

BLACK DIAMOND CITY COUNCIL MINUTES
December 23, 2008
Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Botts called the regular meeting to order at 7:00 p.m. and lead us all in the Flag Salute.

ROLL CALL:

PRESENT: Mayor Botts, Councilmembers Hanson, Boston, Olness and Mulvihill.

ABSENT: Councilmember Bowie (Excused)

Staff present were: Gwendolyn Voelpel, City Administrator; Andy Williamson, Economic Development Director; Seth Boettcher, Public Works Director; May Miller, Finance Director; Aaron Nix, Natural Resources/Parks Director; Steve Pilcher, Community Development Director; Jeff Miller, Police Commander; Greg Smith, Fire Chief; Loren D. Combs, City Attorney and Brenda L. Streepy, City Clerk.

PUBLIC COMMENTS: None

PUBLIC HEARINGS:

Ordinance No. 08-883, Stormwater Utility Tax

Finance Director Miller reported recently Council created a stormwater utility to assist in management of stormwater flows and compliance with state and federal water quality regulations. Ms. Miller added currently the utilities that operate in the City of Black Diamond are assessed a six percent utility tax and it is fair and reasonable that the stormwater utility be assessed the same tax.

Ms. Miller noted this ordinance adds section H, authorizing the six percent utility tax on the stormwater utility. The ordinance also standardizes the language in all sections. The ordinance also adds the stormwater deduction to the list of deductions in section 5.08.050.

The utility tax will not be added to the customers' utility bills, but it is a tax obligation of the stormwater utility funds. The tax expenditure and revenue have already been included in the Proposed 2009 Budget, which had a public hearing December 4th.

Also noted was the utility tax will be effective on the first month of stormwater revenue received in 2009.

Mayor Botts opened the Stormwater Utility Tax Public Hearing at 7:04p.m. No public testimony was heard and Mayor Botts closed the Public Hearing at 7:04 p.m.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 08-883, amending section 5.08.030 of the Black Diamond Municipal Code to add a six percent tax on the gross revenues of the City's Stormwater Utility and 5.08.050 to add the stormwater utility deduction. Motion **passed** with all voting in favor (4-0).

Ordinance No. 08-884 Comprehensive Park Plan

Natural Resources/Parks Director Nix explained this ordinance would adopt the City's first Parks, Recreation and Open Space Plan. He also noted adoption of this plan will assist the City in qualifying for certain grants and other funds that can be used to achieve the goals outlined in the plan.

In addition, Mr. Nix reported the expected cost of the projects outlined in the Plan is \$6,450,200 over six years. These projects are identified in the City's approved Capital Improvements Plan. Funds for these projects are expected to come from a combination of Real Estate Excise Tax (REET) revenues, grants, and the City's general fund. Mr. Nix reminded Council that approval of this Parks Plan does not obligate the City to approve any particular project contained in the Plan that may come before the City Council for consideration at a future date.

Mayor Botts opened the Comprehensive Park Plan Public Hearing at 7:07 p.m. No public testimony was heard and Mayor Botts closed the Public Hearing at 7:07 p.m.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Boston to adopt Ordinance No. 08-884, adopting a Comprehensive Parks, Recreation and Open Space Plan for the City. Motion **passed** with all voting in favor (4-0).

Ordinance No. 08-884, Continuation of Moratorium on Master Planned Developments and Subdivisions with the City of Black Diamond

City Attorney Combs reported this is the same ordinance as the previous ordinance Council adopted except this one does allow for applications to be accepted and preapplication meetings to be held for Master Plan Developments that agree in writing to comply with any land use and zoning restrictions that are ultimately adopted by the City. Mr. Combs noted YarrowBay and their Attorney have reviewed the proposed ordinance and are happy with it.

Councilmember Olness asked if there was any way to get the work done and the moratorium lifted by June date in the proposed Ordinance. Mr. Combs explained staff is

hoping to have everything in place by the end of March and is hopeful the moratorium can be lifted before June, 2009.

Mayor Botts opened the Public Hearing at 7:12 p.m.

Colin Lund, YarrowBay concurred that YarrowBay is comfortable with the proposed ordinance and appreciates the opportunity to start the process of showing what these areas will be and looks forward to working with staff on these projects.

Mayor Botts closed the Public Hearing at 7:13 p.m.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 08-884, continuing a moratorium on accepting applications for Master Planned Developments, Subdivision and Planned Unit Developments with the City, adding a moratorium on preapplication meetings on those applications required by City Code. Motion **passed** with all voting in favor (4-0).

