

**BLACK DIAMOND CITY COUNCIL
WORK SESSION MINUTES**

February 9, 2017

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular work session meeting to order at 6:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Morgan, Weber and Pepper. (Councilmember Morgan was not present during roll call and entered the meeting at 7:10 p.m.)

ABSENT: Edelman, excused

Staff present: May Miller, Finance Director, Andrew Williamson; MDRT/Ec Dev/Interim Community Development Director, and Brenda L. Martinez, City Clerk.

WORK SESSION:

Discussion and Review of 2017 Budget

Mayor Benson asked if Councilmember Weber would like to review the new documents he handed out tonight. Councilmember Weber noted the document is basically the same and uses clearer language to clarify sections in the goal and to make more sense. He noted that the Mayor has worked with Ms. Miller, Finance Director and stated if there is any discrepancy between the two, we will want to cover that.

Mayor Benson noted staff and herself reviewed the ordinance and made some comments that are in red (these are the city issued comments). She noted a new one came in today from Councilmember Weber that says *Black Diamond Council Finance Committee Proposed Budget-Description and Goals*, and noted not having time to vet it; she noted that we would be working off the previous document that Councilmember Weber submitted that's been out there since December.

She noted there are comments to be made about the budget which violates the single subject rule and the title does not reflect what is in the ordinance.

Mayor Benson stated that City Council held public meetings on November 17 and December 1, and Work Studies on September 29, October 13, October 18, October 27, and November 10. Council did hold public hearings on the Mayors proposed preliminary budget, not this substitute budget ordinance. Mayor Benson noted that a copy of the budget was on file with the City Clerk for examination by the public during the time it was

considered by City Council, the above whereas is not a true statement, the substitute budget ordinance was not on file with the City Clerk for examination by the public until after all the work sessions and public hearings were closed.

Points of Discussion for Proposed 2017 Substitute Budget Ordinance:

BUDGET ORDINANCE

SECTION 1: The annual budget of the City of Black Diamond for the 2017 calendar year, a copy of which is on file with the City Clerk, is hereby adopted by reference as the annual budget for the City of Black Diamond for calendar year 2017.

Mayor noted section 1 is correct.

SECTION 2: The budget and information contained herein remain provisional to the extent they are subject to mandatory bargaining with the City's collectively bargained employees as required by Washington law. Changes that are required by collective bargaining shall be subject to approval by the City Council as a Supplemental Budget Ordinance.

Mayor Benson noted this is currently our standard procedure.

SECTION 3: Estimated resources and fulltime employee equivalents (FTEs) for each separate fund, aggregate expenditures, and ending balances for all such funds, are set forth in summary form below. **Mayor Benson noted that according to our Finance Director, exhibit A is not in balance and the budget must balance per RCW 35A.33.7.**

SECTION 4: The line items shown in Exhibit B shall not be transferred or exceeded without approval of the City Council.

Mayor stated this is not clear and this section needs to be removed from the ordinance.

SECTION 5: A contingency fund is created to provide resources for unanticipated legal services, liabilities, and emergencies. No funds may be expended or otherwise encumbered from this fund without Council approval.

The fund shall be initially funded and maintained at the full limit authorized under RCW 35A.33.145 which at this time is \$266,112. The ending fund balance shall be reduced to initially fund this contingency fund.

- ***Mayor Benson noted that this state account and budget reporting systems bar manual suggests that these be set up as an account in the general fund. Mayor stated this can be done as long as the dollars placed in this account are not restricted. The Mayor pointed out that any amendments that are made to the budget, must have a vote for people, so these items at our next meeting will have to be voted on by the entire body of the Council. "We have five Council members, we need super majority (four votes) to amend the budget that you adopted under item number one by reference." She further noted as this is a work study meeting, we are not voting on anything tonight. She noted that Council will need to make notes tonight on what they want to vote on at the next meeting.***

SECTION 6: All increases in FTE levels shall be subject to approval of the City Council.

