

BLACK DIAMOND CITY COUNCIL MINUTES

April 16, 2009

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: None

Staff present were: Steve Pilcher, Community Development Director; Aaron Nix, Natural Resources/Parks Director; Kaaren Woods, Court Administrator; Greg Smith, Fire Chief; Loren D. Combs, City Attorney and Brenda L. Streepy, City Clerk.

PUBLIC COMMENTS: None

PUBLIC HEARINGS: None

PRESENTATIONS:

Suburban Cities Association

Ms. Karen Goroski of Suburban Cities Association stated that every year Suburban Cities Association comes out to give a yearly update and to spend some time seeing what the City is going through in the community as it is helpful for the many regional meetings she attends. Ms. Goroski discussed staffing at SCA, long range goals, their structure as an organization and the committees.

Lake Sawyer Park Foundation

Natural Resources/Parks Director Nix introduced Leah Grant the President of the Lake Sawyer Park Foundation to explain more about what the foundation is and what it does. Ms. Grant referred to the handout which showed the members names, she stated that the foundation was formed a year ago. The vision is to take the Lake Sawyer Regional Park Plan and make it a reality. She explained that the first step is to become a 501c and then would like to partner with the City on park plan goal. She stated that right now the foundation is working on proposed financial statements for the state to qualify for the

501c and they are also working on a website for the foundation to aid with securing funds. Ms. Grant stated that the foundation would like to get a letter from the city supporting the foundation showing that they are working as a partner with the City.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Bowie to have a Resolution drafted in support of the Lake Sawyer Park Foundation to be brought back for adoption at a future meeting. Motion **passed** with all voting in favor (5-0).

PROCLAMATION

Declaring Earth Day

Mayor Botts read the following proclamation:

WHEREAS, the first Earth Day was celebrated on April 22, 1970, with the goal of inspiring environmental awareness and encouraging the conservation, protection, and appreciation of our nation's natural resources; and

WHEREAS, it is the responsibility of each of us to safeguard the environment, by recognizing that all human life depends upon the Earth and upon one another for our mutual existence, well-being, and development; and

WHEREAS, the steps we can take to protect and preserve our natural environment through education, partnerships, and positive actions should be encouraged in Black Diamond; and

WHEREAS, the citizens of Black Diamond are committed not only to the protection and preservation of our environment, but also to the restoration of ecosystems and habitat; and

WHEREAS, Black Diamond citizens, staff, and elected officials are working closely with federal, state, local, and tribal governments, and with non-governmental organizations to develop and implement regulations and ordinances specifically designed to preserve and improve Black Diamond's fragile ecosystems and the quality of life therein; and

WHEREAS, Black Diamond proudly recognizes all who participate in Earth Day, for their dedication to taking a proactive role in shaping the future of our environment and in protecting Black Diamond's precious natural resource; and

WHEREAS, myself, councilmembers, staff and members of the community will be holding an Earth Day tree planting event from 1:00-2:00 p.m. on Wednesday, April 22, 2009 at Eagle Creek Park at the corner of Roberts Drive and Bruckners Way;

NOW, THEREFORE, I, Howard Botts, Mayor of the City of Black Diamond do hereby proclaim April 22, as EARTH DAY in Black Diamond and I urge all citizens to be mindful of local, state and national laws which protect our environment, and to join in efforts to preserve the beauty and wonder of the lands, skies, and water of the Earth and its diversity.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Resolution No. 09-588, Authorizing the City to Accept Certain Credit and Debit Cards for Payment and Authorizing the Mayor to Enter into a Contract for Mt. Rainier Bank to Provide Credit Card Processing Services for the City

Court Administrator Woods reported that the Court would start first by accepting credit and debit cards during the debt reduction program that is scheduled to begin on May 1. She explained that Finance Director Miller and herself reviewed three different companies and found that Mt. Rainier Bank provided the best combination of rates and customer service for merchant card services. Ms. Woods also noted that the Finance Committee met and felt that it is best to support our local businesses.

Councilmember Boston asked about equipment costs.

Court Administrator Woods replied that the City will not be entering into a service contract and have been advised to rent the equipment.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Olness to adopt Resolution No. 09-588, authorizing the acceptance of credit and debit cards for payment and authorizing the Mayor to enter into an agreement with Mt. Rainier Bank to process such payments. Motion **passed** with all voting in favor (5-0).

Resolution No. 09-589, First Amendment to City of Black Diamond Staff and Facilities Funding Agreement with YarrowBay Communities

City Attorney Combs reported that the amendment would allow YarrowBay to pay monthly instead of quarterly as well as paying for Economic Development costs. He reviewed changes to paragraph 5 relating to the imposition of a surcharge on land use permits, if allowed by law.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 09-589, authorizing the Mayor to execute the First Amendment to the City of Black Diamond Staff and Facilities Funding Agreement with YarrowBay Communities with the substitution of the proposed new language for paragraph 5 relating to the imposition of a surcharge on land use permits, if allowed by law. Motion **passed** with all voting in favor (5-0).

Resolution No. 09-590, Authorizing the Execution of the Villages MPD Pre-Application Agreement

Community Development Director Pilcher reported that the packet material is the pre-application agreements with YarrowBay and during the extension of the moratorium Council would allow that an agreement is signed in order to submit their application and vest them to the current codes. Mr. Pilcher stated that it also provides for funding of needed City staff and other related items. Also discussed were changes to paragraph 3.1 regards to allowing the annexation to be withdrawn from the application.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 09-590, authorizing the Mayor to execute the Villages MPD Pre-Application Agreement with the addition of a clause to paragraph 3.1 allowing the annexation to be withdrawn from the application.. Motion **passed** with all voting in favor (5-0).

Resolution No. 09-591, Authorizing the Execution of the Lawson Hills MPD Pre-Application Agreement

Community Development Director Pilcher reported BD Lawson Partners has advised the City that it intends to utilize the early application process allowed by Ordinance 08-885 in order to submit a Master Planned Development (MPD) application for a development to be known as The Lawson Hills MPD. The City entered into an agreement entitled the City of Black Diamond Staff and Facilities Funding Agreement (“Core Funding Agreement”), which provided for the funding for needed City staff and other related items. The purpose of this resolution and related agreement is: 1) to provide for clarity on the interrelationship between the City’s fee resolution, the MPD Code, and the Core Funding Agreement; and 2) to allow for the early processing of the Lawson Hills MPD application, as authorized by City Ordinance 08-885. Mr. Pilcher also noted that paragraph 3.1 will have the same changes, thus allowing the annexation to be withdrawn from the application.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 09-591, authorizing the Mayor to execute the Lawson Hills MPD Pre-Application Agreement, with the addition of a clause to paragraph 3.1 allowing the annexation to be withdrawn from the application. Motion **passed** with all voting in favor (5-0).

Ordinance No. 09-897, Adopting Amendments to Chapter 18.98 Black Diamond Municipal Code Concerning Master Planed Developments

Community Development Director Pilcher reported that the City has made adjustments per Councils request and discussed major changes on page 13. Mr. Pilcher pointed out that section 18.98.140 the first sentence should be deleted, “G” has a typing error that needs to be corrected and proposed density have been reviewed by YarrowBay staff and they are okay with the document. He also noted that staff recommends adoption of the ordinance.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Ordinance No. 09-897, amending Chapter 18.98 Master Planned Developments with modifications.

Councilmember Mulvihill expressed that she is opposed to this ordinance as she feels it does not reflect the concept of rural by design.

Vote: Motion **passed** with all voting in favor (4-1) (Mulvihill).

Ordinance No. 09-898, Amending Title One and Title Eight of the Black Diamond Municipal Code to Allow Code Violations to be Treated as Civil Offenses and to Add a Chapter on Code Enforcement Procedures

Community Development Director Pilcher reported the attached ordinance was drafted by the City Attorney's office as part of its overall project of updating various portions of the City's Municipal Code. Currently, zoning and nuisance code violations are treated as criminal offenses, which is not an optimal method. The proposed changes will turn code violations in civil offenses and establish that in the event of legal action, these issues will be considered by the Hearing Examiner instead of the Court.

The City currently contracts with Clifford Brown to perform both building inspection and code enforcement services. The changes will establish a consistent procedure for dealing with code violations, making it clear what needs to be included in a warning letter and a formal Notice of Violation. This will help ensure cases are handled properly and can withstand any challenges.

Individuals wishing to contest an alleged violation will have their appeal considered by the Hearing Examiner. Alternatively, an individual can admit to the violation and enter into a "voluntary correction agreement" with staff, specify a plan and timeline for correcting the violation.

Staff believes these provisions will provide for a more effective and efficient method of gaining compliance with our codes, which remains the primary goal.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Olness to adopt Ordinance No. 09-898, amending Titles One and Eight of the Black Diamond Municipal Code relating to code enforcement procedures. Motion **passed** with all voting in favor (5-0).

Ordinance No. 09-899, Amending Chapter 2.30 of the Black Diamond Municipal Code, to Clarify the Appeal Process and Procedures to be Followed by the City's Hearing Examiner

Community Development Director Pilcher reported that the ordinance brought forward to Council is to clarify the appeal process and procedures to be followed by the City's

Hearing Examiner. He stated that 2.30.160 establishes that failure to comply with the decision of the examiner constitutes as a gross misdemeanor.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Olness to adopt Ordinance No. 09-899, amending Chapter 2.30 of the Black Diamond Municipal Code to clarify the appeal process and procedures to be followed by the City's Hearing Examiner. Motion **passed** with all voting in favor (5-0).

Ordinance No. 09-900, Amending Chapter 2.24 of the Black Diamond Municipal Code, to Clearly Define the Powers and Duties of the Planning Commission

Community Development Director Pilcher reported this ordinance is intended to provide clarification of which portions of the Black Diamond Municipal Code whose amendment will require the review and issuance of a recommendation by the Planning Commission prior to consideration by the City Council. The recommendation is to ensure the Commission's involvement in those "land use" related Titles of the Code (Title 16 – Comprehensive Plan; Title 17- Subdivision Code; Title 18 – Zoning Code; and Title 19 – Environmental regulations). He also noted the changes authorize the Commission to establish rules and procedures and clarifies that City staff will function as the secretary to the Commission.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Bowie to adopt Ordinance No. 09-900, amending Chapter 2.24 of the Black Diamond Municipal code relating to the powers and duties of the Planning Commission. Motion **passed** with all voting in favor (5-0).

Resolution No. 09-592, Declaring Certain City Property surplus

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Olness to postpone Resolution No. 09-592 until the April 23 meeting for more clarification. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Botts reminded everyone about Earth Day.

COUNCIL REPORTS:

ATTORNEY REPORT: None

PUBLIC COMMENTS: None

CONSENT AGENDA:

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

Claim Checks – April 19, 2009, No. 33317 through 33408 (voided check no. 33325) in the amount of \$232,583.52

Payroll Checks – March 2009, No.15716 through 15795 in the amount of \$306,053.26

Minutes – Council Meeting of April 2, 2009 and Council Workstudy Notes of March 26, 2009

EXECUTIVE SESSION:

Mayor Botts recessed the regular meeting for an Executive Session at 9:12 p.m. to discuss potential litigation and property acquisition. No action was anticipated to follow the Executive Session, which was expected to last fifteen minutes.

The regular meeting was called back to order at 9:27 p.m.

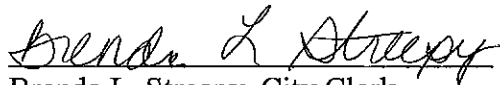
ADJOURNMENT:

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

ATTEST:



Howard Botts, Mayor



Brenda L. Streepy, City Clerk