

BLACK DIAMOND CITY COUNCIL MINUTES
September 6, 2012
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 Deady, Goodwin, May, Benson and Taylor.

ABSENT: None

Staff present were: Steve Pilcher, Executive Director of Community Development, Andrew Williamson, Executive Director of Economic Development and Engineering Services, Mayene Miller, Finance Director; Aaron Nix, Natural Resources/Parks Director; Greg Smith, Fire Chief; Jamey Kiblinger, Police Chief; Chris Bacha, City Attorney and Brenda L. Martinez, Assistant City Administrator/City Clerk.

Mayor Olness asked for a motion to put Presentations first on the agenda and also to place the Executive Session prior to New Business on the agenda.

A **motion** was made by Councilmember May and **seconded** by Councilmember Deady to have the Presentations first on the agenda and place the Executive Session on the agenda prior to New Business. Motion **passed** with all voting in favor (5-0).

PRESENTATIONS:

Proclamation – National Recovery Month – Mayor Olness read the following proclamation into the record:

PROCLAMATION

WHEREAS, behavioral health is an essential part of health and one’s overall wellness;
and

WHEREAS, prevention of mental and/or substance use disorders works, treatment is effective, and people recover in our area and around the Nation; and

WHEREAS, the benefits of preventing and overcoming mental and/or substance use disorders are significant and valuable to individuals, families, and the community at large; and

WHEREAS, people in recovery achieve healthy lifestyles, both physically and emotionally, and contribute in positive ways to their communities; and

WHEREAS, we must encourage relatives and friends of people with mental and/or substance use disorders to implement preventive measures, recognize the signs of a problem and guide those in need to appropriate treatment and recovery support services; and

WHEREAS, in 2010, 2.6 million people received specialty treatment for a substance use disorder and more than 31.3 million adults aged 18 or older received services for mental health problems, according to the 2010 National Survey on Drug Use and Health. Given the serious nature of this public health problem, we must continue to reach the millions more who need help; and

WHEREAS, to help more people achieve long-term recovery, and learn how recovery positively benefits the Nation’s overall well-being, the U.S. Department of Health and Human Services (HHS), the Substance Abuse and Mental Health Services Administration (SAMHSA), the White House Office of National Drug Control Policy (ONDCP), and local human service agencies invite all residents of Black Diamond, Washington to participate in *National Recovery Month: Prevention Works, Treatment is Effective, People Recover (Recovery Month)*;

NOW, THEREFORE, I, Rebecca Olness, Mayor of the City of Black Diamond, on behalf of the Black Diamond City Council, call upon Black Diamond residents to observe the month of September with appropriate programs, activities, and ceremonies supporting this year’s these, “**Join the Voices for Recovery; It’s Worth It**” and do hereby proclaim in the City of Black Diamond, the month of September 2012 as a month to recognize

NATIONAL RECOVERY MONTH

Rebecca Olness, Mayor

Presentation – Renegade Investigators of the Paranormal – Harold Stratton of Renegade Investigators of the Paranormal asked Council for their permission to do a paranormal investigation in the cemetery. They would like to return to Council following their visit to present any findings related to their paranormal investigation. The usual investigation takes about 3 hours and is not an overnight event. They would notify the police department prior to the investigation. The investigation will take place on a weekend.

There was Council consensus for them to hold a paranormal investigation in the cemetery as long as the police are notified in advance.

PUBLIC COMMENTS:

Karen Watling, Black Diamond – corrected a misunderstanding regarding the K-9 fundraiser that Save Black Diamond is hosting at the Eagles, she noted this is not a political event.

Mario Sorci, Black Diamond – commented on Council's July 31st action regarding changing the form of government ballot issue. Would like to hear policy statement on Fire Station; how will Police be funded; City staff and property rights (regarding Development Rights).

Robert Taeschner, Black Diamond – commented on two things: 1) abuse of power of the Mayor regarding the K-9 unit and, 2) budget time regarding the Eagles in our area and preserving their habitat.

Jack Sperry, Black Diamond – stated that assuming Council passes the Shoreline Master Program, thanked Aaron Nix and the Consultant for all the hard work on the plan, and encouraged Mr. Nix to work hard on representing the City with the Department of Ecology on our plan.

Doug Ostgard, Black Diamond – commented on electronic documents memorandum and folks using a portable scanner to scan these documents and it taking a lot of time. Highlighted areas of the memorandum and gave his opinion.

Jim Flynn, Maple Valley – commented on item #4 on the agenda regarding vesting period. He noted being a developer whose vesting period is about to expire and is here tonight to answer any questions about this or the project.

Kristine Hanson, Black Diamond – stated she wanted to back up Mr. Sorci's comments tonight; discussed the split of residents between those who want to change the form of government and those who don't; misconception with the Eagles and the K-9 unit.

Colin Lund, YarrowBay – commented on Mr. Taeschner's earlier comments regarding Eagles and the information the city has on file with this issue; commented on item #5 before Council tonight and the Planning Commission's recommendation.

Bill Roth, Black Diamond – commented on item #5 on the agenda and hopes the Council follows the Planning Commission's recommendation.

