

BLACK DIAMOND CITY COUNCIL MINUTES

June 3, 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 the Boy Scouts lead us all in the Flag Salute.

ROLL CALL:

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

ABSENT: None

Staff present were: May Miller, Finance Director; Steve Pilcher, Community Development Director; Seth Boettcher, Public Works Director; Andy Williamson, Economic Development Director; Jamey Kiblinger, Police Chief; Chris Bacha, City Attorney and Brenda L. Martinez, City Clerk

PUBLIC COMMENTS:

Yvonne Means, Black Diamond – brought forward a petition to create a no firework zone in Black Diamond.

Howard Botts, Black Diamond – commented on city government and city staff, stating he has worked with staff for years and they do not have hidden agendas and does not believe in conspiracy theories and stated how proud he is of staff.

Peter Rimbo, Maple Valley – requested that Council can answer questions regarding closed record hearing; need to have answered to the public on upcoming proceedings; time limits on public comments; public needs access to information and wonders who will give to them.

Robert Taeschner, Black Diamond – commented that he understands Council makes the laws and Chief Kiblinger enforces and discussed removal of trees by YarrowBay that were not permitted.

Lisa Garvich, Black Diamond – spoke in regards to YarrowBay removing trees and wonders if Council is going to enforce this law.

Jami Balint, Black Diamond – addressed issue of the tree removal, she stated this was not an intentional removal of trees and feels this needs a due process.

Mayor Olness asked Council to suspend rules on the order of the agenda.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Hanson to suspend the rules on the order of the Agenda to allow Senator Kaufman to present. Motion **passed** with all voting in favor (5-0).

PRESENTATIONS:

Legislative Update – Senator Claudia Kaufman discussed transportation; fostering business climate and creating jobs; promoting public safety and early learning; home rehabilitation and weatherization programs, state contracting; leeway on paperwork violations, small business B & O credit, discussed budget shortfalls and the creative financing that took place during the budget process and working with military veterans. She stated she was looking forward to working with Black Diamond again.

PUBLIC COMMENTS (continued):

Vicki Harp, Black Diamond – commented on YarrowBay tree removal and asked Council to take a look at this.

Cindy Proctor, Sun Mountain Drive, Enumclaw – discussed agenda items; commented on Mayor Botts' comments; RH2 contract and the NPDES lawsuit.

Erika Morgan, Black Diamond – commented on tree removal on YarrowBay property; discussed property line dispute with YarrowBay.

Judith Carrier, Green Valley Road – commented that she has had positive contact with City staff and commented on the Planning Commission looking into changing Land Use Code.

Councilmember Hanson left the meeting at 7:45 p.m.

Steve Garvich, Black Diamond – commented on 312th parking, question regarding summary statement.

Jack Sperry, Black Diamond – voiced his concern with the violation of the tree removal incident by YarrowBay.

Suzanne Harvey, Ravensdale – urged Council to listen to the Hearing Examiners recommendations.

City Attorney Bacha interrupted and stated that this was going into a quasi-judicial issue.

Sheila Hoefig, Black Diamond – asked if the Gauthier issue has been resolved; speaker system not working and the tree removal incident by YarrowBay.

Bob Edelman, Black Diamond – urged folks to visit Councilmember Goodwin’s blog; rumor heard that Council is considering removing the six year clause from the tree ordinance.

PUBLIC HEARINGS:

Six Year Transportation Improvement Program (TIP)

Public Works Director Boettcher reported the City is required to update its six year TIP per RCW and file the TIP with Washington State Department of Transportation. He stated that updates include some new projects that will add transportation capacity and expected grant funding; highlighted projects within the TIP and noted this program takes advantage of the quarter of 1% of Real Estate Excise Tax for local street improvements and to provide grant matching.

Mayor Olness opened the public hearing at 8:01 p.m.

Peter Rimbo, Maple Valley – stated his concern about regional access; rural area impacts, worried urban development sprawl by not having the developer pay for some projects; concerned developer is only on the hook for 44% of the development needs; highlighted the four projects he is concerned with - #2, #4, #6 and #9.

Cindy Proctor, Sun Mountain Drive, Enumclaw – stated that she understands this is a requirement and there is a reasonable test that needs to be done; City needs to contact every property owner that are effected by eminent domain; discussed 2040 vision plan of the PSRC as the money source is getting scarce and the TIB funds are being cut this year with other cuts coming in the following years; would like to see more descriptive narratives of the funding sources; discussed Hearing Examiners recommendations on traffic studies and cautioned to not make this plan so specific.

Mayor Olness closed the public hearing at 8:11 p.m.

Cabaret License at the Swinging Arm

Community Development Director Pilcher reported this is the first public hearing on a Cabaret License and this came forward from a citizen complaint. Staff notified the business that a Cabaret License needs to be applied for.

Mayor Olness opened the public hearing at 8:12 p.m.

