

CITY OF BLACK DIAMOND
October 5, 2017 Regular Business Meeting Agenda
Per Council Rules of Procedure
25510 Lawson St., Black Diamond, Washington

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

CHANGES TO AND APPROVAL OF AGENDA (Per Council Rule 3.4)

Note: Black Diamond Council Rules state that prior to posting on the website, the draft agenda must be approved by the Council President and Council Mayor Pro Tem (Council Rule 2.2). It is part of the City Clerk's role to prepare the draft agenda, send it for approval or amendment per the Council Rules, and then post to the website. At the point of preparation of this document, an incorrect draft was posted to the city website. Although the mayor disputes the Council agenda process, the Council agenda process is legal according to the city's legal service providers.

For the preliminary agenda to be approved for public notice, it must follow the Council Rules including:

- Items of New Business are for first reading and Council committee assignment (Rule 9.1. This rule can be suspended by Council vote, Rule 7.3). Any Council member can add an item of New Business for first reading.
- For Unfinished Business, once an item is assigned to committee, a committee recommendation or vote of the Council is required to relieve it from committee (Rule 18.1.1 and Rule 18.1.3.c).
- The "Consent Agenda" contains minutes and claim checks and comes after "New Business" (Rule 3.12).

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:

UNFINISHED BUSINESS:

NEW BUSINESS:

3) **AB17-055** – Resolution Awarding Bid on City Buildings Roof Replacement Project to Multifacet Group
Councilor Morgan
For First Reading and assignment to Government Operations Committee

~~4) **AB17-056** – Resolution Approving Contract with DKS Associates for Transportation Element of the Comprehensive Plan Update~~

5) **AB17-057** – Resolution Granting Final Plat Approval for Ten Trails PP1A Division 1 Subdivision
Councilor Morgan
For First Reading and assignment to Growth Management Committee

6) **AB17-058** – Resolution Approving Interlocal Agreement and Operating Procedures with South County Area Transportation Board (SCATBd)
Councilor Morgan
For First Reading and assignment to Government Operations Committee

CONSENT AGENDA:

1) Claim Checks – October 5, 2017 - No. 45373 through No. 45421 in the amount of \$64,052.87

2) Minutes – Council Meeting of September 21, 2017

DEPARTMENT REPORTS:

Americans with Disabilities Act – Reasonable Accommodations Provided Upon Request (360-886-5700)

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

October 5, 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 Pepper, Weber, Morgan, and Deady

ABSENT: Councilmember Edelman (excused)

Staff present were: Andrew Williamson, MDRT/Economic Development; Scott Hanis, Capital Projects/Program Manager; Kevin Esping, Facilities Coordinator, May Miller, Finance Director; Commander Larry Colagiovanni; David Linehan, City Attorney, and Katherine Allen, Deputy City Clerk.

CHANGES TO AND APPROVAL OF AGENDA:

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that per council rules 3.4 she moved to adopt council approved agenda per council rules of procedure along with one agenda change, and the change is to have discussion only of the contract of the transportation element of the comp plan as item four and postpone the contract on this transportation contract until our October 19th meeting. Motion **passed** 3-1 (Deady).

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

PUBLIC COMMENTS:

Patrick Nelson, Black Diamond spoke to Council.

Johna Thomson, Black Diamond spoke to Council.

Nancy Rogers, Attorney representing Oakpointe spoke to Council.

Leslie Cooley, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Kristen Bryant, Bellevue spoke to Council.

James Dob, Black Diamond spoke to Council.

PUBLIC HEARINGS: NONE

NEW BUSINESS:

3) AB17-055 – Resolution Awarding Bid on City Buildings Roof Replacement Project to Multifacet Group

Scott Hanis, Capital Projects/Program Manager spoke regarding this item.

There was Council discussion.

A **motion** was made by Councilmember Deady that we approve the motion to adopt resolution authorizing the Mayor to execute a \$43, 928.70 contract with Multifacet Group, for the Police Department and Public Works shop roof replacement project. Motion died for lack of second.

A **motion** was made by Councilmember Deady to add on to that and suspend the rules and immediately adopt this resolution. Motion died for lack of second.

There was continued Council discussion.

