

**BLACK DIAMOND CITY COUNCIL MINUTES**  
**December 17, 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:** Councilmembers Hanson, Bowie, Boston, Olness and Mulvihill.

**ABSENT: None**

Staff present were: May Miller, Finance Director; Seth Boettcher, Public Works Director; Dan Dal Santo, Public Works Superintendent; Amy Donlan, Permit Supervisor; Steve Pilcher, Community Development Director; Stephanie Metcalf, Court Administrator; Greg Smith, Fire Chief; Jamey Kiblinger, Police Chief; Yvonne Ward, Interim City Attorney and Brenda L. Martinez, City Clerk.

**PUBLIC COMMENTS:**

**Jami Balint-Yarrow Bay**, addressed the South and East Annexations as being part of the BD Urban Growth Area Agreement. She stated that if Council does take action, we can say we have implemented and finished the BDUGGA. She discussed what is allowed in the agreement and negotiated with the County to give them more than what was negotiated. The County is happy and pleased with how the negotiations played out and encouraged Council to adopt these annexations.

**Cindy Proctor-Black Diamond**, distributed packets to Council and discussed the appeal fee and was notified this was adopted by the Council and therefore needed to be addressed by Council. This became an urgency due to the deadline on the appeal for the FEIS, which is due December 28, 2009. Ms. Proctor discussed other fees charged by other communities and was asking for an immediate reduction in the appeal fee. She stated that with the two FEISs she would like to have the City look at waiving the second fee in its entirety if it is related to both FEISs.

**Chris Clifford-Renton**, stated that there was two things he wanted to address 1) ordinance regarding annexations and 2) the fee for an appeal being \$500, this fee is being used to keep folks out of being involved in the project. He stated that everything about this project is tainted and should come to a stand still as the perception of the public input

is key. Mr. Clifford asked Council to slow this down a little bit. He stated that employees have been telling folks incorrect information regarding the appeal process and that is why folks are upset.

## **UNFINISHED BUSINESS: None**

## **PUBLIC HEARING:**

### **Ordinance No. 09-926, authorizing pass-through sewer rate increase from Soos Creek**

Finance Director Miller reported this item is concerning the Soos Creek increase of .14 cents. She stated that the Metro and City portion of the rates are not proposed to increase in 2010.

**Mayor Botts opened the public hearing at 7:14 p.m. There was no public testimony and Mayor Botts closed the public hearing at 7:15 p.m.**

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 09-926, authorizing to increase the sewer rates for the Soos Creek pass-through rate increases effective January 1, 2010. Motion **passed** with all voting in favor (5-0).

## **PRESENTATIONS:**

Mayor Botts presented Councilmember Geoff Bowie with a plaque honoring his service to the community.

Councilmember Bowie stated that six generations of families has served and he appreciated the time here on the Council.

Police Chief Kiblinger presented Mayor Botts with an award of appreciation.

Mayor Botts discussed his time with the City and the memories involved with his service.

## **NEW BUSINESS:**

Councilmember Hanson stated that she would like to address the two folks that spoke earlier regarding the appeal fee and would like to discuss it as this was the last Council meeting to address this issue and does not want to make it seem like Council is not hearing their concerns.

Discussion took place among Councilmembers, Interim City Attorney Ward and staff regarding the appeal fees.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Bowie to amend Resolution No. 09-632, changing the SEPA appeal fee from \$500 to \$250 effective immediately. Motion **passed** with all voting in favor (5-0).

**Resolution No. 09-662, authorizing the Mayor to sign conservation easements to protect the lands within the City limits and Urban Growth Area in conjunction with the proposed South Annexation**

Community Development Director Pilcher reported that a lot of what is occurring is in the fulfillment of the BDUGGA. One of the things that needed to occur before the South Annexation was in regards to open space. This resolution tonight would authorize the Mayor to execute the easements that were identified in the BDUGGA. Mr. Pilcher apologized that this item was brought forward to Council at a late date, it has been reviewed and tweaking has been done. He also noted it has been modeled by the West Annexation.

Interim City Attorney Ward explained that the open space is identified by the maps and addressed the conditions and added language to have the city approve the conditions and then in 60 days go to arbitration for a final decision.

Councilmember Bowie stated he would like to see the legal changed in the A-2 for the UGA Open Space.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Olness to adopt Resolution No. 09-662, authorizing the Mayor to sign the Conservation Easement Deeds with BD Village Partners, L.P.

Councilmember Hanson stated that she finds it very disturbing that Council received this at the very last minute and was expected to pass it.

Councilmember Bowie stated he would like the record to reflect the whiteout of Councilmember Bowie's suggestion to Exhibit A-2 of UGA Open Space.

Motion **passed** (4-1) (Hanson).

