

BLACK DIAMOND CITY COUNCIL MINUTES

May 18, 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: David Linehan, City Attorney; Jamey Kiblinger, Police Chief; Sergeant Girias, Andy Williamson, MDRT/Ec Dev/Interim Community Development Director; Dan Dal Santo, Interim Public Works Director; Kevin Esping, Facilities Coordinator; May Miller, Finance Director; and Katherine Allen, Deputy City Clerk.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that we update the agenda to place the consent agenda at the end of the meeting to include items 1-6 and that we add item number 9 (Resolution to hire Legal Services-AB17-037) under Unfinished Business. The Council had this resolution for first reading on May 4, 2017.

Councilmember Pepper spoke to her motion.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Morgan to recess for ten minutes. Motion **passed** with all voting in favor (5-0).

At 7:02 p.m. Mayor Benson recessed the meeting for ten minutes due to technical difficulties.

Mayor Benson called the meeting back to order at 7:12 p.m.

VOTE: Motion **passed** 3-2 (Edelman, Deady) to accept the updated agenda.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS: None

PUBLIC COMMENTS:

Pat Nelson, Black Diamond spoke to Council.
Leslie Coolie, Black Diamond spoke to Council.
Robbin Taylor, Black Diamond spoke to Council.
Johna Thomson, Black Diamond spoke to Council.
Kristen Bryant, Bellevue, spoke to Council.

PUBLIC HEARINGS:

7) AB17-038-Ordinance Regarding Traffic Concurrency Management

Mayor Benson opened public hearing at 7:36 p.m.

Interim Public Works Director Dal Santo spoke about the work study and that the only change would be that we should not strike the previous exemptions per the City Attorney as they were adopted the last time. His recommendation would be that we not adopt this tonight and let this go first to Department of Commerce.

Attorney Linehan spoke for point of clarification in section 11.11.040, the copy that was submitted with the packet, struck out subsections B-T, and the intention was to leave those in. By taking them out, you are opening the argument that those things now require a traffic study. If you want those items to remain exempt, they probably need to stay in the code, in addition to adding the other items that were intended to be added.

There was Council discussion around this.

Tanya Nielson, from the greater Maple Valley Chamber of Commerce spoke about their concern of the Concurrency Ordinance and the impact on small businesses. She stated the exemptions 11.11.040 are too narrow and vague. 11.11.060 will be a barrier for non-profit businesses.

Scott Shear, Black Diamond spoke about the event permits and the impact on events such as the Lake Sawyer fire -works demonstration. These permits/events are short term permits, what do they have to do with development? He stated it would serve the City better to define long term so then it would have more clarity.

Attorney Linehan stated the reason they need to incorporate event permits is because the definition of development activity is so broad and the Concurrence Ordinance covers things like parades, fruit stands, Christmas tree stands and would require a traffic study.

Interim Public Works Director Dal Santo, Black Diamond shared the history of how we got here. He stated we started issuing permits and we had a short plat and as we started looking at the code, temporary uses were not exempt. We received a few studies/opinions and things got more complicated. Mr. Dal Santo read a letter from Parametrix study addressing the concurrency ordinance for temporary events. He further stated Council can adopt and table or accept it and move on.

Kevin Currier, Maple Valley, President of Kiwanis Club stated the Club relies heavily on these fundraising dollars generated from Tough- Mudder involvement and fireworks stands. The proceeds fund Black Diamond Backpack program, Thanksgiving Dinner at Community Center, Community Garden Project and student scholarships. The Traffic Concurrency Ordinance would prevent us from generating revenue. If this amendment is not passed, we cannot operate the fireworks stand in July. He urged the Council to approve the amendment to exempt temporary projects, such as ours, so we can continue our Community Giving Programs.

Andy Williamson, MDRT/Ec Dev/Interim Community Development Director stated that Concurrency Ordinance would generally follow the traffic element. We are not going to have a Farmers Market this year. He urged that we pass this or suspend the Concurrency Ordinance until it gets redrafted and redone. He urged that you ask the City Attorney if you cannot suspend this Ordinance for 90 days to rewrite it to have the time to do it properly.

Attorney Linehan stated it would require a Commerce review to do what Mr. Williamson recommended. This is all part of a Growth Management regulation.

Steve Paige, Black Diamond spoke about vague concerns in favor of moving forth through this. He shared right now we are in paralysis by analysis, the negative impact is right here in front of you if you don't pass this. He asked that you please move forward and use common sense and do the right thing.

Pat Nelson, Black Diamond spoke about the Parade that is held every year. He stated the Council has done everything to devalue the City, if you stop the parade, Tough Mudder, fireworks, stuff the city is built on, you prove you don't care about the City. Fight for what's right for the City.

Erin, Black Diamond stated make a change so that we can get those permits out there. Set it up for 90 days temporarily to see if it works. This would get the celebration season through August and gives the Lawyers a chance to see what's legal or not and then revisit it in 3-6 months.

Attorney Linehan reiterated this should not be adopted tonight as the statute reads you cannot adopt new development regulations prior to getting Department of Commerce to sign off. We need to wait until the Department of Commerce gives its approval. If we get the approval, this could be passed now in its current form. If you want to revisit it, you are the Council, you can repeal and replace anytime you want. You can always fix the Concurrency Ordinance in a more holistic way in a few months. If you decide you want a more thorough overhaul, or leave these few minor changes in place; if you think they are working appropriately.

