

# **BLACK DIAMOND CITY COUNCIL MINUTES**

**April 23, 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, and Olness.

**ABSENT:** Councilmember Mulvihill (excused).

Staff present were: Steve Pilcher, Community Development Director; Aaron Nix, Natural Resources/Parks Director; Kaaren Woods, Court Administrator; Andrew Williamson, Economic Development Director; Seth Boettcher, Public Works Director; Jamey Kiblinger, Police Chief; Mayene Miller, Finance Director; Loren D. Combs, City Attorney and Rachel Pitzel, Deputy City Clerk.

**PUBLIC COMMENTS: None**

## **PUBLIC HEARINGS:**

**Ordinance No. 09-901, amending rates charged for city utilities and authorizing discounted rates for low income customers, credits for businesses, time payments and use of collection agencies**

Finance Director Miller reported that there have been many workstudy sessions and Finance Committee meetings to see what could be done to roll back the rates for customers. Ms. Miller stated that the Ordinance brought forward tonight addresses those issues regarding the base rate change to \$10, establishing credit, lifeline utility and changing ERUs. She also added the proposed ordinance cleans up language on other charges such as door hangers and shut offs.

In addition, Ms. Miller stated that this Ordinance would allow for the City to set up a payment plan with interest for residents and also allows a property owner to be turned into collections on a delinquent account.

Councilmember Hanson asked about the storm pond investment credit.

Finance Director Miller explained that those accounts would be directed to Seth Boettcher, Public Works Director and he would evaluate them.

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

**Mario Sorci, 24303 Roberts Drive, Black Diamond**, stated he wanted to thank Council for looking into this and for realizing it was a hardship for everyone.

**Mayor Botts closed the public hearing at 7:13 p.m.**

Councilmember Bowie asked about the credit for an on-site facility regardless of retention or detention, if it's an infiltrations system that doesn't discharge from the site, is there enough tools here to work through that.

Public Works Director Boettcher stated that on page 16 that would be the retention facility, the second set of credits is for detention facilities. The credits are about the same.

Councilmember Boston asked about existing infiltration systems on property, and asked what was needed to show staff.

Public Works Director Boettcher explained that it only applies to commercial not residential.

Councilmember Bowie mentioned paying for the public roadways and the fairness in that.

After discussion with other Councilmembers and insight from City Attorney Combs, it was determined that there is nothing that can be done without money in the general fund. It was explained that if the City pursued paying for the streets through the State, the City would have to charge itself first. It was suggested that in the future Council may want to re-visit this issue once there was a significant amount of growth in the area.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to adopt Ordinance No. 09-901, relating to city utilities, amending chapters 13.04 and 13.24 of the Black Diamond Municipal Code to reduce stormwater assessments on residents and certain types of businesses and authorize use of collection agencies for delinquent accounts, and create a new chapter 13.02 to create a utility fee discount for low income senior citizens and low income disabled customers. Motion **passed** with all voting in favor (4-0).

**Appeal of City Administrator's issuance of 12 development rights associated with King County parcel #1121069058**

**Mayor Botts opened the closed record hearing at 7:28 p.m.**

Natural Resources/Parks Director Nix reported that he would like to give the history behind the case. He stated that Benchmark Group came forward and a Final Letter of Notification (FLN) was submitted to the previous property owners several years ago. Mr. Nix stated that Mr. Habenicht's group (Benchmark) came in and petitioned the City for a Development Rights Certificate (DRC) of which the City Administrator did for 12 DRs on March 23, 2009. That next day within the 21 day period, required under code, Mr. Habenicht's group (Benchmark) submitted an appeal to that decision which is what Council is hearing tonight. Mr. Nix stated that in essence, based on the application that Council has in front of them the request is to go from 12 base DRs to 39.

After some discussion, it was determined that the report staff used on the March 23, 2009 meeting was not in Council's packet and Council felt it would be best to continue the closed record hearing until the next available Council meeting which would be May 7, 2009.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Bowie to continue the closed record hearing until the May 7, 2009 Council meeting. Motion **passed** with all voting in favor (4-0).

## **PRESENTATIONS:**

### **Municipal Court Presentation – Judge Rosen**

Municipal Court Judge Rosen updated Council on the Municipal Court happenings.

## **UNFINISHED BUSINESS: None**

## **NEW BUSINESS:**

### **Resolution No. 09-586, Accepting Low Bid for Court Remodel**

Public Works Director Boettcher reported that this was back before Council, which has been re-bid for the discrepancy in the earlier bids submitted to Council on March 19, 2009 and sent back out with the city scope of work, which was re-submitted to each bidder to bid on. He noted that STM was still lowest bidder and explained that STM has signed a Public Works contract.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Resolution No. 09-586, accepting lowest bid and authorizing services for Court remodel with STM Construction Company. Motion **passed** with all voting in favor (4-0).

### **Resolution No. 09-592, Declaring Certain City Property as Surplus**

Public Works Director Boettcher reported that before Council tonight is the list of city property surplus items.

Councilmember Bowie asked about the aid car.

Police Chief Kiblinger informed Council that the aid car was purchased for one dollar years ago, and no money has been spent on the maintenance of it. She also stated that she called the City of Duvall, and they signed the titled over to the City.

Councilmember Bowie asked if there was going to be waivers that needed to be signed for the police vehicles and aid cars regarding the utility lights.

Chief Kiblinger stated that all the police cars were striped, but she is not sure of the aid car.

City Administrator Voelpel stated that she will check with Capital Facilities Coordinator Esping regarding the aid car.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Resolution No. 09-592, declaring certain city property surplus to the needs of the city. Motion **passed** with all voting in favor (4-0).

**Ordinance No. 09-902, Authorizing a Short Term Interfund Loan from the Wastewater Capital Reserve Fund to the Stormwater Utility for Start-up Operating Costs**

Finance Director Miller reported this Ordinance up for adoption is part of the rate roll back that was adopted. She explained that the City reduced the expenditures but it needs start-up operating capital as any business would to pay salary and benefits until the revenue starts flowing in. The amount estimated to pay for start-up costs is \$50,000 frp, from the Wastewater Capital Reserve Fund to the Stormwater Utility Fund. Repayment is structured at five annual payments beginning on December 1 of each year and charge the State Investments Pool average interest rate which is around one percent.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Boston to adopt Ordinance No. 09-902, authorizing a short term interfund loan from the wastewater capital reserve fund to the stormwater utility fund to cover the start up operating costs of the stormwater utility until sufficient revenues have been received through the stormwater utility fee to cover operating costs. Motion **passed** with all voting in favor (4-0).

**Resolution No. 09-593, Authorizing the Creation and Adoption of an Identity Theft Prevention Program as Required by the Fair and Accurate Credit Transactions Act of 2003**

Finance Director Miller reported that this Ordinance came by way of Municipal Research Service Center (MRSC) in a notice that stated that Fair and Accurate Credit Transaction Act (FACT) required if you had a utility you had to adopt this plan to be able to continue to legally operate your utility. Ms. Miller stated that the City will need to train

employees to recognize identity theft and identify all records that need to be kept confidential.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to adopt Resolution No. 09-593, authorizing and adopting an Identity Theft Prevention program (known as the “Red Flag Program” to comply with the Fair and Accurate Credit Transactions Act of 2003. Motion **passed** with all voting in favor (4-0).

**Resolution No. 09-594, Authorizing the Mayor to Sign a Contract with Apex Engineering, PLLC and Palmer Coking Coal Company, to Prepare Draft and Final Environmental Impact Statements for the Morgan Kame Terrace Mine Expansion**

Community Development Director Pilcher reported Palmer Coking Coal Company (PCCC) filed a request to expand the existing Morgan Kame Terrace Mine by 56 acres to allow additional mining operations over the upcoming 10-15 years. After review of the environmental checklist and supplemental materials, staff concluded preparation of an Environmental Impact Statement (EIS) was necessary and issued a Determination of Significance (DS) in August 2008.

PCCC subsequently filed an appeal of the DS. Shortly thereafter, discussions began between the City Attorney’s office and PCCC. The result was an agreement to enter into a limited scope EIS process, which this contract will fulfill.

Staff advertised a Request for Qualifications and 10 firms submitted. Four firms were invited to make formal presentations and the consultant team headed up by Apex Engineering of Tacoma was selected. Staff has negotiated with the consultant to trim costs and will work diligently with the consultant to ensure the project is completed on time and within budget.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Resolution No. 09-594, authorizing the Mayor to sign a contract with Apex Engineering, PLLC and Palmer Coking Coal Company to prepare draft and final environmental impact statements for the proposed Morgan Kame Terrace Mine Expansion. Motion **passed** with all voting in favor (4-0).