An amended **motion** was made by Councilmember Pepper and **seconded** by Councilmember Deady to suspend the rules and immediately adopt this resolution awarding the bid on the City Council and City buildings roof replacement project.

There was continued Council discussion.

Amended Vote: Motion passed 3-1 (Morgan)

4) AB17-056- Resolution Approving Contract with DKS Associates for Transportation Element of the Comprehensive Plan Update

Scott Hanis, Capital Projects/Program Manager briefed Council on this item.

Councilmember Pepper stated that she already moved that this will be postponed until October 19 and will move that again if necessary. She also stated she wants to make sure this is on the record to postpone until the 19th.

There was Council discussion. Councilmember Pepper continued to discuss revisions required of DKS to finalize this contract. She stated three items need to be addressed. She stated she would like DKS to make changes to scope of work task one, scope of work task two, and scope of work task four.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that we ask DKS to make these changes as accepted.

There was continued Council discussion.

Attorney Linehan stated this is not a job that a legislative body should be doing, this is staff work; this is administrative work. The Council's role is to either approve or reject contracts. He further noted it sounds like the Council would like to redact this contract in current form, and noted that's the Council's right to do. He noted it's not the Council's job to go back and negotiate individually as Councilmembers with consultants, that's staff work; that's the job of the administration. He also pointed out that if you are finding errors in this contract, then it was perhaps prepared by Council's Attorney Koler and he noted this is not anything that the City put together.

Vote: Motion passed 3-1 (Deady)

Mayor Benson noted that Councilmember Morgan didn't vote. Councilmember Morgan stated that her vote goes with majority of the voters.

5) AB17-057 – Resolution Granting Final Plat Approval for Ten Trails PP1A Division 1 Subdivision

Mr. Williamson, Interim Community Development Director spoke on this item.

Attorney Linehan noted that he circulated a memo earlier today that talked about the final plat approval process, and he will not reveal what was said on that memo as it is attorney client privilege but one thing he thought about is that on the Council's agenda, the Council would like to have tonight be a first reading pursuant to their normal custom, and there is time built into the schedule for tonight to be for first reading and you need to bring it back at the next Council meeting for final action. It would be important tonight for the Council to make a decision as to whether you are going to treat this as the ministerial decision that it is, which is the way I know you guys respect MRSC a lot. MRSC describes this process, final plat approval, as a ministerial decision but to the extent that the Council wants to treat it as something more than that, the Council needs to make that decision and if so, go through the appearance of fairness disclosure process tonight so that anybody who wants to object to your considering it as beyond that process, would have an opportunity to do so, to disclose any potential conflicts or circumstances that someone might reasonably call on question of partiality, your objectivity. It's a state of process that any Councilmember would do in a quasi-judicial proceeding to disclose any biases, conflicts, financial interests. If the Council is going to treat this more than a ministerial decision, then he thought tonight would be a good opportunity to make those appearances of fairness disclosures. He noted that he gave the Mayor a list of the questions that she could ask to help facilitate those disclosures if the Council were inclined to do that tonight.

A **motion** was made by Councilmember Deady to suspend the rules tonight and pass this item and not take it to a committee. Motion died due to lack of second.

There was Council discussion.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan that this item, agenda bill AB 17-057 be postponed until October 19 City Council meeting.

There was continued Council discussion.

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

6) AB17-058 – Resolution Approving Interlocal Agreement and Operating Procedures with South County Area Transportation Board (SCATBd)

Mayor Benson noted that she is Chair on this board. She shared this document would need no corrections or adjustments and it's up to King County to accept. This is a formality to approve the contract that was changed by King County and the Chair and the Vice Chair of the committee. She recommends that Council approve this because it needs to go to King County and be approved by them.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that this item is for first reading, cannot act on it tonight, we need to follow the processes we have and have four business days to deal with and review any potential issues. She moved this item to be postponed and assigned to the Government Operations Committee.

There was Council discussion.

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

CONSENT AGENDA:

1) Claim Checks – October 5, 2017 - No. 45373 through No. 45421 in the amount of \$64,052.87

2) Minutes – Council Meeting of September 21, 2017

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Deady to approve the consent agenda in its entirety with one exception, in the minutes; page 4 of 6, 3 paragraphs up, typo (change statues to statutes).