**Ordinance No. 09-927, amending the 2009 Budget Ordinance No. 08-888, 09-907 and 09-921 to reflect changes in Revenues and Expenditures**

Finance Director Miller reported this is a housekeeping item as it is required to amend the budget when expenditures are more than anticipated. Ms. Miller discussed changes in the expenditures which include payouts for the Administrators, Planner and Court Administrator and noted these did not include any use of fund balance.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 09-927, amending the 2009 Budget Ordinance No. 08-

888, 09-907 and 09-921 to reflect changes in revenues and expenditures. Motion **passed** with all voting in favor (5-0).

### **Ordinance No. 09-928, adopting the 2010 Budget**

Finance Director Miller reported this budget has had the most review of any budget we've had. It has had two budget hearings and five workstudies. This was a significant effort by both staff and Council.

Mayor Botts agreed that it has been a difficult budget year with the economy.

Councilmember Olness thanked staff and Council for all they did with cutting their budgets.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Ordinance No. 09-928, adopting the 2010 Budget.

Councilmember Hanson stated that she thinks the City could cut back harder in some areas and will need to look at this next year.

Councilmember Bowie urged Council to make a priority to resolve any billing issues the City may have regardless of where this goes and solve it before more time goes on.

Motion **passed** with all voting in favor (5-0).

### **Ordinance No. 09-929, adopting the 2009 Water System Comprehensive Plan**

Public Works Director Boettcher reported this is the last formal step in a long process for our water utility. Mr. Boettcher recapped the last Water Comprehensive Plan was done in 2000 by PACE and noted items it focused on. With those items out of the way this one focuses on what do we need to do to serve the upcoming developments. Mr. Boettcher reviewed with Council the steps that have been taken to get to this point and recommends approval.

Councilmember Bowie stated that he felt one area that is left undone is what the City does with the extra water that has been purchased from Tacoma Water. He said he would like to see us bring closure on this issue sooner rather than later and ultimately look at if we need it; can we pay for it and if we don't then what are our options.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Hanson to adopt Ordinance No. 09-929, adopting the 2009 City of Black Diamond Water System Comprehensive Plan. Motion **passed** with all voting in favor (5-0).

### **Ordinance No. 09-930, authorizing the Mayor to execute the Franchise Agreement with Puget Sound Energy**

Public Works Director Boettcher reported we have been working on this off and on partly because of other activities within the Public Works Department. Issues have been worked through with Puget Sound Energy. One issue was tweaking restoration. Mr. Boettcher thanked Councilmember Bowie and Doug Corbin for all their help.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to adopt Ordinance No. 09-930, authorizing the Mayor to execute the Natural Gas Franchise Agreement with Puget Sound Energy. Motion **passed** with all voting in favor (5-0).

**Resolution No. 09-658, authorizing the Mayor to execute Supplement #3 to the Engineering contract with Hammond Collier Wade Livingstone for additional engineering on the Railroad Avenue Street Improvement Project**

Public Works Director Boettcher reported that when he reviewed the Draft Stormwater Comprehensive Plan it was noted that a larger 18-inch diameter storm pipe was recommended for the storm bypass line on the east side of the project. PacWest did some double checking considering the reduced run-off directed to the storm bypass line and verified that an 18-inch storm pipe is needed. Redesigning the storm pipe and including the upgrade of the stormwater bypass pipe as part of the Railroad Avenue project will prevent the City from having to dig up the new street in the future.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to adopt Resolution No. 09-658, authorizing the Mayor to execute Supplement #3 with Hammond Collier Wade Livingstone in the amount of \$3,565 for storm bypass piping redesign. Motion **passed** with all voting in favor (5-0).

**Resolution No. 09-659, accepting the Voice of the Valley publication bid and designating it the official City Newspaper for 2010**

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 09-659, accepting the Voice of the Valley publication bid and designating it the official City newspaper for 2010. Motion **passed** with all voting in favor (5-0).

**Resolution No. 09-660, authorizing the Mayor to execute the Subscriber Agreement between Public Safety Testing, Inc. and the City of Black Diamond**

Police Chief Kiblinger reported that currently the City has an agreement with Public Safety Testing, Inc. to provide written and physical ability testing for the City's public safety applicants. The new agreement is for three years and will expire on December 31, 2012 and the Police Department's desire is to retain these services with Public Safety Testing, Inc.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Olness to adopt Resolution No. 09-660, authorizing the Mayor to execute the Subscriber

Agreement between Public Safety Testing, Inc. and the City of Black Diamond. Motion **passed** with all voting in favor (5-0).

**Resolution No. 09-661, authorizing the Mayor to enter into a Memorandum of Understanding with Olympic Environmental Resources in order to implement the 2010 Spring Recycling Collection Event**

Natural Resources/Parks Director Nix reported that this is the annual recycling event and all expenditures are grant funded. There has been good participation by residents and this is a very good comprehensive program. He also mentioned maintenance folks convey this has help to clean up the community.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Bowie to adopt Resolution No. 09-661, authorizing the Mayor to enter into a Memorandum of Understanding with Olympic Environmental Resources in order to implement the 2010 Spring Recycling collection Event. Motion **passed** with all voting in favor (5-0).

**Ordinance No. 09-931, annexing the certain unincorporated territory of the City's Urban Growth Areas designated as the "East Annexation Area"**

Community Development Director Pilcher reported this would annex 50 acre's located generally along the east-central boundary of the City.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 09-931, annexing certain unincorporated territory of the City's Urban Growth Areas designated as the "East Annexation Area". Motion **passed** with all voting in favor (5-0).

**Ordinance No. 09-932, annexing the certain unincorporated territory of the City's Urban Growth Areas designated as the "South Annexation Area"**

Community Development Director Pilcher recapped the process and issues that needed to be resolved by King County before the City could act on the South Annexation.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Olness to adopt Ordinance No. 09-932, annexing certain unincorporated territory of the City's Urban Growth Areas designated as the "South Annexation Area". Motion **passed** with all voting in favor (5-0).

**DEPARTMENT REPORTS:**

Public Works Director Boettcher requested from Council to purchase a dump truck from the City of Redmond for \$22,000. It is a 1998 Ford and comes with a sander and snow plow attachments. He stated that the money will come out of the equipment reserve fund.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Hanson authorizing the City to pay \$22,500 not including tax and licensing to purchase the dump truck with the inclusion of the sander and snow plow from the City of Redmond. Motion **passed** with all voting in favor (5-0).

Police Chief Kiblinger distributed a summary of the overall work plan study. She noted this is the biggest year the department has had for grants received. Highlighted projects completed and also discussed some goals for next year. Chief Kiblinger stated she was proud of the department for their role in helping out the Lakewood Police Department during their time of tragedy. Chief Kiblinger addressed the concerns she has regarding the safety of the restrooms.

Councilmember Bowie stated that this will be addressed next year.

### **MAYOR'S REPORT:**

Mayor Botts thanked staff and those folks that have helped the town and wished the very best to the incoming Mayor and Councilmembers.

### **COUNCIL REPORTS:**

Councilmember Olness noted that she would like to have a motion to authorize Ms. Ward's contract to the January 7 meeting if necessary.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Boston authorizing the City to extend Yvonne Wards contract to January 7, 2010. Motion **passed** with all voting in favor (5-0).

Councilmember Bowie discussed growing the Council from five to seven in the next year.

A **motion** was made by Councilmember Bowie extending Councilmembers from five to seven members by August 1, 2010. Lack of second, motion died.

### **ATTORNEY REPORT:**

Interim City Attorney Ward clarified in researching the Appearance of Fairness Doctrine she is just telling what the consequences are for having exparte involvement. She also noted the law firm search is going very well and interviews will be next week. Ms. Ward stated that Senator Roach complained about the \$500 appeal fee, Ms. Ward also noted that a number of Public Disclosure Requests have kept the City busy and thanked Council for their help with their private emails. Ms. Ward stated that the Attorney General called regarding the VSI billings, and there will be an executive session for fifteen minutes with no action to follow.



## **PUBLIC COMMENTS:**

**Dan Dal Santo-** stated to Mayor Botts that he has fully supported him and that the Mayor's support has made him feel like part of the family and wanted him to know that Mayor Botts would be missed. Mr. Dal Santo also thanked Councilmember Bowie for all the time and effort he has had for the utility department and for always being a phone call away.

Mayor Botts thanked Dan for all his hard work above and beyond the call of duty and stated that he is a valuable employee and he appreciated him more than he could say.

## **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:

1. **Payroll** – November 2009 No.16626 through No.16731 (voided checks No.16612, No.16631 through No.16656) in the amount of \$288,173.62
2. **Claim Checks** – December 17, 2009 No.34939 through No.34990 (voided checks No. 34948 through No.34990, No.34898 voided and re-issued with No.34944) in the amount of \$80,657.02
3. **Minutes** – Special Council Meeting of November 21, 2009 and December 1, 2009, Council Meeting of December 3, 2009 and Workstudy Notes of December 3, 2009

## **EXECUTIVE SESSION:**

Mayor Botts announced an Executive Session at 9:36 p.m. to review the performance of a public employee pursuant to RCW 42.30.110(1)(g) and potential litigation. No action was anticipated to follow the Executive Session, which was expected to last 15 minutes.

The regular meeting was called back to order at 9:49 p.m.

## **ADJOURNMENT:**

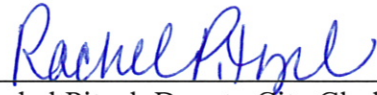
A **motion** was made by Councilmember Boston and **seconded** by Councilmember Bowie to adjourn the meeting. Motion **passed** with all voting in favor (5-0).



ATTEST:



Howard Botts, Mayor



Rachel Pitzel, Deputy City Clerk