by Councilmember Pepper stating there is a motion on the floor and everyone has had time to speak.

Council discussion continued.

Councilmember Pepper called the question.

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

## **APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:**

### **Presentation – Planning Commission Awards**

Mayor Benson awarded our Planning Commission members Mr. Roth, Mr. Kuzaro and Mr. Davis and thanked them for their service.

### **Presentation – Eagle Creek Unfinished House**

Terry Yankovich Black Diamond spoke to Council regarding the unfinished house in Eagle Creek Development. She noted this unfinished house is a hazard, eye sore and brings property tax values down. She also noted that residents in the community have signed a petition regarding this house to try and get something done and are looking for some guidance from the City.

Community Development Director Kincaid reported on the demolition permit and building permit for this home.

## **CONSENT AGENDA**

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to adopt the Consent Agenda.

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

The Consent Agenda was approved as follows:

**1) Claim Checks** - April 7, 2016-No. 43322 through No. 43374 and EFTs in the amount of \$121, 481.67

**2) Minutes** - Special Joint Meeting Council/Planning Commission of March 8, 2016

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Pepper to reorder the agenda have item number five moved up on the agenda to item number one.

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

**PUBLIC COMMENTS:**

- Bob Edelman-Black Diamond spoke to Council.
- Point of Orders called by Councilmember Pepper and Weber.
- Robin Taylor, Black Diamond spoke to Council.
- Jason Seth, Black Diamond spoke to Council.
- Mark Taeschner, Lake Sawyer spoke to Council.
- Leann Garcia, Black Diamond spoke to Council.
- Gary McClain, Attorney for the applicants spoke to Council.
- Irwin (Sam) Pace, Black Diamond spoke to Council.

**PUBLIC HEARINGS: None**

**5) AB16-027 – Resolution Approving Final Plat for Diamond Ridge**

Community Development Director Kincaid gave a brief summary to Council on this item and Public Works Director Boettcher also reported to Council on this item.

There was Council discussion around this item.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt Resolution16-1085, approving the final plat approval for Diamond Ridge Sub-Division (PLN15-0044); setting forth supporting findings and fixing a time when the final plat shall become effective.

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

Mayor Benson addressed Councilmember Pepper regarding going into an executive session to discuss collective bargaining now rather than have the attorney wait one hour or more until the end of the council meeting.

Councilmember Pepper said the executive session should be at the end as the agenda states.

There was discussion between Councilmembers.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to move the executive session to now and convene for ½ hour and then return.

**Vote:** Motion **passed** 4-1 (Pepper)

### **EXECUTIVE SESSION:**

At 8:01 pm Mayor Benson announced an executive session as authorized under RCW 42.30.140(4) to discuss collective bargaining and to also discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i). The executive session is expected to last for 30 minutes.

A 15 minute extension was called.

Mayor Benson called the meeting back to order at 8:45 pm.

### **UNFINISHED BUSINESS:**

**3) Claim Checks** - March 17, 2016 - No. 43280 through No.43321 and EFTs in the amount of \$177,543 April 7, 2016 – No. 43322 through No. 43374 and EFTs in the amount of \$121,481.67

Councilmember Weber discussed March 17 claim checks that he pulled along with the minutes from January 21 and will discuss that later.

Councilmember Weber **moved** to table the one claim check for \$10,000-voucher 43294 to DKS Associates and approves the remaining March 17, 2016 claim checks. He stated he has questions for the Mayor.

There was discussion between Councilmembers and Mayor.

Councilmember Pepper **seconded** the motion.

There was continued discussion between Councilmembers and the Mayor.

Point of Order was called by Councilmember Pepper.

Discussion continued between Councilmembers, Mayor and staff.

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

#### **4) Minutes - Council Meeting of January 21, 2016**

Councilmember Weber wanted to discuss council meeting minutes from January 21 that were pulled. He would like to discuss numbered pages 1-19 and then added attachments. He is proposing if external documents are added to minutes, he would like to know who they are from and notated.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman to amend the minutes and add who documents are from.

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

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman to accept the amended meeting minutes of January 21, 2016.

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

#### **5) AB16-027 – Resolution Approving Final Plat for Diamond Ridge**

Item number five was moved and addressed first after the consent agenda.

#### **6) AB16-022A – Resolution Authorizing an Agreement with ReturnMeds**

Councilmember Morgan briefed Council on this item.

Point of Order was made by Councilmember Edelman to have the Police Chief address this item.