Mayor Benson noted that had these been allowed budgeted positions, then yes, they would have been approved by budget process. We may need to seek clarification on this from Councilmember Weber, for example we combined two half time positions into one full time position. Would he want this to come back to Council for approval? His wording is not clear on the intent. Mayor Benson asked Councilmember Weber, will this have to come before Council, and what are his intentions.

Councilmember Weber noted the intention for Section 6 was for any increases in FTEs so the example given on the document would not need to come back to Council for approval.

SECTION 7: Any funds appropriated for designated FTEs or wages and benefits shall not be appropriated to other FTEs, contracted out, or expended for any other purpose except as part of a Supplemental Budget Ordinance. This includes existing consultant contracts and applies to all Departments, Funds and the MDRT. The Mayor shall immediately notify all consultants that funding may no longer be available and submit for Council approval any contracts that the Mayor may wish to continue. All other contracts, or contracts that the Council does not approve, shall be terminated and the funds restored to the applicable FTE and wages and benefits line items.

Mayor Benson stated this section needs to be removed. Line one would limit the City in providing a Consultant replacement for Public Works Director while on temporary leave, or filling of vacant positions until they are filled. She noted the last two lines related to prior year's budget can have nothing to do with the 2017 budget.

SECTION 8: 2017 ending fund balances for all funds shall not to be reduced except by approval of the City Council.

Mayor Benson noted this is already standard practice. Super majority vote needed to reduce fund balance.

SECTION 9: Any additional Revenues that exceed projected levels should be placed in Unanticipated Revenue Funds applicable to the Revenue source. These funds shall not be expended or otherwise encumbered until appropriated by the City Council.

Mayor Benson noted there is no fund for this description. Additional Revenues cannot be expended without a budget amendment. This is already standard practice and should be removed.

SECTION 10: As authorized by RCW 35A.33.140, the Clerk shall submit quarterly reports to the City Council showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal year to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the recipients from all sources.

Mayor Benson noted staff currently does this now. She noted that in the future we may want to alert Council by email with a link where it is posted on the website. Mayor Benson noted that we do quarterly reports as is standard practice and they are posted to the website.

SECTION 11: Notwithstanding any provision in BDMC 2.90, no funds in this budget, including the MDRT, may be expended or otherwise encumbered by contract without approval of the City Council.

Mayor Benson noted this section is trying to amend our procurement rules adopted by Black Diamond Municipal Code 2.90 Ordinance 14-1035. Mayor Benson noted the meeting where several items were struck from the budget on December 22.

SECTION 12: Of the appropriation for the Finance Department, \$106, 000 shall not be expended or encumbered until the Mayor has provided documentation that will allow the Council to verify that all three conditions of BDMC 3.23.030 have been met. Further, these funds shall not be expended or encumbered until the Mayor has submitted and the Council has approved contracting, hiring, purchasing and disbursing policies that implement effective internal controls.

Mayor Benson noted these conditions have already been met. Violates Black Diamond Municipal Code 3.23.030 and this section needs to be removed. She noted that in the last year Council has been provided with this documentation numerous times.

SECTION 13: Of the appropriation for legal services, \$100,000 shall not be expended or encumbered until the City Council has approved a contract or contracts for legal services.

Mayor Benson noted this section, also, appears to amend Black Diamond Municipal Code 2.90 regarding procurement. She noted this section needs to be removed.

SECTION 14: Of the appropriation for Community Development, \$240,000 shall not be expended or encumbered until the Mayor has appointed and the City Council has confirmed a Community Development and Environmental Review Officer in accordance with the provisions of RCW 35A.12.020. This appointed officer shall be the designated SEPA Responsible Official and shall have management authority over the Community Development Department and the MDRT. This position shall report directly to the Mayor or the City Administrator.

Mayor Benson noted that the motion to strike was made and passed at a December 22 meeting, and this section needs to be removed.

