

CITY OF BLACK DIAMOND
November 16, 2017 Regular Business Meeting Agenda – Revised 11/09/17
– Adopted Agenda
25510 Lawson St., Black Diamond, Washington

7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

PUBLIC COMMENTS: Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending.

PUBLIC HEARINGS:

6) Proposed Preliminary 2018 Budget Ms. Miller

UNFINISHED BUSINESS:

7) AB17-062A – Resolution Authorizing Yearly Addendum to Valley Communications Agreement Chief Kiblinger

8) AB17-063A – Resolution Confirming Mayor’s Appointment of Municipal Court Judge and Authorizing a Judicial Services Agreement Mayor Benson

NEW BUSINESS:

9) AB17-064 – Ordinance Setting the Property Tax Dollar Amount for 2018 Ms. Miller

10) AB17-065 – Ordinance Setting the 2018 Property Tax Percentage Increase and Dollar Amount Ms. Miller

11) AB17-066 – Resolution Authorizing the Funding Defense of Councilmember Patricia Pepper in Relation to Judicial Proceedings Related to Determination of the Sufficiency of Recall Charges Councilor Pepper

CONSENT AGENDA:

1) Claim Checks – November 16, 2017 - No. 45516 through No. 45558 and EFTs in the amount of \$853,498.99

2) Payroll – October 31, 2017 – No. 19426 through No. 19443 and ACHs in the amount of \$305,767.27

3) Minutes – Council Special Meeting of October 19, 2017

4) Minutes – Council Special Meeting of October 26, 2017

5) Minutes – Council Meeting of November 2, 2017

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORTS:

- Councilmember Deady
- Councilmember Morgan
- Councilmember Edelman
- Councilmember Weber
- Councilmember Pepper

ATTORNEY REPORT:

PUBLIC COMMENTS:

EXECUTIVE SESSION:

ADJOURNMENT:

**BLACK DIAMOND CITY COUNCIL MINUTES
NOVEMBER 16, 2017**

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 were: Jamey Kiblinger, Police Chief; Larry Colagiovanni, Police Commander; May Miller, Finance Director; Andy Williamson, MDRT/Ec Dev/Interim Community Development Director; Kevin Esping, Facilities Coordinator; David Linehan, City Attorney and Brenda L. Martinez, City Clerk.

Councilmember Pepper **moved** to change the agenda per Council rules, the Consent Agenda is moved to the end after New Business per Council rule 3.12; the other items of Unfinished Business remain on the Council agenda and the Committee Chair is requested to make a motion on whether they wish to ask the Council to vote to relieve the item from Committee or if the item should remain in Committee; **second** Councilmember Morgan.

Councilmember Pepper spoke to her motion.

There was Council discussion.

VOTE: Motion **passed** 4-1 (Deady)

Mayor Benson asked to observe a moment of silence in memory of Leslie Cooley who passed away this week. She also thanked those that brought flowers for Leslie's chair. The Mayor discussed the Kiwanis dinner this Sunday from 11-1 p.m.

Councilmember Pepper spoke to section ten regarding public comments in the Council Rules and read out 10.4 regarding the prohibited remarks. There was Council discussion.

PUBLIC COMMENTS:

Gary Davis, Black Diamond spoke to Council.

Michelle Young, Black Diamond spoke to Council.

Erin Stout, Black Diamond spoke to Council.

Terri Yankovich, Black Diamond spoke to Council.

Johna Thomson, Black Diamond spoke to Council.

Attorney Linehan noted parameters of the public comment podium for political speeches and discussed the appropriate venue for comments and discussion around ballot items.

Johna Thomson, Black Diamond continued to speak to Council.

Pat Nelson, Black Diamond spoke to Council.

Judy Goodwin, Black Diamond spoke to Council.

Bob Edelman, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council and asked for six minutes to speak.

There was Council discussion.

Councilmember Morgan **moved** to allow Mrs. Taylor to have three minutes now, three minutes later in the meeting; **second** Councilmember Pepper. Motion **passed** 3-2 (Edelman Deady).

Mario Sorci, Black Diamond spoke to Council.

Kristen Bryant, Bellevue spoke to Council.

Melissa Oglesbee, Black Diamond spoke to Council.

Pam McCain, Black Diamond spoke to Council.

Chris Wisnoski, Black Diamond spoke to Council.

Dorothy Botts, Black Diamond spoke to Council.

Jackie Buss, Black Diamond spoke to Council.

Keith Watson, Black Diamond spoke to Council.

PUBLIC HEARING:

6) Proposed Preliminary 2018 Budget

Finance Director Miller addressed Council on this item.

Jason Seth, Black Diamond spoke in favor of Council passing the proposed preliminary budget timely.

UNFINISHED BUSINESS:

7) AB17-062A – Resolution Authorizing Yearly Addendum to Valley Communication Agreement

Chief Kiblinger addressed this item.

There was Council discussion.

Councilmember Morgan **moved** that the yearly addendum for Valley Communication services come forward to this meeting and be adopted; **second** Councilmember Pepper. (No vote taken)

Councilmember Morgan moved to adopt a resolution authorizing the Mayor to execute an addendum to the agreement for dispatch services for Valley Communications for 2018; **second** Councilmember Edelman.

Councilmember Morgan spoke to her motion.

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

8) AB17-063A – Resolution Confirming Mayor’s Appointment of Municipal Court Judge and Authorizing a Judicial Services Agreement

Councilmember Morgan **moved** to confirm the Mayors appointment of Krista White Swain as the Black Diamond Municipal Court Judge and authorizing her to execute a Judicial Services Agreement; **second** Councilmember Edelman.

Councilmember Morgan spoke to her motion.

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

NEW BUSINESS:

9) AB17-064 – Ordinance Setting the Property Tax Dollar Amount for 2018

Finance Director Miller reported on this item.

Councilmember Edelman **moved** to suspend the rules and adopt an ordinance setting the property tax dollar amount for 2018 to be used for public safety including police, fire and emergency services; **second** Councilmember Deady.

There was Council discussion.

Councilmember Edelman called a point of order to Councilmember Morgan.

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

10) AB17-065 – Ordinance Setting the 2018 Property Tax Percentage Increase and Dollar Amount

Finance Director Miller reported on this item.

Councilmember Edelman **moved** to suspend the rules and adopt an ordinance setting the base property tax dollar amount increase in percentages calculated by King County for 2018 property taxes to be used for public safety including police, fire and emergency services; **second** Councilmember Deady.

VOTE: Motion **passed** 4-1 (Morgan)

11) AB17-066 – Resolution Authorizing the Funding Defense of Councilmember Patricia Pepper in Relation to Judicial Proceedings Related to Determination of the Sufficiency of Recall Charges

Councilmember Pepper **moved** to suspend the rules and would like to make a motion to adopt the resolution authorizing the funding of the defense of Councilmember Patricia Pepper in relation to judicial proceedings relating to determination of sufficiency of the recall charges and she also noted that she would like to have Attorney Koler address this.

Councilmember Pepper called a point of order to let Ms. Koler speak.

Ms. Koler stated she is entitled to address the Council and further stated it would be most unusual for the City Council to decline to pay Pat Peppers legal defense expenses. She noted RCW 36.21.203 shows that legislature absolutely contemplated that City's would pay the legal defense expenses of individuals subject to recall. She referred to an opinion Attorney Glenn referred to which is on point for this situation. She noted the Supreme Court notes no conflicts of interest for a person subject to recall to vote on the matter. She went on to note an ethics statute which specifies that an elected official shall not vote on a contract if it presents conflict of interest. She further noted that paying someone's attorney does not present a situation which there is a conflict of interest.

Councilmember Pepper called a point of order to allow Ms. Koler to speak as Mayor Benson noted her time was up.

Councilmember Deady noted to Councilmember Pepper that the Council, including Ms. Pepper, agreed to allow Attorney Jane Koler three minutes to speak.

Councilmember Morgan called a point of order.

There was Council discussion.

Councilmember Pepper **moved** to allow Attorney Koler to speak as long as she feels is necessary; **second** Councilmember Morgan. Motion **passed** 3-2 (Edelman, Deady)

Ms. Koler stated that she thinks the legal expenses would be slight. She stated that Ms. Pepper was not advised of RCW 36. 21.203. She noted that Ms. Pepper went to the trial court proceedings and there were no legal expenses associated with that. She urged the Council to behave in a legal fashion today. She noted the language in RCW 36.21.203 states the City shall pay subject to the Councils approval legal expenses associated with recall. She further noted that the Legislature contemplates that these expenses will be paid by the City Council.

