

BLACK DIAMOND CITY COUNCIL MINUTES

March 4, 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, Saas and Mulvihill.

ABSENT: Councilmember Boston (excused)

Staff present were: Steve Pilcher, Community Development Director; Andrew Williamson, Economic Development Director; May Miller, Finance Director; Aaron Nix, Natural Resources/Parks Director; Seth Boettcher, Public Works Director; Greg Smith, Fire Chief; Noel Treat, City Attorney and Rachel Pitzel, Deputy City Clerk.

PUBLIC COMMENTS:

Bob Rothschilds, Black Diamond – stated that Black Diamond faces great challenges in the next 25 years, and noted that he had been doing some investigating over the last 18 years on water quality. He stated that it was obvious that our regulations are not adequate in the Black Diamond Municipal Code and that changes are needed. He asked what the proper procedure was to get those changes made.

Mayor Olness responded that his issues will be brought forward to the Public Works Committee who will then bring it forward to the Planning Commission.

Steve Garvich, Black Diamond – reported that he would like to know the process for request of getting his road looked at for modification. He stated that his road, 232nd is disintegrating, there are potholes that have been repaired several times; has narrow edges breaking away and it is a safety hazard. He wanted to know the process to take to get it repaved.

Public Works Director Boettcher stated that some money has been budgeted for 232nd and it is on the six-year Transportation Improvement Plan as a project to be done.

Stephanie Greenside, Maple Valley – Ms. Black Diamond-Labor Days reported that the Labor Day Committee will begin meetings at the Black Diamond Bakery starting March 10 at 7 p.m. The committee is looking for interested members to join and be a part of

Labor Days 2010. Ms. Greenside also wanted to thank the Mayor for appointing Andy Williamson, Economic Development Director for being the city liaison for Labor Days.

Joe May and Cindy Proctor, Black Diamond – stated that they were here tonight to discuss an ordinance for school impact fees; it's something that has come up over the course of the last year and half, but became more relevant when the City had a public meeting back in October 26, 2009 regarding the tri-party agreement. In that community forum it became apparent in talking with the school district, that the City Council did not pass a school impact fee. Ms. Proctor stated that she and Mr. May met with Enumclaw School District Superintendent Mike Nelson to ask about how this was working with the City and why there was not an impact fee. She stated that the school told her they asked three times to pass impact fees, once in 2008, early 2009 and August 2009. The message Ms. Proctor and Mr. May received was that the City was not receptive to passing any impact fees. In talking with the school district, the school district felt they didn't have one of the tools in their toolbox for the tri-party agreement, in essence they had no leverage. Ms. Proctor stated that she did correspond with Mayor Olness regarding this and there were some questions about focus groups and some discussions about growth management and how they could maximize impact fees between parks and schools and general impact fees and the focus groups were still ongoing. She stated that the concern they still have is that the focus groups started in 2008 and it is 2010 and the City still does not have an impact fee. Ms. Proctor stated that she is not saying it is an easy task to handle, but is wondering why the City is not working with the school district to pass an impact fee ordinance.

Mr. May stated that with the long term growth coming to Black Diamond and the possibility of the Black Diamond school going to be very hard hit, he strongly encourages the Council to pass some sort of impact fee ordinance.

Cindy Wheeler, Black Diamond –stated that she wanted to address Council on Resolution No. 10-677, which says the City wants to disapprove recent amendments to the King County countywide planning polices. She stated that first it was disturbing to her that the material was not on the website or emailed until Monday for review, which is a substantially short time period. She stated that one of her major concerns is the disconnect between Council and citizens, people can only attend and react and give feedback on information that they have when citizens are short on providing information in a timely fashion and then Council can't do as good enough job representing citizens.

Ms. Wheeler stated that in addition to reading through the resolution, there is not a required response from the City in the form of a vote until May 15, so it seems premature to be doing this March 4 when Council has another 8 weeks to get this response back. She stated that a lot will change in those 8 weeks; Council will be coming out of the quasi-judicial state and will be able to hear the feedback from citizens on how they feel about these proposed planning changes. Ms. Wheeler stated that Council hadn't talked to the citizens to get their feedback on whether or not they disapproved and felt that Council should listen to the people who elected them to represent them before Council votes that they disapprove.

PRESENTATIONS: None
UNFINISHED BUSINESS: None

NEW BUSINESS:

Ordinance No. 10-936, relating to funding police, fire and emergency services with regular property taxes providing for the submission to the qualified electors of the City as a Special Election to be held April 27, 2010, of a proposition authorizing the city to levy regular property taxes in excess of the limitations of Ch. 84.55 RCW; setting forth the text of the ballot proposition; requesting a local voters; pamphlet; directing proper city officials to take necessary actions; and declaring this ordinance a public emergency and thus effective immediately; and providing for other properly related matters

Finance Director Miller reported that voters approved a six-year property levy in 2004 to fund public safety including Fire, Police and Emergency Services. This 2004-2010 levy expires in December 2010 and will result in a loss of revenue for public safety of approximately \$417,000 a year beginning in 2011 and each year thereafter, unless a replacement levy is approved by voters. This ordinance proposes taking a Property Tax Lid Lift for Public Safety of the citizens of Black Diamond for a vote April 27, 2010. Ms. Miller noted that on the agenda bill the cost impact should read \$11,000. She also stated that based on how many cities are in the pamphlet the cost will be split between cities, with an estimate from King County of \$1,200 to publish the pamphlet.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Goodwin to adopt Ordinance No. 10-936, relating to funding police, fire and emergency services with regular property taxes providing for the submission to the qualified electors of the City as a Special Election to be held April 27, 2010, of a proposition authorizing the city to levy regular property taxes in excess of the limitations of Ch. 84.55 RCW; setting forth the text of the ballot proposition; requesting a local voters pamphlet; directing proper city officials to take necessary actions; and declaring this ordinance a public emergency and thus effective immediately; and providing for other properly related matters.

Councilmember Goodwin explained how important the Public Safety Levy is and expressed his full support.

Roll call vote - motion **passed** with all voting in favor (4-0).

Resolution No. 10-675, authorizing Amendment No. 1 to RH2 Technical Services contract to include work necessary to re-conceptualize and prepare a pre-design report for a Wastewater Storage Alternative

Public Works Director Boettcher reported that this contract is to address the Sewer Storage Facility that King Council will be building in our City. The current spot is West

of Old Black Diamond and Ginder Creek wetland and the City's preferred location is more in the gravel type areas. Technical backup from RH2 is needed.

Councilmember Goodwin stated that this is something he knows a little about and encourages the Public Works Department to keep looking to build the storage alternative in the industrial area as they have sited.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Saas to adopt Resolution No. 10-675, authorizing Amendment No. 1 to the RH2 contract for technical review services of the wastewater storage alternative. Motion **passed** with all voting in favor (4-0).

Resolution No. 10-676, authorizing award bid additive alternate A-2 for street lights on the Railroad Avenue Street Improvement Project for \$26,000 and \$5,651 for the LED upgrade

Public Works Director Boettcher reported that Council had requested investigation for LED fixtures for the street lights on Railroad Avenue. Signal Electric found that they do have a LED fixture, so the City does not have to change the aesthetic or fixture that was planned for that project. LED lights are higher in cost, which is \$942 per light.

Mayor Olness noted that the project was well under budget and grant funded.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Mulvihill to adopt Resolution No. 10-676, authorizing award bid additive alternate A-2 for street lights on the Railroad Avenue Street Improvement Project for \$26,000 and \$5,651 for the LED upgrade not to exceed \$31,651.18. Motion **passed** with all voting in favor (4-0).

Resolution No. 10-677, disapproving recent amendments to the King County countywide Planning Policies relating to housing and employment growth targets

Community Development Director Pilcher reported that the City didn't have a great deal of impact in the process that occurs on periodic basis for growth allocation that populates growth for certain jurisdictions. He stated that in May it was brought to the City's attention that the projection was a little less than what we wanted to see, Master Planned Development applications came in that would triple those numbers.

Councilmember Mulvihill stated that King County still doesn't understand that we are building out here and it is disingenuous.

Councilmember Hanson reported that she talked to Paul Reitenbach that afternoon who is the head of the department and he stated that it was just how they came up the number. 1,900 is a floor plan for that minimum amount, if the City goes over that it is the City's decision. Councilmember Hanson stated that yes, we could hold off on this, or we can disapprove and move forward, when the time comes to actually balance the numbers and make sure the City and the public are fully involved.

Councilmember Goodwin stated that to him it was a distraction and a process is underway, let the process occur. He stated that we have until Friday, May 14 in order to respond and it appears from the impact that there is not impact on whether we approve or disapprove, it is an exercise that the City is going through and he would encourage that we have enough time if we need to address this in May. He asked why we need to send a message if it is irrelevant. He would like to keep us focused on the process that we have underway right now.

