

# **BLACK DIAMOND CITY COUNCIL MINUTES**

**August 6, 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 Bowie, Boston, Olness and Mulvihill.

**ABSENT:** Councilmember Hanson (Excused)

Staff present were: Gwendolyn Voelpel, City Administrator; Aaron Nix, Natural Resources/Parks Director; May Miller, Finance Director; Seth Boettcher, Public Works Director; Greg Smith, Fire Chief; Loren D. Combs, City Attorney and Brenda L. Martinez, City Clerk.

**Mayor Botts announced there will be a change in the order of the agenda tonight and Item #3 will be heard first.**

## **Ordinance No. 09-919, Public Safety Tax Levy**

Finance Director Miller reported voters approved a property tax lid lift in 2004 to fund public safety, including Fire, Police and Emergency Services. Since that time the property tax mil rate (taxes per \$1,000 assessed value) has decreased 25% from \$2.03 per thousand in 2005 to \$1.52 in 2009. The ordinance proposes taking a replacement Public Safety Lid Lift for a continuation of the Property Tax funds to the citizens of Black Diamond for a vote at the November 3, 2009, General Election.

Since it requires all of the City's property tax, sales tax, utility tax and some other revenue sources to continue funding of Black Diamonds Public Safety cost, the proposed Ordinance repeals the last year of the existing levy (2010) and replaces the levy with a six year levy with a beginning \$2.15 mil rate. The intent is to replace the dollar amount of the levy, but legal has advised that cities by law may not levy a dollar amount, but must set a mil rate for the first year of collection (2010).

Ms. Miller stated this was a difficult year to set a replacement rate, as that is determined each year in December by King County once they set an assessed valuation and divide that by the dollars needed. Since property values have decreased per sales records noted on the King County website and in the attached emails, rates could actually increase this

year and the City could lose property tax dollars if the rate is not calculated taking a decrease into consideration. The proposed 2010 replacement rate was calculated based on King County information, but verified by using the \$2.03 mils 2005 beginning rate, then adding one percent per year for six years (allowed increase) and adding \$.06 per \$1,000 for the value of new construction (new owners pay this portion).

Ms. Miller pointed out to continue to provide the needed public safety funds, the proposed levy includes using the Consumer Price Index for Western Washington (June) as the annual limit factor because that is the same limit factor used in the Fire Department contract and Police Department collective bargaining agreement. The levy also proposes to set the last year of the levy (2015) for computing the limitations for future levies.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 09-919, providing for the submission of a proposition to the qualified electors of the City of Black Diamond at an election to be held on November 3, 2009 authorizing the repeal of the existing excess general property tax levy in excess of the limit established in RCW 84.55.010 in order to provide continued funding for public safety services, and using the 2015 levy dollar amount for computing the limitations for subsequent levies, and declaring this ordinance a public emergency ordinance and thus effective immediately. A roll call vote was taken with all voting yes. Motion **passed** 4-0.

Councilmember Mulvihill left the meeting.

## **PUBLIC COMMENTS:**

**David Vines, Black Diamond resident** asked Council to consider putting a gate on First Avenue for security reasons. He explained the City does not maintain this right-of-way and it has not been used in 50 years.

City Attorney Combs clarified that a City can not gate a public right-of-way – they can abandon it and there is a process for this type of action.

## **UNFINISHED BUSINESS: None**

## **PUBLIC HEARINGS:**

### **Ordinance No. 09-917, Revising Stormwater Illicit Discharge, Detection and Elimination Program**

Public Works Director Boettcher reported the City's Municipal Stormwater Permit requires that the City have an Illicit Discharge Detection and Elimination Ordinance that meets Department of Ecology requirements by August 15, 2009. He added the City already has the major portion of this code prohibiting various pollutant discharges into the stormwater system with accompanying penalties. However, this ordinance adds

further definition, expands list of contaminants, prohibits certain type of connections and clarifies what discharges are acceptable.

He further added this ordinance amendment requires the first step of enforcement to be a notice to cease and desist. This will give the businesses and citizens a chance to learn and change before they are fined. The fine levels are fairly small to start with and the City may want to increase the fine level at some point in the future once the general public becomes more aware and educated.