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS

Mayor Botts asked Council to confirm his reappointments of Helen Bittner and Linda Herman to the City's Civil Service Commission.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Boston to confirm Mayor Botts' reappointments of Helen Bittner and Linder Herman to the City's Civil Service Commission. Motion **passed** with all voting in favor (4-0).

UNFINISHED BUSINESS: None

NEW BUSINESS:

Resolution No. 08-562, Memorandum of Understanding for Powerful Choices for the Environment Program

Mayor Botts reported for the past several years the City of Black Diamond has participated in the Powerful Choices for the Environment program. This program is aimed at educating middle school and junior high students on changing how they and their families think about and use natural resources, thus giving them the opportunity to become better stewards of our natural resources.

In 2006 and 2007 Council appropriated \$500 to this program and designated Thunder Mountain Middle School in Enumclaw as the choice school to receive the education classes.

Mayor Botts noted adoption of this resolution would continue the City's participation in this program for the 2008-2009 school year.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Resolution No. 08-562, authorizing the Mayor to execute a Memorandum of Understanding between Puget Sound Energy and the City of Black Diamond for the Powerful Choices for the Environment Program for \$500 and designating Thunder Mountain Middle School in Enumclaw as the choice school to receive these education classes. Motion **passed** with all voting in favor (4-0).

Resolution No. 08-563, Memorandum of Understanding with Olympic Environmental Resources

Natural Resources/Parks Director Nix explained in order to implement the City of Black Diamond's 2009 Spring Recycling Collection Event, Council needs to authorize the Mayor the ability to execute the Memorandum of Understanding with Olympic Environmental Resources who oversees this event.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to adopt Resolution No. 08-563, authorizing the Mayor to execute the Memorandum of Understanding with Olympic Environmental Resources to implement the City's 2009 Spring Recycling Collection Event. Motion **passed** with all voting in favor (4-0).

Resolution No. 08-564, Granting Treasured Status to Cahill Short Plat

Natural Resources/Parks Director Nix reported adoption of this resolution would grant treasured status to approximately 2.43 acres of land, owned by Russell Cahill of Black Diamond. Mr. Nix noted that conditions of treasured status approval have been discussed at length both with Council and the Planning Commission and a public hearing was held at the December 4 Council meeting.

Mr. Nix stated this property would fit well to connect the proposed trail system and would connect those folks from the Villages to the downtown area. He also added this is an important piece for the City as we do not have enough community parks for that area and acquiring this piece would be a tremendous benefit for the community.

Planning Commission Chair Bob Kaye explained the Planning Commission has looked at this issue and are very concerned with granting treasure status for this parcel as they feel it is swamp land with little use and access, plus the designation description did not help the Planning Commission at all and would like to see this redefined as swamp land and is not treasured.

Ron Taylor, Planning Commission Member voiced they (Planning Commission) is concerned with the precedence that this designation would set and that is why it was a split vote of 3-2.

Russell Cahill, owner of the property explained he feels this parcel is a good candidate for this designation as it has access to water and sewer and 2000 square feet of buildable area and is a prime piece of property for the City's trail system.

Councilmember Hanson commented she would like to see what YarrowBay's plans for the trail system in this area are and how this piece would connect with them.

Councilmember Olness brought to attention a portion of the resolution that is of importance when granting status treasure, which states this parcel provides a unique opportunity for the City to acquire property that can be used as a trailhead and/or neighborhood park providing access to a trail system through a significant wetland complex within the city.

David MacDuff, YarrowBay commented that the Transfer of Development Rights is a great program. He stated from his understanding he sees treasured status as a tool to get citizens to provide access for parks and open space that they may not do otherwise and if the City wishes to have access into this area then this is what the designation of treasured place is for and is a great opportunity and benefit to the community.

City Attorney Combs explained this piece of property is very special as it would be great for a trailhead, parking area, and neighborhood park and this is what makes it different from the guy next door. Mr. Combs added he feels this is a good piece of property to start the precedent for treasured place status.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 08-564, granting treasured place status to 2.43 acres of King County parcel #1421069021 in exchange of fee ownership of the property and granting the City a continuous 10' trail easement across the wetland buffers identified on lots #1, 2 and 3 on an approved preliminary short plat. Motion **passed** with all voting in favor (4-0).

Resolution No. 08-566, Authorizing Purchase of Capital Facilities Truck

Economic Development Director Williamson reported at the November 20, 2008 Council meeting Council passed a motion authorizing the Mayor to purchase vehicle #1 from Good Chevrolet, and if not available then vehicle #2 from Sunset Chevrolet. Adoption of this resolution would then formalize Council's motion for record keeping purposes.

Mr. Williamson added Vehicle #1 – 2002 Chevrolet Silverado Ext. Cab 4WD was available for purchase from Good Chevrolet for the purchase price of \$14,292.69.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Hanson to adopt Resolution No. 08-565, authorizing the purchase of a 2002 Chevrolet Silverado work truck for the Capital Facility use from Good Chevrolet in the amount of \$14,292.69. Motion **passed** with all voting in favor (4-0).

Resolution No. 08-566, Authorizing Purchase of Police Records Management System from Spillman Technologies

Commander Miller explained a RMS (Records Management System) is the central database for recording all police and public interaction, the system that is key for department contacts, management of cases, officer safety etc. and must be designed for high-availability, quick-access and must be maintained and on-line for seven years.

To accomplish this we need desperately to discontinue input into the current system that cannot export information, which will make it difficult to keep it online for seven years after the last entry is made – and replace it with a system that is designed for public safety, with specific features and that will allow us to begin collecting records information that can be shared or migrated over time. The current system does not allow any integration of outside input, often loses data, and can't be linked to any other outside systems (like RAIN-or Washington State Links).

Commander Miller noted staff advertised a request for proposals, which closed December 1st, and after review, staff consensus was that Spillman Technologies Inc. was the best fit for the City and its needs. Spillman is currently used by most surrounding agencies including Auburn, Federal Way, Issaquah, Enumclaw, Pacific, Algona, Redmond, Des Moines, and many others. The Police Department first looked into being hosted by a nearby agency, but the cost savings only lasted 4-5 years; after that, the system could have paid for itself. The City's IS Manager has also reviewed this system and been involved with the process, agreeing that this system fits our needs. In addition, Commander Miller noted it will be necessary to purchase a server, which Spillman could provide, however, it was decided that the City could purchase one at a cheaper rate.

Funding for this purchase will come out of the Capital Improvement Plan, with money borrowed from the Wastewater Utility Fund.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 08-566, authorizing the Mayor to execute a contract with Spillman Technologies, Inc., for the purchase, installation, configuration and staff training in records management software. Motion **passed** with all voting in favor (4-0).

Ordinance No. 08-866, Interfund Loan from the Wastewater Capital Fund to the General Government Capital Fund for the Purchase of a Police Records System

Finance Director Miller reported this item is a follow-up item for the purchase of a police records system. Ms. Miller reported Council adopted the Capital Improvement Plan at the November 6, 2008 Council Meeting. Item 12 was for a system upgrade of a police records system. The current system was purchased in 1999 and the Police Department indicates that it has outlived its useful life.

This ordinance approves a loan from the Wastewater Capital Fund to the General Government Capital Fund for \$200,000 to cover the cost of the system upgrade, support

and maintenance and training costs. Council requested that staff explore an interfund loan as a more efficient and cost-effective way of funding the upgrade. The Wastewater Capital Fund has sufficient funds to cover this loan in addition to ongoing wastewater expenditures. Using an interfund loan will provide savings of approximately \$22,000 over the five years of the loan. The difference is the result of interest saving from an expected interfund pool rate of 2% (based on the average annual interest the City receives when it invests in the Local Government Investment Pool through the State) and a quoted Government Capital Corporation loan rate of 5.65%.

Ms. Miller noted the loan will be repaid from the General Government Capital Fund in five annual payments due each December 1. The first payment will be due the year following the purchase of the system. Interest rates will be calculated based on the Local Government Investment Pool's annual average rate.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 08-886, approving an interfund loan from the Wastewater Capital Fund to the General Government Capital Fund to cover costs of the police records system. Motion **passed** with all voting in favor (4-0).

Ordinance No. 08-887, 2008 Year-End Budget Amendment

Finance Director Miller reported Washington State Law requires that municipal budgets be amended by the City Council when expenditures are higher than budgeted amounts, or when budget authority is exhausted from any particular fund. This ordinance consolidates many items previously approved by Council, amounts for Funding Agreement expenses and reimbursements approved during the year, amounts for the 2008 portion of the Capital Improvement Plan, and some corrections discovered during the Finance Department's audit of the 2008 budget.

This budget change adds an additional \$2,106,025 to the original and amended 2008 Budget. All additional expenditures are balanced by fund with various revenue sources and cash carryover within each fund.

Of the total amount, \$1,477,630 or 70% relates to the 2008 portion of the Capital Improvement Plan, and various professional service agreements or Funding Agreement items already approved by Council.

