

# **BLACK DIAMOND CITY COUNCIL MINUTES**

**June 18, 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: Gwendolyn Voelpel, City Administrator; Andy Williamson, Economic Development Director; Steve Pilcher, Community Development Director; Jamey Kiblinger, Police Chief; Greg Smith, Fire Chief; Loren D. Combs, City Attorney and Brenda Streepy, City Clerk.

**PUBLIC COMMENTS:** None

## **PUBLIC HEARINGS:**

### **Ordinance No. 09-913, Continuation of Master Planned Development and Subdivision Moratorium**

City Attorney Combs reported he has prepared an alternative ordinance for tonight which does not require a public hearing. He explained that if Council adopts all items on tonight's agenda and next weeks agenda, it is the staff and administrations opinion the City is well protected and therefore recommends adopting the alternative ordinance that lifts the current moratorium.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt to not hold a public hearing tonight on the moratorium continuation. Motion **passed** with all voting in favor (5-0).

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 09-913, lifting the moratorium on accepting applications for Master Planned Developments, subdivisions and planned unit developments within the City and repealing Ordinance No. 08-885. Motion **passed** with all voting in favor (5-0).

Mayor Botts recessed the meeting for a short celebration at 7:04 p.m.

Mayor Botts reconvened the meeting at 7:10 p.m.

Mayor Botts thanked past and current Councilmembers and staff for all their hard work in getting the moratorium lifted.

Councilmember Olness thanked staff for all their hard work.

### **Resolution No. 09-611, Six Year Transportation Improvement Program**

Public Works Director Boettcher reported the City is required to update its Six Year Transportation Improvement Program (TIP) per RCW 35.77.010 and file the TIP with Washington State Department of Transportation. Updates include some new projects that will add transportation capacity and expected grant funding. This program takes advantage of the quarter of 1% of Real Estate Excise Tax for local street improvements and to provide grant matching.

**Mayor Botts opened the Public Hearing at 7:19 p.m. No public comments were heard and the public hearing was closed at 7:19 p.m.**

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Resolution No. 09-611, adopting the Six Year Transportation Improvement Program for 2010-2015. Motion **passed** with all voting in favor (5-0).

**UNFINISHED BUSINESS: None**

**NEW BUSINESS:**

### **Ordinance No. 09-908, Adopting New Comprehensive Plan**

Community Development Director Pilcher reported in 2006, the City hired a team of consultants who began the process of preparing an updated Comprehensive Plan to replace the 10-year 1996 Plan. An updated Plan has been one of the primary work projects needing to be completed for the City to lift the long-standing Master Planned Development and subdivision moratorium.

The Planning Commission reviewed Chapters 1-6 of the draft Comprehensive Plan in November 2007. In November 2007 through January 2008, the City provided the opportunity for individual property owners to request specific land use designations and other plan amendments. The City Planning Commission and Council considered these requests during the first quarter of 2008. Review of the draft Plan continued throughout 2008 and into early 2009, with individual public hearings being held on Chapters 1-6, Chapter 7 (Transportation) and Chapter 8 (Capital Facilities Plan).

Per the State Growth Management Act (GMA), the Plan was sent to State agencies for review and comment. State Environmental Policy Act (SEPA) compliance was addressed through issuance of an addendum on May 15, 2009.

Chapter 7 (Transportation) of the Plan has been subject to some modifications, per the direction of Council to lower the Level of Service on SR-169 (3<sup>rd</sup> St.) to LOS "D."

Public Works Director Boettcher reviewed with Council changes to Chapter 7 of the Comprehensive Plan.

Councilmember Hanson noted on page 7-10 we need to change Roberts Drive and 169 from westbound to eastbound and to change throughout document signal/roundabout She also expressed concern with A7 on page 7-27.

Councilmember Boston commented on the City working with Covington and Maple Valley on the exploration of diesel motorized units and asked that this be included in the next update.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Ordinance No. 09-908, repealing the existing 1996 Comprehensive Plan and replacing it with the new 2009 City of Black Diamond Comprehensive Plan including the following revisions to Chapter 7: Pg 7-10 changing Roberts Drive and 169 Westbound to Eastbound, change throughout document signal/roundabout, pg 7-27 add language on A7 shall not be constructed until all other road improvements have been constructed and there is no less environmentally sensitive option available, pgs 7-34 and 7-55 add language to encourage the exploration of rail service to the city and to explore with other jurisdictions the opportunity for rail service. Motion **passed** with all voting in favor (5-0).

### **Ordinance No. 09-909, Zoning Code**

Community Development Director Pilcher explained in conjunction with the update of the former 1996 Comprehensive Plan, in 2006, the City hired a team of consultants to draft a new Zoning Code to replace the current Code. A draft was delivered to the City in spring 2008 and was subsequently reviewed and modified by staff, the Planning Commission and City Council. The new code will replace the current zoning regulations, which have been in effect since 1980.

During the past year, Chapter 18.98 Master Planned Developments was separately reviewed and amended. It is therefore being excluded from this action and will be integrated into the new code for final publication.

Both the Planning Commission and City Council reviewed the proposed Zoning Code in conjunction with their consideration of the new zoning map. The Planning Commission conducted public hearings on the proposal in August 2008 as did the Council in October 2008. Adoption has been delayed by the need to complete all work on the Comprehensive Plan.

Per the Washington State Growth Management Act, the Zoning Code was sent to State agencies for review and comment. SEPA compliance was addressed through issuance of an addendum on May 15, 2009.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Olness to adopt Ordinance No. 09-909, repealing the existing Title 18 (except for Chapter 18.98) and replacing it with the new Title 18. Motion **passed** with all voting in favor (5-0).

#### **Ordinance No. 09-910, Adopting New Zoning Map**

Community Development Director Pilcher reported in 2006, the City hired a team of consultants to draft a new Zoning Code to replace the current Code. As part of that effort, a new zoning map was also developed, to reflect new zoning districts and to ensure consistency with the 2009 Comprehensive Plan Future Land Use Map.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 09-910, repealing the existing Zoning Map and replacing it with the new “City of Black Diamond Zoning Map”. Motion **passed** with all voting in favor (5-0).

#### **Ordinance No. 09-911, Adopting New Design Guidelines**

Community Development Director Pilcher reported the City first adopted Design Guidelines in November 2000. However, those did not apply to all areas of the city, did not provide guidance for the overall design of master planned developments, and were considered to be somewhat cumbersome to use. Therefore, the Council directed that an update be done and the firm of LMN Architects was hired to create new sets of guidelines addressing: 1) multifamily development, 2) the historic town center, 3) commercial development; and 4) business park/industrial development. Staff updated a May 2004 LMN-created set of guidelines for Master Planned Developments. Finally, per Council direction, the basics of the existing Historic Village Core Residential guidelines were also included, with a revised (and reduced) area of applicability.

He explained collectively, these guidelines are referenced in the new Zoning Code in Chapter 18.74; all new development will be required to comply with the guidelines applicable to the type of use and/or the geographic area in which it is located. The Council conducted a public hearing on the proposal in February 2009, but action was delayed by the need to complete (in order), the Comprehensive Plan and Zoning Code.

Mr. Pilcher also noted that after adoption, staff will work to combine the 6 guidelines into a single document.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Bowie to adopt Ordinance No. 09-911, repealing the existing “Black Diamond Historic Village Core Design Standards and Guidelines” and replacing them with the new “City of Black Diamond Design Guidelines”. Motion **passed** with all voting in favor (5-0).

#### **Ordinance No. 09-912, Replacing Title 16 of BDMC**

Community Development Director Pilcher explained this is the final element that helps wrap up all items adopted tonight. He explained Title 16 of the Municipal Code addresses the Comprehensive Plan and appears that the existing language adopted a pre-1996 version of the Plan in its entirety. Since that time, some minor modifications have been made, primarily to provide an opportunity to consider individual amendment requests in 2008.

He added with the adoption of an updated Comprehensive Plan, staff asked the Planning Commission to consider replacing Title 16 with new language that better reflects the planning process per the Growth Management Act and to also provide for an annual amendment process. The amendment process provides a mechanism for property owners to request individual amendments and also for individuals to suggest area- or city-wide policy issues for consideration (for which there would not be a fee). Items placed on this “docket” would not proceed forward for additional review unless the Planning Commission or Council decided they were worthwhile to consider.

The new Title 16 also clearly defines all elements of the Comprehensive Plan (including “stand-alone” documents such as the various utility plans), which is necessary to be able to cite these documents as a basis for exercising conditioning authority under SEPA regulations.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Olness to adopt Ordinance N. 09-912, repealing the existing Title 16 of the Black Diamond Municipal Code and replacing it with a new a new Title 16. Motion **passed** with all voting in favor (5-0).

### **Resolution No. 09-612, Authorizing Change Order #3 to SLEAD Contract and Accepting Project**

Public Works Director Boettcher explained this last change order is brought to council as it will bring the total change orders above the \$30,000 contingency. He noted that Change Order #1 was for design and connection detail changes for \$6,445.40 and Change Order #2 was for project delay, disposal of contaminated material and another connection detail change totaling \$23,554.60. Mr. Boettcher summarized the final Change Order #3 as follows:

- A. Reduced payment on traffic control, Control Density Fill not used, three 45 degree fittings not used and no sandstone encountered.
- B. Reduced tonnage on contaminated material disposal.
- C. Negotiated unauthorized disposal of contaminated material at the shop.
- D. There were unknown utilities that were encountered that had to be reconnected and repaired and slowed the progress of work.
- E. We required a thicker pavement patch at the Railroad Avenue and Baker Street Intersection because it will have to last through next winter.
- F. We negotiated a reduction in the patching because the patch did not meet our smoothness specification.

He added with the acceptance of the project as complete, the 30-day period for affidavit of wages paid and Department of Revenue paperwork can be initiated upon final payment.

Councilmember Bowie commented that the Public Works Committee would like to have the motion reflect all change orders being approved.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Hanson to adopt Resolution No. 09-612, accepting Change Order #3 and amending the total contract and Council authorization from \$200,890.42 to \$207,771.59, accepting the project as complete and accepting all previous change orders. Motion **passed** with all voting in favor (5-0).

## **DEPARTMENT REPORTS:**

### **Fire Department**

Chief Smith reviewed with Council the capital improvements that are being done at Fire Station 98 and the repairs at Station 99. He also encouraged folks to participate in the NOAA weather radio.

## **MAYOR'S REPORT:**

Mayor Botts unveiled the new City Flag that was designed using the City logo. He mentioned this was done as part of the 50<sup>th</sup> Birthday Celebration of the City of Black Diamond. He also acknowledged and thanked City staff, Council and YarrowBay for all their help getting the Comprehensive Plan adopted.

## **COUNCIL REPORTS:**

Councilmember Olness reported on the DARE graduation ceremony at the Black Diamond Elementary she attended.

Councilmember Boston stated the police department is very active in monitoring events associated with the 4<sup>th</sup> of July celebration at Lake Sawyer. He explained that this year the department has been asked to monitor another event – wakeboarding contest between the hours of 8-10 a.m. He asked Council if the City is comfortable funding overtime for this added event.

Councilmember Olness recused herself and left the chambers due to the fact she is on the Lake Sawyer Community Club Board.

Chief Kiblinger asked Council who will pay for the police officer - Does she charge the organizer or will the City pick up the tab? She also noted that for other special events that are not sponsored by the City the organizers pay all overtime costs.

Following discussion there was Council consensus to charge the organizer for the costs of overtime.

Councilmember Olness re-entered the meeting.

### **ATTORNEY REPORT:**

Attorney Combs reported there will be a five minute executive session on real estate acquisition.

### **PUBLIC COMMENTS: None**

### **CONSENT AGENDA:**

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

**Claim Checks** – June 18, 2009, No. 33586 through No. 33590, No. 33642 through No. 33651, No. 33652 through No. 33705 in the amount of \$229,937.38

**Payroll Checks** – May 30, 2009, No. 15912 through No. 16005 (voided checks 15981, 15983, 15985, 15988, 15989, 15995, 15996 through 15999) in the amount of \$305,021.69

**Minutes** – Council Meeting of June 4, 2009 and Workstudy Notes of May 28, 2009

### **EXECUTIVE SESSION:**

Mayor Botts recessed the regular meeting for an Executive Session at 9:09 p.m. to discuss real estate acquisition. No action was anticipated to follow the Executive Session, which was expected to five minutes.

The regular meeting was called back to order at 9:11 p.m.

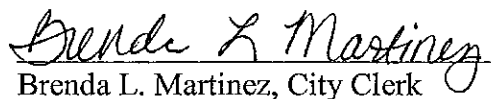
### **ADJOURNMENT:**

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

ATTEST:



Howard Botts, Mayor



Brenda L. Martinez, City Clerk