Councilmember Morgan read the resolution into the record.

Councilmembers discussed this resolution.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to adopt the resolution authorizing the Mayor to execute an agreement with ReturnMeds in support of a secure, convenient medicine return program to reduce the public safety and environmental impacts of unwanted medicines.

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

#### **NEW BUSINESS:**

#### **7) AB-XXX – Resolution Adopting, Recognizing, and Documenting the Council Approved Agenda for its April 7 Council Meeting**

Mayor Benson noted item number 7 was addressed at the beginning of the meeting.

**8) AB16-025** – Resolution Approving Collective Bargaining Agreement with Public Works Unit for first reading

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to refer to budget and finance committee that meets on 4/18 at 6:30 p.m.

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

**9) AB16-026** – Resolution Approving an Agreement with DKS for Transportation Comprehensive Plan Update for first reading

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to refer to budget committee that meets on 4/18 at 6:30 p.m.

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

**10) AB16-XXX** -Resolution Regarding Dismissal of Robert Edelman Lawsuit introduced by Councilmember Morgan

Councilmember Morgan read the resolution into the record and noted that this would be taken up at the Government Operations committee meeting on 4/14.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to pull this entirely off the agenda.

**Vote:** Motion **failed** 2-3 (Pepper, Weber, Morgan)

**11) AB16-XXX**- Resolution Recognizing the Legality of Council Standing Committees introduced by Councilmember Pepper for first reading

Councilmember Pepper read the resolution into the record.

Point of Order was raised by Councilmember Weber that Councilmember Pepper has the floor.

Councilmember Pepper continued to read the resolution into the record.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to move this resolution recognizing legality of council standing committees for first reading to the government operations and administration committee meeting next Wednesday, the 13<sup>th</sup> of April.

There was discussion between Councilmembers.

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

**12) AB16-XXX-** Resolution Regarding the Proper Noticing of Council Agendas introduced by Councilmember Morgan for first reading and assigned to the Government Operations Committee

Mayor Benson shared this has effectively stopped and slowed down City Business.

Councilmember Morgan introduced and read the resolution into the record.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper introducing for first reading and assigning to the Government Operations committee a resolution regarding proper noticing of Council Agendas. RCW 35A.12.120

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

Councilmember Morgan noted the meeting is on 4/14. There was discussion regarding the correct meetings dates that were stated on items 10 and 11.

Councilmember Pepper made a blanket statement that next week there are two standing meetings, Wednesday, April 13<sup>th</sup> is the Growth Management meeting and Thursday, April 14<sup>th</sup> is the Government Ops meeting.

**13) AB16-XXX-**Resolution Regarding the City Newsletter and Communications to the Public- for first reading to be referred to the Government Operations and Administrative Committee.

Point of Order called by Councilmember Pepper for the Mayor as the presiding officer to refrain from debating debate.

Councilmember Morgan noted this item is for first reading and assigned to the Government Operations committee meeting on the 14<sup>th</sup> she continued to read the resolution into the record.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper- for first reading and sent to the Government Operations committee on April 14 at 6:30 p.m. **No vote was taken.**

There was discussion between Councilmembers and it was noted the above resolution will be discussed at the April 14 at 6:30 p.m. meeting.

**14) AB16-XXX—**Resolution Requiring Council Pre-Approval Before Payment of all Claims and Calling for Expedited Compliance with Requirements of RCW42.24 and BDMC Section 3.23 Payment of City Claims or Obligations.

There was discussion between Councilmembers and City Attorney Morris.

Councilmember Weber read the resolution into the record for first reading.

There was discussion between Councilmembers, Mayor, and City Attorney.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan for a first reading of resolution requiring Council pre-approval before payment of all claims and calling for expedited compliance with the requirements of RCW 42.24 and Black Diamond Municipal Code Section 3.23 payment of city claims or obligations and referring it to the Budget and Finance Committee.

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

**15) AB16-XXX-Resolution** Regarding the City's Contract Legal Services-for first reading to be referred to the Government Operations & Administration Committee

There was discussion between Councilmembers.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to suspend the rules so that Council can act on this resolution tonight.

Councilmember Pepper read the resolution into the record and asked for a second. It was **seconded** by Councilmember Morgan.

The chair called for a vote but did not clarify if the vote called for was on the motion to suspend the rules and act on the resolution, or the motion to act on the resolution.

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

Mayor Benson stated she will not be signing this.