SECTION 15: Of the appropriation for the City Administrator, no funds shall be expended or otherwise encumbered until the Mayor has appointed and the Council has confirmed an appointed City Administrator. The funding level is based on this position being filled for the second half of the year.

Mayor Benson noted that MDRT money cannot be used for this purpose.

SECTION 16: Of each of the appropriations for the City Clerk, Finance, Police Department, Fire Department, MDRT, Community Development, and Street Fund 101, Water Operating Fund 401, and Sewer Operating Fund 407, \$50,000 shall not be expended or encumbered until the Mayor has submitted and the Council has approved a policy regarding staff support for the City Council's legislative work.

Mayor Benson noted motion to strike was made and passed at the December 22, 2016 special meeting. This section needs to be removed.

SECTION 17: Of the appropriation for the Master Development Review Team, \$100,000 shall not be expended or encumbered until the Mayor has provided documentation that the Annual Review items “a” through “h” and the Fiscal Analysis have been accomplished. *Mayor Benson noted the Council has no seat in the MDRT. This section needs to be removed.*

SECTION 18: Of the appropriation for Stormwater fund 410, \$90,000 of line item 10 shall not be expended or encumbered until the Mayor has submitted for Council approval a code revision ordinance to fully implement AKART, the most current stormwater management manual and regulations, and Low Impact Development standards. *Mayor Benson noted the 2012 manual was adopted and the LID updates is presently before the Planning Commission. There was discussion on the timeline for the LID updates to come before Council. This section needs to be removed.*

SECTION 19: All expenditures to implement or construct the following Capital Projects shall be subject to final decision approval and/or contract approval by the City Council: CIP G4, CIP P7, CIP G1, CIP G5, CIP L1, CIP T2, CIP T6, CIP T13, CIP T1, CIP W2, CIP S2, CIP S1, CIP S3, CIP D3, CIP D2, CIP D1. *Mayor Benson noted the CIP is not an adopted item. This section needs to be removed as it violates BDMC 2.90.*

SECTION 20: The 2017 Budget Document on file with the Clerk is hereby amended to include the changes listed in the attached Exhibit C. The Clerk is authorized to work with the Finance Director to revise totals to reflect these changes. *Mayor Benson stated, “refer to Exhibit C.”*

SECTION 21: This Ordinance shall include the 2017 Salary Schedule as shown in the attachment as Exhibit A. *Mayor Benson noted that Exhibit A to the ordinance is not regularly scheduled and you need to provide a new Exhibit D, the 2017 Salary Schedule. Mayor Benson noted the City never did get a copy of this from Council.*

SECTION 22: This Ordinance shall be in full force and in effect five days after its passage, approval, posting and publication in summary form as provided by law. *Mayor Benson stated this was not introduced on first day of December, it was introduced on December 15, not December 1.*

- Review of Exhibit C (attached)
Mayor Benson noted this talks about where the money goes and is listed in other sections. She stated Exhibit C needs to be eliminated and discussed fund balance changes on page numbers 7, 11, 12,14, 29, 37, 38, 64 and 68 line items.
- Mayor Benson noted we currently have a balanced budget and there are a lot of negative things that need to come out of fund balance that are not an emergency. She offered that Council approve her budget until the end of the year and use your

amendments to the budget to work through the budget process. She also discussed with Council that a public hearing has been scheduled for the March 16th regular Council meeting.

- Finance Director May Miller will make sure Council receives the timeline and hopes that Council will look at some of the financial changes being proposed to discuss what is reasonable and what is not. She noted some of the changes could also be added as later amendments.
- Mayor Benson discussed that the majority does not want to adopt her budget and Council cannot get a super majority vote on the amendments that affect fund balance, then there would be impacts to the citizen for water and sewer due to a city shutdown. She discussed a few of those impacts concerning the shutdown of the public works department.
- Councilmember Pepper asked Councilmember Weber if there was a way to prioritize items as she believes it might be possible to discuss some of these items tonight.
- May Miller, Finance Director discussed the contingency fund.
- Councilmember Weber asked if there was a documented timeline for the budget amendment adoption and if so could it be emailed to him.