Trish Alexander, Black Diamond – asked that Council refer back to the Black Diamond Municipal Code regarding audible noise requirement and stated when the music or loud bands are playing she can still hear all the sounds even with the doors and windows closed. Discussed issues with hearing folks ordering their coffee in the morning and wondered if the noise level has been measured at this business and stated that the building was made for industrial business. Urged Council again to look at the codes

before adopting and maybe having the tenant put in some acoustic tiles as she needs her sleep.

Richard Strowsky, Black Diamond – stated that he does not dispute what Ms. Alexander said, but would like to give an alternative input. He commented that he likes having some place local to go listen to music and dance, and frequents this business when they have music and hopes a compromise can be reached so the Swinging Arm can get their Cabaret License.

Mayor Olness closed the public hearing at 8:19 p.m.

2011-2016 Capital Improvement Plan (CIP)

Finance Director Miller reported this is the annual update of the Capital Improvement Plan which includes streets, water, wastewater, stormwater, parks, public safety and general government. This is only a plan and not a budget and is important to have these projects in the plan to be able to secure grant funding. She commented that the City started the process in March and held two Workstudy sessions on the plan. Almost 80% is in the Public Works section and the General Government section is approximately 20%, plan identifies potential funding sources for each project, such as grants, developer funding/SEPA mitigation and utility connection fees. Ms. Miller discussed changes that came out of the Public Works Workstudy and noted they are not changed on this document and will be before it comes back to Council.

Mayor Olness opened the public hearing at 8:23 p.m.

Robin Taylor, Black Diamond – commented on page 24 of the CIP, tree City USA and discussed having to form a department and board, wondered if this is part of City government and what the construction costs are.

Natural Resources/Parks Director Nix clarified this is to plant trees.

Ms. Taylor stated she was concerned as this looks as this is something we are already doing and why do we need to create a board that would cost more tax money as government programs never stop once they are started. She stated that if we are in it for recognition we are in it for the wrong thing and not to get on some national registry.

Robert Taeschner, Black Diamond – agreed that once something is started it grows and grows and would like to suggest to Council take a look at his deck where the trees have seeded and he would happily donate them.

Peter Rimbo, Maple Valley – complimented those who put the CIP document together as it is easy to navigate. Discussed the monies set aside for parks and is concerned with the funding mechanism (King County) and wondered where we will get it. Concerned of the transportation element of the plan and stated that the Hearing Examiner has stated a new intersection analysis should be done. Mr. Rimbo stated a new analysis would impact the six year plan.

Councilmember Hanson reentered the meeting at 8:30 p.m.

Mayor Olness closed the public hearing at 8:30 p.m.

UNFINISHED BUSINESS:

Resolution No. 10-687, authorizing the Mayor to execute a Professional Services Agreement with RH2 Engineering for Engineering Assistance regarding the Capital Facility Charge Analysis for water and sewer

Public Works Director Boettcher recapped that this Technical Assistance is related to the Master Planned Developments and the City needs to be three months ahead of Council in the process and to help so you have the best information to make good decisions. He stated that this is to help Council and help the Public Works with additional assistance.

Discussion took place regarding what services RH2 would provide and why the assistance is so important.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Saas to adopt Resolution No. 10-687, authorizing the Mayor to execute a Professional Services Agreement with RH2 Engineering for Engineering Assistance regarding the Capital Facility Charge Analysis for water and sewer. Motion **passed** with all voting in favor (5-0).

NEW BUSINESS:

Resolution No. 10-688, awarding 232nd Avenue SE Overlay Project to Western Asphalt, Inc. and authorizing the Mayor to execute the contract

Public Works Director Boettcher reported City staff solicited bids from contractors on our Small Works Roster that provide asphalt paving services. The City received five bids and is recommending the City award the bid to Western Asphalt, Inc. Mr. Boettcher suggested one amendment to the Builders Risk Insurance and would like to strike it as it does not make sense for this contract. Mr. Boettcher explained what Builders Risk Insurance is and the nature of the activity being asked for does not apply to this project.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Mulvihill to adopt Resolution No. 10-688, awarding 232nd Avenue SE Overlay Project to Western Asphalt, Inc. and authorizing the Mayor to execute the contract, but striking the Builders Risk section #4 on page 6. Motion **passed** with all voting in favor (5-0).

Ordinance No. 10-939, prohibiting parking on SE 312th Street

Natural Resources/ Parks Director Nix reported in his years of experience with municipal government, this was the most difficult project. He stated that before Council, is a recommendation from the Parks and Cemetery Committee to bring forward a No Parking

Ordinance. Mayor Olness asked staff to work on a plan to provide an alternative entrance in this area to the Park property. This ordinance will not go into effect until July 1, in an attempt to warn folks. The No Parking will pertain to both sides of the street.

Discussion took place regarding how staff came to this option and what was the best solution.

Mayor Olness reiterated that a team of staff are looking into the construction of the alternative parking area.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Boston to adopt Ordinance No. 10-939, prohibiting parking on SE 312th Street. Motion **passed** with all voting in favor (5-0).

Ordinance No. 10-940, regarding the control of animals within the City and amending Sections 6.08.010, 6.08.020, 6.08.030, 6.08.040, 6.08.050, 6.08.070, 6.08.080, 6.08.090, 6.08.120, 6.08.130, 6.08.160, 6.08.200, and 6.08.210, adding new sections 6.08.005, 6.08.025, 6.08.212, and 6.08.214, and repealing sections 6.08.060 and 6.08.110 of the Black Diamond Municipal Code

Community Development Director Pilcher reported this came up when updating the zoning code a few years ago and found that the current ordinance was out of date and did not address clearly small animals on resident properties. This was brought before Council almost two years ago. The Planning Commission looked at this last year and during their review added sections (cruelty to animals, and breed ban specifically pit bulls). This has been reviewed by the Planning and Community Services Committee and comes back before Council tonight without the breed ban section.

A **motion** was made by Councilmember Saas and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 10-940, regarding the control of animals within the City and amending Sections 6.08.010, 6.08.020, 6.08.030, 6.08.040, 6.08.050, 6.08.070, 6.08.080, 6.08.090, 6.08.120, 6.08.130, 6.08.160, 6.08.200, AND 6.08.210, adding new sections 6.08.005, 6.08.025, 6.08.212, and 6.08.214, and repealing sections 6.08.060 and 6.08.110 of the Black Diamond Municipal Code. Motion **passed** with all voting in favor (5-0).

Ordinance No. 10-941, regarding the division of land and amending Black Diamond Municipal Code sections 17.04.010, 17.04.020, 14.04.030, 17.08.010, 17.08.040, 17.12.010, 17.12.020, 17.12.030, 17.15.020, 17.15.030, 17.16.010, 17.16.020, 17.16.030, 17.20.010, 17.20.020, 17.20.030, 17.20.040, 17.20.050, 17.20.060, 17.20.070, 17.20.080, 17.32.010, 17.32.020, 17.32.030, 17.32.040, 17.32.050, 17.32.060, 17.32.070, 17.32.090, 17.32.100, 17.34.020(a), 17.34.060(a), 17.36.030, 17.36.040, 17.36.050, 17.36.060, 17.36.080, adding new sections 17.20.090 and 17.32.055, and repealing Chapter 17.14 and sections 17.32.110 and 17.36.070; providing for severability; and establishing an effective date

Community Development Director Pilcher reported this is an item that has been in the works for some time. Council conducted an initial review during the summer of 2009. A lot of this is housekeeping issues and cleaning up language. Mr. Pilcher recapped the major changes to the code:

- 1) Increasing the number of lots allowed within a short plat from 4 to 6,
- 2) Allowing for a “paper” short plat when only one additional lot is being created and
- 3) Eliminating the need for a fiscal analysis as part of the preliminary plat application.

He discussed having a provision in the Master Planned Development ordinance that does require a fiscal analysis to be completed on each additional phase.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Saas to adopt Ordinance No. 10-941, regarding the division of land and amending Black Diamond Municipal Code sections 17.04.010, 17.04.020, 14.04.030, 17.08.010, 17.08.040, 17.12.010, 17.12.020, 17.12.030, 17.15.020, 17.15.030, 17.16.010, 17.16.020, 17.16.030, 17.20.010, 17.20.020, 17.20.030, 17.20.040, 17.20.050, 17.20.060, 17.20.070, 17.20.080, 17.32.010, 17.32.020, 17.32.030, 17.32.040, 17.32.050, 17.32.060, 17.32.070, 17.32.090, 17.32.100, 17.34.020(a), 17.34.060(a), 17.36.030, 17.36.040, 17.36.050, 17.36.060, 17.36.080, adding new sections 17.20.090 and 17.32.055, and repealing Chapter 17.14 and sections 17.32.110 and 17.36.070; providing for severability; and establishing an effective date. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS: None

MAYOR’S REPORT:

Mayor Olness reported that despite the rain, there was a large turnout at the Memorial Day celebration.

COUNCIL REPORTS: None

ATTORNEY REPORT:

Attorney Bacha asked Council if they had any question regarding the email that was sent regarding a public hearing being required on all City ordinances adopted.

PUBLIC COMMENTS:

Jack Sperry, Black Diamond – commented that he was sorry to have waited on the opportunity as his comments affected things Council already voted on. Mr. Sperry commented on the Subdivision Code Amendments and the Capital Facility Charge Analysis.

Rich Strowsky, Black Diamond – commented that it was a paradise when he first moved out here, wonders what the motivation is to move quickly on development.

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 3, 2010, No. 35668 through No. 35712 (voided check 35683) in the amount of \$113,267.35

Minutes – Council Meeting and Workstudy Notes of May 20, 2010 and Workstudy Notes of May 27, 2010

EXECUTIVE SESSION: None

ADJOURNMENT:

A **motion** was made by Councilmember Mulvihill 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