

BLACK DIAMOND CITY COUNCIL MINUTES

April 20, 2017

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: Brian Martinez, Police Commander; Kris Chatterson, Police Officer; Dan Dal Santo, Interim Public Works Director; May Miller, Finance Director; Andy Williamson, MDRT/Ec Dev/Interim Community Development Director; Scott Hanis, Capital Projects/Program Manager; Kevin Esping, Facilities Coordinator; David Linehan, City Attorney and Brenda L. Martinez, City Clerk.

CHANGES TO AND APPROVAL OF AGENDA (per Council Rule 3.4, passed February 2, 2017)

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to adopt the April 20 Council agenda before us with the words per Council Rules of Procedure at the top and that we add to it item #11 request scope change to the Transportation Improvement Board.

Councilmember Pepper spoke to her motion and the changes.

Vote: Motion passed 4-1 (Edelman).

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson announced the City had an exit audit with Auditor's and Finance Director Miller was commended on her cooperation and hard work and the City passed with flying colors. She also announced that City Clerk Martinez received her Master Municipal Clerk certification and noted it being a big accomplishment as there are not many in the state of Washington.

PUBLIC COMMENTS:

Leslie Cooley, Black Diamond spoke to Council.

Judy Goodwin, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Johna Thomson, Black Diamond spoke to Council.

Dan Ellis, Black Diamond spoke to Council.

Aaron, Black Diamond spoke to Council.

Judy Carrier, Auburn spoke to Council.

Mayor Benson discussed the hiring of Dan Singer and Councilmember Edelman commented on the five Councilmembers voting 5-0 to have mediation.

Councilmember Morgan raised a point of order that Councilmember Edelman cannot impugn the public.

PUBLIC HEARINGS:

6) AB17-030 – Ordinance Adopting Low Impact Development Regulations

Capital Project/Program Manager Hanis reported to Council on this item. Wayne Carlson and Alex Campbell of AHBL also addressed Council with a PowerPoint presentation on this item.

At 8:20 p.m. Mayor Benson opened the public hearing.

Katelyn Kinn, Attorney with Puget Sound Keeper Alliance addressed Council on this and gave background information on Sound Keeper and asked Council to carefully consider a proposal they have to further improve the LID codes before Council in accordance with the Clean Water Act mandates. She discussed the importance of having strong LID regulations and why people move to Black Diamond. They are proposing that Black Diamond take a final step and add additional revisions to what you saw tonight so that low impact development is actually required by the City's code. She noted being willing to work with staff on their suggestions.

Sofia Ressler, Attorney with Puget Sound Keeper Alliance thanked the City for work that has already been done to implement low impact development and discussed Sound Keeper goals. She noted the proposed additions and rewrites before Council tonight are at the absolute minimum that can be done in order to come into compliance with the current permit. She noted with the growth Black Diamond is going to experience Sound Keeper is urging the Council to take a few more weeks to strengthen the code. She gave the examples of municipalities such as Fife, Newcastle, and Gig Harbor for having good LID codes in place. She also discussed the reasons for having regulations in place and is willing to work with staff on suggestions they have that will make the City's regulations stronger.

There were questions and discussion between Council and the speaker from Sound Keeper.

Leslie Cooley, Black Diamond discussed the work staff, consultant and Planning Commission have done on this item and recommends adoption as is and then work towards amendments to strengthen the code as Puget Sound Keeper would like to see.

Robbin Taylor, Black Diamond commented on attending the work session held by the Planning Commission on this item. She commented on the Council majority wanting to get this done and is in favor of adopting this now and then work on making it stronger. She urged Council not to send it to committee so we will not be out of compliance for another year.

Andy Williamson, MDRT/Ec Dev/Interim Community Development Director noted embracing their (Puget Sound Keeper) suggestions and would like to schedule a meeting with them in a timely manner so they can work through the issues as he believes they are closer than what everybody thinks. He also noted the letter that was sent to the City in 2015 from Puget Sound Keeper was sent out to all jurisdictions; not just Black Diamond.

Judy Carrier, Auburn commented on appreciating what Mr. Williamson said and agrees with him to take a little more time to strengthen the code as presented by Puget Sound Keeper. She noted it being a large assumption that things get stuck in committee and believes they should give it a go and expects things will happen pretty quickly.

Erin Stout, Black Diamond discussed the TIP and CIP taking forever to get to the point that they could be implemented in the City. She also noted that it seems that making something happen on this is very important and she recommends to move this ordinance forward as quickly as possible and to keep working.

Aaron, Black Diamond agreed with Mr. Williamson and noted these ladies from Puget Sound Keeper are working with other cities and it makes sense to hear them out and then come back in two weeks and make a vote.

Councilmember Deady discussed her concerns with letting a group come and participate in a work session as you need to afford that to everyone.

Gary Davis, Black Diamond urged Council to move forward with this ordinance if its in compliance at a minimum level so after that has been done they can come back and work on it more, but at least get it done and then you will be good to follow whatever requirements you have to be in compliance.

Councilmember Morgan discussed the past process of public hearings, committee meeting, and Council action. She will be looking into the codes at Fife, Newcastle, and Gig Harbor and encouraged Puget Sound Keeper to email her.

Mayor Benson suggested holding a work session prior to the next Council meeting at 6 p.m. to address any revisions.

Kristen Bryant, Bellevue commented on growing up in Black Diamond and noted watching some stormwater issues today in Black Diamond as a storm came in. She noted it being a good reminder that when you create stormwater issues when you do development and you have to come back and fix them later, somebody else besides the developer has to pay they often don't get fixed. She believes it is very important to have the strongest LID code updates the City can have. She encouraged Council and the public to make public comments without an atmosphere where speakers might be criticized for not commenting enough or bringing enough information and believes it was reasonable for a non-profit organization to come and speak tonight to find out if there was some receptiveness to their suggestions. She hoped there is not an atmosphere where people feel they can't comment because they get criticized for it. She commented that amending after the public hearing makes sense as Council would want to take those into consideration before making a final decision. She also discussed the process being more consuming if this is passed tonight and then the need for more revisions.

Councilmember Weber noted not coming tonight to vote one way or the other and noted in the past he likes to take into account public comments before making a decision. He wondered if Council could keep the public hearing open until the next meeting and thanked the work the Planning Commission has done and is in support of holding the hearing open.

Councilmember Edelman noted this item was not up for adoption tonight as it was to hear public comments.

A **motion** was made by Council Morgan and **seconded** by Councilmember Weber to hold a formal work session before the next Council meeting on May 4, 2017 at 6:00 p.m. Motion passed with all voting in favor (5-0).

At 8:54 p.m. Mayor Benson closed the public hearing for tonight and noted the hearing will remain open until the May 4, 2017 regular business meeting of the Council.

UNFINISHED BUSINESS:

7) AB17-031 - Claim Check 44665 (Daniel Singer)

Councilmember Morgan addressed Council on this item.

A **motion** was made by Councilmember Morgan and **seconded** by Council Pepper that there is no valid contract with the voucher so it cannot be paid.

Councilmember Morgan spoke to her motion.

There was Council discussion.

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

8) AB17-032 – Ordinance Relating to Acceptance of Public Comments by Electronic Methods

Councilmember Morgan addressed this item.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to suspend the rules to act on the ordinance relating to acceptance of public comments by electronic methods in addition to the methods and amending Black Diamond Municipal Code sections 18.08.210 and 19.04.260.

There was Council discussion and following discussion Councilmember Morgan **withdrew** her motion. It was noted this item is being referred back to the Government Operations Committee and this committee will meet at 2:00 p.m. Saturday, April 29th at the Black Diamond Library.

NEW BUSINESS:

9) AB17-033 - Resolution on Final Acceptance of the Springs Onsite Sodium Hypochlorite Generation Systems Project

Capital Project/Program Manager Hanis reported to Council on this item.

There was Council discussion.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt a resolution accepting the Springs Onsite Sodium Hypochlorite Generation System project as complete by PumpTech, Inc., according to the contract documents.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to amend the motion to have this item go to the Government Operations Committee. Amended motion **passed** 3-2 (Edelman, Deady).

10) AB17-034 – Resolution Adopting 2017-2022 Capital Improvement Plan (CIP)

Finance Director Miller reported to Council on this item.

There was Council discussion.

Councilmember Pepper raised a point of order.

Council discussion continued with Councilmember Edelman asking that the email from Councilmember Morgan regarding the CIP be added to the record.

Councilmembers Edelman and Pepper reported on their top priorities for the CIP.

A point of order was raised by Councilmember Edelman for Councilmember Pepper directing staff.

Discussion continued.

A point of order was raised by Councilmember Pepper.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt a resolution approving the 2017-2022 Capital Improvement Plan.

Councilmember Edelman called the question.

Councilmember Deady raised a point of order.

A point of order was raised by Councilmember Morgan stating that Councilmember Pepper has the floor.

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

#11 – Request Scope Change to the Transportation Improvement Board

Councilmember Pepper addressed this item.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that the City act to request a scope change from the Transportation Improvement Board for the Roberts Drive Reconstruction project to separate the reconstruction into (a) the current project beginning at Bruckner's Way, and (b) a future project to replace the Rock Creek Bridge. This is per the TIB letter dated March 31, 2017.

Capital Project/Program Manager Hanis reported that this has already been completed by staff.

City Attorney Linehan suggested having a brief executive session to discuss the litigation risks if Council continues on the current path.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to go into executive session to discuss this. (No formal vote was taken)

Mayor Benson asked the Councilmembers if they were willing to go into executive session and Councilmembers Morgan, Weber, and Pepper were not willing to. There continued to be discussion on legal services for the City.

A point of order was raised by Councilmember Pepper.

Mayor Benson announced she would like to call an executive session so the risk can be assessed outside of the public.

At 10:08 p.m. Mayor Benson called an executive session pursuant to RCW 42.30.110(1)(i) to discuss with legal Counsel potential litigation. The executive session was anticipated to last 10 minutes with no action to follow. Councilmembers Morgan, Weber, and Pepper refused to participate in the executive session.

At 10:18 p.m. Mayor Benson called the meeting back to order.

Mayor Benson asked that the record reflect that Councilmembers Morgan, Weber, and Pepper refused to attend the executive session.

Councilmember Pepper called for the vote on her motion.

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

CONSENT AGENDA:

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

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to amend the motion to the consent agenda to have the items addressed separately.

Amended motion roll call vote: Deady, **no**; Morgan, **yes**; Edelman, **no**; Weber, **yes**; Pepper, **yes**. Amended motion passed 3-2 (Edelman, Deady).

Main motion vote: Main motion passed as amended 3-2 (Edelman, Deady).

- 1) **Claim Checks** – April 20, 2017 - No. 44740 through No. 44780 and EFTs in the amount of \$171,536.55

Councilmember Morgan addressed Council on this item and noted the need to pull vouchers 44759 (Kenyon Disend) and 44779 (RH2).

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to release the rest of the vouchers (with the exceptions of 44759 and 44779). Motion passed with all voting in favor (5-0).

MDRT/Ec Dev/Interim Community Development Director Williamson stated for the record that Councilmember Weber authorized that staff could move forward with the arboretum which is a Palmer Coking Coal short plat. Council took action and staff was told to move ahead to hire those consultants and once you gave us the roll to hire those consultants it was obligated upon city staff to handle preliminary plats in a timely manner. If you do not move forward with paying the bills tonight, we will stop work on that plat and we will be in violation of the due process and the rights of that citizen. He reminded Council that they took action and you authorized staff to enter into those contracts for the arboretum and if

we don't pay the bills tonight I will instruct my staff to stop work and whatever happens then happens. He again stated for the record this Council authorized us to move forward with those contracts and we have to process preliminary plats in a timely manner – that is state law and I have to process these unless you pass a moratorium tonight. He stated he would appreciate Council paying the bills for the arboretum so we can keep moving that plat forward.

There was Council discussion with Councilmember Weber noting that Mr. Williamson is correct.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman that voucher 44779 be put forth for payment. Motion **passed** with all voting in favor (5-0).

2) **Payroll** – March 31, 2017 – No. 19301 through 19314 (void 19285) and ACHs in the amount of \$274,853.46

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to pass as drafted. Motion **passed** with all voting in favor (5-0).

3) **Minutes** – Work Session Minutes of July 14, 2016

Councilmember Morgan reported on this item.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt the work session minutes of July 14, 2016.

There was Council discussion.

Councilmember Edelman called the question.

Vote: Motion **passed** 3-2 (Morgan, Weber).

4) **Minutes** – Council Meeting of March 16, 2017

Councilmember Morgan addressed this item.

A **motion** was made by Councilmember Morgan to hold these minutes until they are cleaned up. (There was no second to this motion)

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt the Council meeting minutes of March 16, 2017. Motion **failed** 2-3 (Morgan, Weber, Pepper).

5) **Minutes** – Council Meeting of April 6, 2017

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt the Council meeting minutes of April 6, 2017. Motion **failed** 2-3 (Morgan, Weber, Pepper).

DEPARTMENT REPORTS:

Public Works – Interim Public Works Director Dal Santo discussed the concurrency ordinance that was adopted by the City and the need to amend it. He asked for a work session to be held so staff and Council could discuss this further. He updated Council on various items his department has been working on this past week and discussed the TIB Pot Hole Grant Application that is due shortly.

Finance – Finance Director Miller reported that the final 2017 Budget document is completed and posted on the finance page on the website. She distributed to Council the 4th quarter report for 2016 and highlighted certain areas of the report. She noted this report is also posted on the finance page of the website.

Community Development – Interim Community Development Director Williamson reported on staffing levels in this department. He requested from Council to amend the budget staff count to hire a full time Permit Technician Supervisor. He noted Finance Director Miller has looked at the balance sheet and determined there is money available to fund this position this year.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to amend the staff count. Motion **passed** 3-2 (Morgan, Pepper).

MAYOR'S REPORT:

Mayor Benson reported attending the Auditor's Exit Conference for the City's Accountability Audit; SCATBd meeting; and giving a State of the City presentation at the Chamber luncheon.

COUNCIL REPORTS:

Councilmember Deady reported attending the Easter breakfast; SCATBd meeting; met with Finance Director to review vouchers; talking with Dan Singer and will be meeting with him next week; attended Chamber luncheon, Auditor's Exit Conference, discussed King County TV filming at the Black Diamond Community Center and congratulated City Clerk Martinez on achieving Master Municipal Clerk, and likes the volunteer opportunity that was spoken about earlier regarding the coal carts.

Councilmember Morgan reported on KCD deciding to suspend the urban forest RFP process for the year 2017 and discussed the tree canopy assessment and free service they will be providing to cities and how those cities can apply for grants; attended a monster road tour in Renton and reported on it.

Councilmember Edelman reported there is no PIC meeting for SCA; attended the Auditor's Exit Conference; Chamber luncheon; serving lunch frequently on Tuesday's and Thursday's at the Community Center along with Councilmember Deady and Mayor Benson; Earth Day is Saturday; King County TV filming at the Black Diamond Community Center; April 29th

Senator Mullet is holding a Town Hall meeting at the Tahoma School District office.

Councilmember Weber reported attending CIP work session; he noted not being able to attend the exit conference due to work constraints; he did read through the material provided by the auditor (Ms. Choy) and congratulated Finance Director Miller for having a good audit.

Councilmember Pepper reported attending the exit audit conference and noted the audit team being very positive and really liked the way the Finance Director Miller addressed learning new things and putting things into place and even making suggestions that could be put into place to help streamline the programs and working with the software company, CIP work session, and spending a lot of time working on Council topics.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Johna Thomson, Black Diamond spoke to Council.

Brock Deady, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Leslie Cooley, Black Diamond spoke to Council.

Aaron, Black Diamond spoke to Council.

Kristen Bryant, Bellevue spoke to Council.

EXECUTIVE SESSION: None

ADJOURNMENT:

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

The meeting ended at 11:31 p.m.

ATTEST:



Carol Benson, Mayor



Brenda L. Martinez, City Clerk