

BLACK DIAMOND CITY COUNCIL MINUTES
January 21, 2010

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the regular meeting to order at 7:00 p.m. and lead us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Hanson, Goodwin, Boston, Saas and Mulvihill.

ABSENT: None

Staff present were: Andy Williamson, Economic Development Director; Seth Boettcher, Public Works Director; May Miller, Finance Director; Greg Smith, Fire Chief; Noel Treat, City Attorney and Brenda L. Martinez, City Clerk.

PUBLIC COMMENTS:

Cindy Proctor-Black Diamond stated that one item she would like noted is the agendas on the webpage need to show if they have been revised. She stated that the Environmental review was revised and citizens should have been notified as this was not on the first agenda on the website. Ms. Proctor also stated that she would hope when the City changes future codes it will be looked at holistically, and that the City can not expect citizens to be at every City Council meeting and requested that all packet material be posted by Tuesday. Ms. Proctor also spoke regarding a short course on local planning and felt that the citizens should have been notified on this since the City is a co-sponsor.

Councilmember Boston clarified that he was for lowering the appeal fee, but did want to make sure that folks knew where the excess money would be coming from.

Councilmember Saas asked for comment on how YarrowBay will be using this to their advantage.

City Attorney Treat clarified that Council can not comment on this tonight as it is quasi-judicial matter.

PRESENTATIONS: None

UNFINISHED BUSINESS:

Resolution No. 10-666, authorizing the Mayor to execute a contract with RH2 for Technical Review Services for the Master Planned Developments with an emphasis on water and sewer

Public Works Director Boettcher reported this will replace the review contract we previously had with PacWest. The additional assistance will be very valuable as we move forward with the MPD process. Mr. Boettcher noted that all items brought forth to Council this evening were reviewed by the City Attorney.

City Attorney Treat spoke in regards to the scope being clearer as to what is expected.

Councilmember Hanson stated that this item has been reviewed by the Public Works Committee and they are in support of adoption.

Councilmember Goodwin asked City Attorney Treat if the only step for conflict is court and is there some reason arbitration is not used.

City Attorney Treat responded that typically you do not see this in a government contract.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Hanson to adopt Resolution No. 10-666, authorizing the Mayor to execute a contract with RH2 for Technical Review Services for the Master Planned Developments with an emphasis on water and sewer.

Councilmember Boston questioned the terms and conditions and asked if the City is able to meet that schedule.

Public Works Director Boettcher replied yes, we will be very close.

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

NEW BUSINESS:

Resolution No. 10-667, awarding J.R. Hayes & Sons the bid for the Railroad Avenue Street Improvement Project

Public Works Director Boettcher reported he is pleased to be able to deliver this project to the City and the goal is to be done by Memorial Day. Bids came in very competitively lower than expected. Our timing is good and we should be able to move the project quickly. We have checked references on the Contractor and all have come back well. Mr. Boettcher noted that the Public Works Committee took a tour of some areas that they have done and have been very pleased. He also reported that he is looking at deferring the street light part of the project to give more time for staff to investigate. Mr. Boettcher explained the section of the Resolution regarding change orders to Council.

Councilmember Hanson stated that what it comes down to is the finishing and the stamping for the sidewalk. The tour showed areas the Contractor has done which are beautiful, plus we get to see a test area done first. She also stated that the City will be hiring a project manager to help with this project.

Public Works Director Boettcher stated the hiring of a project manager will be brought forth to Council at the February 4, 2010 Council meeting.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to adopt Resolution No. 10-667, authorizing the Mayor to sign a \$676,731.89 contract with J.R. Hayes & Sons for the Railroad Avenue Street Improvement Project and authorize an additional \$70,000 to cover potential change orders.

Councilmember Goodwin stated that Railroad Avenue is a valuable asset to local businesses and wondered how we arrived at the \$1,000 a day for liquidated damages.

Public Works Director Boettcher responded that this is higher than we have seen on other contracts and feels this is still a heavy fee to motivate a contractor.

Councilmember Goodwin encouraged staff to manage this so the contractor does not have to pay liquidated damages.

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

Resolution No. 10-668, authorizing Supplement No. 1 to the existing contract with Gray & Osborne, Inc. for right-of-way acquisition services

Public Works Director Boettcher reported the sidewalk project is funded by TIB and CDBG (both State and Federal funds). He explained the delay in the project is because of NEPA process which was being handled by King County and took four months longer than expected. After survey there were issues with right-of-ways. Because of the Federal funds involved and the complicated Federal procedural requirements, professional right-of-way acquisition services will be needed. The simplest way to accomplish this need is through a sub consultant as an additional scope item under our current contract with Gray & Osborne, Inc.

Councilmember Hanson noted the \$22,000 does not cover the cost of the right-of-way and asked how they determine the value.

Public Works Director Boettcher responded because it is under \$20,000 an appraisal is not needed, and it is called a good faith estimate. Mr. Boettcher also reported that two property owners have been alerted.

Councilmember Goodwin asked why it was necessary to hire someone for professional right-of-way acquisition services.

Public Works Director Boettcher stated that the Grant Administrator said he would look into this and was very reluctant to give us approval to do in house and still has not given approval. This is more to meet future audit requirements.

Councilmember Goodwin asked if the fee was included in the grant funds.

Public Works Director Boettcher noted that from his understanding, yes.

City Attorney Treat clarified that the process is very complicated, and you do need the expertise to get the reimbursement.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Saas to adopt Resolution No. 10-668, authorizing the Mayor to sign a \$25,600 contract supplement with Gray & Osborne, Inc. for the right-of-way acquisition services for the Morgan Street Sidewalk Phase II project. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Olness stated she has been Mayor for a little over two weeks now and it is a big responsibility. She also added she is enjoying it and thanked Council and staff for all their help.

COUNCIL REPORTS:

Councilmember Hanson reported on the beaver update and that relocating the beavers is not an option as it is too stressful on the animal. She also noted she is working with Natural Resources/Parks Director Nix in hopes that we can get a Nuisance Officer to come out, but it is costly.

Mayor Olness reported that the other issue is beaver dams are on private property.

Councilmember Goodwin commented on the Sales Tax revenue that was posted on the website, and clearly our businesses have been hard hit and they were down 23 percent the first part of the year and now are up over 2 percent from the prior year. Councilmember Goodwin felt this information is very helpful to see the trends and thanked Finance Director Miller for posting this on the website. He also stated that he and Councilmember Hanson have asked Mayor Olness and passed along to City Attorney Treat the YarrowBay Funding Agreement to make sure we understand what the implications are.

Councilmember Mulvihill asked for clarification on who will be paying for the beaver trapping and who will be investigating.

Councilmember Hanson stated that it would be the property owner's responsibility; we just wanted to make sure we had the correct information to give property owners when they asked how to take care of the beavers and dams on their property.

ATTORNEY REPORT:

City Attorney Treat thanked Council for selecting his firm and stated that the City has a great staff and it has been an exciting two weeks.

PUBLIC COMMENTS: None

CONSENT AGENDA:

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

The Consent Agenda was approved as follows:

1. **Claim Checks** – January 21, 2010 No. 35055 through No. 35128 in the amount of \$167,275.24
2. **Payroll Checks** – December 2009, No. 16732 through No. 16819 (voided checks 16733, 16734, 16745, 16768) in the amount of \$282,273.48
3. **Minutes** – Council Meeting of January 7, 2010

EXECUTIVE SESSION: None


ADJOURNMENT:

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

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk