

**BLACK DIAMOND CITY COUNCIL MINUTES**  
**January 5, 2017 Regular Business Meeting**  
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: Jamey Kiblinger, Police Chief; David Linehan, City Attorney; Scott Hanis, Capital Project/Program Manager; Andrew Williamson, MDRT/Ec Dev Director; Dan Dal Santo, Utilities Superintendent; and Brenda L. Martinez, City Clerk.

**APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:**

Mayor Benson announced that Mr. Boettcher's first day back to work was today and he is excited to be back. She also mentioned the police officers in attendance are here on their own time as they are concerned about the budget and their jobs.

**PUBLIC COMMENTS:**

Robbin Taylor, Black Diamond spoke to Council.

Councilmember Morgan raised a point of order for the speaker to address the whole Council; not individuals.

Another point of order was raised by Councilmember Pepper for the Mayor to keep order in the room and for the speakers to address the Council as a whole; not individual persons.

Johna Thomson, Black Diamond spoke to Council.

Gary Davis, Black Diamond spoke to Council.

Erin Stout, Black Diamond spoke to Council.

Councilmember Pepper discussed receiving a letter from the Boundary Review Board regarding the Rainier Ridge Annexation and asked to make this an agenda item tonight.

A **motion** was made by Councilmember Pepper to add under new business the Washington State Boundary Review Board notification letter for File No. 2379 City of Maple Valley Rainier Ridge Annexation; **second** Councilmember Morgan.

There was Council discussion.

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

### **CONSENT AGENDA:**

A **motion** was made by Councilmember Edelman to accept the consent agenda; **second** Councilmember Deady.

Councilmember Morgan **amended** the motion to separate the consent agenda out into separate parts (vouchers and each set of minutes separately). She discussed the Talmadge bill and the resolution authorizing this work.

There was Council discussion.

A **motion** was made by Councilmember Morgan to pay the Talmadge bill; **second** Councilmember Pepper.

There was Council discussion on the paying of the Talmadge bill.

Councilmember Pepper appealed the decision of the Chair and raised a point of order on the Chair for not keeping the room in order. She noted the appeal is for allowing this to keep happening.

There was discussion between the Council, Mayor and attorney regarding the lawsuit being voluntarily dismissed. Mayor Benson instructed the City Clerk to get a copy of the withdrawal to Council.

There was Council discussion regarding the vouchers and the supporting documents.

Councilmember Morgan called Councilmember Edelman out of order as she does not have the floor.

There continued to be Council discussion with the focus being moving the approval of the vouchers to the next meeting and the Talmadge bills.

Councilmember Weber asked for clarification on the renumbering of the agenda. Mayor Benson responded that the claim checks will be # 1, April 21 minutes will be #2, and the June 9 minutes will be #3 and so on down the agenda.

Councilmember Morgan called for the question on the Talmadge bill motion.

There was Council discussion regarding the conflict of interest for Councilmembers Morgan and Pepper. Councilmember Edelman suggested that a vote be taken and those with a financial interest be recused from voting as it's a conflict of interest and further suggested that Councilmembers Morgan and Pepper votes do not count as they have a financial interest.

**Vote:** 3-2 (Edelman, Deady). Mayor Benson announced the motion did not carry as the votes from Councilmembers Morgan and Pepper did not count as they should have recused themselves.

**1) Claim Checks** – January 5, 2017 - No. 44228 through No. 44290 and EFTs in the amount of \$259,762.66

A **motion** was made by Councilmember Weber to move all the above claims checks to the next regular scheduled meeting; **second** Councilmember Morgan. Motion **passed** 3-2 (Edelman, Deady).

**2) Minutes** – April 21, 2016 Council Meeting

A **motion** was made by Councilmember Pepper that the April 21 minutes be postponed until the comments surrounding these minutes are addressed; **second** Councilmember Morgan.

There was Council discussion.

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

**3) Minutes** - June 9, 2016 Work Session

A **motion** was made by Councilmember Morgan to hold them until the next meeting; **second** Councilmember Pepper.

City Attorney Linehan discussed the RCW regarding Council minutes.

There was discussion.

City Attorney Linehan also noted it is not unusual to adopt minutes and amend them at a later date.

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

**PUBLIC HEARINGS: None**

**UNFINISHED BUSINESS: None**

**NEW BUSINESS:**

#### 4) AB17-001 – Resolution Appointing Mayor Pro-Tem

A **motion** was made by Councilmember Pepper to nominate Councilmember Morgan as Mayor Pro-Tem; **second** Councilmember Weber.

There was Council discussion.

A **motion** was made by Councilmember Deady to amend the motion to remove Councilmember Morgan as Mayor Pro-Tem and add Councilmember Edelman as Mayor Pro-Tem; **second** Councilmember Edelman.

