

BLACK DIAMOND CITY COUNCIL MINUTES
January 19, 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; Kevin Esping, Facilities Equipment Coordinator; May Miller, Finance Director; Deanna Humphreys, Police Clerk; Andrew Williamson, MDRT/Ec Dev Director; Dan Dal Santo, Utilities Superintendent; and Brenda L. Martinez, City Clerk.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Councilmember Pepper asked the Chair to be recognized. Mayor Benson stated she has an agenda to follow.

Mayor Benson noted visiting with a sergeant from a neighboring jurisdiction and was encouraged to read a statement that related to her wanting to bring some order back to the meetings.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to adopt the agenda that was emailed to the Council on January 17, 2017.

Councilmember Pepper spoke to her motion and called for the question.

There was discussion between Council and the Mayor on this motion.

Councilmember Pepper called the question and stated she would like to take a vote.

Point of order was raised by Councilmember Deady regarding having the right to speak on this motion as allowed in Robert's Rules of Order.

There was continued Council discussion on this motion.

Mayor Benson called Councilmember Pepper out of order.

There continued to be discussion regarding the difference between the two agendas. Councilmember Pepper noted there is a **motion** and a **second** on the floor.

Councilmember Morgan called the question.

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

PUBLIC COMMENTS:

Bob Edelman, Black Diamond spoke to Council.

Johna Thomson, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Brock Deady, Black Diamond spoke to Council.

Judy Baxley, Black Diamond spoke to Council.

CONSENT AGENDA:

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

Councilmember Pepper noted she would like to move consent agenda items 1, 4, 5, and 6 to new business. She also noted payroll items can be approved now.

There was Council discussion.

Councilmember Morgan noted she would also like to pull the vouchers.

Following discussion Councilmember Edelman **withdrew** her motion.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to approve items number 2 and 3 on the consent agenda. Motion **passed** with all voting in favor (5-0).

The Consent Agenda was approved as follows:

2) Payroll – September 2016 payroll correction for L&I Check No. 19223 in the amount of \$66.00

3) Payroll – December 30, 2016 No. 19256 – No. 19270 and EFTs in the amount of \$237,532.23

Councilmember Pepper commented that she would like to add an item to the agenda.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to suspend the rules and act immediately on the resolution rejecting a contract between the City of Black Diamond and Keating, Bucklin, & McCormack. This motion died due to lack of vote.

Councilmember Pepper spoke to her motion and asked the City Clerk to make sure there is a roll call vote.

There was Council discussion on this item.

Councilmember Pepper noted there is a motion on the floor and restated her motion and requested the City Clerk do a roll call vote.

Attorney Linehan asked for clarification, "are you voting on suspending the rules?"

City Clerk Martinez noted it should be two separate motions.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan as *motion number one* to suspend the rules and immediately adopt this resolution.

Roll call vote: Councilmember Deady, **No**; Councilmember Morgan, **Yes**; Councilmember Edelman, **No**; Councilmember Weber, **Yes**; Councilmember Pepper, **Yes**. Motion **passed** 3-2 (Edelman, Deady).

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan as *motion number two* to adopt a resolution rejecting a contract between the City of Black Diamond and Keating, Bucklin, & McCormack. Councilmember Pepper requested a roll call vote.

Roll call vote: Councilmember Deady, **No**; Councilmember Morgan, **Yes**; Councilmember Edelman, **No**; Councilmember Weber, **Yes**; Councilmember Pepper, **Yes**. Motion **passed** 3-2 (Edelman, Deady).

Mayor Benson noted she would be denying this as she needs to confer with City Attorney Linehan.

There was Council discussion.

Councilmember Deady noted under unfinished business she would like to add back on the agenda item numbers AB16-006 and AB16-007, the two ordinances regarding franchise agreements. **Second** Councilmember Edelman.

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

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

Councilmember Morgan noted she will be pulling Claim Checks numbers 44236, RH2; 44241, BHC; 44261, Kenyon Disend; 44269, Parametrix; 44270, Perteet; 44275, RH2. She discussed that these items, contracts, were not approved by Council.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to approve the rest of the January 5, 2017 vouchers (excluding the pulled ones) for payment. Motion **passed** with all voting in favor (5-0).

8) Minutes – June 9, 2016 Work Session

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to postpone indefinitely.

There was Council discussion on this item and the meaning of indefinitely.

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

Mayor Benson noted the following two items have been placed back on the agenda.

9) AB16-006 – Ordinance Granting Franchise Agreement with CCD Black Diamond Partners, LLC

MDRT/Ec Dev Director Williamson reported to Council on this and discussed the history of this item at Council meetings.

There was Council discussion on this item and during discussion Councilmember Morgan commented about her wanting to cripple the staff.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt an ordinance authorizing the Mayor to execute an agreement with CCD Black Diamond Partners, LLC and Ten Trails Residential Owners Association, a Non-Exclusive Franchise to use and occupy certain public right of ways. Councilmember Deady requested a roll call vote.

There was continued Council discussion.

Roll call vote: Councilmember Deady, **Yes**; Councilmember Morgan, **No**; Councilmember Edelman, **Yes**; Councilmember Weber, **No**; Councilmember Pepper, **No**. Motion **failed** 2-3 (Morgan, Weber, Pepper).

10) AB16-007 – Ordinance Granting Franchise Agreement with Astound Broadband, LLC

MDRT/Ec Dev Director Williamson briefed Council on this item.

There was Council discussion on this item with Councilmember Morgan noting the need for attorney review.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt an ordinance authorizing the Mayor to execute an agreement with Astound Broadband, LLC DBA as WAVE granting a non -exclusive franchise to use and occupy certain public right of ways.

Roll call vote: Councilmember Deady, **Yes**; Councilmember Morgan, **No**; Councilmember Edelman, **Yes**; Councilmember Weber, **No**; Councilmember Pepper, **No**. Motion **failed** 2-3 (Morgan, Weber, Pepper).

10a) AB16-003A – Ordinance Adopting 2012 Stormwater Manual for Western Washington as Amended January 17, 2017

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to adopt an ordinance adopting the 2012 Stormwater manual for Western Washington as amended January 17, 2017.

Councilmember Pepper spoke to her motion.

There was Council discussion and during discussion Councilmember Edelman asked why “policies” was deleted and there was no response from Councilmember Pepper.

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

10b) AB17-002A – Resolution Approving the Membership and Chairs of Council Standing Committees

A **motion** was made by Councilmember Pepper to adopt a resolution approving membership and chairs to Council standing committees. (Motion died due to lack of second).

There was Council discussion and Councilmember Deady noted needing more time to look at what is being proposed and to formulate questions.

Councilmember Morgan suggested moving on to the next agenda item of Council Rules of Procedure.

15) Resolution Amending Council Rules of Procedure

Councilmember Morgan proposed that we hold this item until the February 2, 2017 meeting and since the committee structure is part of the rules, then that would be a good time to take that piece of legislation up as well.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to postpone this item (Council Rules) to the February 2, 2017 Council meeting.

Councilmember Deady noted not being able to support this as it needs a work study.

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

NEW BUSINESS:

11) AB17-008 – Resolution Authorizing Yearly Addendum to Valley Communications Contract

Chief Kiblinger addressed Council on this item.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman. (No vote taken as amended motion below takes precedence).

Point of order was raised by Councilmember Pepper noting this is not allowed as they need to suspend the rules to act on it tonight.

There was Council discussion on this.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to amend the motion to send this item to the Government Operations Committee for first reading and bring back to the February 2, 2017 Council meeting.

There was Council discussion on this.

Councilmember Pepper noted that a motion and an amendment are on the floor and would like to call for the question.

Amended motion vote: Amended motion passed 3-2 (Edelman, Deady).

12) AB17-009 Resolution Approving Purchases of Police Vehicles

Chief Kiblinger reported to Council on the agenda item.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to move this item to the Government Operations Committee for first reading and recognizing the money and bids are there and bringing back to the February 2, 2017 meeting.

There was Council discussion on this item.

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

13) AB16-081 – Resolution Accepting Marine Grant for Police Department

Chief Kiblinger explained this item to Council and noted the short time frame for approval.

There was Council discussion on this item.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to hold a special meeting on January 26, 2017 and on the agenda will be the marine grant.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to recess the meeting for seven minutes. Motion **passed** 3-2 (Edelman, Deady).

At 9:14 p.m. Mayor Benson recessed the meeting for seven minutes.

At 9:22 p.m. Mayor Benson called the meeting back to order.

Vote: Motion to hold a special meeting on January 26, 2017 and on the agenda will be the marine grant **passed** with all voting in favor (5-0).

14) AB17-011 – Resolution Approving Contract with Keating, Bucklin, & McCormack for Legal Services

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to remove this item AB17-011 from the agenda. Motion **passed** 3-2 (Edelman, Deady).

15) Boundary Review Board Hearing – Rainier Ridge Annexation

Councilmember Pepper discussed the letter Council received from the Boundary Review Board regarding the Rainier Ridge Annexation.

MDRT/Ec Dev Director Williamson addressed Council on the above issue.

There were questions and answers between Council and staff on this item.

Councilmember Pepper added the April 7 amended meeting minutes to the agenda.

Minutes – April 7, 2017 Meeting Minutes

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to adopt the April 7 minutes as amended. Motion **passed** with all voting in favor (5-0).

- 1) Claim Checks – January 19, 2017 - No. 44291 through No. 44351 and EFTs in the amount of \$204,737.50**

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to pull Claim Check Numbers 44305, HWA Geosciences; 44308, Kenyon Disend; and 44321, RH2.

There was Council discussion.

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

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to adopt the remaining vouchers from the January 19, 2017 batch. Motion **passed** with all voting in favor (5-0).

4) **Minutes** – Council Meeting of June 16, 2016

5) **Minutes** – Council Meeting of July 7, 2016

6) **Minutes** – Council Meeting of November 29, 2016 Continued from November 17, 2016

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to postpone items 4, 5, and 6 indefinitely. Motion **passed** 3-2 (Edelman, Deady).

DEPARTMENT REPORTS:

MDRT/Ec Dev Director

MDRT/Ec Dev Director Williamson reported to Council on various departments.

Councilmember Weber noted as the Budget Committee Chair he would support a short contract for the Arboretum.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman to consent for the Mayor to assert her \$15,000 authority for the necessary contractors for the Arboretum. Motion **passed** 4-1 (Morgan).

Mr. Williamson proposed cleaning up the books for 2016 and paying the contractors for the MPD.

There was Council discussion on this proposed suggestion.

Point of order was called by Councilmember Weber as Councilmember Morgan has the floor.

MDRT/Ec Dev Director Williamson discussed being in breach of contract with OakPointe for not processing their work. Again, he proposed clearing up the books for 2016 to pay the

contractors and noted the guidance Council made for 2017 regarding contracts is very clear.

There was Council discussion with Councilmember Morgan stating she wants to shut the project down.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to allow the Mayor to pay bills for last year for the MDRT Consultants. Motion **failed** 2-3 (Morgan, Weber, Pepper).

Roll call vote: Councilmember Deady, **Yes**; Councilmember Morgan, **No**; Councilmember Edelman, **Yes**; Councilmember Weber, **No**; Councilmember Pepper, **No**. Motion **failed** 2-3 (Morgan, Weber, Pepper).

Councilmember Weber commented that if the department has a need for a Consultant then have the Mayor do the \$15,000 contract she is authorized to do.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman to allow \$15,000 contracts for the necessary Consultants (2017 MDRT contracts) until Council sees the new contracts coming forward and if it goes over the \$15,000 to bring back to Council and to also approve payment.

Roll call vote: Councilmember Deady, **Yes**; Councilmember Morgan, **No**; Councilmember Edelman, **Yes**; Councilmember Weber, **Yes**; Councilmember Pepper, **No**. Motion **passed** 3-2 (Morgan, Pepper).

Finance Director Miller commented that one of the vouchers pulled tonight was for the Comprehensive Plan update and they will be back on the February 2nd agenda.

Mayor Benson invited Council to think about having committee meetings with the staff and then hold their second committee meetings.

MAYOR'S REPORT: NONE

COUNCIL REPORTS: NONE

PUBLIC COMMENTS:

Gary Davis, Black Diamond spoke to Council.

Kevin Esping, representing Teamsters 117 spoke to Council.

Bob Edelman, Black Diamond spoke to Council.

Judy Goodwin, Black Diamond spoke to Council.

Judy Baxley, Black Diamond spoke to Council.

Johna Thomson, Black Diamond spoke to Council.

Erin Stout, Black Diamond spoke to Council.

Brock Deady, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Dennis Boxx, Black Diamond spoke to Council.

Councilmember Deady read a statement and made all aware that Brian Derdowski does not represent her, the Council, or the City of Black Diamond.


EXECUTIVE SESSION: None

ADJOURNMENT:


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

The meeting ended at 11:09:17 p.m.

ATTEST:



Carol Benson, Mayor



Brenda L. Martinez, City Clerk