There was Council discussion.

Vote: Motion **passed** 4-0.

Mayor Benson asked Council about the date of October 12, we have a Town Hall meeting at 7 p.m. She noted we have no material or subject matter for the 6 p.m. work session. She asked Council what they would like to do about this.

Councilmember Pepper suggested DKS and transportation element of the plan.

Mayor Benson noted we can do that.

Attorney Linehan asked for clarification about what will be discussed so the notice can be clear, DKS and the element, or just the contract.

There was Council discussion.

Mayor Benson noted we will discuss the contract and the comments as we do not have any elements. This will probably be the content of the meeting.

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Benson reported that she attended the grand opening of the roundabout on October 4; there will be an annual fundraiser for Black Diamond Community Center at 5 p.m. on October 7, tickets are \$50. This is their annual fundraiser. There will be a live auction and a silent auction. There are a few tickets left. Contact Leslie or Sherry at Black Diamond Community Center.

COUNCIL REPORTS:

Councilmember Deady reported October 28 will be make a difference day. Every year she tries to go and clean up the rain garden and might have some church folks who will help her at Lake Sawyer and will meet at the community center that morning. Some groups help the elderly. This is a great opportunity if you haven't stepped into volunteering. They will start to meet at 7 a.m. Black Diamond Community Center is having their Harvest Moon dinner auction fundraiser October 7, she has two tickets left to sell. She attended the grand opening of the roundabout ceremony. She shared this was completely funded by the developer and is a great example of what the development has done. She shared that old town's water main was upgraded because of the roundabout, so fire flow in old town Black Diamond and Morganville is upgraded and has the fire flow for an emergency and this is a huge plus for our residents in Morganville. She shared about Mike Row, TV host for the show called 'returning the favor'. He was here in Black Diamond and surprised Mama Passarelli of the Soup Ladies with a trailer so that she and the soup ladies can continue their work. Since the debut, the soup ladies have received calls about forming chapters in other cities. Currently the soup ladies are in Las Vegas, keep them in your thoughts. She reported that she met with May Miller about vouchers, and attended a work-study budget.

Councilmember Morgan reported that she compiled some questions that people have been asking her lately. There were no vouchers, claim checks or warrants on this meetings list that require the Council to withhold approval, so she stated she thought this would be a good time to go over the issues these decisions are based on. She spoke about American democracy, three separate branches of government and their authorities, majority vote, and spoke about checks and balances. She spoke about Council's and Mayor's roles involved to keep contracts in compliance. She further noted that contracting is done by and through the

Council. She spoke about the role of the Mayor and Council regarding resolutions, and spoke about rules and regulations that govern the Council.

Councilmember Weber reported that he attended the budget workshop. He reported he's knee deep in the PP1A, final approval. He reported that he's looking forward to finishing that.

Councilmember Pepper found an article about promoting kindness by Aesop. She stated next time you're in traffic and someone wants to merge, pay attention, let them in. Chances are the other drivers will note this and take turns letting people in too. Research shows that a random act of kindness positively affects not just the person performing it, and the person receiving it, but also any witnesses that see it happen. She discussed lower stress, blood pressure, a spike in serotonin and inherit inspiration to do more kindness.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Pat Nelson, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Leslie Cooley, Black Diamond spoke to Council.

Johna Thomson, Black Diamond spoke to Council.

Judy Carrier, Auburn spoke to Council.

Nancy Rogers, Attorney representing Oakpointe spoke to Council.


EXECUTIVE SESSION: None

ADJOURNMENT:

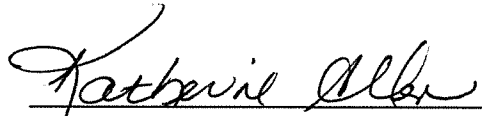
A **motion** was made by Councilmember Deady and **seconded** by Councilmember Weber to adjourn the meeting. Motion **passed** with all voting in favor (4-0).

The meeting ended at 8:40 p.m.

ATTEST:



Carol Benson, Mayor



Katherine Allen, Deputy City Clerk