Councilmember Morgan read a prepared statement.

Councilmember Weber raised a point of order regarding control of the audience.

Councilmember Morgan continued with her statement.

Councilmember Pepper appealed the decision of the chair to keep decorum.

Councilmember Morgan continued with her statement.

Councilmembers Weber and Morgan raised a point of order for meeting decorum.

Councilmember Morgan continued with her statement.

Councilmember Pepper asked for clarification on the motions on the floor.

Councilmember Pepper raised a point of order as there was already a motion and second on the floor.

**Amended Motion Vote:** Motion **failed** 2-3 (Morgan, Weber, Pepper) for Councilmember Edelman as Mayor Pro-Tem.

**Main Motion Vote:** Motion **passed** 3-2 (Edelman, Deady) for Councilmember Morgan as Mayor Pro-Tem.

Councilmember Weber commented on the Mayor keeping order or he will make a motion to adjourn the meeting.

#### 4.5) Council President

A **motion** was made by Councilmember Morgan to name Councilmember Pepper as Council President again.

Councilmember Morgan spoke to her motion.

There was Council discussion.

Councilmember Weber **seconded** the motion.

**Vote:** Motion **passed** 3-2 (Edelman, Deady) to name Councilmember Pepper as Council President.

**5) AB17-002 – Resolution Confirming Council Standing Committee Appointments**

Mayor Benson announced she will not be noticing these meetings as they are not legal meetings and welcomed them to come in during the day or early evening to meet with staff.

There was Council discussion with Councilmembers Deady and Edelman noting they do not agree with these committees and will not be participating; Councilmember Deady also noted standing with the City Attorney's advice.

Councilmember Pepper stated the Chair needs to reign in the Councilmember speaking (Deady). Mayor Benson ruled Councilmember Pepper out of order.

Council discussion continued on this item with Councilmember Morgan discussing what happened at the January 2016 meeting regarding Council committees and Councilmember Pepper addressed Council committees and the three touch process.

Councilmember Deady requested that her name be removed from the Committees.

A **motion** was made by Councilmember Pepper to put AB17-002 a resolution confirming Council Standing Committee appointments as agreed by Mayor Pro- Tem for first reading and assignment to the Government Operations Committee; **second** Councilmember Morgan.

Councilmember Deady again requested that her name be removed from the Committees.

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

**6) AB17-003 – Ordinance Adopting 2012 Stormwater Manual for Western Washington**

Mayor Benson referred to an email from DOE and also discussed the email outlining the penalties that can be assessed if this is not passed.

MDRT/Ec Dev Director Williamson addressed Council on this item. He noted for the record this item was voted down at the October 6<sup>th</sup> meeting and another version of the ordinance was passed 16-073A and was then vetoed by the Mayor. This was then brought back to the City Council in its legal form on December 15<sup>th</sup> and was voted down. We are now here on January 5<sup>th</sup> with a legally approved by our City Attorney document for the Council to take action. The adoption of this manual is separate than the LID code updates. The City is currently out of compliance of its the NPDES permit as this was due by December 31, 2016. The Department of Ecology is aware the City is out of compliance and adoption of this

ordinance would bring the City back into compliance. He noted there is a whole list of RCWs, penalties, EPA penalties, third party lawsuits that can be levied against the City. There is up to \$37, 500 per day of violations and legal costs and asked Council to keep this in mind – any new development that comes and puts an application in at Community Development and are deemed complete will vest to the 2005 Stormwater manual and will be built to those standards. He noted again for the record the public works department of the City of Black Diamond has delivered to you a legally adopted ordinance for your review three times and it has been voted down. So for the record the Black Diamond Public Works department now puts the responsibility of this and all the legal repercussions that come with it on the Black Diamond City Council.

There was Council discussion on this item.

A **motion** was made by Councilmember Deady to adopt a resolution adopting new stormwater management regulations and amending Chapter 14.04 of the Black Diamond Municipal Code; **second** Councilmember Edelman.

Councilmember Pepper read a prepared statement.

A **motion** was made by Councilmember Pepper to amend the motion to refer this to the Growth Management Committee; **second** Councilmember Morgan.

City Attorney Linehan clarified the email from Ecology was responding specifically to the version of the stormwater adoption ordinance that the Council has voted down twice and the version that the Council passed and the Mayor vetoed. DOEs for the same reason as outlined in her veto. He urged them to strongly listen to DOE and adopt the version as presented in the packet.

Councilmember Deady raised a point of order for audience decorum.

Councilmember Weber discussed why the City is continuing to run serial contracts and why no RFP has been sent out for legal services.

There was Council discussion on this.

Councilmember Deady raised a point of order for Councilmember Pepper being off topic.

Council discussion continued.

City Attorney Linehan noted the only substantive difference in the two versions of the ordinance is the language regarding the automatic adoption of subsequent updates.

There continued to be Council discussion.

Councilmember Pepper raised a point of order.

Council discussion continued.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to call a five minute recess. Motion **passed** 3-2 (Edelman, Deady).

At 9:09 p.m. Mayor Benson recessed the meeting for five minutes.

At 9:14 p.m. Mayor Benson called the meeting back to order.

Council discussion continued.

**Amended Motion Vote:** Motion **passed** 3-2 (Edelman, Deady).

**Main Motion:** No action was taken on the main motion as the passing of the amended motion superseded.

**7) AB17-004 – Resolution Approving Grant Agreement with Transportation Improv. Board for Roberts Drive Maintenance Project**

MDRT/Ec Dev Director Williamson reported to Council on this item.  
There was Council discussion.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt a resolution authorizing the Mayor to execute a fuel tax agreement for the Roberts Drive Eastbound Maintenance Project, TIB #2-P-800(005)-1.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to amend the motion to move for first reading to the Government Operations Committee, AB17-004, a resolution approving grant agreement with TIB for the Roberts Drive Maintenance Project.

There was Council and staff discussion on this item.

**Amended Motion Vote:** Motion **passed** 3-2 (Edelman, Deady).

**Main Motion:** No action was taken on the main motion as the passing of the amended motion superseded.

**8) AB17-005 – Ordinance Amending 2017 Budget for Roberts Drive Maintenance Project**

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to refer AB17-005 – Ordinance amending 2017 budget for the Roberts Drive maintenance project to the Budget and Finance Committee.

There was discussion on when the committee meeting will be. Councilmember Weber noted being open to holding the meeting on January 17<sup>th</sup> at 6:30 p.m. as the 16<sup>th</sup> is a holiday. He also discussed the reason why he couldn't schedule a venue at this time.

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

## **DEPARTMENT REPORTS: None**

### **MAYOR'S REPORT:**

Mayor Benson discussed the need to set budget meeting dates tonight and suggested holding these work session on the 2<sup>nd</sup> and 4<sup>th</sup> Thursdays at 6:00 p.m. in the months of January, February, and March. There was Council consensus to do this. She also commented on a statement Councilmember Morgan made regarding the phosphorus going up on Lake Sawyer. She passed out a report showing the phosphorus level is actually going down in the lake.

Councilmember Pepper discussed the boundary review board item that was placed on the agenda earlier in the meeting. Mr. Williamson addressed this item with Council.

There was Council discussion on this item.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to move this item to the Growth Management Committee to discuss. Motion **passed** with 3-2 (Edelman, Deady).

### **COUNCIL REPORT:**

Councilmember Deady - no report

Councilmember Morgan discussed committee meeting dates. She noted on Monday's prior to Council meetings the Budget and Finance Committee meets at 6:30 p.m. followed by the Growth Management Committee at 7:30 p.m. The Government Operations Committee will meet at 5:30 p.m. on January 17<sup>th</sup>.

Councilmember Edelman reported on the CERT class she is attending.

Councilmember Weber reported attending the special meeting where the compromised budget was passed.

Councilmember Pepper reported attending a Performance Consortium for a day long workshop on 12/8 and on 1/4 she attended the Puget Sound Peacekeepers victory on clean water. She also gave an update on the CERT class she is attending.

### **ATTORNEY REPORT:**



City Attorney Linehan stated he is expecting to receive a counter revised offer from BPA and is optimistic it will be favorable for the City.

**PUBLIC COMMENTS:**

Jennifer Latham, Black Diamond spoke to Council.

Judy Goodwin, Black Diamond spoke to Council.

Johna Thomson, Black Diamond spoke to Council.

Jackie Buss, Black Diamond spoke to Council.

Erin Stout, Black Diamond spoke to Council.

Gary Davis, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Kristen Bryant, Bellevue spoke to Council.

Bob Edelman, Black Diamond spoke to Council.

Councilmember Pepper called a point of order for the public to speak to the group and not a specific Councilmember.

Pam McCain, Black Diamond spoke to Council.

James Stout, Black Diamond spoke to Council.


**EXECUTIVE SESSION: None**

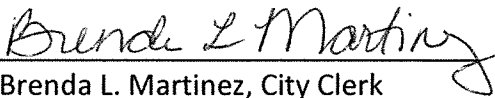
**ADJOURNMENT:**

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

The meeting ended at 10:44:13 p.m.

ATTEST:

  
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Carol Benson, Mayor

  
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Brenda L. Martinez, City Clerk