There was Council discussion.

Councilmember Pepper called a point of order during comments from Councilmember Deady.

There was continued Council discussion.

Councilmember Pepper read the resolution and spoke to her motion for funding of her defense of recall charges.

There was Council discussion around the motion and was it seconded? Councilmember Morgan stated she **seconded** the motion.

Ms. Koler stated that it is not proper to interrogate a fellow Councilmember, and noted that it might be helpful for Ms. Pepper to say who represented her and who the Attorney is now. She further noted that Ms. Pepper may make a statement about who is defending her and what her bills have been, if she has that answer with her tonight.

Councilmember Pepper stated that Dennis Reynolds is the Attorney, his firm is representing her and said this is all she will say for now.

Councilmember Deady asked Mr. Linehan to speak.

Attorney Linehan stated he does not like to give legal advice in a meeting and would be happy to speak in an executive session if the Council believes that would be fruitful, given there has been a claim for dollars against the City and if it turns into a dispute, it may be an appropriate litigation matter for executive session. He noted criteria that would guide the Council's decision tonight.

Councilmember Edelman stated she would like Councilmember Pepper to disqualify herself from this and leave the room so that Council can take a vote.

Attorney Linehan stated that just because the Supreme Court may allow something doesn't mean the Council must do it, and if the Council has its own individual rules for disqualification, abstaining, conflicts of interest and the like, rules should be applied in this situation.

Councilmember Edelman noted Council rules 8.6.2, refusal to abstain and asked Councilmember Pepper to recuse herself and go outside, to which Councilmember Pepper stated, "absolutely not".

There was Council discussion around conflict of interest.

Roll Call Vote – Councilmember Deady, **no**; Councilmember Morgan, **yes**; Councilmember Edelman, **no**; Councilmember Weber, **yes**; Councilmember Pepper, **yes**. Motion **passed** 3-2 (Edelman, Deady)

CONSENT AGENDA:

- 1) **Claim Checks** – November 16, 2017 - No. 45516 through No. 45559 and EFTs in the amount of \$853,498.99

Councilmember Morgan stated she will be separating the items and noted the vouchers not approved for payment are voucher numbers 45546 (Parametrix) and 45548 (RH2).

Councilmember Morgan **moved** that we approve the rest of the vouchers; **second** Councilmember Edelman.

Councilmember Morgan spoke to her motion.

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

Councilmember Morgan noted she has an October 17 invoice here from Land Use and Property Law and **moved** that this invoice be paid ASAP; **second** Councilmember Pepper.

Councilmember Morgan spoke to her motion.

ROLL CALL VOTE: Councilmember Deady, **no**; Councilmember Morgan, **yes**; Councilmember Edelman, **no**; Councilmember Weber, **yes**; Councilmember Pepper, **yes**. Motion **passed** 3-2 (Edelman, Deady)

During the meeting Councilmembers Morgan, Weber and Pepper were served with court papers from a process server.

2) **Payroll** – October 31, 2017 – No. 19426 through No. 19443 and ACHs in the amount of \$305,767.27

Councilmember Morgan **moved** to pay the payroll, **second** Councilmember Weber. Motion **passed** with all voting in favor 5-0.

3) **Minutes** – Council Special Meeting of October 19, 2017

4) **Minutes** – Council Special Meeting of October 26, 2017

5) **Minutes** – Council Meeting of November 2, 2017

Councilmember Morgan **moved** that we adopt the three sets of minutes, October 19, October 26 and November 2, 2017; **second** Councilmember Weber. Motion **passed** with all voting in favor 5-0.

DEPARTMENT REPORTS:

Mr. Williamson, MDRT/Economic Development Director reported on the development and activities that are happening now and those forthcoming.

MAYOR'S REPORT:

Mayor Benson reported that she attended the SEAT coalition meeting, Multi-Care Community Leaders reception, Fire Ad Hoc meeting and the Chamber luncheon.

COUNCIL REPORTS:

Councilmember Deady stated she will miss Ms. Leslie Cooley and noted how much she admired her and will truly miss her. She noted that Leslie had a kind heart and helped everybody. She thanked those folks who brought her flowers. She reported that she met with May Miller over the budget, attended and served the Thanksgiving luncheon today with Mayor Benson at the Community Center, attended the Fire Ad Hoc Committee meeting. She discussed the gift tags at the Community Center for Christmas. She noted Lake Sawyer has the gift tags as well as the Community Center and the Eagles Club.

Mayor Benson noted that you can donate money if you would rather so that they can go shopping for any gift tags left over.

Councilmember Morgan shared about the environmental studies inspiring the next generation to be an environmental steward. She also shared that there is a study session where K-6 grade students learn about the needs of salmon and learn to collect samples and tape measurements of seven different parameters important for salmon. She discussed different pledges that the students can acquire to take care of the needs of Salmon. She further noted that our City needs a properly trained administrator.

Councilmember Edelman thanked the Stouts and Pam McCain for bringing flowers for Leslie's chair. She wished Ms. McCain a Happy Birthday as well. She noted the gift tags for the giving trees are also at St. Barbara's Church. She attended the Southeast Transportation meeting with the Mayor, attended the Multi-Care Covington open house, the Association of Washington Cities Regional meeting, attended the Mayor's finance meeting with May Miller, the Fire Ad Hoc Committee meeting and attended the Chamber of Commerce luncheon.

Councilmember Weber reported he attended the work study last week by May Miller, looking over the budget and he emailed some information out and is looking forward to that. He also noted that tomorrow night is a prime rib dinner at the Eagles.

Councilmember Pepper shared the legislative priorities of AWC to strengthen housing, mental health, enhance economic development and programs that foster development for the cities. She received a letter from the Department of Ecology, two letters from a concerned citizen and noted that she placed some of these letters on the table, if you are interested in the John Henry mine and what the DOE is doing. She noted an article in the paper on November 10 about the environment-John Henry mine. She noted a memorandum from Land Use and Property Law with an update about the lawsuit against Mayor Benson filed October 11, 2017. She further stated the Mayor was served a summons and complaint at her office and home and noted that Mayor Benson's Attorney, Patrick McMahon, submitted and answered the complaint for the Mayor on November 14, 2017. She noted that Oakpointe filed to intervene on the lawsuit, where the court granted.

ATTORNEY REPORT:

Attorney Linehan reported that he never addresses public commenters but tonight he is going to address Leslie Cooley. He shared that he hopes that when Leslie arrives at the Pearly Gate that she walked up to St. Peter and said "Leslie Cooley, Black Diamond".

PUBLIC COMMENTS:

Jackie Buss, Black Diamond spoke to Council.
Jason Seth, Black Diamond spoke to Council.
Erin Stout, Black Diamond spoke to Council.
Chris Wisnoski, Black Diamond spoke to Council.
Bob Edelman, Black Diamond spoke to Council.
Judy Watson, Black Diamond spoke to Council.
Robbin Taylor, Black Diamond spoke to Council.
Johna Thomson, Black Diamond spoke to Council.
Andy Williamson, Black Diamond spoke to Council.
James Stout, Black Diamond spoke to Council.
Judy Goodwin, Black Diamond spoke to Council.
Judy Watson, Black Diamond spoke to Council.
Kristen Bryant, Bellevue spoke to Council; she asked for additional time as the audience was talking over her.

Mayor Benson reminded Ms. Bryant she cannot make a political speech and needs to talk about facts.

Councilmember Pepper called a point of order as Ms. Bryant's time was up to speak and she wanted more time and **moved** to allow this person (Ms. Bryant) to speak without interruption and get to finish, **second** Councilmember Morgan. (No vote taken)

Councilmember Pepper called another point of order for control of the audience.
Kristen Bryant, Bellevue continued with her public comments.
Councilmember Pepper called a point of order, Madam Chair.
Ron Taylor, Black Diamond spoke to Council.
Judy Carrier, Auburn spoke to Council.
Nancy Rogers, Attorney for Oakpointe spoke to Council.
Robbin Taylor, Black Diamond spoke to Council.


EXECUTIVE SESSION: None

ADJOURNMENT:


Councilmember Weber **moved** to adjourn the meeting; **second** Councilmember Edelman. Motion **passed** with all voting in favor (5-0).

The meeting ended at 9:54 p.m.

ATTEST:



Carol Benson, Mayor



Brenda L. Martinez, City Clerk