

# **BLACK DIAMOND CITY COUNCIL MINUTES**

**June 5, 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, Bowie, Boston, Olness and Mulvihill.

## **ABSENT:**

Staff present were: Gwendolyn Voelpel, City Administrator; Seth Boettcher, Public Works Director, May Miller, Finance Director; Andy Williamson, Economic Development Director; Dan Dal Santo, Utilities Supervisor; Greg Smith, Fire Chief; Loren D. Combs, City Attorney and Brenda Streepy, City Clerk.

**PUBLIC COMMENTS: None**

## **PUBLIC HEARINGS:**

### **Resolution No. 08-508, Latecomer's Agreement with Black Diamond Development, LLC**

Mayor Botts announced the City received written comments from Larry Best, Hal Read and Richard Pierotti.

City Attorney Combs reported Chapter 35.91 RCW, authorizes the City to enter into contracts with property owners that construct improvements to the City's water system, for the purpose of allowing the property owner to be reimbursed for a portion of the construction costs from non-contributing benefited property owners. By using these types of contracts it allows for improvements to the City's water system without imposing a burden upon the rate payer.

Mr. Combs clarified that this fee is only charged to non-contributing benefited parcels that are not currently connected to the City's water system or if connected would only be charged if there was a need to upgrade their service. The length of the agreement as drafted is for ten years, but state statute does allow for up to 15 years.

Mr. Combs discussed variables within the agreement that need to be addressed and decided by Council which are: length of agreement, draw line for non-contributing property owners, and the calculation methodology used to assess those parcels affected by the agreement.

Leonard Smith, PacWest Engineering discussed different ways for determining assessment such as zone and termini, which creates different zones of benefit with each zone given a different calculation of benefit, lineal feet method, or by dividing costs using a blended methodology (50/50 approach).

After discussion it was decided that Mr. Smith would prepare models for the utility committee showing the different options used for calculating assessment.

**Mayor Botts opened the Public Hearing at 7:53 p.m.**

**Brett Habenicht, 23901 231<sup>st</sup> PL SE Maple Valley** asked who makes the determination at the time of construction that an existing waterline will not provide efficient fire flow and who determines that the existing waterline will not serve the property. If the determination is made that the existing waterline will not serve the property then parcel 9091, which is approximately one acre and has a restricted building envelope due to the shape of the property will be assessed the same as other parcels that are ten times larger. He asked Council to take this into consideration when deciding how to calculate the assessment.

**Sandy Sternoff, owner Cedarbrook Mobile Home Park** stated a wetland delineation has been done on her property and approximately 11 acres are under water, thus affecting the amount of buildable land on this parcel and urged Council to take this into consideration when determining how to calculate the assessment portion of the agreement.

**Hans Korve, representative Black Diamond Development, LLC** proposed using the blended methodology for calculating assessment as it will probably work the best. Mr. Korve stated that everyone is contributing by the waterline coming forward and that wetlands do not make a difference as the property is still benefited. His client is concerned with the 10 year limitation and supports the 15 years that is allowed by state statute for the investment made to the community by his client. Asked why \$60,000 dollars that was paid by his client was taken out of the construction calculation and would like to see it put back in. Further, Mr. Korve asked why the agreement only pertained to the waterline and should have included the sewer line reimbursement his client also requested. In closing, he stated he feels that staff has a good handle on the pros and cons concerning the calculation methodology and will guide the committee in coming up with an equitable assessment.

City Attorney Combs stated that the difference in the construction calculation is the 20% administrative fee, which is not reimbursable.

**Mayor Botts announced the Public Hearing will be continued until the June 19<sup>th</sup> Council meeting.**

**UNFINISHED BUSINESS: None**

**NEW BUSINESS:**

**Resolution No. 08-512, Transmitting 2008 Water System Plan to Department of Health**

Utilities Supervisor Dal Santo reported the City of Black Diamond's Water System Plan (Plan) provides a long-term planning strategy for the City's water system over the six- and twenty-year planning periods. The objectives of the plan are to evaluate the performance and adequacy of the existing City water system, to determine what will be necessary to meet the infrastructure demands for the next twenty years, and to identify compliance issues that may affect operation of the water system. The Plan was prepared in accordance with the Washington Administrative Code (WAC) 246-290.

In June 2007, Council authorized a contract with PacWest Engineering to prepare the Water System Comprehensive Plan. The comprehensive plan describes the existing water system, identifies deficiencies in the existing system, makes projections on future needs to accommodate growth, and identifies a suggested Capital Improvement Plan to correct deficiencies in the existing system and provide for future growth.

As required by the Washington Administrative Code (WAC), the plan has been reviewed by Tacoma Water, the Covington Water District and Soos Creek as adjoining purveyors. The City's Public Works/Streets Committee has reviewed the plan on several occasions and the plan was made available to Councilmembers for review preceding and following a May 1, 2008, study session. The plan now needs to be transmitted to the Department of Health.

A staff report summarizing the changes and the altered pages since the study session is included in your council packet.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Resolution No. 08-512, authorizing the Mayor to transmit 2008 Water System Plan to the Department of Health. Motion **passed** with all voting in favor (5-0).

**Resolution No. 08-513, Amendment #5 to PacWest Professional Services Agreement for Stormwater Utility Development and Comprehensive Planning**

Utilities Supervisor Dal Santo reported the City has retained the services of PacWest Engineering for various high-level engineering services, including development of the 2008 stormwater management program to accompany the National Pollutant Discharge Elimination System (NPDES) annual report. The City currently has a need for additional services to meet the Department of Ecology's requirements for the NPDES Phase II

permit. Required components of the program are: public education and outreach; public involvement and participation; illicit discharge detection and elimination; controlling runoff from new development and redevelopment; and pollution prevention and operation and maintenance for municipal operations. This resolution would authorize PacWest Engineering's development of the requested stormwater management plan to include the formation of a stormwater utility and establishment of stormwater utility rates and impact fees, as well as comprehensive stormwater planning services.

Mr. Dal Santo also noted that members of the Surface Water Committee of the Council have reviewed the proposed scope of work and recommended it be brought forward to Council for consideration.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Resolution No. 08-513, authorizing execution of amendment #5 to the Professional Services Agreement with PacWest Engineering for Stormwater Utility Development and Comprehensive Planning. Motion **passed** with all voting in favor (5-0).

#### **Resolution No. 08-514, Adopting General Fee Schedule**

Chief Kiblinger reported on April 21, 2005 the City adopted Ordinance No. 05-782 establishing a Traffic Safety School. Currently the fee for Traffic Safety School is \$150. In order to keep up with the costs associated with running Traffic School the fee needs to be increased from \$150 to \$200. Adoption of this resolution will amend the City's General Fee Schedule to reflect this amount. Additional changes include provision for the newly created position of Hearing Examiner and addition of deposit for one land use action – annexation, which was inadvertently overlooked in the previous fee schedule update.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 08-514, adopting a General Fee Schedule for the City. Motion **passed** with all voting in favor (5-0).

#### **Ordinance No. 08-863, Short-term Interfund Loan from Sewer Reserve Fund to Drainage Fund**

Finance Director Miller discussed the Federal Clean Water Act and State NPDES Phase II Permit require that Cities Implement a Stormwater Planning and Management Program within stated timelines. PacWest reviewed the Stormwater Management Plan at a public hearing on May 15, 2008. They have submitted a proposal to help Black Diamond meet the five required elements.

A \$75,000 grant from Department of Ecology has been approved to pay for a portion of the costs, but it will require approximately \$100,000 more to complete the necessary requirements. A short-term five year loan from the Sewer Reserve Fund to the Drainage Fund will be needed to insure that all of the components can be completed in a timely

manner. Interest will accrue at the State Investment Pool rate monthly and the total amount will be due June 1, 2013. Annual principal payments can be made if a Drainage Utility Fund and rates are established and there are sufficient funds available. There will be no prepayment penalty.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Ordinance No 08-863, authorizing an interfund loan from the Sewer Reserve Fund to the Drainage Fund to cover costs of stormwater planning and management. Motion **passed** with all voting in favor (5-0).

#### **Resolution No. 08-515, Authorizing Payoff of 1973 Water Revenue Bond**

Finance Director Miller reported in 1972 Council authorized the issuance of \$147,000 of 1973 Water Revenue Bonds from the US Department of Agriculture, Farmers Home Administration at 5% interest, a great rate at that time. The bonds were payable over thirty eight years.

In the original Bond Ordinance authorized by Ordinance 149, Council reserved the right to call for redemption prior to the stated maturity date with out penalty, any time after 1985. A register notice is required to be given 30 days prior to any call of bonds.

Revenue Bonds in their nature require a higher revenue coverage, separate reserves and essentially-higher rates; therefore, it is in the Water Funds best interest to payoff the balance of the 1973 Water Revenue Bonds. The payment will require \$32,000 for the principal plus interest of approximately \$1,070 with an assumed August 2008 payoff date. A savings of approximately \$3,080 in interest costs will be achieved with this early payoff. The Water Reserve Fund has sufficient funds for the payoff.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Resolution No. 08-515, authorizing the payoff of the 1973 Water Revenue Bond in its entirety. Motion **passed** with all voting in favor (5-0).

#### **Resolution No. 08-516, Hiring Fox Electric Company for Generator Electrical Work**

Economic Development Director Williamson reported recently City staff solicited quotes for connecting a transfer switch to the new generator for both Community Development and City Hall buildings. The City received quotes from Lander Electric, Fox Electric Co., and Wilderness Electric. After staff review of the quotes it was determined that Fox Electric Co., met the needs for the City. The cost for the work including tax is \$10,684.07.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 08-516, authorizing the Mayor to hire Fox Electric Company to perform electrical work on the new generator for an amount not to exceed \$10,684.07. Motion **passed** with all voting in favor (5-0).

**Resolution No. 08-517, Accepting, Awarding, Authorizing Purchase of New Office Furniture – O’Byron and Associates.**

Economic Development Director Williamson reported on April 29, 2008 the City advertised for bids for the purchase of new office equipment to outfit both Community Development and City Hall buildings. Bids closed on May 14, 2008 with the City receiving bids from O’Byron and Associates, Office Depot, and Complete Office. After review of the bids, it was determined that only O’Byron and Associates bid met the City’s requirements and needs.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Olness to adopt Resolution No. 08-517, accepting bids, awarding bid and authorizing the Mayor to execute an agreement with O’Byron and Associates for the purchase of new office equipment. Motion **passed** with all voting in favor (5-0).

**Resolution No. 08-518, Amendment #6 to Professional Services Agreement with PacWest Engineering for Structural Engineering Analysis**

Economic Development Director Williamson reported currently the City has a need for additional engineering services associated with the Mayor’s request for city staff to review the remodeling of the Council Chambers and the old court offices. After inspection by the City’s building official it was determined that if the old court offices are used an additional fire exit from the building in the west wall will need to be provided.

The City of Black Diamond has retained the services of PacWest Engineering for various high-level engineering services, including the update of its water system comprehensive plan, water rate and impact fee study, sewer rate and impact fee study, development standards and a transportation planning study. The firm has provided services to the City since June 2007 and was designated City Engineer in March 2008.

This resolution would approve PacWest Engineering’s scope to look into the structure of the building to assess if a hole can be cut in the wall and also to provide us with the necessary structural requirements. The cost associated with the structural analysis is not to exceed \$2,000.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Olness to adopt Resolution No. 08-518, authorizing the Mayor to execute amendment #6 to the Professional Services Agreement between PacWest Engineering and the City of Black Diamond. Motion **passed** with all voting in favor (5-0).

**Ordinance No. 08-864, Allowing Animal Welfare Agencies to Trap in the City and Amending BDMC Section 6.08.140**

Mayor Botts reported the City has previously adopted King County ordinances related to animal control fees and penalties; licensing of dogs and cats; kennels, pet shops, grooming parlors and similar services as codified in Chapter 6.08 of the Municipal Code.

This code change would make it possible for animal welfare agencies such as South County Cats, which is recognized by the Humane Society, to trap animals. The organization requested this code change to ensure their operations in Black Diamond are in compliance with all local laws.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 08-864, amending 6.08.140 of the Black Diamond Municipal Code to allow trapping by animal welfare agencies recognized by the Humane Society. Motion **passed** with all voting in favor (5-0).

**DEPARTMENT REPORTS: None**

**MAYOR'S REPORT: None**

**COUNCIL REPORTS: None**

**ATTORNEY REPORT:**

City Attorney Combs reported there will be a ten minute executive session, with no action to follow.

**PUBLIC COMMENTS:**

**Mario Sorci, 24301 Roberts Drive** would like to see the latecomer's agreement stay at 10 years as it is likely the developer will not be able to recoup all costs associated with the improvement.

**CONSENT AGENDA:**

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt the Consent Agenda. Motion **passed** with all voting in favor (5-0). The Consent Agenda was approved as follows:

- **Minutes** – Council Workstudy Notes of March 5, 2007 and March 27, 2008
- **Claim Checks** – June 5, 2008, No. 31722 through 31786 (void checks, 31690, 31725, 31732) in the amount of \$220,344.99

**EXECUTIVE SESSION:**

Mayor Botts recessed the regular meeting for an Executive Session at 9:00 p.m. to discuss a personnel issue. No action is to follow the Executive Session, which was expected to last ten minutes.

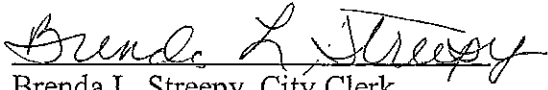
The regular meeting was reconvened at 9:10 p.m.

**ADJOURNMENT:**

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Hanson to adjourn the meeting. Motion **passed** with all voting in favor (5-0). Meeting adjourned at 9:11 p.m.

ATTEST:

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Howard Botts, Mayor

  
Brenda L. Streepy, City Clerk