He mentioned additional requirement related to this ordinance is the requirement to begin the enforcement of this program. Accordingly Seth Boettcher, Ken Blakely, Jason Pittam and Kris Chatterson have received training in what to look for and how to follow-up and track down illicit discharges. Dan Dal Santo has had training in this area previously.

**Mayor Botts opened the Public Hearing at 7:39 p.m. No public testimony was heard and the hearing was closed at 7:39 p.m.**

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Ordinance No. 09-917, regarding illicit discharges into the City's stormwater drainage system or creeks, lakes, wetlands and waterways, and amending Black Diamond Municipal Code section 14.04.390 and adding a new section 14.04.0058. Motion **passed** with all voting in favor (3-0).

## **NEW BUSINESS:**

### **Ordinance No. 09-918, Adopting New Park Rules**

Natural Resources/Parks Director Nix reported the rules within Black Diamond's parks facilities were last updated in 1989 and an update to these rules was badly needed as the City's park facilities have changed and uses have become different and more diverse. He stated staff feels that this new set of park rules brings our facilities current to modern day uses and helps ensure the safety of our residents and the people that utilize our parks system. He mentioned a lot of work was spent on acquiring public input and some of the concerns have been incorporated into the document. He also mentioned the fire chief recommended a few minor changes to open fire section which have been incorporated to the document as section d and e under open fires.

Councilmember Bowie voiced concern as the rules state that all horses shall be confined to those areas designated as roadways and parking areas and wondered why not trails.

Councilmember Olness asked that in section 9.86.100(a) permit be changed to allow.

**Bob Eaton, 312<sup>th</sup> Street Black Diamond**, addressed Council on the parking issue on 312<sup>th</sup>. Mr. Eaton stated he would like to see more control in regards to parking on this street. He explained it is very difficult for residents on this street to find parking and feels something needs to be done to correct this. If an emergency were to happen aid

units would have a difficult time getting down the street. He suggested Council look at options such as no parking on the street, limited parking, parking on one side only.

Councilmember Olness stated the City is very aware of this problem and will be addressing this in the City's Capital Improvement Plan to set aside funds for signage.

Mayor Botts clarified that the ordinance on park rules does not address this issue and assured Mr. Eaton the City is working on a solution for the parking on 312<sup>th</sup>.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Ordinance No. 09-918, amending Chapter 9.86 of the Black Diamond Municipal code to update the provisions dealing with prohibited conduct in City parks and adding language to 9.86.050 allowing horses on designated trails and changing the word permit in 9.86.100(a) to allow. Motion **passed** with all voting in favor 3-0.

### **Resolution No. 09-620, Proceeds Distribution and Hold Harmless Agreement with the City of Bellevue**

City Administrator Voelpel explained the City of Black Diamond is a Jail Administration Group (JAG) City, along with thirty-six King County cities, which includes an oversight committee composed of elected officials from each city. JAG was formed after the renegotiation of the Jail Services Agreement (JSA) which calls for a phased reduction in cities' misdemeanor prisoners. The current agreement ends on December 31, 2012, which is the date that all city misdemeanants must be housed in alternate facilities unless other arraignments are made with King County. The JAG provides an organizational structure for coordinating the contract for jail beds with Yakima and King Counties and to plan for new local jail beds that would be needed when the King County contract expires.

At the time cities entered into the current JSA with King County, the County transferred ownership of property within the Bellevue city limits to Bellevue to hold on behalf of King County contract cities. The property, or proceeds from sale of the property was to be used to help provide funding to cities for new misdemeanor jail capacity.

Based on the anticipated sale of the jail property, on March 26, 2008, the Jail Oversight Assembly authorized distribution of the sales of proceeds based on a formula of an average of each King County city's AV (assessed value) and ADP (inmate average daily population). Distribution of the funds would allow cities to utilize the funds to meet the intent of the property transfer.

In March 2009, the City of Bellevue completed the sale of the jail property to Children's Hospital. Bellevue is holding the proceeds in a designated account pending the completion of the Agreement with each city to receive their share of the proceeds and is also responsible to return proceeds to King County should one of more cities misspend their proceeds.