## **DEPARTMENT REPORTS:**

### **Public Works**

Public Works Director Boettcher reported on the Food Waste Program in conjunction with Maple Valley and Covington. He also reminded folks of the Recycle Event on April 30<sup>th</sup>.

Mr. Boettcher reported on the urgency of the chlorine system. He noted it is beyond its useful life here in Black Diamond and is getting harder to maintain. He strongly urged Council to move forward with this; if this is not acted on ASAP the contractor may not honor its bids any longer. This is normal city business and we are implementing what you asked us to do. Our last effort if this breaks down is to call City of Tacoma and turn water on from Tacoma and the cost would be about \$14,000 per month. The cost to each customer would be about \$15-\$16 each month.

Mayor Benson asked if anyone would like to suspend the rules and approve this contract tonight.

There was discussion between Councilmembers



A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to suspend the rules and approve this contract tonight.

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

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt Resolution No. 16-1088 authorizing the Mayor to sign a contract for Pump Tech Inc. to supply and install a new 12 pound per day on-site sodium hypochlorite generation system for the City's Springs water source.

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

### **Community Development**

Community Development Director Kincaid reported to Council that the planning and permitting offices are getting busy. She also discussed the City has a need for Council to consider a Professional Services Agreement with BHC Consultant to provide building official services to the City; the City is required by law to have a building official.

Ms. Kincaid also discussed the need for the DKS contract to allow them to finish up the work on the transportation element of the Comprehensive Plan update.

There was discussion between Councilmembers.

### **Finance**

Finance Director Miller noted taking personal pride for doing her job. She noted never encountering a situation where Council is not approving bills. She reported on public safety concerns for citizens to be able to call 911. If we can't pay our bills this impacts the police department, citizens, phones, contractors, projects, water testing, metro sewer bill, traffic, environment, etc...we cannot delay paying bills we are required to pay.

There was discussion between Councilmembers.

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

Mayor Benson reported she attended a Miners Day meeting in Enumclaw School foundation fundraiser, a public safety meeting, finance meeting and a management meeting. She shared some statistics from the beginning of the year that our legal costs are double from what it was last year and also noted the amount of meetings held this year and public disclosure requests we have received this year as compared to this time last year.

### **COUNCIL REPORTS:**

Councilmember Deady reported that she attended a foundation luncheon, legislative dinner. She read questions she has for the three majority Councilmembers and hoped they could answer them tonight and if not they could answer them in an email. She also noted she will be submitting this document so it can be part of the record.

Councilmember Morgan noted being on the budget committee. She also noted calculating out that if your family lives in the City of Black Diamond, the City of Black Diamond is spending \$9,000 a year for every family who lives here. She checked with other immediate neighbors (Covington, Maple Valley, and Enumclaw) and they are spending \$4,000 to \$6,000 per year. She noted this being a third more than other cities are spending. She discussed sending an email asking to view the supporting documentation for the vouchers and received an email back saying there is no time today to review the supporting documentation and waited and waited and still there has not been a convenient time. She noted she would like to have a standing invitation to come in and review the supporting documentation when it is convenient to the City.

Councilmember Deady mentioned that all items in preparation of the Council agenda for consideration at a Council meeting should be turned in to the City Clerk by 10 a.m. nine days prior to the scheduled Council meetings in order to get on the agenda. And those items receiving a do pass from committee be placed on the next regular agenda.

Councilmember Edelman shared that she attended a Miner's Day Committee and Enumclaw School luncheon. She noted the reason the City is spending more money on families in Black Diamond because we are a smaller population of households.

Councilmember Weber shared about the Monday Budget meeting & Growth Management meeting. He noted for those interested in the Comprehensive Plan update there is an upcoming Joint Council and Planning Commission meeting on this issue.

Councilmember Pepper commented that she has been doing the work for the City of Black Diamond for the people that are here and also for the people not here. She noted that for staff the committee meetings go on and looks very much forward to working with you.

**ATTORNEY REPORT: None**

**PUBLIC COMMENTS:**

Andy Williamson representing Teamsters spoke to Council.

Bob Edelman, Black Diamond spoke to Council.

Brian Derdowski, Black Diamond spoke to Council.

Mark Hill, Lake Sawyer spoke to Council.

Brock Deady, Black Diamond spoke to Council.


Robbin Taylor, Black Diamond spoke to Council.

**ADJOURNMENT:**

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

The meeting ended at 11:06:29 p.m.

ATTEST:

  
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Carol Benson, Mayor

  
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Brenda L. Martinez, City Clerk