Leslie Cooley, Black Diamond wanted to express her agreement with what Attorney Linehan said, and asked to expedite what was amended to the Ordinance through Department of Commerce. When it comes back, don't send it to Committee for review.

Don't send it to a first reading. Pass it as soon as you possibly can as these are time sensitive.

Kristen Bryant, Issaquah stated she thought this ordinance passed in December 2015 and has been in place for 1 ½ years, and the issues that are being brought forward, I don't have a strong opinion. I don't like Tough Mudder traffic, on the other hand I don't like any unnecessary red tape. She wondered if something else could be found with the very short term need because it didn't cause problems for events for last year.

There was Council discussion around this.

Mayor Benson closed the public hearing at 8:08 P.M.

Councilmember Pepper asked for clarification of what are we going to do with this ordinance.

Mayor Benson stated it will be sent to Department of Commerce and brought back as soon as we can by June 1 or sooner.

UNFINISHED BUSINESS:

9) AB17-037- Resolution Regarding Legal Services for the City

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper that we remove from Committee and approve Resolution request for Legal Service providers to submit proposals to the City and approving Interim Legal Service for the City with Land Use and Property Law and with Glen and Associates.

Councilmember Morgan read the resolution.

There was Council discussion around binding arbitration and Ms. Koler.

Councilmember Edelman shared information regarding job history of Ms. Koler.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that Attorney Koler be allowed to speak. Motion **passed** with all voting in favor (5-0).

Ms. Koler spoke to Council and wanted to clarify that she was not applying to be the City Attorney.

There was Council discussion around legal services.

Again, a **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to remove from Committee and approve Resolution renewing request to accept Legal Service providers to submit proposals to the City and approving Legal Interim service for the City with Land Use and Property law and Glenn & Associates.

Clerk asked for clarification of motion

Councilmember Morgan reread her motion.

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

NEW BUSINESS:

8) AB17-039-Resolution Authorizing Agreement with BHC for Comprehensive Plan Update

MDRT/Ec Dev/Interim Community Development Director Williamson reported on this item.

There was Council discussion around this.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that this agreement with BHC be postponed and assigned to the Growth Management Committee. Motion **passed** 3-2 (Edelman, Deady)

CONSENT AGENDA:

- 1) **Claim Checks** – May 18, 2017 - No. 44841 through No. 44893 and EFTs in the amount of \$706,768.75

Councilmember Morgan stated that the Consent Agenda is delivered in our agenda as separated out to its many parts and she has something to say about each of the parts and wants it to stay that way.

Councilmember Morgan addressed Council on the vouchers and noted she wants one voucher, No. 44865 in the amount of \$750 held from the Consent Agenda.

There was Council discussion.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber that we accept the claim checks less the voucher No. 44865. Motion **passed** with all voting in favor (5-0).

- 2) **Payroll** – April 28, 2017– No. 19315 through No. 19333 (Voids 19324, 19334, 19335, 19336) and ACHs in the amount of \$291,885.71

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber that we accept the payroll. Motion **passed** with all voting in favor (5-0).

- 3) **Minutes** –Special Joint Meeting of Council and Planning Commission of September 6, 2016

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Edelman to accept the minutes from September 6, 2016. Motion **passed** with all voting in favor (5-0).

4) Minutes – Special Meeting of April 13, 2017

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to accept Special Meeting Minutes of April 13, 2017 these are the Auditor Exit Conference. Motion **passed** with all voting in favor (5-0).

5) Minutes – Work Session of April 13, 2017

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to accept work session of April 13, 2017 minutes. No vote was taken.

There was Council discussion.

Councilmember Pepper called Point of Order to audience outburst.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to amend the motion and we hold these minutes from the April 13 work study meeting. Motion **passed** 3-2 (Edelman, Deady) to hold the minutes from April 13 meeting.

6) Minutes – Council Meeting of April 20, 2017

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to hold back minutes of April 20, 2017. Motion **passed** 3-2 (Edelman, Deady)

DEPARTMENT REPORTS:

MDRT/Ec Dev/Interim Community Development Director Williamson reported on the work and paving.

Finance Director Miller gave a financial update report.

Interim Public Works Director Dal Santo gave an update on Roberts Drive.

MAYOR'S REPORT:

Mayor Benson reported that she will be working with the Transportation Board to get our projects on the list. She reported that the major highways are our major concern.

COUNCIL REPORTS:

Councilmember Deady reported that she had met with Officer Hendrich. She went over finances with Ms. Miller.

Councilmember Morgan-No report

Councilmember Edelman spoke about attending the hearing on the recall, went over vouchers with Ms. Miller and attended the Police Interview. She served lunch at the Community Center.

Councilmember Weber spoke about the upcoming Tri-City meeting next week that Black Diamond will be hosting.

Councilmember Pepper shared that this month is Arts Month. Governor Inslee signed a law to help Local Community Support Arts.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Jennifer Latham, Black Diamond spoke to Council.

Councilmember Edelman called point of order to public outbursts.

Johna Thomson, Black Diamond spoke to Council.

Judy Goodwin, Black Diamond spoke to Council.

Mark Hill, Black Diamond spoke to Council.

Leslie Cooley, Black Diamond spoke to Council.

Dennis Boxx, Black Diamond spoke to Council.

Bob Edelman, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.


EXECUTIVE SESSION: None

ADJOURNMENT:

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

Meeting adjourned at 10:25 p.m.

ATTEST:



Carol Benson, Mayor



Katherine Allen, Deputy City Clerk