

ORDINANCE NO. 16- 1082

**A ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BLACK DIAMOND, KING COUNTY,
WASHINGTON, ADOPTING THE BUDGET FOR
CALENDAR YEAR 2017**

WHEREAS, the Preliminary Budget was submitted to the City Council by the Mayor on September 29, 2016; and

WHEREAS, the City Council held public hearings on November 17th and December 1st; and work studies on September 29th, October 13th, October 18th, October 27th and November 10th; and

WHEREAS, a copy of the Budget was on file with the City Clerk for examination by the public during the time it was being considered by the City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, ORDAINS AS FOLLOWS:

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.

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.

Section 3. Estimated resources and full time employee equivalents (FTEs) for each separate fund, aggregate expenditures, and ending fund balances for all such funds, are set forth in summary form below, and are hereby appropriated for expenditure at the fund level with the exception of the general fund which is appropriated at the department level per Exhibit A. ~~The total estimated revenue from all sources, and expenditures and by fund as set forth in the 2017 budget document adopted by reference, are as follows:~~

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

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.

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

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.

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

Section 9. Any additional Revenues that exceed projected levels shall 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.

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 receipts from all sources.

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.

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.

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.

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.

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.

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.

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.

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.

Section 19. All expenditures to implement or construct the following Capital Projects shall be subject to final design 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

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.

Section 21. This Ordinance shall include the 2017 Salary Schedule as shown in the attachment as Exhibit A.

Section 22. This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication in summary form as provided by law.

Introduced the 1st day of December, 2016.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A SPECIAL MEETING THEREOF, THE ²² _____ day
of ______{December}, 2016.**

CITY OF BLACK DIAMOND

VETOED

Carol Benson, Mayor

Attest:

**_____
Brenda L. Martinez, City Clerk**

2017 Adopted Budget

Exhibit A

| | | Revenue | Expenditure | Ending Fund Balance | FTE |
|----|--|-----------|-------------|---------------------|-------|
| | GENERAL FUND | 6,258,371 | 5,253,080 | 724,179 | |
| | General Fund Contingency Fund | | | 266,112 | |
| 23 | Legislative-Council | | 21,814 | | |
| 24 | Executive-Mayor | | 14,877 | | |
| | City Administrator (for second half) | | 97,420 | | |
| 25 | City Clerk/Human Resources | | 190,428 | | 2.00 |
| 26 | Finance* | | 212,773 | | 3.00 |
| 27 | Information Services | | 41,910 | | |
| 28 | Legal Service | | 110,000 | | |
| 29 | Legal-Pros Atty & Pub Defender | | 61,250 | | |
| 30 | Municipal Court | | 232,041 | | 2.00 |
| 31 | Police Department | | 1,897,480 | | 10.63 |
| 32 | Fire Department | | 534,905 | | |
| 33 | Recycle/Air Qual/Mntl Hlth/Anim Cont | | 24,366 | | |
| 34 | Master Dev Review Team | | 524,688 | | 3.25 |
| 48 | MDRT Consultants | | 388,000 | | |
| 35 | MDRT-FF&E costs | | 76,867 | | |
| | Developer SEPA | | 50,000 | | |
| 36 | Hearing Examiner | | 5,000 | | |
| 37 | Community Development | | 540,608 | | 2.60 |
| 38 | Facilities and Grounds Department | | 51,572 | | 1.00 |
| 39 | Facilities Bldg Mtc-Lease & Maintenance | | 73,021 | | |
| 40 | Emergency Management | | 5,100 | | |
| 41 | Parks | | 55,131 | | |
| 42 | Parks Museum | | 7,826 | | |
| 43 | Parks Gym | | 8,406 | | |
| 44 | Community Center Supplement | | 10,000 | | |
| 45 | Cemetery | | 18,951 | | |
| 46 | Central Svcs -Paper, Post, Printing, Cks | | 13,646 | | |
| | 101 Street Fund | 349,094 | 238,210 | 110,884 | 1.0 |

| | | | | | |
|--|---|-------------------|-------------------|------------------|------|
| | 107 Fire Impact Fees Fund | 255,490 | 255,490 | | |
| | 108 Trans. Benefit District Fund | 109,331 | 100,000 | 9,331 | |
| | 109 Traffic Mitigation Fees Fund | 74,655 | 74,655 | | |
| | 401 Water Operating | 1,133,879 | 810,635 | 323,244 | 2.0 |
| | 402 Water Supply and Facility Fund | 535,000 | 465,000 | 70,000 | |
| | 404 Water Capital Fund | 302,647 | 136,000 | 166,647 | |
| | 407 Sewer Operating Fund | 1,032,588 | 937,459 | 95,129 | 1.33 |
| | 408 Sewer Capital Fund | 733,374 | 448,000 | 285,374 | |
| | 410 Stormwater Operating Fund | 491,624 | 413,830 | 77,794 | 2.0 |
| | 410 Stormwater Capital Fund | 128,189 | 67,000 | 61,189 | |
| | 310 General Government Capital Fund | 179,795 | 153,500 | 26,295 | |
| | And REET 1 | 266,458 | 131,000 | 135,458 | |
| | 320 Streets and Public Works Capital Fund | 1,528,108 | 370,000 | 1,158,108 | |
| | And REET 2 | 266,111 | 135,226 | 130,885 | |
| | 510 Internal Service Fund | 460,558 | 229,237 | 231,321 | |
| | | | | | |
| | Total All Funds | 14,105,272 | 10,233,322 | 3,871,950 | |

2017 Adopted Budget

Exhibit B

The following Line Items for the listed Departments or Funds are firm and shall not be transferred or exceeded without Council approval:

| | |
|-----------------------|------------------|
| Community Development | All |
| MDRT | All |
| Fund 100 | Line 6 |
| Fund 101 | Lines 11, 19 |
| Fund 200 | Line 17 |
| Fund 310 | All |
| Fund 320 | All |
| Fund 401 | Lines 11, 13, 21 |
| Fund 402 | All |
| Fund 404 | All |
| Fund 407 | All |
| Fund 408 | All |
| Fund 410 | All |

2017 Adopted Budget

Exhibit C

The following amendments to the published budget on file with the Clerk's office are adopted.*

*The Clerk and Finance Director are authorized to incorporate these changes into the Budget Document and change totals as required.

Page 7, change Mayor to City Attorney to dotted line and Council to City Attorney as solid line.

Page 7, change Organizational Chart to conform with Section 14 of Budget Ordinance.

Page 12, add line item for City Administrator at \$97,420 expenditure for second half of year

Page 12, change line item 34 to delete "& Econ Dev".

Page 12, change line item 34, 2017 Budget to allocate \$97,420 to City Administrator.

Page 37, change "Planning" wages and benefits to "Director of Planning, Development and Environmental Review" \$110,000 wages and \$36,000 benefits to cover expenses for 9 months.

Page 37, add line item for "Planning consulting to update Comprehensive Plan" at \$50,000.

Page 37, add line item for "Landmarks and Arts Commission" at \$15,000.

Page 38, allocate \$97,420 to "City Administrator" from Wages and Benefits. These funds will come from the second half appropriation for the MDRT & Economic Development Director.

Page 38, allocate \$50,000 to "Planning consulting to update Comprehensive Plan".

Page 38, delete designated consultants and detailed 2017 Budget appropriations, leaving only a total of \$388,000. Add note to text: "Determination of consultants, work-scopes and contract levels subject to approval by the City Council after consultation with the Mayor, staff and the Developer in a manner that is consistent with the Development Agreement."

Page 38, add \$50,000 to "EIS SEPA legal".

Page 29, add line item to Legislative Budget: "Contract for Parliamentarian" at \$6,000.

Page 64, Under Fund 320, delete line item number 14 and move funds to line item 24. Revise CIP to show these expenditures in 2018.

Page 68, Under Fund 410, delete line item 8 and move funds to line item 16.

What you have before you is my “Reform City Hall” Budget.

It consists of a revised budget ordinance and Exhibits that show amendments to the Budget Document itself.

You will all need several days to review this Substitute Ordinance and prepare any amendments that you want the Council to consider.

At the end of tonight’s meeting I plan to move that we reconvene on Monday or as soon as possible to work through any amendments to my Substitute Ordinance and then vote to adopt it.

The Reforms that are included in my Budget Proposal are broken down into four categories.

The First category of Reforms includes what I call the “Stick to the Budget” Reforms. Many people are surprised to find out that even though the Council approves a certain amount of money for the parks department and the police department and so on, the Mayor can move money around between departments without informing the public and without even informing the Council. It’s the same deal with the individual line items. Any Department can move money around at will.

In the past, the Council approved a “Fund Level” Budget, and that’s what allowed this to occur. I call a “Fund Level” Budget a “Sham” Budget. So, my proposed budget is a Department Level Budget. This means that money cannot be moved around between departments without public notice and a vote of the Council.

My proposed budget also identifies certain line items that can’t be manipulated as well. Now, it wouldn’t make sense to make every line item inflexible, but not all line items are created equal, and some need to be firm.

The Second Category of Reforms is what I call the “Responsible Contracting” Reforms.

I have been shocked to find out that the Administration has been signing contracts without competitive bids and without even notifying the public or the Council. It took a citizen to get file a public disclosure request to get copies of all these contracts. I brought copies of the list if you want to see them. Even Councilmembers didn't get this information.

State law clearly states that the Council is the contracting authority for the City. But in the past, the Council gave the Mayor some limited authority to sign contracts without Council approval up to a certain limit. The intent was to allow the Mayor to get some work done expeditiously.

This was a good idea in the past, but this practice has been too often abused. I don't want to reopen the battles of the past or play the blame game. But the practice of signing contracts without Council approval is ending with this Budget. My proposed budget puts tight restrictions on contracting out. Not one dollar in this budget can be contracted out without Council approval.

And this especially applies to the section of the budget called "Legal Services". Earlier this year the Council voted to give a contract to Vancil Law and voted against a contract for Kenyon-Disend, but the Mayor has signed a series of serial contracts with Kenyon-Disend and there they are despite the wishes of the Council. This will end January 1 because from now on not one dollar may be spent for legal services without Council approval. This is the way the State law is written; this is what the Attorney General says, and this is what former Supreme Court Justice Phil Talmadge said.

My "Responsible Contracting" Reforms also apply to the Master Development Review Team. Last year my questions about the MDRT were answered by "You have nothing to do with that part of the budget". This year the Council is stepping up to its responsibility to properly manage every dollar of expenditure, and that must include the work that is determining the future of everyone who lives in our City.

The Third Category of Reforms is what I call the "Accountable Spending" Reforms.

The people of Black Diamond give their taxes and fees to the City Council to provide services. The City Council then decides how to spend that money and then the Mayor gets to spend it. That's what's meant when we say that

the Council has the purse strings. That's the way State law says it is supposed to work.

My Substitute Budget Ordinance establishes performance objectives for some of the departments. These objectives are plainly written and they are enforced by holding back money in the budget until those objectives are met and the Council approves a Supplemental Budget. This is the first time that this has been done in Black Diamond.

Another thing that we do for the first time is to create a Rainy Day Fund that is in a Lockbox. In the past the City's reserves were included in the Ending Fund Balance with no specific identification and no special protections. My Substitute Budget Ordinance creates a specific fund that cannot be spent without a request by the Mayor and the approval of the Council. This fund will grow consistent with State law and provide at least some protection against unforeseen circumstances.

The Council has a duty to do more than just provide a checkbook. The Council has a duty to make sure that every dollar is spent on the policies and ordinances that the Council has adopted. My Substitute Budget Ordinance is the first step in making Spending Accountable.

The Fourth Category of Reforms is what I call the "Control and Manage Growth" Reforms.

This City is planning to spend \$1,667,583 to supposedly control and manage growth, but we do not have a qualified SEPA official, a qualified Code and Permit Compliance official, a qualified Environmental Scientist, or a Director of Planning.

We also don't have what is the most important position to control and manage growth: A qualified City Administrator.

My Substitute Ordinance provides funding for an new appointed position that would be appointed by the Mayor and confirmed by the Council. This position is called the: "Development and Environmental Review Officer". This position would report directly to the Mayor. All employees in the Community Development Department and the MDRT would report to this powerful new Official.

My Substitute Ordinance also provides funding for a City Administrator for the last six months of 2017. This will allow time for a proper selection process.

Both of these positions can be funded with existing funds. What I did was simple. I listened to the public for several years, I looked at other cities, and I used my own common sense. A City that is facing the challenges of the biggest proposed land development project in King County's history needs an excellent City Administrator, and an excellent Development and Environmental Review Officer. Any budget that spends about 1/4 of its General Fund on planners and doesn't provide these two critical two positions needs major reform.

My Substitute Ordinance is the first step in reforming how we control and manage growth.

By now I know what some of you may be thinking. This is too much to consider so late in the year. Why didn't you bring this to us months ago?

Well, we all know how this Council has been obstructed this year. My Budget Committee was refused staff support by the Mayor. For the past few months Council committees were not allowed to meet on city property. My requests for information were often neglected or dis-respected. Once I was even told that my email requesting information would not be answered unless I removed my title as Budget Committee Chairman from my signature.

Despite the obstacles my Vice Chair Erika Morgan and I kept doing our jobs, and the biggest job is this budget.

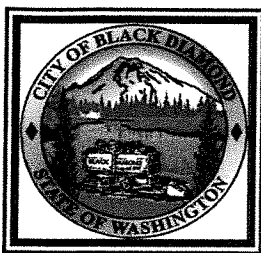
Budgets are not rocket science. Common sense and a commitment to the needs of the people is all you need to write a good one.

Budgets are also not set in stone. Next year we will have many opportunities to amend this budget if it becomes necessary.

Budgets are based on a good partnership between the people paying the bills and the people who are doing the work.

Our Substitute Budget Ordinance speaks for itself. It is a Reform Budget and it will lead to better partnerships, better service, and a better community.

I look forward to considering any amendments that you may have, but I urge you to vote yes on a truly historic and forward thinking budget.



CITY OF BLACK DIAMOND

Interoffice Memorandum

TO: BLACK DIAMOND CITY COUNCILMEMBERS
FROM: MAYOR CAROL BENSON *Carol Benson*
SUBJECT: VETO OF SUBSTITUTE BUDGET ORDINANCE (AB16-091)
DATE: 12/27/16

Members of the City Council:

I have vetoed the attached Substitute 2017 Budget Ordinance (AB16-091) under authority provided by RCW 35A.12.100.

Pursuant to RCW 35A.12.130, I am "returning" this ordinance to you and providing the following written reasons for the veto:

- The substitute budget ordinance was not timely provided to the public, the Council as a whole, the Mayor, the City Attorney, or the Finance Department for review, public hearing, comment, and analysis. Because the proposed substitute budget was not revealed to the public, the administration, or the Council as a whole until December 15, 2016, it fails to meet the procedural requirements of Chapter 35A.33 RCW.
- The substitute budget ordinance was not prepared in an open and transparent manner.
- The substitute budget ordinance is not balanced, which is required by RCW 35A.33.075.
- The substitute budget ordinance subjects the City to substantial risk of litigation and liability.
- The substitute budget ordinance unlawfully infringes on the powers granted to the Mayor by state law.
- The substitute budget ordinance makes impossible or impractical the orderly administration of City business and the provision of essential City services.
- The substitute budget ordinance violates the single-subject and clear-title rule of RCW 35A.12.130.
- The substitute budget ordinance is improper for all the reasons stated in the 15 proposed amendments offered by Councilmembers Deady and Edelman during the Special Meeting on December 22, 2016.

The Council may reconsider this ordinance pursuant to RCW 35A.12.130 at the Special Meeting scheduled for Tuesday, December 27, 2016. Alternatively, the Council may consider and adopt my original 2017 Budget (AB16-088A), which is balanced, compliant with state law, and does not suffer from the numerous legal and accounting deficiencies found in AB16-091.