

BLACK DIAMOND CITY COUNCIL MINUTES
February 16, 2017 Special Meeting
Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the special meeting to order at 5:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

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

ABSENT: None

Staff present: Jamey Kiblinger, Police Chief; May Miller, Finance Director; Andrew Williamson, MDRT/EC Dev Director; Scott Hanis, Capital Projects/Program Manager; Kevin Esping; Facilities Coordinator; Jana King, Deputy Finance Director; and Brenda L. Martinez, City Clerk.

2017 BUDGET REVIEW AND DISCUSSION:

Mayor Benson welcomed everyone and noted that tonight's meeting is to discuss the 2017 budget and to hear back regarding the administration's responses to Councilmember Weber's proposed substitute budget ordinance.

There was discussion regarding the areas that were struck by Council at the special Council meeting on December 22, 2016.

Councilmember Weber noted needing time to review the changes and added he hasn't had time to do this as of yet.

The following sections to the proposed ordinance with staff responses (in red) were discussed (Council/Mayor responses in blue):

ORDINANCE NO. 16-1082

**A ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BLACK DIAMOND, KING COUNTY,
WASHINGTON, ADOPTING THE BUDGET FOR
CALENDAR YEAR 2017**

- Violates single subject rule and title does not reflect what's in the ordinance
- Ordinance lacks severability clause

Councilmember Morgan commented that according to Tony Nelson at MRSC it is a single subject since it is just about 2017 monies. She agreed it does lack a severability clause and did not believe the other ordinances did either. She stated she is okay with the standard severability language being added to the ordinance.

Severability clause will be added to document.

WHEREAS, the Preliminary Budget was submitted to the City Council by the Mayor on September 29, 2016; and

WHEREAS, the City Council held public hearings on November 17th and December 1st; and work studies on September 29th, October 13th, October 18th, October 27th and November 10th; and

- As noted in the above in the two "whereas statements" Council did hold public hearings on the "Mayor's" proposed preliminary budget; not the substitute ordinance.

Councilmember Morgan noted this being moot now and needs to be updated with the other meetings.

Councilmember Weber reported on Budget and Finance Committee meetings.

WHEREAS, a copy of the Budget was on file with the City Clerk for examination by the public during the time it was being considered by the City Council;

- The above "whereas" is not a true statement. The substitute budget ordinance was not on file with the City Clerk for examination by the public until after all the work sessions and public hearings were closed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. The annual budget of the City of Black Diamond for the 2017 calendar year, a copy of which is on file with the City Clerk, is hereby adopted by reference as the annual budget for the City of Black Diamond for calendar year 2017.

Section 2. The budget and information contained herein remain provisional to the extent they are subject to mandatory bargaining with the City's collectively bargained employees as required by Washington law. Changes that are required by collective bargaining shall be subject to approval by the City Council as a Supplemental Budget Ordinance.

- *This is currently our standard procedure.*

Councilmember Morgan noted that according to state law this section needs to remain in the ordinance.

There was Council discussion on this and Section 2 will be added.

Section 3. Estimated resources and full time employee equivalents (FTEs) for each separate fund, aggregate expenditures, and ending fund balances for all such funds, are set forth in summary form below, and are hereby appropriated for expenditure at the fund level with the exception of the general fund which is appropriated at the department level per Exhibit A. ~~The total estimated revenue from all sources, and expenditures and by fund as set forth in the 2017 budget document adopted by reference, are as follows:~~

- *According to our Finance Director "Exhibit A" is not in balance and the budget must balance per RCW 35A.33.075*
- *Violates Financial Management Policy Resolution 13-866.*

Councilmember Morgan referred to Exhibit A as being the salary schedule. There was discussion about this and it was noted that Exhibit A in the substitute budget ordinance was not the salary schedule.

There was discussion on the financial management policy violation as the policy states we adopt at a fund level.

Councilmember Morgan stated that when she reads the state's financial policies it can be adopted at the fund level, department level, or a line item level. She noted

the folks she talked to at the state said a line item budget would be very difficult to manage.

Finance Director Miller noted the list provided in the substitute budget ordinance has departments that do not exist and gave an example. She noted contacting MRSC about which cities adopt at the department level and in the budgets she was provided there was not one city that adopted at the department level; they were all at the fund level.

There continued to be discussion on this.

Section 4. The line items shown in Exhibit B shall not be transferred or exceeded without approval of the City Council.

- *This is not clear and this section needs to be removed from the ordinance.*

Finance Director Miller reported on the funds that do not exist as shown on Exhibit B. She commented on this exhibit being unclear.

Councilmember Weber noted addressing funds 100 and 200 already and agreeing they need to be removed.

Finance Director Miller discussed this section speaks to transfers and noted the RCW is very clear that we cannot transfer money between funds or areas so there is really no need to have this section included. Ms. Miller further explained that usually a budget is adopted and the reporting is where you disclose what departments and fund expenditures are.

Funds 100 and 200 shown on Exhibit B are being deleted.

There was discussion on why this exhibit needs to be added.

There was Council discussion on the need to be clear of what is being pulled and added and also what the timeline would be to get an amended budget adopted before the March 31st deadline.

Finance Director Miller reported on the schedule and noted the budget would need to be adopted at the last meeting in March, which means staff would need to know the changes and have packet material ready by March 8th so the information could go out in the packets. In addition, Ms. Miller discussed that should Council wish to reduce or revoke expenditures it requires a super majority vote of the Council.

Councilmember Morgan referred back to Councilmember Weber's Exhibit A and asked what the objection is to this Exhibit.

Finance Director Miller noted the exhibit did not add up correctly and the overall ordinance had other items that made it out of balance. She also noted the line items are a lower level of reporting; not department level. She continued to explain where Exhibit A of Councilmember Weber's budget is out of balance.

There was discussion on FTEs.

Section 5. A contingency fund is created to provide resources for unanticipated legal services, liabilities, and emergencies. No funds may be expended or otherwise encumbered from this fund without Council approval.

The fund shall be initially funded and maintained at the full limit authorized under RCW 35A.33.145 which at this is \$266,112. The ending fund balance shall be reduced to initially fund this contingency fund.

- The State "Budgeting, Accounting and Reporting System (BARS) manual suggest that this be set up as an account in the General Fund. This can be done as long as the dollars placed in this account are not of restricted use.

There was discussion on setting up this new account and it was agreed this could be done.

Section 6. All increases in FTE levels shall be subject to approval of the City Council.

- If these are allowed budgeted positions then yes as it would have been approved through the budget process. We may need to seek clarification on this from Councilmember Weber. For example, if we combine two half time positions into one full time position would he want this to come back to Council for approval? His wording is not clear on the intent.
- This is State Law and current practice.

Councilmember Morgan asked about combining and separating full time or part-time equivalents.

Councilmember Weber stated this was discussed last week at the work session and he used the example from above and believed it did not need to come to Council if is in the same department.

Mayor Benson noted not having a problem with leaving this in.

Agreed to leave Section 6 in.

Section 7. Any funds appropriated for designated FTEs or wages and benefits shall not be appropriated to other FTEs, contracted out, or expended for any other purpose except as part of a Supplemental Budget Ordinance. This includes existing consultant contracts and applies to all Departments, Funds and the MDRT. The Mayor shall immediately notify all consultants that funding may no longer be available and submit for Council approval any contracts that the Mayor may wish to continue. All other contracts, or contracts that the Council does not approve, shall be terminated and the funds restored to the applicable FTE and wages and benefits line items.

- *This Section needs to be removed. Line one would limit the city in providing consulting replacement for Public Works Director while on temporary leave, or filling of vacant positions until they are filled.*
- *The last two lines related to a prior year's budget and have nothing to do with the 2017 Budget.*
- *This could pose a problem if we experience any unforeseen extraordinary circumstance, such as the accident of the Public Works Director.*
- *The last two sentences could likely pose problems for the City in retaining or attracting future consultants. We currently have existing consultant contracts for many services, such as Judge, Public Defender, Prosecution, Summit Law for Labor issues, Engineers for on-going Public Works Projects that continue to provide services. These are binding contracts that have specific terms where termination is spelled out.*
- *MDRT Contracts are agreed to by the binding terms of the agreement*
- *The last two lines go beyond a budget ordinance and need to be taken out and handled as separate specific issues.*

There was Council discussion on above Section 6 and bullet points. It was discussed that this needed to be done in a separate piece of legislation. Following discussion there was no resolution whether to keep this section in or take it out.

Section 8. 2017 ending fund balances for all funds shall not to be reduced except by approval of the City Council.

- *This is already standard practice.*
- *Super majority vote needed to reduce fund balance.*

Agreed to leave Section 8 in and to clarify it would take a super majority vote of the Council.

Section 9. Any additional Revenues that exceed projected levels shall be placed in Unanticipated Revenue Funds applicable to the Revenue source. These funds

shall not be expended or otherwise encumbered until appropriated by the City Council.

- *There is no fund with this description. Additional revenues cannot be expended without a budget amendment. This is already standard practice and should be removed.*

Finance Director Miller explained there is no fund called “Unanticipated Revenue Funds”. It was clarified by Mayor Benson that Ms. Miller accounts for unanticipated revenue throughout the year and comes before Council with a budget amendment. This is a financial reporting issue; not a budget issue.

Councilmember Morgan noted that this can be confusing and discussed her understanding of unanticipated revenue.

Councilmember Weber agreed to take Section 9 out.

Section 10. As authorized by RCW 35A.33.140, the Clerk shall submit quarterly reports to the City Council showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal year to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources.

- *Staff currently does this now. In the future we may want to alert Council by email with the link to where it is posted on the website.*

Finance Director Miller noted this is a reporting policy for the City.

Councilmember Edelman asked if this is already being done and posted to the website and if staff notifies Council by email when the report can be reviewed would it be ok to delete this section.

It was agreed to delete Section 10.

Section 11. Notwithstanding any provision in BDMC 2.90, no funds in this budget, including the MDRT, may be expended or otherwise encumbered by contract without approval of the City Council.

- *This section is trying to amend our procurement rules adopted in BDMC 2.90/ Ordinance 14-1035.*
- *Appears to violate contractual obligations of the City to the Master Developer under the MPD Development Agreements. Under these prior agreements, the City Council has no authority to restrict funding to MDRT consultants, which are paid for entirely by the developer with required staffing levels and consultants spelled*

out in the MPD documents.

Mayor Benson recommended removing this section.

Councilmember Morgan noted understanding the Mayor would recommend this and stated that Tony Nelson and the state auditor implore the Council to include this section as it is only 2017 money.

Councilmember Weber noted this is where a severability clause could come into effect and the Mayor agreed.

Councilmember Weber also noted that he would like to see this section stay in for now and keep reviewing with the other items.

Section 12. Of the appropriation for the Finance Department, \$106,000 shall not be expended or encumbered until the Mayor has provided documentation that will allow the Council to verify that all three conditions of BDMC 3.23.030 have been met. Further, these funds shall not be expended or encumbered until the Mayor has submitted and the Council has approved contracting, hiring, purchasing and disbursing policies that implement effective internal controls.

- *These conditions have already been met.*
- *Violates BDMC 3.23.030*
- *Remove this section.*

Mayor Benson reported the City currently meets these conditions.

Councilmember Morgan discussed 50K bonds and how inexpensive they are.

Mayor Benson noted the City currently has \$1 million dollars of coverage which is more than the 50K.

Councilmember Morgan commented that she would like to have something from AWC RMSA saying they would pay out.

There continued to be discussion on this section.

Section 13. Of the appropriation for Legal Services, \$100,000 shall not be expended or encumbered until the City Council has approved a contract or contracts for legal services.

- *This section also appears to try and amend BDMC 2.90 regarding procurement.*
- *Remove this section.*

Councilmember Weber stated that Section 13 is self-explanatory.

Councilmember Morgan read this section and discussed the Attorney General's ruling.

Mayor Benson discussed the ruling by the Judge on February 3rd regarding her (Mayor's) ability to retain legal Counsel for the lawsuit and Council can not interfere.

Finance Director Miller noted that sections 11, 12, and 13 would require a super majority vote of the Council.

Section 14. Of the appropriation for Community Development, \$240,000 shall not be expended or encumbered until the Mayor has appointed and the City Council has confirmed a Community Development and Environmental Review Officer in accordance with the provisions of RCW 35A. 12.020. This appointed officer shall be the designated SEPA Responsible Official and shall have management authority over the Community Development Department and the MDRT. This position shall report directly to the Mayor or the City Administrator.

- *Motion to strike was made and passed at the December 22, 2016 special meeting.*
- *This section needs to be removed*

Mayor Benson commented that Section 15 has already been struck.

Section 15. Of the appropriation for the City Administrator, no funds shall be expended or otherwise encumbered until the Mayor has appointed and the Council has confirmed an appointed City Administrator. The funding level is based on this position being filled for the second half of the year.

- *Fund Balance would need to be used as MDRT funds are not authorized to be used for this purpose.*
- *It takes a supermajority vote to decrease fund balance.*

Mayor Benson commented there is no problem with this section.

Section 16. Of each of the appropriations for the City Clerk, Finance, Police Department, Fire Department, MDRT, Community Development, and Street Fund 101, Water Operating Fund 401, and Sewer Operating Fund 407, \$50,000 shall not be expended or encumbered until the Mayor has submitted and the Council has approved a policy regarding staff support for the City Council's legislative work.

- *Motion to strike was made and passed at the December 22, 2016 special meeting.*
- *This section needs to be removed*

Mayor Benson noted that Section 16 has already been struck.

Section 17. Of the appropriation for the Master Development Review Team, \$100,000 shall not be expended or encumbered until the Mayor has provided documentation that the Annual Review items “a” through “h” and the Fiscal Analysis have been accomplished.

- *Council has no seat in the MDRT.*
- *Remove this section.*

Mayor Benson stated that Council has no seat in the MDRT.

Councilmember Weber noted he will be reviewing this section.

Section 18. Of the appropriation for Stormwater fund 410, \$90,000 of line item 10 shall not be expended or encumbered until the Mayor has submitted for Council approval a code revision ordinance to fully implement AKART, the most current stormwater management manual and regulations, and Low Impact Development standards.

- *2012 Stormwater Manual was adopted by Council on January 19, 2017.*
- *LID Standards presented to the Planning Commission on February 7, 2017.*
- *Remove this section.*

Mayor Benson commented that this section is unnecessary as the manual has been adopted and LID codes have been presented to the Planning Commission and they will be giving Council a recommendation.

Finance Director Miller noted this section would require a super majority vote of the Council.

Section 19. All expenditures to implement or construct the following Capital Projects shall be subject to final design approval and/or contract approval by the City Council:

- *The Capital Improvement Plan is not an adopted document.*
- *This section needs to be removed*
- *This violates BDMC 2.90/Ordinance 14-1035*

CIP G4	<u><i>Comp Plan Completion</i></u>
CIP P7	<u><i>E. Ginder Creek Rehab & Trails Project</i></u>
CIP G1	<u><i>General Government Technology</i></u>
CIP G5	<u><i>Gym and Wayfinding Signs</i></u>
CIP L1	<u><i>Police Technology</i></u>
CIP T2	<u><i>Roberts Drive Reconstruction</i></u>
CIP T6	<u><i>224th Asphalt Overlay TIB Grant</i></u>
CIP T13	<u><i>Grant Matching</i></u>
CIP T1	<u><i>General Street Overlays, Repairs & Signs</i></u>
CIP W2	<u><i>WSFFA Developer (prepaid) Springs Project</i></u>
CIP S2	<u><i>Sewer Annual Infiltration and Inflow</i></u>
CIP S1	<u><i>PW Facility Fencing and Improvements</i></u>
CIP S3	<u><i>Cedarbrook Sewer Mains</i></u>
CIP D3	<u><i>North Commercial Storm Pond</i></u>
CIP D2	<u><i>Replace Covington Creek Culverts</i></u>
CIP D1	<u><i>Lawson Hills Storm Pond Sediment Removal</i></u>

Mayor Benson commented that this section refers to the Capital Improvement Plan which has not been adopted by Council.

Councilmember Weber noted that he will be reviewing this section.

Councilmember Deady asked Councilmember Pepper if she had any comments.

Councilmember Pepper responded she is trying to see areas where there is agreement and difficulty.

Councilmember Morgan noted having a problem lining up projects before there is a Comprehensive Plan update adopted.

Finance Director Miller explained the Capital Improvement Plan is a plan and all projects come back before Council for review. The budget ordinance just adopts the dollars; not a plan. She stressed these are two different things a budget and a plan.

Section 20. The 2017 Budget Document on file with the Clerk is hereby amended to include the changes listed in the attached Exhibit C. The Clerk is authorized to work with the Finance Director to revise totals to reflect these changes.

- *Refer to Exhibit C*

Mayor Benson referred to page 11 of the handout which refers to the items on Exhibit C and noted the amount the ending fund balance would be reduced by is \$549,532; this amount includes the funds for the contingency line. She discussed there is no need to allocate 50K for an EIS as the City has no EIS on file. She also noted she would like to remove the 50K for the Comp Plan and move it to the Capital budget.

Councilmember Weber stated not having any heartburn with moving those and asked for an update of how much money is in the fund Capital budget.

Finance Director Miller stated there is no problem with the contingency line and there would still need to be a designation for the developer funds.

Mayor Benson noted after these changes this would make the fund balance go up by \$100,000 and the reduction would then be \$183,420 in the general fund.

Finance Director Miller noted items 1, 2, 3, and 4 on page 11 of the handout would need to come from fund balance and would require a super majority vote of the Council.

Councilmember Weber noted the rest of the items he would take under consideration.

Section 21. This Ordinance shall include the 2017 Salary Schedule as shown in the attachment as Exhibit A.

- Exhibit A to the ordinance is not the salary schedule. Need to provide a new exhibit "D" that is the 2017 Salary Schedule.

It was suggested to remove Exhibit D verbiage in lieu of adding reference to page 75 of the budget document.

Section 22. This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication in summary form as provided by law.

Introduced the 1st day of December, 2016.

- Wasn't this introduced on December 15 not December 1st?

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A SPECIAL MEETING THEREOF, THE 22 DAY OF
DECEMBER, 2016.**

CITY OF BLACK DIAMOND

VETOED

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

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 6:46:49 p.m.

ATTEST:

Carol Benson, Mayor

Brenda L. Martinez, City Clerk

DRAFT