

BLACK DIAMOND CITY COUNCIL MINUTES

October 20, 2016

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular meeting to order at 7:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

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

ABSENT: None

Staff present were: Andy Williamson, Utility Superintendent; Scott Hanis, Capital Project Manager; Kevin Esping, Facilities Coordinator; Peter Altman, City Attorney; David Linehan, City Attorney; Jamey Kiblinger, Police Chief and Brenda L. Martinez, City Clerk.

NEW BUSINESS:

7) AB16-062-Resolution Authorizing Collective Bargaining Agreement with the Black Diamond Police Officers Association.

CLOSED SESSION: As authorized by RCW 42.30.140(4) to discuss collective bargaining

Mayor Benson announced this will be a closed session as authorized by RCW. 42.30.140(4) to discuss collective bargaining. She stated this will take about fifteen minutes.

Councilmember Pepper stated point of order, and asked for the floor several times while the Mayor was making her statement regarding closed session.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to appeal the decision of the chair. She stated "those persons not to recognize a Councilmember when they are wishing to be recognized on the floor." Councilmember Pepper stated "the Agenda on the City's website was, once again, not the proper agenda".

Mayor Benson repeated several times as Councilmember Pepper was appealing the chair, that she announced this is a closed session.

Mayor Benson called for a recess at 7:01 p.m. to go into executive session for fifteen minutes, as Councilmember Pepper continued to appeal the decision of the chair.

At 7:03 p.m. the Council went into closed session for fifteen minutes. A ten-minute extension was announced.

The meeting was called back to order at 7:30 p.m.

Councilmember Pepper stated continually she appeals the decision of the chair.

Mayor Benson called Councilmember Pepper out of order.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to move the Collective Bargaining Agreement so that we can vote on it now.

Councilmember Pepper continued to state there is a motion on the floor.

Mayor Benson called Councilmember Pepper out of order.

Councilmember Pepper restated her motion.

There was Council discussion.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt resolution number sixteen, Clerk will assign a number at adoption authorizing the Mayor to sign a Collective Bargaining Agreement and Memorandum of Understanding between the City of Black Diamond and the Black Diamond Police Officers Association.

Councilmember Pepper continued to state "no", you have a person who is not being recognized as Councilmember Deady read her motion in.

Mayor Benson called Councilmember Pepper out of order.

Councilmember Pepper appealed the decision of the chair.

Mayor Benson asked all those in favor.

Councilmember Deady and Edelman voted Aye, with no vote being finished.

There was Council discussion and Councilmember Morgan stated that as is the practice they would like to send this contract for first reading to Government Operations Committee.

There was continued Council discussion around the contract and sending it to Committee.

Councilmember Weber called point of order to a comment made from the audience.

Councilmember Edelman stated we have a vote and a motion for a vote.

Councilmember Pepper asked if could refresh ourselves where we are at.
Mayor Benson stated we have a **motion** and a **second** to pass this contract tonight.

Councilmember Pepper moved to postpone this until the next meeting.

Councilmember Edelman called point of order, and stated there was a vote with “two ayes and then you guys stopped, so we need to continue on with that vote and close this out before you do whatever it is you want to do”.

There was Council discussion around this.

Councilmember Edelman called for the question.

VOTE: Motion failed 2-3 (Morgan, Weber, Pepper)

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to bring this item back for reconsideration at the next regular scheduled City Council meeting on November 3. Motion **passed** with all voting in favor (5-0).

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Domestic Violence Proclamation

Mayor Benson read the Domestic Violence Proclamation for the month of October in support of National Domestic Violence Awareness Month. She urged citizens to participate in the Purple Night Lights by installing a purple light in the front porchlight fixture to honor the victims and give hope to those still living with abuse.

Councilmember Deady shared that she was on the Domestic Violence Task Force and shared some statistics. She hopes that next year there will be more participation.

1) Presentation-Fire Department

Tim Percival, Fire & Life Safety Educator; announced they have a search team out as they are missing one of their firefighters. He gave an update around the state agencies involved and the search that is in progress and passed out flyers.

Mr. Percival talked about (CERT) Community Emergency Response Team. The free training will be at the gym in Black Diamond. He noted that CERT teaches you how to protect yourself, your family and your community as aid may not be able to get there quickly.

PUBLIC COMMENTS:

Brock Deady, Black Diamond spoke to Council.

Gary Davis, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Leslie Coolie, Black Diamond spoke to Council.

Mitch Neary, Black Diamond spoke to Council.
Judy Watson, Black Diamond spoke to Council.

CONSENT AGENDA:

2) Claim Checks – October 21, 2016 - No. 43992 through No. 44040 and EFTs in the amount of \$138,655.52

3) Payroll – September 30, 2016 – No. 19207 through No. 19221 and EFTs in the amount of \$275,418.20

4) Minutes-Council Special Meeting of September 29, 2016

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to accept the consent agenda.

Councilmember Morgan wants to pull voucher number 44016, the Kenyon Disend voucher to be discussed under New Business.

Mayor Benson asked Councilmember Morgan if she wants to make an amended motion. It was noted that the person who made the motion needs to make the amended motion.

Under protest, an **amended motion** was made by Councilmember Edelman and **seconded** by Councilmember Weber to pull out voucher number 44016, the Kenyon Disend voucher to be discussed later in this meeting.

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

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Edelman to pass the rest of the voucher consent agenda. Motion **passed** with all voting in favor (5-0).

PUBLIC HEARING: Mayor Benson opened the public hearing at 8:16 p.m.

5) AB16-061 – Proposed Resolution Regarding 2017 Stormwater Management Program

Mr. Williamson, Interim Community Development Director gave a report on this item. He addressed updates and highlighted the changes and accomplishments. He talked about best management practices and compliance. He answered questions from Councilmembers.

There was Council discussion.

Mayor Benson opened the public hearing.

No one testified at this public hearing.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber that the public hearing remain open until the November third Council meeting for this item.

There was Council discussion.

Councilmember Edelman called a point of order to Councilmember Pepper.

There was continued Council discussion.

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

UNFINISHED BUSINESS:

6) Postponed Minutes – Council/Planning Commission Joint Meeting of July 12, 2016, Council meetings of July 21, 2016 and August 18, 2016, Council/Planning Commission Joint Meeting of August 23, 2016, Special Meeting of August 25, 2016, Council Meeting of September 1, 2016, and Special Meeting of September 8, 2016.

Councilmember Pepper addressed the Joint Meeting of July 12. She noted she would like to change the minutes to say 'no discussion' where it says 'okay as written'. She stated she would also like to change the minutes to preface each wording change with discussion/comment. She stated she can email these recommendations to the clerk. She moved to postpone the July 12 minutes until the next regular Council meeting to allow these changes to be drafted and viewed by the Council.

Mayor Benson asked the Attorney how should the Council minutes be done for the meetings.

Attorney Linehan stated that Council rules say action minutes are kept, meaning that the clerk records what happened, not who said what, when. Action minutes would reflect a motion that was made as the result of a vote, whether there was any discussion, not the contents of the discussion and the order of presentations that were made. Anyone who spoke during the meeting would be recorded. Their identities, but not the content of their comments.

There was Council discussion.

Councilmember Morgan stated she has the floor.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to postpone July 12 meeting minutes until the next regular meeting to allow these changes to be drafted and reviewed by the Council.

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

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Edelman to approve the special meeting minutes of September 8.

There was Council discussion.

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

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt the rest of the meeting minutes as written.

There was Council discussion with Councilmember Edelman calling the question.

VOTE: Motion **failed** 2-3 (Morgan, Weber, Pepper).

Mayor Benson asked Councilmember Pepper if she had a date that these would be postponed to. We need to have a date certain to approve the minutes.

There was Council discussion.

It was clarified by Councilmember Pepper that they can try to be brought back on November third.

Mayor Benson acknowledged she will add them to the agenda.

There was continued Council discussion.

8) Kenyon Disend Voucher

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to not approve this voucher for payment.

Mayor Benson stated that the Council has no authority to hire an attorney, and she is required by law to have an attorney for the City to protect the City and is required by law to pay him.

There was Council discussion.

Mayor Benson requested an opinion by the Attorney.

Attorney Linehan stated that the Council has had the benefit of many attorneys opinions on this matter and anything he says at this meeting will not change anyone's mind.

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

Mayor Benson stated she will deny this as she needs to pay the attorney.

DEPARTMENT REPORTS:

Mr. Williamson reported to Council that Mr. Boettcher brought forward a contract for on-call contracting for engineer sources for water and sewer with RH-2. He reported for the record that currently on city staff, we have no professional engineers. He discussed the legal obligations that he is required to uphold for taking in applications. He is asking if the City Council could move forward with the on-call contract in a timely manner. He noted that we need those engineers. He voiced his concern for the legal liability of not having those services available. He thanked Kevin Esping for his help in coordinating and team effort as a community.

Mayor Benson asked if anyone would like to make a motion to bring this forth at the next meeting.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to bring this contract forth to the next meeting on November 3.

There was Council discussion.

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

There was continued Council discussion around contracts.

Attorney Linehan offered to answer any question regarding the terms of the contract with anyone who may have questions.

MAYOR'S REPORT:

Mayor Benson sent kudos out to Kevin Esping, they did the statewide earthquake drill today and it went well. She reported that she attended the Vine Maple Place breakfast on Saturday. She attended the STEM luncheon in Enumclaw.

COUNCIL REPORTS:

Councilmember Deady reported that today is her twenty sixth wedding anniversary. She attended the PIC meeting and the STEM luncheon and participated in the great shake-out.

Councilmember Morgan reported that the Council's new agenda process allows for a more thorough public review and she spoke on the state law processes. She read a summary of nine points on Council rules. She discussed the budget committee meetings. She has reviewed the vouchers with the staff.

Councilmember Weber called point of order to Councilmember Edelman.

Councilmember Weber called point of order to Mayor Benson.

Councilmember Edelman discussed both versions of the Council rules state that items to be on the agenda are to be to the City Clerk by Tuesday 10 a.m. the week before the Thursday meeting. She went on record to state they are not following their own rules regarding the agenda process. She reported attending the budget work study, the Chamber of Commerce luncheon and attended the STEM luncheon.

Councilmember Weber stated due to his schedule, he was not able to attend the STEM luncheon. He mentioned the budget and finance committee meetings meet the Monday before the Council meeting. If you have any questions as to where is the meeting, you can contact him at his city email address.

Councilmember Pepper stated she's been to the meetings, Town Hall, budget and stated thanks for the check in opportunity today. She talked about the Shadow Lake Nature Preserve on 184th street past Peter Grubb Road. She talked about the topic of a book called "Who's meeting is it anyway" and discussed the logistics of the role of the Mayor and the Councilmembers.

Councilmember Edelman called point of order to Councilmember Pepper.

ATTORNEY REPORT:

Attorney Linehan reported the Bonneville Power Administration needs to acquire certain property to expand and needs to acquire land where the City has a conservation easement. He noted there is an offer on the table from the BPA based on an appraisal that they obtained for the valuation of the conservation easement. He brought that offer previously and has since requested the BPA to pay the city to obtain its own independent appraisal, however the BPA declined.

He reported that he and the Mayor will need direction from the Council to accept, reject or counter offer on this acquisition. He stated we could have an executive session now or he

can send a confidential memorandum to the rest of the Council and solicit feedback. He noted the BPA has some level of urgency to complete this acquisition.

Mayor Benson noted that Councilmember Morgan left the room due to conflict of interest the last time we talked about this.

Councilmember Deady suggested to go into executive session tonight.

There was Council discussion.

Attorney Linehan noted that no action is necessary tonight but by the next Council meeting would be a good goal.

The other item Attorney Linehan reported on was the company Astound Broadband aka WAVE wants to install fiber optic cable network in the City's right of way to connect wireless towers in the area. This will make wireless and cell phone data faster and more reliable. They have requested a franchise agreement to make use right away. If anyone has questions about this, he's been working with Mr. Boettcher to finalize a draft franchise agreement. He reported they are very close to completing a draft agreement with potential franchisee. Once he gets feedback from them, and what they will agree to, then it can be presented to Council at an upcoming meeting. They would be happy to come in and present and answer questions. This can hopefully be brought for first reading.

There was Council discussion.

Mayor Benson suggested to Mr. Linehan to submit a memo and don't include Councilmember Morgan due to conflict of interest. Then the four Councilmembers can get back to the Mayor with a yea or nay. This would eliminate the need for executive session.

PUBLIC COMMENTS:

Judy Goodwin, Black Diamond spoke to Council.

Mitch Neary, Black Diamond spoke to Council.

Andy Williamson, Black Diamond spoke on behalf of Teamsters

Bob Edelman, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Judy Carrier, Auburn spoke to Council.

Councilmember Edelman stated for the record she had fifteen less votes than the other two that were elected at the same election and that this is not a mandate, in response to Judy Carrier's comments. Twenty four percent of the registered voters voted them in.

EXECUTIVE SESSION: None

ADJOURNMENT:


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

The meeting adjourned at 9:49 p.m.

ITEMS REMOVED FROM PRIOR AGENDAS:

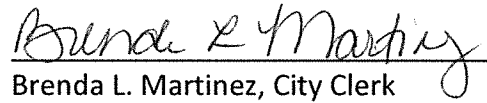
AB16-059 – Resolution Adopting the 2017-2022 Capital Improvement Plan

AB16-060 – Resolution Authorizing an Agreement with RH2 for On-Call Services



Carol Benson, Mayor

ATTEST:



Brenda L. Martinez, City Clerk