

BLACK DIAMOND CITY COUNCIL MINUTES

November 5, 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:

Staff present were: Leonard Smith, City Administrator; May Miller, Finance Director; Steve Pilcher, Community Development Director; Steve Munson, City Planner; Seth Boettcher, Public Works Director; Greg Smith, Fire Chief; Loren D. Combs, City Attorney and Brenda L. Martinez, City Clerk.

PUBLIC COMMENTS:

Ryan Kohlman, YarrowBay Holdings let Council know that on the morning of November 7 King County will be holding a salvage program on the proposed Villages property off Roberts Drive. He explained volunteers can come in and salvage plants and wanted to make sure everyone is aware of this event in case anyone is interested.

PUBLIC HEARINGS:

2009-2014 Capital Improvement Plan

Finance Director Miller reported tonight is the public hearing for the Capital Improvement Plan and no action will be taken. She added this is the first update to the plan that was adopted last year. She also noted this is not a budget document, but rather a planning document used to identify future capital projects and only those projects planned for 2010 will be included in the City's operating budget.

Councilmember Bowie entered the meeting.

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.

Special Events Permit Regarding YarrowBay Temporary Office Space

Community Development Director Pilcher reported on December 20, 2007 the City Council approved a Special Events Permit pursuant to Black Diamond Municipal Code 2.59 to allow YarrowBay Group to conduct an office use within a residence in order to facilitate preparation of the MPD application. The property (32214 Botts Drive) is intended to be part of a Master Planned Development. The original approval was granted for six months, at which time the Council was to revisit the permit.

On July 17, 2008 Council considered the request of YarrowBay to extend the approval, a report from staff, and the comments of two adjacent property owners. Partially based upon citizen comments, the permit was extended for a limited time period of three months. On November 6, 2008, the Council voted to extend the permit for one additional year.

Just as in 2008, the applicant is requesting a new special event permit for a period of two years. Staff has notified the two adjacent property owners and received comments from both. He noted that the Williamson's are okay with the two year period, however would like to see a process put in place for complaints as the current code does not address this and the Taylor's request has a few more comments to offer and are opposed to the two year period.

Councilmember Boston shared his concern about the Taylor's comment regarding the barn being rented out and does that apply to this Special Event Permit.

Councilmember Hanson stated she feels that if this was not a Special Events Permit then the resident would be allowed to rent the barn out and the traffic issue would still exist.

Mayor Botts opened the public hearing at 7:21 p.m.

Ryan Kohlman, YarrowBay Holdings addressed the comments received in the Taylor's email. He acknowledged there has been a problem with the tansy ragwort and have spoken to the Taylor's about keeping this under control. He is currently working with their landscape management company to come up with a more practical approach to address this in early spring. He also commented on the use of the barn and agrees with Councilmember Hanson's comment and added the special events permit is for the house only, not the barn. Currently the barn is being rented to house a couple horses. He mentioned he has contacted the renter regarding the traffic concern and asked them to be courteous. In closing he stated YarrowBay appreciates Council's consideration of the two year time frame.

Robin Taylor, Botts Drive, Black Diamond stated YarrowBay is a good neighbor. Her issue is she is concerned this is becoming an abuse of the special events permit and feels that using the property for multiple years in a non-conforming use is a real stretch for

being temporary and believes if there is a need to continue they should apply for a variance. She stated she opposes a multi-year permit and asked Council to consider if this is an abuse.

Mayor Botts closed the public hearing at 7:30 p.m.

Councilmember Mulvihill noted that at the time YarrowBay applied for the permit there was no office space available in the City, however at this time there is office space available and would like to see them check out other alternatives. She added one year is sufficient.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to approve Special Events Permit # 09-0008 for a period extending through November 7, 2010.

Councilmember Mulvihill expressed she would still like to see YarrowBay seek alternative office space.

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

UNFINISHED BUSINESS:

Ordinance Amending Subdivision Code

Community Development Director Pilcher explained this document was before Council a month ago and Council recommended changes and those changes are reflected in the current document. He noted an email was received from Ms. Cindy Wheeler regarding the removal of Section 17.15.020 A (8) and stating she is concerned as this clause provides protection from adverse financial impact upon the city and can find no other place in the Municipal Code where other language is being added to provide for this purpose.

Councilmember Hanson requested that Mr. Pilcher respond to Ms. Wheeler's email regarding financial impact.

Following Council discussion Administrator Smith recommended this item be referred back to committee to work on the issues and bring back to Council at a later date. There was Council consensus to refer this item back to committee.

NEW BUSINESS:

Resolution No. 09-647, Accepting Warehouse Roof Replacement Project as Complete

Public Works Director Boettcher reported the warehouse roof project went smoothly and the contractor did a good job. He added items 1-6 in the scope have been completed to the satisfaction of the City and the five-year guarantee has been supplied.

This formal action by Council starts the 45-day waiting period to where an outside vendor, supplier, or laborer would have an opportunity to file a claim against this project pursuant to RCW 60.28.011 (2). After 45 days the City can then release their retainage provided however, we received an affidavit of no liens, a release from Department of Revenue and lastly, a release from any claims from the Department of Labor and Industries.

A **motion** was made by Councilmember Bowie and **seconded** by Councilmember Boston to adopt Resolution No. 09-647, accepting the re-roof and insulation project of the City's metal storage building as complete by All Purpose Structures, Inc., according to the contract. Motion **passed** with all voting in favor (5-0).

Councilmember Bowie asked that this history of which department paid for the City's metal storage building be looked into.

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Botts encouraged everyone to attend the Veteran's Day Parade in Auburn and added the Enumclaw High School Band will be performing in the parade.

COUNCIL REPORTS:

Councilmember Hanson suggested the animal ordinance be revisited to complete the areas that need to be addressed and come back to the dog section at a later date.

Councilmember Boston reported he received an email from Mama Ginger asking him to thank the City Council for her sign that was just put up as it has been five years she has been without one. She also wanted to thank Andy Williamson for all his hard work and expressed he is doing a great job working with our city businesses.

ATTORNEY REPORT:

Attorney Combs reported the Miller case is over. It was a unanimous verdict and the case is closed.

PUBLIC COMMENTS: None

CONSENT AGENDA:

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

Claim Checks – November 5, 2009 No. 34750 through No. 34832 in the amount of \$190,737.59

Minutes – Council Meeting of October 15, 2009, Workstudy Notes of October 15, 2009, October 22, 2009 and Special Council Meeting of October 26, 2009

EXECUTIVE SESSION: None

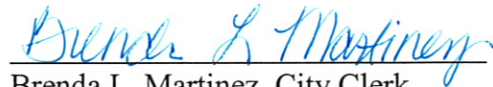
ADJOURNMENT:

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

ATTEST:



Howard Botts, Mayor



Brenda L. Martinez, City Clerk