Ms. Miller explained the primary change in the amount of \$837,000 is the for 2008 portion of the adopted 2008-2013 Capital Improvement Plan. The majority of these projects are in the capital funds. An additional \$452,430 is for developer funded professional service agreements for the YarrowBay Environmental Impact Statements, sensitive areas ordinance, zoning, comprehensive plan and other development regulation updates. Another \$188,200 is for Funding Agreement items such as legal costs, the generator wiring, a plotter and other miscellaneous capital items. Nestle was approved to reimburse \$25,000 of water testing and associated costs, which is included in this amendment.

The budget change also includes the \$94,856 TIB Grant and expenditures for the overlay on Lake Sawyer Road.

The Finance Department audit and King County Metro audit resulted in uncovering net \$114,874 of budget corrections which were needed to reclassify budgets from one fund to another. Most resulted from the merge of the Park and Cemetery Funds into the General Fund, and the reclassification of the REET (Real Estate Excise Tax) I and REET II revenue the Special Revenue funds. Some expenditures for the Water Comprehensive Plan and Water System Plan that had been charged to the Water System and Facilities Funding Agreement fund needed to be corrected to the Water Capital Fund. The mid-year budget change was also discovered to have an error which resulted in not including the carryover Lake Sawyer Boat Launch budget in the total, even though it was shown on the document. A King County Metro four-year audit revealed an error in 2005 in reporting and remitting Metro payment, which resulted in the need for a \$21,000 prior year budget correction.

The General Fund also includes \$80,100 of budget changes needed to increase department budget to cover trend of costs in specific areas, including: Court budget, \$11,000 for the judge and public defender; in the Legal area \$20,000 needed to defend lawsuits, and \$3,700 for legal service for Franchise agreements, employment issues and for the Prosecuting Attorney; \$10,000 for additional jail costs and \$8,000 for Valley Com and 800 MGH costs for Police.

Exhibit A is attached, showing the original budget, the mid-year budget change and this current budget change. The detailed pages show the balancing revenues and expenditures by fund.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Ordinance No. 08-887, amending the 2008 Budget Ordinance No. 08-865 by means of appropriations, adjustments and transfers within various funds and accounts in the 2008 Budget. Motion **passed** with all voting in favor (4-0).

Ordinance No. 08-888, Adopting 2009 Budget

Finance Director Miller explained per Washington State requirements, the City of Black Diamond hosted public hearings on the 2009 Budget on November 20, 2008 and December 4, 2008. The Council also conducted workshops on the preliminary budget on October 1, 2008, October 2, 2008, October 22, 2008, and November 6, 2008. Ms. Miller added the balanced budget before Council for adoption incorporates suggestions received during the Council study process and public process.

Ms. Miller mentioned copies of the budget are available from the City Clerk and a final budget with more detailed graphs and text will be available by February 15.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Ordinance No. 08-888, adopting the 2009 Budget. Motion **passed** with all voting in favor (4-0).

Ordinance No. 08-889, Repealing Water Surcharge

Finance Director Miller reported this ordinance is a housekeeping ordinance repealing the Water surcharge. This surcharge was considered and included in the 15% rate increase Council passed December 4, 2008. Ms. Miller pointed out that included in the packet material is communications from PacWest, the consultants who prepared the rate increase analysis recommending repeal, as the surcharge is no longer needed. The new base rate was calculated to include only one base charge.

Ms. Miller noted this does not change or increase the water rates to the customers, but removes a charge that is not necessary.

A **motion** was made by Councilmember Hanson and seconded by Councilmember Olness to adopt Ordinance No. 08-889, repealing sections 13.12.010 and 12.12.030 of the Black Diamond Municipal code relating to repealing a water surcharge and disposition of revenue. Motion **passed** with all voting in favor (4-0).

Resolution No. 08-567, Fuel Tax Grant Distribution Agreement for Phase Two of the Morgan Street Sidewalk Project

Public Works Director Boettcher reported phase two of the Morgan Street sidewalk project will extend the current sidewalk along Morgan Street from Abrams west to Roberts Drive. This past fall the City applied for a Community Development Block Grant (CDBG) for the sidewalk. The staff then applied for a TIB grant and amended the Community Development Block Grant request. As a result, both grants were funded--\$363,600 from CDBG and \$170,000 from the Transportation Improvement Board (TIB).

As a first step in accepting the TIB funds, the City will enter into the Fuel Tax Grant Distribution Agreement, which defines the terms and conditions of the grant.

The balance of the funds for this project will come from the Community Development Block Grant. After an initial environmental screening, the Department of Community, Trade and Economic Development will send us a grant agreement for signature sometime in January.

In the TIB grant application the City proposed to cover the inspections and the project administration estimated to be at least \$46,400 in staff time. This amount is already covered in the proposed 2009 budget.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Resolution No. 08-567, authorizing the Mayor to execute a Fuel Tax Grant Distribution Agreement for Phase Two of the Morgan Street Sidewalk Project. Motion **passed** with voting in favor (4-0).

Ordinance No. 08-890, Amending the Method of Assessing Water System Connection Charges

Public Works Director Boettcher reported the primary need for this ordinance is to change the way connection fees are assessed. Currently the connection fees are assessed by meter size. A more equitable way of assessing these fees is to compare the amount of water proposed to be *used* by the new customer to the amount of water *used by a typical single family residence* (also known as an Equivalent Residential Unit or “ERU”). Most of our customers are residential and comparing a new large customer to our residential customer base provides the most equity between customer classes.

Mr. Boettcher added the ordinance also changes the name of this charge from “Connection Fee” to “Capital Facility Charge” to avoid confusion with the cost of installing a meter and setting up a new utility account and aligning the name of the fee to capital cost of serving a new customer.

Also noted with these changes was the protections for residential customers needing larger meter sizes for fire sprinklers systems is not needed and therefore has been deleted.

Councilmember Boston expressed concern about the message we are sending to business owners and asked if a laundry mat decided to expand and exceeds the allotted water amount would they need to pay this additional fee. Mr. Boettcher explained with water being the main resource that fuels this business it would be fair for them to pay for the additional capacity because water is an expensive commodity.

City Attorney Combs noted this is actually a reservation of our water capacity that can not be given away. He also noted a typo in section 10, 13.04.295 that will be fixed and the need to add language that says the city will determine usage at the end of each year instead of at the end of one year.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 08-890, amending title 13 of the Black Diamond Municipal Code to put monthly water charges in 13.04.208 and one-time connection charges in a new section 13.04.285, meter installation charges in 13.14.295, and to amend the code to rename water service connection fee as a capital facilities charge, and to calculate a capital facilities charge based on equivalent residential units rather than water meter size with the typo change of the additional second #4 changed to #5 and changing it to read at the end of each year instead of at the end of one year. Motion **passed** 3-1 (Boston).

DEPARTMENT REPORTS: None

MAYOR’S REPORT:

Mayor Botts updated Council on a meeting about Diesel Motorized Units he attended at Congressman Reichert's office. He added Congressman Reichert was excited about this possibility and would help to pursue money for planning.

COUNCIL REPORTS: None

ATTORNEY REPORT:

City Attorney Combs reported there will be a fifteen minute executive session on property acquisition with no action to follow the executive session.

PUBLIC COMMENTS:

Colin Lund, YarrowBay thanked Council and the administration for the amended language in the moratorium ordinance as it will help start the process to build the framework for the Master Planned Developments.

CONSENT AGENDA:

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Boston to adopt the Consent Agenda. Motion **passed** with all voting in favor (4-0). The Consent Agenda was approved as follows:

Minutes – Special Council Meeting of December 2, 2008, Council Meeting of December 4, 2008, and Workstudy Notes of December 4, 2008.

Claim Checks – December 18, 2008. No. 32541, No. 32653 through No. 362696, No. 32701 through No. 32726 (voided checks No. 32697 through No. 32700) in the amount of \$182,390.99.

Payroll Checks – November 2008, No. 15375 through No. 15448 in the amount of \$284,892.06.

EXECUTIVE SESSION:

Mayor Botts recessed the regular meeting for an Executive Session at 8:30 p.m. to discuss litigation, potential litigation and property acquisition. No action was anticipated to follow the Executive Session, which was expected to last fifteen minutes.

Mayor Botts announced at 8:45 p.m. that the Executive Session would last an additional fifteen minutes.

Mayor Botts announced at 9:00 p.m. that the Executive Session would last an additional fifteen minutes.

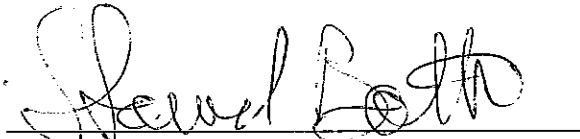
Mayor Botts announced at 9:15 p.m. that the Executive Session would last an additional fifteen minutes.

The regular meeting was reconvened at 9:30 p.m.

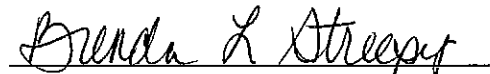
ADJOURNMENT:

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Hanson to adjourn the meeting. Motion **passed** with all voting in favor (4-0).

ATTEST:

A handwritten signature in cursive script, appearing to read "Howard Botts", written over a horizontal line.

Howard Botts, Mayor

A handwritten signature in cursive script, appearing to read "Brenda L. Streepy", written over a horizontal line.

Brenda L. Streepy, City Clerk