Councilmember Mulvihill stated that she is tired of King County not taking Black Diamond's planning and vision seriously and that they need to treat us with respect accordingly.

Community Development Director Pilcher responded by saying that by the size of Black Diamond we are not going to be able to derail the numbers, the numbers are what they are, there is no reason to hold off since there really wouldn't be anything to do later that can't be done now. The reason staff is bringing this forward now is because there seems to be some negative aspect to not saying "hey, we think this is incorrect".

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Saas to postpone action on this item until the first Thursday in May.

Councilmember Mulvihill stated that she disagrees and felt that a message needs to be sent to King County.

Vote: Motion **tied** (2-2 Mulvihill and Hanson).

Motion **failed** with the Mayor exercising her right to vote in a tie vote, voting nay (2-3 Mulvihill, Hanson and Mayor Olness).

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Hanson to adopt Resolution No. 10-677, disapproving recent amendments to the King County countywide Planning Policies relating to housing and employment growth targets.

Vote: Motion **tied** (2-2 Goodwin and Saas).

Motion **passed** with the Mayor exercising her right to vote in a tie vote, voting in favor (3-2 Goodwin and Saas).

Resolution No. 10-678, authorizing the Mayor to execute a Professional Services agreement with Christine Mill Architect to provide as-built drawings and development of plans for the new police station restroom

Economic Development Director Williamson reported that this is the first part of the Capital Improvement Plan to remodel the police station restroom. Christine Mills has

done work for the City in the past and this is a requirement with the RCW and WAC to bring current building to current drawings.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Mulvihill to adopt Resolution No. 10-678, authorizing the Mayor to execute a Professional Services agreement with Christine Mill Architect to provide as-built drawings and development of plans for the new police station restroom. Motion **passed** with all voting in favor (4-0).

DEPARTMENT REPORTS:

Economic Development Director Williamson handed out to Council a Special Events Permit application from XTERRA-Black Diamond requesting a multi-day, off-road triathlon event which they have held in Black Diamond since 2007.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Mulvihill to accept the Special Events Permit to allow XTERRA Black Diamond to conduct an Off-Road Triathlon in the City of Black Diamond. Motion **passed** with all voting in favor (4-0).

Natural Parks Director Nix reported that the use of Phosphorous-based fertilizers has been linked to the reduction of water quality within water bodies' through-out the country and the state of Washington. He noted that there will be a Public Hearing at the March 18 Council meeting discussing an ordinance that will take steps in limiting the use of Phosphorous-based fertilizers on turf in Black Diamond and will promote education in alleviating the impacts associated with their use.

MAYOR'S REPORT:

Mayor Olness reported that the February 26 Exit Audit with the State Auditor-2007 through 2009 was a clean audit and wanted to thank Finance Director Miller and her staff for a job well done.

Mayor Olness discussed the Miners Day event and authorized Economic Development Director Williamson to serve on the committee and state that she would like to see this as a City sponsored event.

Economic Development Director Williamson noted that meetings are held in the PW Conference room and the next one is slated for March 17 at 6:30 p.m. and encouraged citizens to join.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Saas to allow Black Diamond Miners Day be a city sponsored event. Motion **passed** with all voting in favor (4-0).

Mayor Olness reminded everyone of the upcoming hearings being held for the FEISs and the MPDs.

COUNCIL REPORTS: None
ATTORNEY REPORT: None

CONSENT AGENDA:

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Hanson to adopt the Consent Agenda. Motion **passed** (4-0).

The Consent Agenda was approved as follows:

Claim Checks – March 4, 2010 No.35252 through No.35301 in the amount of \$50,685.68

Minutes – Workstudy Notes of February 18, 2010 and Council Meeting of February 18, 2010

EXECUTIVE SESSION: None

PUBLIC COMMENTS:

Lisa Garvich, Black Diamond- expressed concern over the quick passing of the Public Safety ordinance and stated that because of the lack of information, most likely people will vote no. Ms. Garvich felt that it was not given the attention it deserves in the City Connection, information sheet provided facts, but it was rushed. She stated that the City could be saving money by not pushing it to be a Special Election, but to wait and get information out to people and place it on the regular ballot in November.

