

BLACK DIAMOND CITY COUNCIL MINUTES

November 6, 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, and Olness.

ABSENT: Councilmember Mulvihill (Excused)

Staff present were: Gwendolyn Voelpel, City Administrator; Andy Williamson, Economic Development Director; Seth Boettcher, Public Works Director; Dan Dal Santo, Utilities Supervisor; Steve Pilcher, Community Development Director; Aaron Nix, Natural Resources Director; Kaaren Woods, Court Administrator; Greg Smith, Fire Chief; Jamey Kiblinger, Police Chief; Tom Guilfoil, Assistant City Attorney; Loren D. Combs, City Attorney and Brenda L. Streepy City Clerk.

PUBLIC COMMENTS:

George McPherson, Black Diamond spoke in regards to the possibility of Nestle Waters locating a bottling facility in Black Diamond. He expressed that he is extremely proud of Council for their work on the environment and the location of this plant in Black Diamond does have something to do with the environment. He commented that water has been recently called the "blue gold" and urged Council to consider all aspects before entering into this venture with Nestle or any bottling company.

Gary Berke, Black Diamond expressed his concern with the sale of water to Nestle and feels that water is "black gold" and stated it has been proven in the past that you should not give up your resources and urged Council to consider keeping this water source for the City. Mr. Berke also mentioned the issue of stormwater and would like the City to address this before addressing the Nestle bottling plant.

PUBLIC HEARINGS:

Ordinance No. 08-872, Formation of Stormwater Utility and Establishment of Rates

Public Works Director Boettcher reported the City is having to increase the activities related to storm drainage maintenance, monitoring, reporting, establishing new regulations, education, and changing operation practices. In the past the City has funded stormwater maintenance activities out of the sewer fund. Rather than increase the rates in sewer to meet the stormwater demands, the establishment of the stormwater utility with rates that will directly fund stormwater activities was recommended.

Mr. Boettcher further explained that a stormwater utility will build equity in resident and businesses within the city with the sewer customers of the city. He also mentioned the stormwater utility will provide a separate budget where funds will be required to be directed to stormwater functions. The separate purposes and goals of the stormwater utility will help direct the funds and efforts of the City staff and policy makers to meeting the requirements of the City's stormwater permit.

Leonard Smith, PacWest Engineering discussed three major points used to help with the development of forming a stormwater utility formation – 1. The City is a Phase II community, with new regulations and needs to adopt a formal program, 2. Stormwater is currently funded out of the sewer fund and to change this as not all residents receive sewer service from the City, plus by shifting storm drainage maintenance over to its own utility the City can get equity where everybody pays their own fair share, and 3. Keeping costs down by having comparable rates.

Mayor Botts opened the Stormwater Utility public hearing at 7:14 p.m.

City Attorney Combs clarified that the rate study needs to be part of the record for this process.

Mayor Botts announced that we would continue on to the next item of business and return to the public hearing later in the meeting.

Ordinance No. 08-873, 2008-2013 Capital Improvement Plan

Finance Director Miller reported the 2008-2013 Capital Improvement Plan is a culmination of several months of intense focus and review of proposed Capital Projects that support the goals of the Capital Facility portion of the Comprehensive plan as required by the Growth Management Act. The six-year Capital Improvement Plan brings together in a single consolidated plan for an overall view of all the City's current and future capital improvement needs. Projects were proposed by City Council, Council Committees and staff. The plan includes projects for general government, streets, water, wastewater, and stormwater. The projects varied from providing parks and street improvements and water meter replacement, to replacement of police cars and city technology.

Ms. Miller explained numerous Committee meetings were held, as well as Council study sessions and a public hearing and matching the long project wish list, with available funds proved to be a challenge, but the proposed 2008-2013 Capital Improvement Plan before you tonight is the best effort to identify the priority capital projects and their planned revenue sources. She also noted the 2008 projects identified in the plan will be added to the year-end budget change so important work can begin on the leaking roof at the shops, the remodel of the old City Hall, and the few other projects planned for 2008. The 2009 projects will be added to the 2009 budget document. Projects will also be individually be brought back to City Council for approval of bids or grant approval

Additionally, Ms. Miller mentioned the plan will be updated annually, with the first update planned for next year. Once the plan is adopted the City can apply for those grants which require an adopted Capital Improvement Plan.

Mayor Botts opened the Capital Improvement Plan public hearing at 7:31 p.m. No oral testimony was heard and Mayor Botts closed the public hearing at 7:32 p.m.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Boston to adopt Ordinance No. 08-873, adding a new chapter 3.60 to the Black Diamond Municipal Code, authorizing the adoption of a multi-year Capital Improvements Plan. Motion **passed** with all voting in favor (4-0).

Public Works Director Boettcher made copies of the stormwater user rate study and distributed them to all Councilmembers, staff, and public. Mr. Boettcher then asked that this document become part of the record.

Mayor Botts continued the public hearing on the Stormwater Utility formation and establishment of rates at 7:35 p.m.

Gary Berke, Black Diamond resident expressed his concern with paying this rate and wondered if there is a plan to address current drainage problems within the City. He explained the new library is located up hill from his property and all their run off runs onto his property. He also mentioned that he agrees with the new proposed rates if they are used to solve existing problem areas.

Mayor Botts closed the Public Hearing at 7:42 p.m.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Hanson to adopt Ordinance No. 08-872, adding a new chapter 14.02 to the Black Diamond Municipal Code, forming a Stormwater Utility and establishment of rates. Motion **passed** with all voting in favor (4-0).

Special Events Permit No. 08-0124, YarrowBay Group

Community Development Director Pilcher explained on December 20, 2007, City Council approved a Special Events Permit pursuant to Black Diamond Municipal Code 2.59 to allow YarrowBay Group to conduct an office use within a residence in order to facilitate preparation of the MPD application. The property (32214 Botts Drive) is intended to be part of a Master Planned Development. The original approval was granted for six months, at which time the Council was to revisit the permit.

Additionally, he noted that on July 17, 2008, Council considered the request of YarrowBay to extend the approval, a report from staff, and the comments of two adjacent property owners. Partially based upon citizen comments, the permit was extended for a limited time period of three months. Mr. Pilcher stated that YarrowBay is now requesting a new special event permit for a period of two years. Staff has notified the two adjacent property owners and received no negative feedback regarding YarrowBay's use of the property for office use. Also mentioned was that the Police and Fire Departments have no concerns with the granting of this application.

Mayor Botts opened the Special Events Permit No. 08-0124 public hearing at 7:52 p.m.

Colin Lund, YarrowBay Group thanked Council for considering this request and noted that hopefully in a few years the company can have their own place built here in town. He explained that currently the office has an average of about 3 ½ employees at this location. However, on occasion they do schedule meetings with consultants at this office, which results in more traffic coming and going, but are in contact with the surrounding homeowners to tell them about the possible increase in traffic.

Mr. Taylor, Black Diamond resident explained that as a surrounding homeowner to the YarrowBay home office, things seem to be going pretty well. Although, he does have reservations about the permit being granted for two years and asked Council to consider a shorter time period.

Mrs. Taylor, Black Diamond resident expressed her concern with the requested two year time period. As a neighbor to this home office she feels the two year time period is too long. Ms. Taylor commented that even though they are being good neighbors she is also concerned with having a non-conforming use in a residential area slide under a special events permit.

Mayor Botts closed the public hearing at 7:52 p.m.

Councilmember Olness asked the Taylor's if they would be comfortable with the permit being issued for one year. Mr. and Mrs. Taylor agreed to the one year time period. Councilmember Olness then asked YarrowBay the same question. Mr. Lund of YarrowBay responded we are trying to be good neighbors and our preference would be two years.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Bowie to approve Special Events Permit #08-0124 for a period extending through October 16, 2009. Motion **passed** with all voting in favor (4-0).

APPOINTMENTS, ANNOUNCEMENT, AND PRESENTATIONS

Mayor Botts explained a Civil Service Commission position was vacated in May, 2008 when Ernie Richardson relocated to another city. City staff posted and published announcing the vacancy and one resident submitted an application and was recently interviewed by him and Brenda Streepy.

Mayor Botts asked Council to approve his appointment of Ms. Judith E. Auve' to an unexpired term ending December 31, 2013 on the City's Civil Service Commission.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to confirm Mayor Botts' appointment of Judith Avue' to an unexpired term ending December 31, 2013, on the City's Civil Service Commission. Motion **passed** with all voting in favor (4-0).

UNFINISHED BUSINESS: None

NEW BUSINESS:

Ordinance No. 08-874, Adding a Change Account for Community Development

Finance Director Miller reported with City Hall and the Permitting Center in two separate buildings, it will be more efficient for the permitting section of Community Development to issue permits and provide receipting to their customers. She also explained that this is a housekeeping ordinance amendment to authorize adding a \$150 change account to the City's Petty Cash and Change Fund for the Permitting Department to receipt in permits with their new software system. Ms. Miller further noted that with this change the new total for all City departments will now be \$850.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston adopting Ordinance No. 08-874, amending chapter 3.24 of the Black Diamond Municipal Code and adding under section 3.24.010 (A) a \$150 change account for the Community Development department. Motion **passed** with all voting in favor (4-0).

Resolution No. 08-550, Professional Services Agreement with Moberly & Roberts for Prosecutorial Services.

City Administrator Voelpel reported in 2007, the City contracted with Jeanette Lineberry for prosecutorial services. Recently, Ms. Lineberry indicated her desire to dedicate her time and talents to her husband's firm.

Thereafter, the City advertised for firms and individuals qualified and interested in serving as our prosecutor. Several firms responded. A selection panel including the

Mayor, Police Chief, City Attorney and City Administrator selected three firms from the pool of applicants for interviews.

On October 16th, the panel unanimously agreed to recommend to Council that the contract be awarded to Moberly & Roberts. The firm has significant prosecutorial experience and will assign one employee (Mark Nelson) to be the primary prosecutor in Black Diamond to provide consistency. This agreement also provides for representation for police officers when infractions are contested and the defendant has representation, as requested by the Chief of Police. Those contested infraction hearing days will be scheduled for ½ day every month as necessary. Forfeiture hearings will be held by the firm as required, as well.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Olness to adopt Resolution No. 08-550, authorizing the Mayor to execute a Professional Services Agreement with Moberly & Roberts for prosecutorial services. Motion **passed** with all voting in favor (4-0).

Resolution No. 08-551, Amendment #1 to Local Hazardous Waste Management Program contract #D37962D

Parks and Natural Resources Director Nix reported Council needs to authorize the Mayor the ability to execute Contract Amendment No. 1 to the Local Hazardous Waste Management Program grant agreement. The amendment pertains to the lengthening of the time of performance and compensation under the current grant program.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Bowie to adopt Resolution No. 08-551, authorizing the Mayor to execute Amendment No. 1 to the Local Hazardous Waste Management Program contract #D37962D. Motion **passed** with all voting in favor (4-0).

Resolution No. 08-552, Agreement for Property Access, Occupancy, and Use with Nestle Waters of North America, Inc.

City Attorney Combs explained with interest from Council in exploring the sale of water to Nestle Waters North America, Inc., and in order for Nestle to complete their due diligence the company needs access to the City's spring site and other properties to determine if the City's water supply will meet their needs. Mr. Combs further clarified that is not an agreement to allow them to purchase our water, but rather to allow them to enter the property to gather data.

Councilmember Bowie asked that it be clarified in the agreement to only allow drilling on property the City owns in number 8 and add the word test wells to number 9.

City Attorney Combs will make the necessary changes to the document and asked if it would be ok to pen the changes in tonight as Nestle is here. Council agreed to have Mr. Combs pen in the changes tonight.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Hanson to adopt Resolution No. 08-552, authorizing the Mayor to execute an agreement for property access, occupancy and use with Nestle Water North America, Inc., including the revisions discussed. Motion **passed** with all voting in favor (4-0).

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Botts asked for Council's support to the City's position on the 2009 legislative issues as follows:

1. Seek SR 169 Improvement Funding

The cities of Black Diamond, Covington and Maple Valley will partner to advocate jointly for federal and state funding for State Route 169 and State Route 516 improvements and to seek funding for a feasibility study of Diesel Multiple Unit commuter rail service and other alternatives in the three rapidly growing communities. The City of Black Diamond will lead the advocacy efforts for SR 169 from Roberts Drive to Jones Lake Road.

2. Support Majority of Association of Washington Cities Legislative Agenda

The City of Black Diamond shares the concern of other cities on issues related to offender medical costs, preserving local government revenue options, infrastructure improvements and more. The City of Black Diamond does not, however, support the AWC's position opposing the taping of executive sessions and chooses to remain silent on this issue.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Bowie to support the City's position on the 2009 legislative issues. Motion **passed** with all voting in favor (4-0).

COUNCIL REPORTS:

Councilmember Hanson discussed the pace the Council and staff have been working at the past couple of months and is concerned as everyone is working very hard and fears we can not keep this schedule up without getting burned out. She asked Council to consider slowing down to one meeting a week instead of two.

Councilmember Olness stated that she will not vote to extend the moratorium again.

City Administrator Voelpel mentioned should Council decide to go to one meeting a week we still have an option to schedule a study session before each regular council meeting.

Councilmember Olness complimented staff on the wonderful job they have in preparing documents.

There was Council consensus to go to one meeting per month and to have an additional study session added before each regular Council meeting.

Councilmember Boston reported he recently met with Natural Resources/Parks Director Nix on the Lake Sawyer Boat Launch project. He also mentioned the City has received good information from Anchor Environmental they will be using the preliminary bathymetry data to put into a model to begin preparing preliminary plans.

ATTORNEY REPORT:

City Attorney Combs reported there will be a thirty minute executive session regarding labor negotiation with possible action to follow the executive session.

PUBLIC COMMENTS:

George McPherson, complimented staff on the monthly newsletter that is sent out to all residents of Black Diamond. He expressed the information contained in the newsletter is very helpful and useable.

CONSENT AGENDA:

A **motion** was made by Councilmember Olness 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:

Claim Checks – November 6, 2008 No. 32453 through 32532 (void checks 32452, 32498, 32505) in the amount of \$ 293,748.86.

Minutes – Council Meeting of October 9, 2008 and October 16, 2008 and Workstudy Notes of October 16, 2008, October 22, 2008, October 23, 2008, October 29, 2008 and October 30, 2008.

EXECUTIVE SESSION:

Mayor Botts recessed the regular meeting for an Executive Session at 9:04 p.m. to discuss labor negotiations. Possible action may follow the Executive Session, which was expected to last thirty minutes.

Mayor Botts announced at 9:20 p.m. that the Executive Session would last an additional ten minutes.

The regular meeting was reconvened at 9:39p.m.

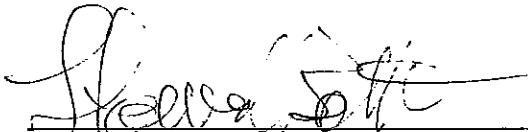
A **motion** was made by Councilmember Olness and **seconded** by Councilmember Hanson to offer all employees two options for health insurance: 1. Regence Plan B with

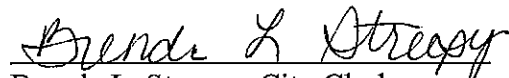
\$50 premium sharing and any future increases at 90% City and 10% employee, and 2. Group Health \$10 Co-pay Plan with no premium sharing and any future increases at 90% City and 10% employee. Motion **passed** with all voting in favor (4-0).

ADJOURNMENT:

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

ATTEST:


Howard Botts, Mayor


Brenda L. Streepy, City Clerk