Councilmember Weber reviewed with Council the updated proposed 2017 budget document as follows:

Black Diamond Council Finance Committee

Proposed 2017 Budget *Description and Goals*

Background: The "budget ordinance" and the related "budget document" are both subject to amendment. The Council-proposed changes to the budget ordinance are listed below as section I, and changes to the budget document are listed as section II.

I. BUDGET ORDINANCE

The following changes to the Mayor's proposed budget ordinance are all the substantive changes included in the Council's proposed substitute budget ordinance amendment:

Section 2. Additions to the budget caused by negotiating with the unions must be approved by the Council. ***Councilmember Weber stated this is the nuts & bolts, and that Mayor Benson had comments on this as well that she discussed.***

Section 3. Each Department's spending cannot be transferred to other Departments without approval of the Council. ***May Miller, Finance Director, stated she brought all the***

worksheets for last January's budgets for all departments and that they have not transferred a dime.

Section 4. Some line items in the budget cannot be transferred to other line items without approval of the Council. See below for a detail of those line items.

Councilmember Deady noted that the one she has, instead of showing line items in B, the new version says some line items in the budget cannot be transferred.

Councilmember Weber noted this, and there was discussion.

Section 5. Create a contingency fund by transferring money from ending fund balance. Fund the contingency fund with \$266,122 which is the maximum allowed by State law.

Councilmember Weber noted to Mayor Benson that he has her comments and notes on this.

Section 6. No increases in employees without City Council approval. **Councilmember Weber noted we already talked about this.**

Section 7. No transfer of funds from employees to contractors without City Council approval. **Councilmember Weber noted this is basically to add additional funding for FTEs to come to City Council for approval.**

Section 8. Don't reduce budgeted ending fund balances to spend anywhere else without approval of City Council. **Councilmember Weber noted we talked about this.**

Section 9. Don't spend revenue that exceeds predictions without approval of City Council. **Councilmember Weber noted this one is self-explanatory.**

Section 10. Direct Clerk to submit quarterly financial reports to the Council as required by the City's adopted financial policies. **May Miller, Finance Director shared that they are always posted online.**

Section 11. All money that is used in this budget for contracts must have approval of those contracts by the City Council. **Councilmember Weber noted that is basically City Council. May Miller stated the Mayor has authority by ordinance.**

Section 12. The second half of the budget for the Finance Department is held back until the Mayor has provided documentation and the Council has verified that all legal requirements for the payment of vouchers are being met. **Councilmember Weber noted that this is one that we talked about and May Miller noted this violates code. There was discussion.**

Section 13. All money that is used in this budget for contracts with attorneys or for legal services must have approval of those contracts by the City Council.

Section 14. The second half of the budget for the Community Development Department

is held back until the Mayor and Council have appointed a new City Officer in charge of Planning, Development, the MPD, and the State Environmental Policy Act or SEPA. The money to pay for this position will come from existing money in the Community Development Department's existing budget for vacant positions. **Councilmember Weber noted this is another super majority in the Mayors comments.**

Section 15. The City will hire a City Administrator for the second half of the year using money from the MDRT if this is determined legally defensible by an attorney who has a contract that is approved by the City Council. **Councilmember Weber noted this is another super majority in the Mayors comments.**

Section 16. Money from several departments are held back until the Mayor and Council agree to a policy about how staff will begin support the work of the City Council and its committees. The Hold Back is \$50K from each of the following Departments: City Clerk, Finance, Police Department, Fire Department, Master Development Review Team, Community Development, Street Fund, Water Fund, and Sewer Fund. **Mayor Benson noted this was struck at the December 22 meeting.**

Section 17. Money is held back from the Master Development Review Team until the Mayor has provided documentation that the required Annual Review items "a" through "h" have been accomplished in accordance with the Development Agreement. The "hold back" shall be \$100K. **Councilmember Pepper noted that she would like to see some way the annual review could come before the Council so that the Council knows what's happening and there was discussion. Councilmember Weber noted the intent of this was not to encumber staff or developer, but to let the people around town to know what's going on. Councilmember Deady noted the developer did come before Council at the beginning of the year and asked to provide quarterly reports and Council majority shot them down. Mayor Benson noted the Council has no seat and items "a" through "h" is completed internally with a copy being included in the Mayors budget. Mayor Benson also noted it would be a good to keep the citizens informed of where we are at in the development. Councilmember Weber agreed.**

Section 18. Money is held back from the Stormwater Fund until the Mayor has prepared an ordinance that fully implements the best available science and regulations in managing stormwater. **Councilmember Weber asked about the timeline. Mayor Benson noted there will be a recommendation from the Planning Commission to the City Council. Mayor Benson noted that basically, we have fulfilled all these requirements.**

Mr. Williamson, Interim Community Development Director reported on the minor tweaks that have been made to code.

Councilmember Weber clarified on timeline with Planning Commission and Council.

Councilmember Weber noted that the manual was adopted and the LID update is presently with the Planning Commission and he asked about the timeline. Mayor Benson noted a recommendation from the Planning Commission will come forward to the Council

and Council will hold a public hearing. Mayor Benson also noted that all the requirements have been fulfilled and its hopeful it will come before Council within two months. Councilmember Weber wondered with the timing, is it still an issue for the LID. Mayor Benson noted we may need to change our code to meet the LID requirements. The timeline for adoption was discussed.

Section 19. The following Capital Improvement Projects will require Council approval for final designs and contracts

CIP G4 Comprehensive Plan Update, CIP P7 E Ginder Creek Rehab & Trail Project, CIP G1 General Government Technology, CIP GS Signs for Gym and Wayfinding CIP L1 Police Technology, CIP T2 Roberts Drive Reconstruction, CIP T6 224th Ave SE Asphalt Overlay Grant, CIP T13 Grant Matching, CIP T1 Street Overlays, Repairs and Signs, CIP W2 Springs Chlorine, CIP S2 Infiltration and Inflow, CIP S1 Facility and Fencing Improvements, CIP S3 Cedarbrook Sewer Main, CIP D3 North Commercial Storm Pond CIP D2 Replace Covington Creek Culverts, CIP D1 Lawson Hills Strm Pnd Sediment Removal. ***Mayor Benson noted this needs to be removed until you adopt a Capital Improvement plan.***

II. BUDGET DOCUMENT

The following changes to the Mayor's budget document are the only ones included in the Council proposed substitute budget amendment:

1. Fund a City Administrator for the second half of the year by transferring 6 months wages and benefits from the Economic Development Director. * ***Mayor Benson noted this is one hundred percent funded by MDRT, and you cannot change that and this would have to come from fund balance. There was discussion.***
2. Upgrade the "Planner" position which is currently vacant and transfer those wages and benefits to hire a "Director of Planning, Development and Environmental Review" appointed by the Mayor and confirmed by the Council. These wages and benefits are sufficient to cover nine months of employment, allowing three months to create and fill the position. ***Councilmember Weber acknowledged the Mayor already noted this is funded by MDRT. Mayor Benson noted the term is fund balance.***
3. Transfer \$50K from the MDRT to the Community Development Department to pay for consultant contracts to finish the update to the City's Comprehensive Plan as required by State law. * ***Mayor Benson noted we do have some money in the budget left over for the Comprehensive Plan.***
4. Transfer \$50K from MDRT consultants to MDRT Legal/SEPA services. * ***Councilmember Weber noted there was already discussion around this.***

5. Create a "Landmarks and Arts Commission" to identify potential landmarks and promote local arts organizations. **Councilmember Weber noted that this item and number 6 are together.**
6. Use \$15,000 of Ending Fund Balance to fund this work.
7. Use \$6,000 of Ending Fund Balance to fund a professional Parliamentarian to attend and support City Council Meetings.
8. Within the Master Plan Development Review Team's budget, remove specific designations for specific contractors. This is intended to allow for competitive bidding and work-scope flexibility. * **Mayor Benson noted we don't do competitive bidding as we do request for qualifications. Councilmember Weber noted it list consultants by name. There was discussion around removing the names and scratch competitive bidding.**
9. Move funds for the Roberts Drive/Rock Creek Bridge project to 2018 to allow for thorough review and consideration of a new bridge instead of a retrofit of this 100 + year old bridge. ** **Mayor Benson noted that we already had the bridge evaluated and received funds based on that evaluation. She spoke about the grants we would receive to work on the bridge, and you don't get the grants until you have the plans. She noted we have already spent a good portion and for the study. Councilmember Morgan entered the meeting, and apologized for being late, and noted being at the WRIA 9 and discussing exactly these sorts of issues. She noted that we should expect at least 22 percent more water. When one goes to work on culverts and bridges, beyond the 22 percent more water, it will be more concentrated.**

Andy Williamson noted we are in a stage one delay on this project and now have been notified we are in stage two delay and this money cannot be delayed in 2018.

Councilmember Morgan discussed the meeting around flood control. She shared the state of Washington has received \$60 million dollars to replace old bridges. She talked about those grants when they can start applying for them and the money will not be granted until 2018.

Mayor Benson pointed out that our bridge is not on the list. To be eligible, you should be on the endangered bridge list.

10. Change Organizational Chart to show Director of Planning, Development and Environmental Review. **Mayor Benson stated you can do whatever you want.**
11. Change Organizational Chart to show that City Council is the contracting authority for the City Attorney. **Mayor Benson noted a ruling last Friday that the Mayor can hire a City Attorney and the City Attorney that she hired was confirmed by the Courts.**

Councilmember Weber did a quick rundown with Councilmember Morgan of what has happened thus far with the meeting.

Mayor Benson noted this document is not ready for public hearing and we would need to vote on all these items we discussed tonight at the next meeting. Then going forward, we would have to have another discussion for the public hearing. Mayor Benson noted we may have to go through this document again next week before the public hearing and move the public hearing to the end of the meeting. She also noted that they can adopt her budget until the end of the year and during our budget process this year, we can go through all these items and figure out how to make them work and put them in the budget. She noted we need to have a document at the public hearing that people can look at.

May Miller, Finance Director, discussed the document that shows changes to ending fund balance and she discussed the contingency fund.

Councilmember Pepper noted there are some positions in the administrative part of government that are not filled. **Mayor Benson confirmed yes.** Councilmember Pepper asked if the 2017 budget considers those positions? **Mayor Benson confirmed yes. Mayor Benson noted that no one wants to come and work in Black Diamond.** Councilmember Pepper asked to see what positions are vacant and the funding for this.

May Miller discussed what positions were open. She spoke about the financial reports and expenditures. She also noted that these reports posted online.

Councilmember Weber ask May to distribute the document she gave him that shows budget reporting for departments.

May Miller, Finance Director noted staff does quarterly reports and noted where they are posted on the website.

Councilmember Weber noted his next step and appreciates the Mayor and May Miller for providing comments, and his next step is to read these comments that were made.

Councilmember Deady asked if they would like to do a work study meeting next week or the week after. She asked what kind of timeline is Councilmember Weber looking at.

There was continued discussion around dates to hold a work session meeting and then voting on items during the Council meeting and pushing the public hearing to later in the meeting.


Councilmember Morgan discussed the OPMA here in this town and how they are different from the one's she learned from the three-hour Auditor's conference that she attended.

ADJOURNMENT:


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

Meeting ended at 7:50 p.m.

ATTEST:



Carol Benson, Mayor



Brenda L. Martinez, City Clerk