Cindy Proctor, Black Diamond- regarding the resolution to disapprove the recent amendments to King county countywide planning policies relating to housing and employment growth targets, she stated that she thought there was some confusion on interactions with staff on what the citizens concerns were. She stated it wasn't the passing of that, that wasn't their concern, the City is going to grow everyone knows that, they know that Master Planned Development is coming, no one is trying to stop that, they are trying to manage it. Ms. Proctor stated that what is so disillusioning and disheartening to her is that we have a public process and Mr. Goodwin spoke to that, we have a public hearing next week where the public gets to tell you whether they want to grow that big, and Council circumvented that process. She feels like there is no point in going to the public hearing and felt villianized by coming forward to Council by trying to make her community better. She stated that she has had to get an attorney to tell Council that they are denying her first amendment rights. Ms. Proctor doesn't want to stick it in the eye to the county; she wants the county to help make it the best transportation, transit system to help serve us. Ms. Proctor felt that Council missed the point of an opportunity that Council had to say we're going to let the public have their say and then we are going to vote on this. The vote would have been the same, you have to deny it, we are going to

grow and you took that opportunity away to make the public feel that next week's public hearing mattered, it's like you decided already and it's supposed to be quasi-judicial, but when you sit up there and make statements like "we're going to grow and this is how big we are going to be" that is not maybe what the citizens want let us tell you that next week at our hearings.

Councilmember Mulvihill thanked Ms. Proctor and stated that for the last two years she has been on Council that is all they have worked on, she stated that she did not know what Ms. Proctor's concerns were concerning the FEISs and MPDs as it is quasi-judicial and doesn't know what has been presented, but if they don't match the guidelines, we are going to hear you and we're going to understand you and that is what the process is all about. Councilmember Mulvihill stated that what she is tired of is King County turning around and treating the city like we are just this little mountain city we are not we are a town and we deserve to be treated with respect. They keep making promises and they need to follow through with them. Councilmember Mulvihill stated that she feels it's time to stand up to King County.

Vicki Harp, Black Diamond- stated that she is in agreement with Cindy Proctor, and finds it ironic that the City has brought this forward two days before the hearings.

Cindy Wheeler, Black Diamond- stated that she also supports Ms. Harp and Ms. Proctor and thanked Councilmembers Saas and Goodwin for at least attempting to acknowledge that this Council exists to be council people at large for the citizens. If you don't ask us what we think, you can't possibly represent us, that is what your job is as legislators. She stated that there is a huge amount of frustration because of the quasi-judicial process, it's been poorly understood by all, it's been poorly communicated by all, a great deal of that responsibility for that bad communication lies within your city. Ms. Wheeler stated that she feels frustrated that a huge part of it is improving the communication and stated that the Mayor's first City Connection article said her major goal is improving communication in this City. She stated that clearly the communication is lacking when the City assumes everyone received notices of the hearings, and as it turns out that was not true, and stated that the City may be tired of getting kicked around by the county, she was tired of getting kicked around by her City.

Mayor Olness responded that tonight is the first time she has heard that not everyone received the hearing notices and she will look into that.

Community Development Director Pilcher stated that he would like to clarify the notices, that there were around 1,800 notices that were mailed out; the city's procedures require that they are mailed to those within 500 feet of the exterior boundary of the property. There is no requirement of the city code that it be mailed to every single property owner within the city limit of Black Diamond. It was posted on our website over a month ago, posted on the notice boards, 1,800 notices were sent out as well as printed in three different newspapers.

Councilmember Hanson stated that she would like to address the resolution to disapprove the recent amendments to King County. She stated that she had been on the phone with

King County for four days and the staff that came up with these numbers; bottom line is it is 1,900; that is what is going to go on the books, Whatever the City of Black Diamond and its residents decide after that is up to us. There is a process and citizens will still come and tell us how many and what they think. She is still confused as why it is an issue to disapprove this resolution now.

Cindy Proctor, Black Diamond- stated it was because she felt YarrowBay will have it on their FEISs on Saturday, and requested the minutes to the council meeting being drafted as soon as possible. She stated that council didn't understand that they could have tabled it for two weeks to let everyone get through the public process first. Citizens don't care if Council declines it, they just don't understand the urgency in doing so before the hearings, especially since they have 8 weeks to respond.

Community Development Director Pilcher stated that he wanted to point out that the Comprehensive Plan projects over 6,000 units which were adopted last year and that did go through a public process, people had the opportunity to comment at that time.