**Emergency Ordinance No. 09-903, Exempting Roberts Drive and Lawson Street from the Vehicle Weight Restrictions Imposed by BDMC 10.12.010**

City Attorney Combs reported that the emergency ordinance brought forward to Council is in regards to the ordinance from the last Council meeting, with council being concerned about the businesses. City Attorney Combs stated that there is a scrivener’s error in the ordinance, that it needs words added: “registered gross vehicle weight limits”. He stated that there is no need to amend; just need to fix the language.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Olness to adopt Emergency Ordinance No. 09-903, amending Black Diamond Municipal

Code section 10.12.010 to exempt Lawson Street and Roberts Drive from the Regulated Gross Vehicle Weight Limits established under 10.12.010.

Roll call vote: Unanimous. Motion **passed** with all voting in favor (4-0).

**Ordinance No. 09-904, Amending Chapter 9.96, of the Criminal Code of the City of Black Diamond to Criminalize Domestic Violence in the Presence of Children and Domestic Violence Strangulation**

Police Chief Kiblinger reported the Ordinance up for adoption is to make it a crime to commit domestic violence in front of children and making it a crime when domestic violence involves strangulation.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Boston to adopt Ordinance No. 09-904, amending Chapter 9.96 of the Criminal Code of the City of Black Diamond to criminalize domestic violence in the presence of children and domestic violence strangulation. Motion **passed** with all voting in favor (4-0).

**Ordinance No. 09-905, Creating the Traffic Offense of Inattentive Driving**

Assistant City Attorney Guilfoil reported the Ordinance up for adoption creates a local traffic offense where there is an accident. He explained it involved situations where a driver has not been driving recklessly but fails to exercise with care and thereby causes minor accidents or creates a reasonable likelihood of one.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Ordinance No. 09-905, amending Chapter 10.40 of the Black Diamond Municipal Code to add new section 10.40.060, which makes inattentive driving a violation of the City's traffic code. Motion **passed** with all voting in favor (4-0).

**DEPARTMENT REPORTS:**

**Administration**

City Administrator Voelpel reported to Council that Chris Kemp from Nestlé called to discuss not pursuing developing a spring water bottling facility in Black Diamond. Ms. Voelpel passed out to Council an email she received from Nestlé. Ms Voelpel reported that Nestlé has stated that they will give the City all the data they agreed to.

**Police**

Police Chief Kiblinger updated Council on the crime statistics and discussed with Council possible grants that the Police Department are working on. Ms. Kiblinger handed out a flyer regarding wearable video cameras that Officer Cripe received a grant for. Ms. Kiblinger stated that the cameras should be delivered to the Police Department in a couple of weeks.

## **MAYOR'S REPORT:**

Mayor Botts praised Officer Cripe for the camera grant, drug recognition training and also Officer Cripe's initiative in building a relationship with the King County Sheriff's Department.

## **COUNCIL REPORTS:**

Councilmember Bowie requested that City Administrator Voelpel instruct Public Works Department Director Boettcher to work with Finance Director Miller to pull all files on the Tacoma Water dollars so the City can re-visit how the City will pay for the city share of Tacoma Water.

Councilmember Boston updated everyone on the South County Area Transportation Board (SCATBD) meeting he attended.

Councilmember Olness remarked that the Earth Day celebration was great and Natural Resource/Parks Director Nix did an excellent job organizing it. She stated that Eagle Creek Park looked really good.

Councilmember Bowie suggested that the transmission line that is being replaced with the federal grant money received be named after former Congresswoman Jennifer Dunn and stated that it would be appropriate to ask the family.

## **ATTORNEY REPORT:**

City Attorney Combs stated that the pre-application agreements that Council approved regarding Lawson Hills and the Villages have been signed, he noted that there was a name change in the Lawson Hills agreement regarding the Palmer name and stated that administration made that change and everything is moving forward.

## **PUBLIC COMMENTS: None**

## **CONSENT AGENDA:**

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


**Minutes** – Council Meeting of April 16, 2009 and Council Workstudy Notes of April 9, 2009

**EXECUTIVE SESSION: None**

**ADJOURNMENT:**

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

ATTEST:

  
Howard Botts, Mayor

  
Rachel Pitzel, Deputy City Clerk