As caretaker of the property, Bellevue is allowed to recover costs incurred to manage and sell the properties, which totaled approximately \$100,000. This amount will be deducted from the total proceeds prior to distribution to the cities in order reimburse Bellevue for incurred expenses. Based upon the Oversight Assembly's approved methodology, the City of Black Diamond's estimated share of the remaining proceeds is approximately \$13,296.20. In accordance with JSA with King County, the proceeds must be used for the purpose of providing or contracting for secure jail beds. The City, however, maintains discretion over the specific use of its share of the proceeds, provided the funds are used in a manner consistent with the JSA.

The City currently contracts for jail services with Buckley, Enumclaw and Okanogan County. Legal counsel advises the funds can be used for those costs.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Bowie to adopt Resolution No. 09-620, authorizing the Mayor to execute a Proceeds Distribution and Hold Harmless Agreement between the City of Bellevue and the City of Black Diamond to receive an apportionment of the jail property proceeds. Motion **passed** with all voting in favor (3-0).

#### **Resolution No. 09-621, King County Community and Human Services Department Contract for the Morgan Street Sidewalk Project Phase II**

Public Works Director Boettcher explained this Community Development Grant Agreement will kick off the Morgan Street Sidewalk Project. He briefly reviewed page of Exhibit II regarding the specifics of the project. He added the City originally applied for \$580,000 for the Phase II project and later reduced the request to \$363,600 to have a better chance of getting funded. The current budget for the project is \$363,600 – CDBG Grant, \$170, 000 – TIB Grant and \$46,400 – Black Diamond in kind match.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Resolution No. 09-621, authorizing the Mayor to execute the King County Housing and Community Development contract for the administration oversight of a \$363,600 Community Development Block Grant for Phase II of the Morgan Street Sidewalk Project. Motion **passed** with all voting in favor (3-0).

#### **Resolution No. 09-622, Gray & Osborne Contract for Design and Contract Documents Preparation for the Morgan Street Sidewalk Phase II Project**

Public Works Director Boettcher reported staff screened the available consultants off of our 2008 – 2009 consultant list and after reviewing specific project proposals, presentations and interviews, the selection panel chose Gray and Osborne as the best fit for Black Diamond on this project. He explained the selection process was reviewed with Eric Jensen of King County and has given the City approval to move forward.

He stated the design effort will need to start right away in order to complete the project by the end of May. The Railroad Avenue Project and the sidewalk project will be under construction at the same time.

Mr. Boettcher also noted the Public Works Committee requested that the survey scope of work be increased to make sure that we do not have right-of-way surprises. This was done at minimal cost as Gray and Osborne did not add more to their survey costs, but just passed on the costs of the additional title reports.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Resolution No. 09-622, authorizing the Mayor to sign a \$88,300 contract with Gray and Osborne for the design and preparation of contract documents for the Morgan Street Sidewalk Phase II Project. Motion **passed** with all voting in favor (3-0).

### **Resolution No. 09-623, All Purpose Structures Contract for Warehouse Roof Replacement**

Public Works Director Boettcher reported bids for this project were solicited from five contractors who are on the small works roster for roof, insulation, gutters and downspout repairs with a guarantee. Two contractors responded without a guarantee but also included an option to re-roof the entire building with a guarantee. In reviewing the bid situation with legal counsel the recommendation was to obtain one more comparable bid for the roof replacement option. Mr. Boettcher briefly reviewed the three bids and noted that all bids include Washington State sales tax. All Purpose Structures was the low bidder.

Mr. Boettcher explained the contract requires completion before September 30, a 20% performance bond, prevailing wages, and insurance protection for the city and a five year guarantee. Real Estate Excise Tax funding of \$20,000 budgeted for 2009 will cover this project.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Resolution No. 09-623, accepting low bid and authorizing the Mayor to execute a contract with All Purpose Structures to install a new roof, gutters and downspouts on the City's metal storage warehouse for \$20,052.99. Motion **passed** with all voting in favor (3-0).

### **Resolution No. 09-624, PacWest Contract for Technical Review Assistance for the Lawson Hills and Villages Master Planned Development Applications**

Public Works Director Boettcher explained with the recent MPD applications submitted by the YarrowBay Group for Lawson Hills and Villages the public works department needs assistance reviewing the water and sewer infrastructure proposed in the applications. PacWest, having produced the City's Water Comprehensive Plan and in the process of updating the City's Sewer Comprehensive Plan, is well versed in the City's codes, planning, standards and the projects, and is our most logical choice to efficiently

provide technical review assistance for the water and sewer infrastructure proposed for Lawson Hills and The Villages MPD applications.

In addition, PacWest has our computer water system hydraulic model and staff that understand our infrastructure here in Black Diamond. It is our intent to have PacWest collaborate their efforts with Parametrix for the most effective review. He also mentioned this review assistance will be a reimburseable cost as authorized through our Master Planned Development Ordinance.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Resolution No. 09-624, authorizing the Mayor to execute a contract with PacWest for technical review services of the Lawson Hill and Villages Master Planned Development applications with respect to water and sewer in the amount of \$25,980. Motion **passed** with all voting in favor (3-0).

#### **Resolution No. 09-625, Parametrix Contract for Technical Review Assistance for the Lawson Hills and Villages Master Planned Development Applications**

Public Works Director Boettcher reported this contract like the previous action is to aid the public works department with the review of the streets and stormwater infrastructure proposed in the Master Planned Development applications submitted by YarrowBay for Lawson Hills and the Villages.

Mr. Boettcher explained that since Parametrix is producing the Draft Environmental Impact Statements for both Lawson Hills and the Villages Master Planned Developments they are the logical choice as they are well versed on the City's codes, planning, standards and most importantly these projects.

Parametrix has the City's computer traffic model and staff that understand the traffic situations here in Black Diamond. Parametrix also has investigated the stormwater plans in detail to evaluate the impacts through the Environmental Impact Study. It is staffs intent to have Parametrix collaborate their efforts with PacWest for a team effort for the most effective review. Mr. Boettcher added the review assistance will be a reimbursable cost as authorized through our Master Planned Development ordinance.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Resolution No. 09-625, authorizing the Mayor to execute a contract with Parametrix for technical review services of the Lawson Hills and Villages Master Planned Development applications with respect to streets and stormwater in the amount of \$24,225. Motion **passed** with all voting in favor (3-0).

#### **DEPARTMENT REPORTS: None**

## **MAYOR'S REPORT:**

Mayor Botts reported with the moratorium being lifted things are moving at a rapid pace and encouraged everyone to keep apprised of upcoming agenda items.

## **COUNCIL REPORTS:**

Councilmember Bowie discussed the email received from a Morgan Creek resident regarding work being done on property owned by Real Life Church. He commented that he was disappointed in staffs response and hoped that in the future staff is up to speed on the agreement for that area.

Councilmember Olness commented that the pavers at the boat launch look fabulous and noted that Mr. Nix will be bringing forward at the next Council meeting an Ordinance change to address parking in that area.

## **ATTORNEY REPORT:**

Attorney Combs stated there would be a twenty minute executive session on personnel and potential litigation and no action is expected to follow.

## **PUBLIC COMMENTS: None**

## **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 (3-0). The Consent Agenda was approved as follows:

**Claim Checks** – August 6, 2009, No. 33830 through 33897 (voided check No. 33833) in the amount of \$777,943.10

**Minutes** – Council Meeting of July 16, 2009, June 21, 2007 and December 20, 2007 and Workstudy of July 16, 2009

## **EXECUTIVE SESSION:**

Mayor Botts recessed the regular meeting for an Executive Session at 8:51 p.m. to discuss potential litigation. No action was anticipated to follow the Executive Session, which was expected to last twenty minutes.

Mayor Botts announced a thirty minute extension of the executive session.

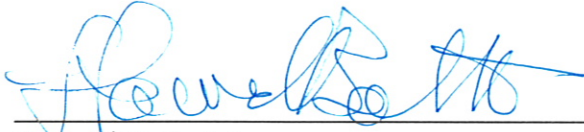
The regular meeting was called back to order at 9:41 p.m.



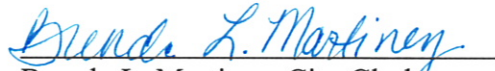
**ADJOURNMENT:**

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adjourn the meeting. Motion **passed** with all voting in favor (3-0).

ATTEST:



Howard Botts, Mayor



Brenda L. Martinez, City Clerk