Sheila Hoefig, Black Diamond- one of the things that she wanted to discuss was the disapproval Council voted on. She stated that she had spoke with a couple of the Councilmembers this week and asked questions about the resolution; she stated that after those conversations, she read the newspaper and noticed that nowhere did it say that 1,900 was a minimum that it read it was a target. She stated that she believes there are ramifications to what the Council is doing and believes that when the County was looking at this they were taking into consideration Black Diamond. To vote on this today was premature. She stated that she didn't understand the process on why we wouldn't have the right to tell Council what citizens are interested in if Council is voting on the citizens' behalf. She stated that one of the things that she wanted to refer to was the FW-12(a) and the FW-12(b) where it states within the pattern of growth the guidelines that they used to develop this, and it is stating that they have taken into consideration a lot of different things. She stated that Black Diamond needed to look at this not as just Black Diamond, but as us as a bigger picture and felt that was what King County was trying to do as a larger picture, and wonders if Council has done that in a week's time, and in her opinion felt the city was a little too hasty in their decision.

Councilmember Mulvihill replied that both she and Councilmember Hanson received an email from county that verified that the number was a minimum, not a target.

Councilmember Hanson also stated that she received that email and asked if there were ramifications for disapproving those numbers and she was told no.

Sheila Hoefig, Black Diamond- replied that it seemed that King County was looking at a more bigger picture that the city is and the number couldn't have been just drawn out of a hat, and if the city did send in information, wouldn't that have been considered in the process of figuring out the numbers? She stated that what she is saying is that King County may have had more knowledge then the city on a larger scale.

Councilmember Hanson stated that she did talk to a county official who said that he felt that this process of appointing houses to cities was the biggest waste of taxpayer's money because it never pans out; they are always giving it to the larger cities giving them more money for transportation and roads.

Sheila Hoefig, Black Diamond- replied that was fine, but stated that King County is looking at the bigger picture of where we are and what is out here. She stated that if she were looking at how large of growth we are looking at she has huge concerns about infrastructure in particular, what part of that does the county play in it in regards to infrastructure, will we be able to get out and in of Black Diamond on Highway 169? She stated that she believes that the county is looking at a bigger picture than what Black Diamond is and we need to consider that they have some skills that we may not have here on staff because we are so small.

Nanette Stocks, Black Diamond- stated that she is new to the process and hasn't been to a Council meeting before, but knew that if Council is having a public hearing on an issue that they shouldn't vote on that issue until the public has had a chance to speak and to do so is irresponsible and pisses her off and makes her want to come to every council meeting and to go home and tell all her neighbors that you guys voted on something before we had a chance to speak on it. That is wrong and it sounds to her that Council didn't know all the ramifications, which it sounds like the citizens were fine with the no vote, but you didn't even allow any of us the opportunity to speak on it first, which is wrong and she would like to move that Council reconsiders their vote.

Mayor Olness stated that she would like to say that this is a very emotional time for everyone and a lot of us have passion for what we believe in and she knows that some of the citizens don't agree that Council has been listening to the citizens. We have been listening. We have tried to provide you with as many public forums as we can. Council will receive all of the information provided from the hearings.

City Attorney Treat wanted to add that there has been suggestions made in the testimonies that Council's vote tonight was a vote on the MPDs and that is not the case, it was a vote on the growth targets that are inconsistent with the Comprehensive Plan and Council will evaluate in the quasi-judicial proceedings the applications, but issue isn't those MPD applications it the growth targets it is a separate issue.

Mayor Olness responded that was correct. It was the inconsistencies in the numbers and Council wanted to let King County know that.

Nanette Stocks, Black Diamond- stated certain citizens at the meeting have worked really hard to do a good job for our city, there are not many of us who do participate, but they are patulous and believe me, Council should pay a little bit more attention to what they have to say because they have worked at this very hard.

Mayor Olness responded that she appreciates that as everyone has worked hard.

Sheila Hoefig, Black Diamond- stated that she was told by Council that Council did not have to hear citizens as far as this particular issue goes. Is that correct?

Mayor Olness responded that this particular issue did not require a public hearing, since it was a resolution , not an ordinance.

City Attorney Treat briefly explained the practice of public comments, ordinances and resolutions regarding certain public hearings.

Lisa Garvich, Black Diamond- the Public Safety Levy could have been a public hearing it would have been a great opportunity to have people come and discuss how great the fire, police and emergency services are.

Councilmember Hanson stated that there was a special workstudy regarding the levy that was notice and there is a pro committee on this levy.

Lisa Garvich, Black Diamond- great, but they have less than 60 days to get the word out and to get out this levy now and the reality is that is going to cost the City a huge amount of money.

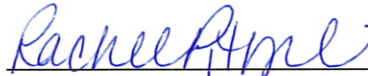
ADJOURNMENT:

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Hanson to adjourn the meeting. Motion **passed** with all voting in favor (4-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk