



CITY OF BLACK DIAMOND
July 19, 2012 Meeting Agenda Revised 2
25510 Lawson St., Black Diamond, Washington

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

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 and address. 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 this evening.

PUBLIC HEARINGS:
APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:

Presentation- Suburban Cities Association – What is SCA and their Role in Municipal Governance
Deanna Dawson

UNFINISHED BUSINESS:

NEW BUSINESS:

- 1.) **AB12-056** – Resolution Intent of Adopting an Initiative and Referendum Process Mayor Olness
- 2.) **AB12-057** – Ordinance Amending BDMC 2.24 Relating to Planning Commission Mr. Pilcher
- 3.) **AB12-058** – Resolution Proposing Changing the Form of Government Councilmember Benson

DEPARTMENT REPORTS:

- 4.) **Administration** - Changing the Form of Government Mr. Butkus

MAYOR'S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 5.) **Claim Checks** – July 19, 2012 Check No. 38485 through No. 38550 (void Check No. 38486) in the amount of \$107,837.06
- 6.) **Payroll Checks** – June 30, 2012 No. 17755 through No. 17779 (void Check No. 17762) and ACH Pay in the total amount of \$288,759.47
- 7.) **Minutes** – Special Meeting of July 9, 2012

EXECUTIVE SESSION:

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: Resolution No. 12-823, declaring the intent of the City Council to adopt the Right of Initiative and Referendum for registered voters of the city	Agenda Date: July 19, 2012	
	AB12-056	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –Pete Butkus	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	X
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	
Cost Impact:	Police – Jamey Kiblinger	
Fund Source:	Court – Stephanie Metcalf	
Timeline:	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 12-823; proposed Ordinance; RCW 35A.02.035 and RCW 35A.03.035		
SUMMARY STATEMENT: <p>Councilmembers Goodwin and May requested during a Finance Committee meeting for staff to prepare an initiative and referendum process for consideration by the City Council.</p> <p>The first step in this process is for Council to approve a resolution declaring their intent to adopt a right of initiative and referendum for the registered voters in Black Diamond. If approved, state law requires that this resolution must be published in the City's official newspaper (Covington/MapleValley Reporter). After the required 90 day notification period following publication, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, the intent expressed in resolution shall be adopted at the next regular meeting of the Council by ordinance.</p>		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-823, declaring the intent of the City Council to adopt the right of initiative and referendum for the registered voters of Black Diamond.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
July 19, 2012		

RESOLUTION NO. 12-823

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON DECLARING THE INTENT OF THE CITY COUNCIL TO ADOPT THE RIGHT OF INITIATIVE AND REFERENDUM FOR THE REGISTERED VOTERS OF THE CITY; PROVIDING FOR PUBLICATION OF THIS RESOLUTION; AND PROVIDING THAT UPON THE EXPIRATION OF THE NINETIETH DAY AFTER THE DATE OF PUBLICATION THAT AN ORDINANCE ADOPTING THE INITIATIVE AND REFERENDUM PROCESS FOR THE REGISTERED VOTERS OF THE CITY SHALL BE PRESENTED UNLESS A TIMELY AND SUFFICIENT REFERENDUM PETITION HAS BEEN FILED REFERRING THE QUESTION TO THE REGISTERED VOTERS OF THE CITY FOR APPROVAL OR REJECTION

WHEREAS, the City of Black Diamond is a non-charter code city and pursuant to RCW 35A.11.080 the City Council is authorized to provide for the exercise in their city of the powers of initiative and referendum by approving a resolution giving notice of such intent; and

WHEREAS, state law further provides that upon giving notice of intent pursuant to such resolution and publishing such resolution as required by law, upon the expiration of the ninetieth day after the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, the intent expressed in such resolution shall at the next regular meeting of the legislative body be effected by an ordinance adopting for the city the powers of initiative and referendum; and,

WHEREAS, the City Council has determined that it is in the best interest of the public health, safety and welfare, for the City Council initiate the process for authorization of town the powers of initiative and referendum by adoption of this resolution;

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

Section 1. Pursuant to RCW 35A.11.080, which permits the legislative body of the City of Black Diamond, to provide for the exercise in the City of the powers of initiative and referendum in accordance with the provisions of state law set forth in RCW 35A.02.020 et seq, the City Council of the City of Black Diamond, Washington, a non-charter optional municipal code city, hereby declares its intention to adopt for the City the powers of initiative and referendum.

Section 2. Within ten (10) days following the passage of this resolution the City clerk is instructed to cause this resolution to be published at least once in a newspaper of general circulation within the City.

Section 3. Notice is given that upon the expiration of the ninetieth day after the date of first publication of this resolution, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition is filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, the intent expressed in this resolution shall, at the next regular meeting of the City Council, be effected by an ordinance adopting for the City the powers of initiative and referendum.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19TH DAY OF JULY,
2012.**

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND

WASHINGTON

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, ADOPTING THE POWER OF
INITIATIVE AND REFERENDUM FOR THE
REGISTERED VOTERS OF THE CITY; AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, on the XX day of XXXX, 2012 the City published Resolution No. 12-XXX providing notice of the intent of the City Council to adopt an ordinance providing for the exercise in their city of the powers of initiative and referendum; and

WHEREAS, Resolution No. 12-XXX was first published as required by law on the XX day of XXXX, 2012; and

WHEREAS, the ninetieth day following the above date was the XX day of XXXX, 2012 and no person has filed a sufficient referendum petition pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, so as to require a public vote; and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety and welfare to enact the ordinance herein set forth providing for the exercise in their city of the powers of initiative and referendum;

NOW, THEREFORE, the City Council of the City of Black Diamond, Washington, do ordain as follows:

Section 1. New Chapter Adopted (BDMC 1.28). A new Chapter 1.28 entitled "Initiative and Referendum" is hereby added to the Black Diamond Municipal Code to read as follows:

1.28.010 Power of Initiative and Referendum Adopted

The City of Black Diamond hereby adopts the power of initiative and referendum for the registered voters of the City as provided pursuant to RCW 35A.11.080 through 35A.11.100. Such powers are to be exercised as provided in the above referenced sections of the Revised Code of Washington as they now exist or may be amended from time to time and said sections are hereby incorporated in full by this reference.

1.28.020 Designation of City Clerk.

The City Clerk, or his or her designee, is hereby designated as the City Officer who may receive an initiative or referendum petition filed pursuant to this Chapter. The City Clerk is directed to maintain a copy of RCW 35A.11.080 through 35A.11.100, as now or may hereinafter be amended.

1.28.030 Rules and Regulations.

The City Clerk may adopt and publish rules and regulations governing the initiative and referendum process that are consistent with this Chapter.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE ____ DAY OF _____, 20__.

CITY OF BLACK DIAMOND

Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

Brenda Martinez, City Clerk

Approved as to form:

Chris D. Bacha,
Kenyon Disend PLLC

City Attorney

Filed with the City Clerk:

Passed by the City Council:

Ordinance No.

Date of Publication:

Effective Date:

RCW 35A.02.035

Referendum.

Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors of an incorporated city or town in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution shall be referred for approval or rejection by the voters at an election as specified in RCW 35A.02.025.

[1967 ex.s. c 119 § 35A.02.035.]

RCW 35A.29.170**Initiative and referendum petitions -- Suspension of effectiveness of legislative action.**

Initiative and referendum petitions authorized to be filed under provisions of this title, or authorized by charter, or authorized for code cities having the commission form of government as provided by chapter 35.17 RCW, shall be in substantial compliance with the provisions of RCW 35A.01.040 as to form and content of the petition, insofar as such provisions are applicable; shall contain a true copy of a resolution or ordinance sought to be referred to the voters; and must contain valid signatures of registered voters of the code city in the number required by the applicable provision of this title. Except when otherwise provided by statute, referendum petitions must be filed with the clerk of the legislative body of the code city within ninety days after the passage of the resolution or ordinance sought to be referred to the voters, or within such lesser number of days as may be authorized by statute or charter in order to precede the effective date of an ordinance: PROVIDED, That nothing herein shall be construed to abrogate or affect an exemption from initiative and/or referendum provided by a code city charter. The clerk shall transmit the petition to the county auditor who shall determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. When a referendum petition is filed with the clerk, the legislative action sought to be referred to the voters shall be suspended from taking effect. Such suspension shall terminate when: (1) There is a final determination of insufficiency or untimeliness of the referendum petition; or (2) the legislative action so referred is approved by the voters at a referendum election.

[1996 c 286 § 8; 1967 ex.s. c 119 § 35A.29.170.]

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION			
SUBJECT: Ordinance No. 12-977, amending Chapter 2.24, Black Diamond Municipal Code, regarding qualifications and terms of membership for the Planning Commission	Agenda Date: July 19, 2012		AB12 -057
	Department/Committee/Individual		
	Mayor Rebecca Olness		
	City Administrator – Pete Butkus		
	City Attorney –Chris Bacha		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Comm. Dev. – Steve Pilcher		X	
Cost Impact: NA			
Fund Source: NA			
Timeline: NA			
Attachments: Proposed Ordinance No. 12-977; appointment process			
SUMMARY STATEMENT: <p>During its consideration of confirming two recent appointments to the City Planning Commission, the City Council determined it desired to have changes made to the appointment process. The matter was referred to the Council's Planning and Community Services Committee.</p> <p>The Committee met with the Mayor and staff and is now proposing the attached amendment to the Municipal Code. The proposed code amendment would reduce the term limits of commissioners from six years to four years, effective at the expiration of the applicable position's term. The amendment also creates a list of qualifications for potential Commission members, indicating a preference for maintaining equitable geographic representation within the community. Membership is limited to either residents or owners of businesses with a physical presence within the city limits. Finally, the amendment also provides a mechanism for the removal of a commissioner, should that become necessary.</p> <p>Also attached is the Committee-approved process for the appointment process. This will involve the participation of both a Council member and a Planning Commission member. This will not become part of the Municipal Code, but will become standard policy.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Final review and approval by the Planning and Community Services Committee occurred on May 31, 2012.			
RECOMMENDED ACTION: MOTION to adopt Ordinance No. 12-977, amending BDMC 2.24 regarding the qualifications and terms of membership for the Planning Commission.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
July 19, 2012			

CITY OF BLACK DIAMOND WASHINGTON

ORDINANCE NO. 12-977

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, RELATING TO ESTABLISHMENT OF
THE PLANNING COMMISSION; SHORTENING THE
TERM OF MEMBERSHIP TO FOUR YEARS;
ESTABLISHING QUALIFICATIONS OF MEMBERSHIP;
PROVIDING FOR REMOVAL OF COMMISSION
MEMBERS; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the City has authority pursuant to RCW 35A.63.020 to establish a planning commission and provide for its membership and organization; and

WHEREAS, the City has previously established a Planning Commission which authorization has been codified at Chapter 2.24 of the Black Diamond Municipal Code; and

WHEREAS, the City Council desires to shorten the current six-year term of Planning Commission Members, establish qualifications for membership, and establish authority for removal of members; and

WHEREAS, the City Council finds that it is in the public interest to enact this ordinance;

NOW, THEREFORE, the City Council of the City of Black Diamond, Washington, do ordain as follows:

Section 1. Amendment of BDMC 2.24.010 (Membership). Section 2.24.010 of the Black Diamond Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

2.24.010 Membership.

Pursuant to RCW Chapter 35A.63, there is created for the city a planning agency to be known as the city planning commission, consisting of seven members who shall be appointed by the mayor and confirmed by the city council.

- A. The existing term of office of each member of the planning commission shall expire according to the following schedule:

Position 1:	term expires December 31, 2014
Position 2:	term expires December 31, 2015
Position 3:	term expires December 31, 2016
Position 4:	term expires December 31, 2017
Position 5:	term expires December 31, 2012
Position 6:	term expires December 31, 2013
Position 7:	term expires December 31, 2013

Following the term expiration dates noted above, each term shall be four years in duration.

B. **Qualifications.** Members of the planning commission shall be selected from individuals who have an interest in planning, land use, environmental affairs or residential and commercial development as evidenced by training, experience or actions. Consideration will also be given toward maintaining an equitable balance of geographic representation of the community. Membership on the planning commission shall be limited to individuals who reside in the community at least 180 days each calendar year or owners of businesses with a physical presence within the City.

C. The planning commission may adopt rules and procedures to address the conduct of its meetings, election of officers, and other administrative matters.

E. **Removal.** A planning commissioner may be removed by the Mayor, with the concurrence of the city council, for misfeasance or malfeasance in office, or other just cause, or for unexcused absences from more than three consecutive meetings. Failure of a planning commission member to either reside in or be a business owner in the city shall constitute forfeiture of office. The decision of the City Council regarding membership on the planning commission shall be final.

F. Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired terms. Members shall serve without compensation.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 19TH DAY OF JULY, 2012.

CITY OF BLACK DIAMOND

Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

Brenda L. Martinez, City Clerk

Approved as to form:

Chris D. Bacha,
Kenyon Disend PLLC
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.
Date of Publication:
Effective Date:

PROCEDURE FOR FILLING PLANNING COMMISSION VACANCIES

1. Vacancies are created either by expiration of a term, resignation of a Commission member or removal of a member by the Mayor.
2. It is the goal of the appointment process to maintain a full seven-member Commission. No more than one meeting should elapse without a vacancy being filled.
3. All vacancies will be advertised on the City's website for a minimum two week period. The Mayor will also announce vacancies at a City Council meeting. Time permitting, vacancies will also be announced at Planning Commission meetings.
4. Individuals interested in serving on the Commission will be required to submit a written application to the City Clerk by a specified date. The application shall include questions that address the criteria for Commission membership as outlined in Municipal Code.
5. A committee consisting of the Mayor, one City Councilmember, one Planning Commission member and one City staff member will review the applications and determine which individuals to invite for a formal interview.
6. The same committee will also conduct candidate interviews. The same questions will be asked of each candidate. Follow-up questions may also be asked. Each committee member will score each candidate on a common scale.
7. The committee will discuss qualifications and scoring to determine which candidate should be recommended for appointment.
8. All candidate materials and committee score sheets shall be retained by the City Clerk.
9. The Mayor will recommend the selected candidate for appointment. Confirmation by the City Council is required per Municipal Code.

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: Resolution No. 12-824, regarding proposing abandonment of the present form of government (Mayor-Council) to Council-Manager	Agenda Date: July 19, 2012	
	AB12-058	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –Pete Butkus	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
Cost Impact:	Economic Devel. – Andy Williamson	
Fund Source:	Police – Jamey Kiblinger	
Timeline:	Court – Stephanie Metcalf	
	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 12-824		
SUMMARY STATEMENT: In accordance with Council Rules of Procedures 3.11.3 Councilmembers Benson and Deady requested placement of this resolution on the July 19, 2012 agenda.		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-824, proposing abandonment of the present classification of said City as Mayor-Council plan of government and that the City be governed under the general law relating to cities of the classification of Council-Manager plan of government.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
July 19, 2012		

RESOLUTION NO. 12-824

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, PROPOSING ABANDONMENT OF THE PRESENT CLASSIFICATION OF SAID CITY AS A MAYOR – COUNCIL PLAN OF GOVERNMENT AND THAT THE CITY BE GOVERNED UNDER THE GENERAL LAW RELATING TO CITIES OF THE CLASSIFICATION OF COUNCIL – MANAGER PLAN OF GOVERNMENT

WHEREAS, numerous citizens have expressed their dissatisfaction with the Mayor – Council form of government and seek professional management that reports to the City Council; and

WHEREAS, numerous citizens have expressed satisfaction with the present classification of City government and believe it to have been effective; and

WHEREAS, State law provides that a change of classification can be proposed and placed on the ballot by resolution of the City's legislative body for the voters to decide what form of government their City should have; and

WHEREAS, State law also provides that the proposal can be placed on the ballot of the 2012 general election;

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

Section 1: It is proposed that the present classification of The City of Black Diamond as a Mayor-Council plan of government be abandoned. It is further proposed that the City reorganize and adopt the Council-Manager plan of government.

Section 2: The proposal for abandonment of the Mayor-Council plan of government and adoption of the Council-Manager plan shall be voted upon at the 2012 general election.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19TH DAY OF JULY, 2012.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

Memorandum

To: Mayor Olness

From: Pete Butkus

RE: City Council request for information on "Forms of Government"

Date: 11 JUL 12

The City Council has indicated a desire to explore a change in the form of government from Mayor-Council to that of Council-Manager. At this point there is no specification on which of the two options under Council-Manager form might be desired.

I have placed several issues and/or questions that could benefit by a response in a matrix below to help assist with making this complex issue a bit easier to comprehend.

Issue/Question	Response
What are the differences in the two forms of government?	<p>All governments in the US provide for a legislative (policy) branch, an executive branch and a judicial branch. For the purposes of this matter, the judicial branch (Black Diamond Municipal Court) is not a part of this memorandum.</p> <p>Under the existing mayor-council form the elected council sets policy and the elected mayor is the chief executive, responsible for implementing policy and managing the work of employees. The mayor also has significant powers relating to budget development. Members of the council as well as the mayor are subject to voter approval at the ballot and are subject to ballot recall or removal from office.</p> <p>Under a council-manager form the elected council would continue to set policy and the executive branch would be headed by a city manager, appointed by the council. The city manager would be the chief executive, responsible for implementing policy and managing the work of employees. A city manager also has responsibilities relating to budget development. The city manager is not subject to voter approval at the ballot nor subject to ballot recall or removal from office.</p>
What cities in Washington use which form of government?	A response is too lengthy to place in this matrix, please see Appendix A . This attachment is provided from the Municipal Research and Services Center (MRSC). I think it most helpful to

	<p>focus on the two categories indicated by an asterisk (*) at the bottom of page one and continuing onto page two. Also note that three cities: Goldendale, Ferndale and Ephrata have changed their form of government and later changed back.</p>
Black Diamond has provisions for a "city administrator" to assist with management functions. How common is this in Washington?	<p>Again, a lengthy response would be required. I call your attention to Appendix B which was "cut and pasted" from another MRSC document. I would call attention to the two sections with an asterisk (*) which are for cities the size of what the Black Diamond is expected to become (BD Comprehensive Plan) in later years and for cities of the current population grouping of the city. (state population determination as of 01 APR 12 is 4,170)</p>
Is there a "paper" or other explanation of governing status that is more than just a simple recitation of names & numbers?	<p>YES! Appendix C provides just that. This is a good explanation of trends in Washington with background on some national influences.</p> <p>I will admit to discovering a fact that had eluded me previously. See Table 2 on page 3/5 where it is shown that in 2010, (most recent data) that the percentage trend was towards the mayor-council form.</p>
What are the pros and cons of the two forms of government?	<p>I have done a little research and find no list that would fit well with Black Diamond. Rather than develop some of my own I think it would be beneficial to perform a group process with the Council to have them develop such a list. If the process to change the form of government moves ahead this could serve as a basis for future group process in the community to develop and list pros and cons of the two basic forms of government.</p> <p><i>Based on my suggestion, I will be prepared to be the facilitator for a short group process (Council only at this stage) to develop a list of pros and cons.</i></p>
If this concept if to go further, what other steps might need to be taken?	<p>My response is in two parts: The absolute minimum required by law, placing a proposition on the ballot which is attached as Appendix D and a recitation of a longer, more inclusive public process that would allow for considered and timely participation by the public with input from subject-matter specialists.</p> <p>The second part, a longer and more inclusive public process would consist of something akin to:</p> <ul style="list-style-type: none"> • Council discussion/ pros and cons of the two forms: 19 JUL 12 • If it is decided to proceed, draft a Council Resolution to study the matter on a community-wide basis : AUG 2012

	<ul style="list-style-type: none"> • Council to seek community volunteers for a “steering committee” representing a balanced view to help guide a public participation process. SEP or OCT 2012 • Council to include a budget for the public process in the 2013 budget DEC 2012 • Steering Committee public meetings (2 or 3) where representatives from other cities, the Washington City/County Managers Association (WCMA), MRSC and others could provide the public with information. 2013 • Steering Committee Report to the Council. JUL 2013 • Council determination of ballot issue (or not) develop budget figures for election and voter pamphlet costs; costs for Code and administrative document (like the Personnel Manual) update; and, the cost of recruitment and compensation for a city manager all for inclusion in the 2014 Budget. • November, 2014. Voters decide (assuming it has been placed on the ballot) and either implementation takes place or no change takes place.
Speaking of election costs, what might an election cost either in 2012 or 2014?	An information request has been made (to) King County Elections. The response on costs is provided as Appendix E . For sake of discussion, add 10% for a 2014 election and we should be in the ballpark.

I trust the forgoing will be of assistance in furthering the discussion on a possible change in the form of government.



Municipal Research and Services Center of Washington

Working Together for Excellence in Local Government

Revised 3/2012

Washington Cities Incorporating Under, Adopting or Abandoning Form Of Government from 1970 to 2009

Cities Incorporating under the Mayor-Council Form

Liberty Lake (2001)

Cities Incorporating Under Council-Manager Form

Ocean Shores (1970)
 Mill Creek (1983)
 SeaTac (1990)
 Federal Way (1990)
 Woodinville (1993)
 Burien (1993)
 Newcastle (1994)
 Shoreline (1995)
 University Place (1995)
 Lakewood (1996)
 Edgewood (1996)
 Covington (1997)
 Maple Valley (1997)
 Kenmore (1998)
 Sammamish (1999)
 Spokane Valley (2003)

Cities Changing from the Commission to the Mayor-Council Form

Wenatchee (1999)
 Raymond (1998)

Cities Changing from Commission to Council-Manager Form

Chehalis (1975)
 Olympia (1982)
 Centralia (1986)

Cities Changing from Mayor-Council to Council-Manager Form



Snohomish (1972)
 Bothell (1973)
 Toppenish (1973)
 Lacey (1973)
 Ferndale (1981) ✖
 Blaine (1982)
 Goldendale (1986) ✖

Fircrest (1988)
Sequim (1995)
Ephrata (1995) ✱
Battle Ground (1996)
Port Townsend (1998)
Fife (1999)
Carnation (2000)
Ridgefield (2000)
Airway Heights (2002)
Bainbridge Island (2009)

Cities Changing from Council-Manager to Mayor-Council Form



Bonney Lake (1973)
Anacortes (1982)
Goldendale (1994) ✱
Ferndale (1999) ✱
Spokane (2001)
Ephrata (2003) ✱
Ocean Shores (2007)

Federal Way (2009)

Related MRSC Resources

[MRSC Index - Council-manager form of government](#)
[MRSC Index - Mayor-council form of government](#)

Information from Municipal Research and Services (MRSC) - Appendix B

Which cities have a mayor and a city administrator?

First, it is important to note that the term "city or town administrator" is not universal. The essential functions of such a person might also fall under the following titles:

Administrative Assistant

Administrative Assistant to the Mayor

City Administrator

City Superintendent

City Supervisor

Executive Assistant

Executive Assistant to the Mayor

Operations Director/Chief of Staff

Town Administrator

A large number of mayor-council cities have added a professional position of city administrator or chief administrative officer (CAO) in the mayor's office. CAO's serve under the mayor and assist with the mayor's administrative and policy-related responsibilities. In theory, the appointment of a CAO frees the mayor from the need to attend to administrative details and allows the mayor to focus greater attention on policy development, political leadership roles or their personal livelihood.

According to the AWC 2011 Salary & Benefit Survey the following cities have established city or town administrator positions:

Cities 50,000 and over:

Bellingham Chief Administrative Officer

Kent Chief Administrative Assistant

Marysville Chief Administrative Officer

Renton Chief Administrative Officer

Spokane City Administrator

Cities 30,000 - 49,999:

Issaquah City Administrator

Cities 15,000 - 29,999:



Arlington City Administrator

Bonney Lake City Administrator

Camas City Administrator

Lake Stevens City Administrator

Monroe City Administrator

Mukilteo City Administrator

Oak Harbor City Administrator

Pullman City Supervisor

Tukwila City Administrator

Tumwater City Administrator

Cities 7,500 - 14,999:

Burlington City Administrator

Cheney City Administrator

College Place City Administrator

DuPont City Administrator

Enumclaw City Administrator

Ephrata City Administrator

Ferndale City Administrator
Grandview City Administrator
Hoquiam City Administrator
Lake Forest Park City Administrator
Lynden City Administrator
Shelton City Administrator
Snoqualmie City Administrator
Sumner City Administrator
Washougal City Administrator

Cities 2,500 - 7,499:



Algona City Administrator/Clerk Treasurer
Black Diamond City Administrator
Buckley City Administrator
Chelan City Administrator
Chewelah City Administrator
Clyde Hill City Administrator
Colfax City Administrator
Connell City Administrator
Eatonville Town Administrator
Ephrata City Administrator
Gig Harbor City Administrator
Goldendale City Administrator/Manager
Medical Lake City Administrator
Milton City Administrator

Montesano City Administrator/Finance Director

Moxee City Supervisor/Public Works Supervisor

North Bend City Administrator

Omak City Administrator

Orting City Administrator

Othello City Administrator

Prosser City Administrator

Quincy City Administrator

Selah City Supervisor

Steilacoom Town Administrator

Sultan City Administrator

Yelm Chief Administrative Officer

Cities 1,500 - 2,499:

Bridgeport Administrator

Cle Elum Administrator

Davenport City Administrator

Friday Harbor Town Administrator

Leavenworth City Administrator

McCleary City Administrator/Public Works Director

Newport City Administrator

Rainier City Administrator

South Bend City Supervisor

Stevenson City Administrator

Westport City Administrator

Cities 500 - 1,499:

Bingen Administrator

La Conner Administrator

North Bonneville City Administrator/Clerk/Treasurer

Reardon Administrative Assistant

Roslyn City Administrator

Woodway Town Administrator



Municipal Research and Services Center of Washington

Working Together for Excellence in Local Government

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Trends in Forms of Government in Washington Cities

**By Byron Katsuyama and Lynn Nordby,
Public Policy and Management Consultants, MRSC**

Historically there have been three basic forms of municipal government found in Washington cities: the mayor-council form, the council-manager form, and the commission form. Each form represents a different approach to the political and administrative organization of municipal government. At one time or another, citizens of every city and town in Washington have taken up the question of which form of government would be best for their community. Every city of course must answer this question at least once upon their initial incorporation. Cities also have the ability to change their form of government at a later time and many have chosen to do so.

Table 1
Washington Cities by Population and Form of Government

Population Group	All Cities (A)	Form of Government [No. and % of (A)]		
		Mayor-Council	Council-Manager	Commission
Total - all cities	281	228 (81)	52 (18)	1 (1)
Over 500,000	1	1 (100)		
101,000 - 500,000	5	2 (40)	3 (60)	
50,001 - 100,000	13	7 (54)	6 (46)	
25,001 - 50,000	21	8 (38)	13 (62)	
10,001 - 25,000	35	20 (57)	15 (43)	
5,001 - 10,000	40	28 (70)	11 (28)	1 (2)
2,501 - 5,000	33	30 (90)	3 (10)	
1,001 - 2,500	51	50 (98)	1 (2)	
Under 1,000	82	82 (100)		

Current Picture

Table 1 shows the current distribution of Washington cities by population and form of government. Of Washington's 281 cities and towns, 228 (81%) operate under the mayor-council form, 52 (18%) have adopted the council-manager form, and one operates under the commission form.

The great majority of Washington's 281 municipalities are small mayor-council cities and towns. Of the 228 mayor-council municipalities in the state, 166 have populations of under 5,000, including 82 small mayor-council municipalities that have fewer than 1,000 residents. Ten of the state's largest cities, having populations greater than 50,000, also operate under the mayor-council form, including

the city of Seattle, with over 500,000 residents. Mayor-council and council-manager cities in this population group (over 50,000) are in fact just about evenly split, with nine of the state's largest cities operating under the council-manager form. Most council-manager cities, 39 out of 52, fall within the 5,000 to 50,000 population range. Only one city, Shelton (8,545 population), is still operating under the commission form of government.

Historical Trends

Mayor-Council

The mayor-council form is the oldest form of government found in Washington cities and was the only option available to most cities from statehood in 1889 until 1910 when the commission form was first introduced.

This form consists of an elected mayor (elected at-large) who serves as the city's chief administrative officer and a council (elected either at-large or from districts) which is responsible for formulating and adopting city policies. The mayor-council form is characterized by a separation of executive and legislative powers and a system of checks and balances patterned after our traditional national and state governments. In all but the largest cities, elected city and town mayors and councilmembers serve on a part-time basis leaving most of the day-to-day operations to various full and part-time administrative personnel.

Nationally, mayor-council governments have been classified as either "strong-mayor" or "weak-mayor" types depending upon the degree of executive authority that is concentrated in the office of mayor. In Washington the state legislature basically provided for the "strong-mayor" type of mayor-council government except that mayors in towns do not have the authority to veto ordinances. By the time of statehood in 1889, there were 32 cities in Washington operating under the mayor-council form of government. From that time the number of cities operating under this form steadily increased, to 190 in 1920 and 208 by 1940, becoming the most popular form of government among Washington cities, particularly among those cities and towns under 5,000 population.

Progressive Reform Movement

On the national scene, the progressive reform movement of the early 1900s resulted in the development of two new forms of government, the commission form and the council-manager form. Concerned with the excesses of "political machines" operating in many of the country's cities and dissatisfied with the poor quality of municipal services, government reformers of this period sought to improve city government by removing politics from administration and by introducing the values of efficiency and professionalism borrowed from the model of America's successful business organizations.

Commission Form

Initially introduced at Galveston, Texas in 1901 in response to a devastating natural disaster, the commission form was the first major alternative to the mayor-council form and was widely adopted in the United States during the early 1900s. The commission form featured a small council whose members functioned collectively as the city legislative body and individually as city department heads. In theory, combining executive and legislative responsibility in one small elected body was supposed to result in increased political accountability and a more efficient and responsive city government.

Tacoma and Spokane were the first cities to adopt the commission form in Washington, both in 1910. As first class cities, Tacoma and Spokane were able to adopt the commission form through their charter authority. For other classes of cities, enabling legislation authorizing adoption of the commission form was enacted in 1911. Other cities adopting this form included Yakima, Walla Walla, and Chehalis in 1911, and Centralia in 1912.

Council-Manager Form

Staunton, Virginia has been credited as the first city to adopt the council-manager form of government in 1908. The council-manager form consists of an elected city council, which is responsible for policy making, and a professional city manager, appointed by the council, who is responsible for administration. The city manager is directly accountable to, and can be removed by the council. Although mayors in council-manager cities have no administrative or executive duties they do serve as the chair of the city council and often play a prominent political leadership role.

It was not until 1943 that the enabling legislation for the council-manager form was enacted by the Washington legislature. First class cities had the authority to adopt this form under their charters, but none had successfully done so (reformers in Seattle made several early, but unsuccessful, attempts). The first city in Washington to successfully adopt the council-manager form was the city of Sunnyside in 1948.

Modern Trends

Table 2 shows the number of Washington cities adopting the mayor-council, council-manager, and commission forms of government from 1940 to 2010. Also included in Table 2 is the percentage of incorporated population governed by the three basic forms of government over the same period.

Table 2
Forms of Government and Percentage of Incorporated Population of Washington Cities - 1940 to 2010

Year	Mayor-Council		Council-Manager		Commission		Total No. of Cities	Total Inc. Pop
	No.	% of Inc. Pop.	No.	% of Inc. Pop.	No.	% of Inc. Pop.		
1940	208	65%	0	0%	13	35%	221	1,060,518
1950	221	61%	2	1%	15	38%	238	1,422,983
1960	234	60%	18	32%	9	8%	261	1,705,986
1970	233	57%	24	37%	8	6%	265	1,907,182
1980	230	55%	29	40%	6	5%	265	2,125,392
1990	228	54%	37	45%	3	1%	268	2,287,498
2000	224	50%	54	49.8%	1	<1%	279	3,387,824
2010	228	58%	52	42%	1	<1%	281	4,196,962

Mayor-Council Form

Since statehood the number of mayor-council cities increased steadily until it peaked in 1962 at 238, and then declined slightly, reflecting a growing number of Washington cities that were adopting the council-manager plan. Between 1990 and 2010, the mayor-council form has been adopted in nine cities. One city (Liberty Lake) incorporated as a mayor-council city. Two cities (Raymond and Wenatchee) changed from the commission to mayor-council form. Six cities (Goldendale, Ferndale, Spokane, Ephrata, Ocean Shores and Federal Way) changed from the council-manager to the mayor-council form. In 2010, Washington's mayor-council cities accounted for 58 percent of the state's incorporated population. Nationally, the mayor-council form is used in 44% of U.S. cities over 2,500

population.

Commission Form

Although the commission form enjoyed an initial period of popularity in Washington, the number of adoptions peaked in the early 1940s at 15 cities. In 1944 Shelton was the last city to adopt the commission form. At the height of its popularity, 38 percent of the state's incorporated population lived in cities operating under the commission form. Since that time the number of commission cities has steadily decreased, until today only one city, Shelton, continues to operate under this form, accounting for less than one percent of city residents. Of the 14 cities that abandoned the commission form, 10 changed to the council-manager form and four to the mayor-council form. Nationally, the commission form is used in only one percent of U.S. cities over 2,500 population.

Council-Manager Form

The number of adoptions of the council-manager form in Washington has increased steadily since the time of its introduction. After Sunnyside first blazed the trail in 1948, the city of Ellensburg followed quickly, adopting the plan in the following year. Other cities have followed over the years with 14 adoptions in the 1950s, seven in the 1960s, seven in the 1970s, and seven in the 1980s. Between 1990 and 2010 fourteen new cities incorporated under the council-manager form and nine cities abandoned the mayor-council form to adopt the council-manager form. Today the 52 Washington cities operating under the council-manager form of government range in population from 1,915 in Carnation to 204,200 in Tacoma. The total population in council-manager cities in 2010 was slightly over 1.7 million residents, accounting for approximately 42 percent of the state's incorporated population. On the national level, the council-manager plan is found in roughly 49 percent of U.S. cities over 2,500 population.

Merging Forms?

Over the last 20 to 30 years, a significant number of Washington's mayor-council cities have added a new professional position of city administrator or some other similarly titled position in the mayor's office. City administrators serve under the mayor, usually on a full-time basis, assisting them with their administrative and policy-related responsibilities. Typically, this position is responsible for budget preparation, personnel administration, and the daily supervision of departments. In theory, the appointment of a city administrator frees the mayor from the need to attend to administrative details and allows them to focus greater attention on policy development and political leadership and often to attend to their own private employment apart from city government.

This form is really a hybrid of the council-manager and mayor-council forms, since it borrows some of the characteristics of each. There is a single elected executive to represent the community and provide political leadership--assisted by a professional manager. Some local government observers have suggested that this trend actually represents a converging of the two dominant forms of government.

In Washington, this variation on the mayor-council plan has been growing in popularity particularly among cities and towns under 10,000 population. The 2009 Association of Washington Cities Salary Survey reported 75 mayor-council cities and towns that had established a position of city or town administrator, or other similar position. In addition, the lone remaining city operating under the commission form of government has also established a city administrator position, essentially adopting a hybrid council-manager form of government with the commission functioning as a three member city council.

While there continues to be a wide variation in levels of responsibility among city administrators in mayor-council cities, their numbers are significant and represent an important trend toward the further integration of professional management into Washington local government.

Conclusion

Reflecting national trends, the mayor-council form remains the most common form of government found in Washington cities and towns particularly among the smaller jurisdictions and for some of the very largest. For the smallest cities and towns with relatively few services and more modest budgets the mayor-council form is perhaps the most practical and economical form of government. For the very largest cities (i.e., Seattle) the mayor-council form remains a popular choice. However, a growing number of cities over 50,000 population now operate under the council-manager form.

The trend toward professional management in local government introduced through the council-manager plan during the 1940s has had a major influence on the structure of Washington local governments including many mayor-council cities. The continuing popularity of professional management in Washington reflects not only the growth in the number and complexity of local government services, but also the growing demands placed on local governments, both large and small, in the form of state and federal mandates. The growth in external demands in particular may be one reason that increasing numbers of small and medium sized mayor-council cities have also hired professional administrators.



CITY OF BLACK DIAMOND ADMINISTRATION DEPARTMENT

To: Pete Butkus, Interim City Administrator
 From: Brenda L. Martinez
 Re: Election Dates Summary
 Date: July 11, 2012

The following is a summary for the current process for getting a ballot measure in for the general election voter's pamphlet for voter consideration:

Deadlines for Ordinance or Resolution Calling for the Election:

A resolution calling for a special election in November must be presented to the county auditor at least eighty-four days prior to the election date. The table below reflects due dates associated with 2012 general election.

Election:	Nov. 6, 2012
Resolution	August 7, 2012
Explanatory Statement (250 words)	August 10, 2012
Committee Appointments	August 10, 2012
Pro/Con Statements (200 words)	August 15, 2012
Rebuttals (75 words)	August 17, 2012
Election Certified	November 27, 2012

Ballot Measure Requirements:

1. City's Responsibilities:

- Notify Legal Counsel to write 250 word explanatory statement, appoint Pro and Con committees, submit appointment form and inform committees of their duties by the following deadlines:

	General
Explanatory Submission	August 10, 2012
Committee Appointments	August 10, 2012

2. Pro/Con Committees' Responsibilities:

- Provide 200 word statement and obtain a copy of opponent's statement for 75 word rebuttal submission by the following deadlines:

	General
Pro/Con	August 15, 2012
Rebuttal	August 17, 2012

Pete Butkus

From: Adams, William <William.Adams@kingcounty.gov>
Sent: Wednesday, July 11, 2012 1:17 PM
To: Pete Butkus
Cc: McConnell, Sandy; Case, Janice
Subject: FW: Election cost request

Pete: Interesting you are asking a question about the cost to participate in the 2012 General election because I already responded to the same question on July 6. The e-mail address I used for my response is tkswanson@hotmail.com.

At any rate, the following is the latest estimate for the 2012 General election:

Estimated cost per active voter is \$1.50 to \$1.85. At 2,676 voters, the City of Black Diamond's cost could be about \$4,000 to \$5,000.

The voters' pamphlet is estimated to be about \$300 to \$500 per page (this has been reduced from my previous estimate of \$800 to \$1,200 per page that I provided on July 6). For estimating purposes the general rule of thumb is about one page per ballot item. Just in case, if Black Diamond has two ballot items, the voters' pamphlet cost estimate is double. However, the election cost estimate remains the same.

Bill Adams
 King County Elections Finance
 206-296-1596

"If you look for the bad in people expecting to find it, you surely will." – Abraham Lincoln

From: Kinzer, Kortney **On Behalf Of** Election, Operations
Sent: Wednesday, July 11, 2012 8:55 AM
To: Adams, William
Subject: FW: Election cost request

Bill:

Would you please provide an election cost request for the following:

- City of Black Diamond
- 2,676 voters
- November 6 general election
- Participating in the VP
- Contact: see below email

Thanks,
Kortney Kinzer

Election Operations Lead

919 SW Grady Way, Renton, WA 98057-2906
206-296-1565 | www.kingcounty.gov/elections



-----Original Message-----

From: Elections, Comments

Sent: Tuesday, July 10, 2012 4:58 PM

To: Elections, Comments

Subject: Contact us message

Submitted from: <http://www.kingcounty.gov/elections/aboutus/contactus.aspx>

Submitted at 4:57:55 PM, on Tuesday, July 10, 2012

The following information was provided:

LogToDB: false

Name: Pete Butkus, City Administrator

Email: pbutkus@ci.blackdiamond.wa.us

Phone: 360/886-5700

Subject: Other

Description: City Council, as of last night, wants to explore municipal form of government change on the NOV 2012 ballot.

I need most desperately: cost estimate for both running a ballot proposition and for inclusion of a explanatory statement and pros/cons in the voter's pamphlet.

ResponseRequested: yes

User IP Address:173.10.106.10

User Software Client:Mozilla/5.0 (Windows NT 6.1; WOW64) AppleWebKit/536.11 (KHTML, like Gecko)

Chrome/20.0.1132.47 Safari/536.11

MEMORANDUM
CIT OF BLACK DIAMOND

TO: Rebecca Olness, Mayor
Members of the City Council
Pete Butkus, Interim City Administrator

FROM: Chris Bacha, City Attorney

DATE: July 16, 2012

RE: Change in Form of Government

The City Council at the July 9th special council meeting, requested that the City Attorney provide information regarding the process for change in the form of government. The purpose of this memorandum is to respond to that request.

DISCUSSION:

The City of Black Diamond, prior to 1975, was classified as a fourth class city and operated under a Mayor-Council form of Government. See, BDMC 1.08.080. In 1975, the City Council chose to re-organize as a non-charter code city and retained the Mayor-Council form of government. Cities like Black Diamond that organized as non-charter code cities are governed by the provisions of RCW Title 35A. Thus, the provisions set forth in RCW Title 35A for re-organizing the form of government are applicable here.

RCW Chapter 35A.060 establishes a fairly straight forward process for re-organization. Non-charter Code Cities that do not also wish to change the city classification, have available two options for the form of government: a Mayor Council form of government and a Council-Manager form of government. Although state law provides for a different form of Council-Manager form of government for other classes of cities, this form of government is not available to Code Cities. See, RCW 35A.06.020.¹ Therefore, unless the City Council also intends to

¹ 35A.06.020 Laws applicable to noncharter code cities.

The classifications of municipalities as first-class cities, second-class cities, unclassified cities, and towns, and the restrictions, limitations, duties, and obligations specifically imposed by law upon such classes of cities and towns, shall have no application to noncharter code cities, **but every noncharter code city, by adopting such classification, has elected to be governed by the provisions of this title, with the powers granted hereby.**

consider re-classification (i.e. changing its classification to town or second class city), the only option is to change the form of government to a Council-Manager form of government as set forth in RCW Chapter 35A.13. For purposes of this memorandum, it is presumed that the City Council does not intend to seek a re-classification to another class of city and intends only to consider whether or not the City should re-organize its structure for governance (i.e. change from a Mayor-Council to Council-Manager form of government).

The process for adoption of a separate plan of government is set forth in RCW 35A.06.040. Under this statute, re-organization can be initiated in one of two ways, either by a resolution of the City Council or by a petition for election.

A. Petition Method. The petition method is governed by the applicable provisions of RCW Chapter 35A.02. See, RCW 35A.06.040. This chapter contains the general procedures for becoming a non-charter code city. The procedures to petition for incorporation as a non-charter code City have been made generally applicable to the process for petitioning to re-organize the form of government. The following requirements apply:

However, any code city that retains its old plan of government is subject to the laws applicable to that old plan of government until the city abandons its old plan of government and reorganizes and adopts a plan of government under chapter 35A.12 or 35A.13 RCW. (*Emphasis added*)

1. The petition must meet the requirements as to form and content as set forth at RCW 3A.01.040;²
2. The petition must be signed by registered voters of an incorporated city or town, in number equal to not less than ten (10) percent of the votes cast at the last general municipal election³;
3. The petition must be filed with the county auditor (King County Elections Office);
4. The County Auditor (King County Elections Office) must determine the sufficiency of the petition, including whether or not it is signed by a sufficient number of registered voters;
5. If the petition is deemed sufficient, then the County Auditor (King County Elections Office) shall file a certificate of sufficiency of the petition with the City.

² RCW 35A.01.040 Sufficiency of petitions.

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

³ Although RCW 35A.02.020 provides that the petition method for adoption of a no-charter form of government must be at least fifty (50) percent of the registered voters, voting in the last general municipal election, the statute providing for re-organization (RCW 35A.06.040) only requires signatures of ten (10) percent of those registered voters.

6. The City Attorney is responsible for preparing the ballot title and statement of the proposition which shall be transmitted to the County to be placed on the ballot. See, RCW 35A.06.050 and 35A.29.120.

B. Resolution Method. The resolution process is begun by the passage of a resolution by the city's legislative body, proposing abandonment of its present plan of government and the adoption of another named plan and naming such plan. Upon adoption of the resolution, the City Attorney shall then prepare the ballot title and statement of the proposition which shall be transmitted to the County Election Office to be placed on the ballot.

C. The Election. Prior to 2004, the City Council had wide discretion in choosing the election date for a vote to re-organize the form of government. However, in 2004 the legislature amended state law, apparently as a way to reduce election costs, so that such ballots could only be voted upon at the next general election. This limitation changed again in 2009 when the Legislature amended the statute again to return discretion to local governments. State law now provides that the proposal shall be placed on the ballot at the next general election, or pursuant to the City Council resolution, it may be placed on the ballot at a special election. See, RCW 35A.06.050.⁴ Thus, the City Council has the option of putting the proposal on the ballot at a special election.⁵

The draft resolution presented at the July 9, 2012 City Council meeting called for placing the proposition on the ballot at the “general election”. As noted above, state law provides that the proposition can only be placed on the ballot at the “general election” unless the City Council authorizes a special election ballot by resolution. The likely unintended consequence of the proposed language in the draft resolution is that the resolution would place the proposal on the ballot at the general municipal election on November 5th of 2013. This is explained below.

RCW Title 29A establishes the general authority and procedures for elections in Washington State. It provides that general elections for cities and towns shall be held on the first Tuesday following the first Monday in November in the odd-numbered years. See, RCW 29A.04.330. Thus, the next general election for the City of Black Diamond will be November 5, 2013. If the draft resolution does not provide for a special election, then the proposal to change the form of government would not be on the ballot until November of next year. This is problematic because at the same time, the voters would also be voting for selection of Mayor under the Mayor-Council form of government.

If the Council chooses to call a special election, it has several options for dates that it may choose.⁶ Special elections may be held on, (a) the second Tuesday in February, (b) the third

⁴ It is not clear whether or not this amendment to state law allows the City Council to place the proposal on the ballot if it is initiated by petition rather than resolution of the City Council.

⁵ Of course the cost to the City to place the proposition on the ballot at a special election will greatly exceed the costs to place it on the ballot at a general election.

⁶ RCW 29A.04.330 provides in pertinent part as follows:

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor prior to the proposed election date, may call a special election in such city, town, or district, and for the purpose of such special election he or she may combine,

Tuesday in April until January 1, 2013, (c) the fourth Tuesday in April on or after January 1, 2013; (d) the day of the primary election as specified by RCW 29A.04.311 (nominating primaries), or (e) the first Tuesday after the first Monday in November. See, RCW 29A.04.330 (2). If the City Council calls for a special election for the time periods set forth in either (a), (b) or (c) above, then the resolution authorizing the proposal to be placed on the ballot must be submitted to the County Elections Office at least forty-five (45) days prior to the date of the election. If the City Council calls for a special election for the time periods set forth in either (d) or (e) above, then the resolution requesting the special election must be submitted to the County Elections Office at least eighty-four (84) days prior to the date of the election.

In this case, if the City Council desires to place the proposition on the ballot at the state general election in November of this year, it must submit a certified copy of the resolution to the County eighty-four (84) days prior to November 13th, i.e. on or before August 21st, 2012, requesting that the proposition be placed on the ballot for special election.

D. Effective Date. The statute provides that, “[u]pon the election, qualification, and assumption of office by such officers the reorganization of the government of such municipality shall be complete and such municipality shall thereafter be governed under such plan.” See, RCW 35A.0.030. Therefore, the effective date of the re-organization will be the moment after certification of the election that all elected officials assume office. In this instance, the City would re-organize and become a Council-Manager form of government. The election of new officers to this form of government is governed by RCW 35A.06.030. See, RCW 35A.06.060.

When re-organizing as a Council-Manager form of government, the statute provides that all current officers shall serve out their remaining terms and the Mayor shall serve as a council member. Current council members would thus continue serving their terms, while the Mayor would have to assume the office of the sixth council member. Thus, it appears that once the election results are qualified and the mayor assumes office as a council member, the re-organization will become effective.

unite, or divide precincts. Such a special election shall be held on one of the following dates as decided by the governing body:

- (a) The second Tuesday in February;
- (b) The third Tuesday in April until January 1, 2013;
- (c) The fourth Tuesday in April on or after January 1, 2013;
- (d) The day of the primary election as specified by RCW 29A.04.311; or
- (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) through (c) of this section must be presented to the county auditor at least forty-five days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)(d) or (e) of this section must be presented to the county auditor at least eighty-four days prior to the election date.

E. Transition. The effective date of the re-organization is a very short time period following the election; thus, there will be little if any time to create the mechanisms necessary to effectuate the re-organization. The re-organization, if approved, will require establishment of a transitional government and significant amendments to the City Code. Further, depending upon the timing of the election, the budget process may be affected necessitating an alternate preliminary budget that takes into consideration funding of the City Manager position and how resources would be re-allocated to fund this position.

Thus, prior to the election date and in anticipation of possible approval, it would be prudent for the City to prepare preliminary ordinances making appropriate code revisions, identify the source of funding for the new City Manager position, and provide for selection of an interim City Manager until such time as a permanent City Manager can be appointed.

Examples of the type of code amendments that would be necessary generally relate to the following:

1. Amending the city code to reflect the re-organization to a council-manager form of government.
2. Amend the administrative provisions of the code to remove references to the City Administrator, and creating the position of City Manager, and describing the duties of that position.
3. Amending the budget ordinance to establish the salary for the new City Manager Position.
4. Amending those references throughout the City Code that delegate administration decision making authority to the Mayor to reflect the appropriate public official who will assume those duties, i.e. the City Manager or some other city officer.

F. Elected or Appointed Mayor. State law provides two methods for selection of Mayor in a Council-Manager form of government. The first is the default method and provides that the City Council shall biennially appoint a chair at the first meeting of the City Council and the chair shall act as Mayor. See, RCW 35A.13.030. The second method provides that the City Council of a Council-Manager form of government, "may by resolution place before the voters of the city, a proposition to designate the person elected to council position one as the chair of the council" with the powers and duties of Mayor as set forth at RCW 35A.13.030. See RCW 35A.13.033. Under this method, once the City is re-organized as a Council-Manager form of government, the City Council may vote to place a proposition on the ballot for the voters to decide if the Mayor should be elected by the voters.⁷

In the event that the voters approve the change in form of government, the newly re-organized City Council may meet prior to the first meeting in January. If that occurs, the City Council will need to appoint a Deputy Mayor or Mayor pro tempore to preside over the meetings until a Chair is appointed at the first meeting in January. The process for appointment of Deputy Mayor or Mayor pro tempore is set forth at RCW 35A.13.035. This statute provides that the

⁷ It should be noted that the duties of Mayor do not change if the Mayor is elected by the voters. The Mayorial duties remain as the presiding officer over meetings and ceremonial head of the City. See, RCW 35A.13.030 and 033.

Deputy Mayor or Mayor pro tempore may be biennially, or periodically, appointed by a majority of the City Council and for whatever period of time the Council finds appropriate. Thus, a Deputy Mayor or Mayor pro tempore can be appointed to act in lieu of the Mayor until the Chair can be appointed at the January meeting, or beyond that time period, to act as Deputy Mayor or Mayor pro tempore.

I hope that the foregoing has been responsive to your questions.