Erika Morgan, Black Diamond – commented on email she sent out to Council this afternoon regarding issues on the agenda tonight; commented on Proposition 1 issue.

Robbin Taylor, Black Diamond – commented on the liaison from the Planning Commission to the council and where is that person; Mike Tierney's comments at the Planning Commission meeting; YarrowBay advocating for the Council to stay out of Administrative Appeals.

Bob Edelman, Black Diamond – commented on Mr. Tierney’s comments at the joint Planning Commission meeting; comments on quasi-judicial issues.

PUBLIC HEARINGS:

Fire Impact Fees

City Attorney Bacha reported Council has already looked at the ordinance that is before them tonight. Tonight is to hear the public testimony; discussed the currently adopted code and the updates the code revision will entail.

Mayor Olness opened the public hearing at 7:45 p.m.

Kristine Hanson, Black Diamond – stated she would like to see Council let the public know what this means to the public regarding remodeling and adequate fire flow and feels this needs to be clearer to the public.

Robert Taeschner, Black Diamond – asked the following question: would a fire protection fee be required to folks who have had to already put in a sprinkler system?

Mayor Olness responded this change is for new construction and major remodels.

City Attorney Bacha clarified further the legislature provided that municipalities were required to provide a credit to property owners who installed the sprinklers in their homes that were also required to pay fire impact fees, there is not a requirement to install sprinklers that is not what this code does, it recognizes that if you go through the expense of installing them and you are obligated at that time to pay fire impact fees you qualify for a credit for the portion of the fire impact fee that is attributable to emergency services. You are still obligated to pay for emergency medical response. Not a requirement to install sprinkler systems in new construction.

Mayor Olness closed the public hearing at 7:50 p.m.

Mayor Olness asked Council for direction when to proceed with this draft to bring forward to Council for action.

Councilmember Taylor commented Public Safety Committee would like to see this move expeditiously forward.

Councilmember Goodwin encouraged to have this put on the next regular agenda for approval.

EXECUTIVE SESSION:

Mayor Olness announced an Executive Session at 7:51 p.m. to discuss with legal counsel

litigation pursuant to RCW 42.30.110(1)(i) which was expected to last approximately 30 minutes.

A 10 minute extension was called to the executive session.

The regular meeting was called back to order at 8:32 p.m.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Ordinance No. 12-977, approving the pass through King County sewer rate increase effective January 1, 2013

Finance Director Miller reported this ordinance is to approve a pass through King County sewer rate increase. A public hearing was held on August 16, 2012. She added this will be an increase of \$3.69 per month per ERU and will be effective January 1, 2013.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Goodwin to adopt Ordinance No. 12-977, approving the pass through King County sewer rate increase effective January 1, 2013. Motion **passed** with all voting in favor (5-0).

Resolution No. 12-829, approving the City of Black Diamond's preliminary Shoreline Master Program and advising the Mayor to forward these materials on to the Department of Ecology in accordance with Phase 5, deliverables of the contract entered into with the Department under contract #G1000014, dated July 31, 2009

Councilmember Deady thanked Mr. Nix for all his hard work on this.

Natural Resources/Parks Director Nix noted this was a very good project to have the public engaged in and was a collaborative effort.

Councilmember Taylor echoed those comments and encouraged Mr. Nix to negotiate hard with the Department of Ecology.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Deady to adopt Resolution No. 12-829, approving the City of Black Diamond's preliminary Shoreline Master Program and advising the Mayor to forward these materials on to the Department of Ecology in accordance with Phase 5, deliverables of the contract entered into with the Department under contract #G1000014, dated July 31, 2009.

Councilmember May asked about the timeline regarding submission to the Department of Ecology.

Natural Resources/Parks Director Nix noted historically from other jurisdictions that Department of Ecology will take as long as needed, it could be as soon as two months or

as late as eight plus months. He noted the timelines associated with the plan after receiving comments for the Department of Ecology, after the negotiations with Ecology staff will bring back an ordinance for approval.

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

Mayor Olness thanked all involved in the Plan.

Ordinance No. 12-978, amending Black Diamond Municipal Code 18.14 regarding the vesting period for previously approved project permits

Executive Director of Community Development Pilcher reported before Council tonight is originally a request from Black Diamond Plaza, LLC as they have a vested project permit application that would expire on October 1, 2012. The requested amendments to the code to extend the expiration date until April 1, 2012. The Planning Commission conducted a public hearing on the matter and recommends the Council to amend the code to allow an extension until April 1, 2015.

Councilmembers Goodwin and May are concerned with the special benefit perception and asked Mr. Pilcher to give some understanding of how this has worked in other jurisdictions.

Executive Director of Community Development Pilcher gave the example of the South Hill Mall asking for zoning code requests to allow them greater time to do certain types of activities.

Councilmember Taylor notes as this applies to new development that was done earlier would this change have the same affect to any development moving forward.

Executive Director of Community Development Pilcher responded this only applies to previously approved permit applications.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Deady to postpone Ordinance No. 12-978, amending Black Diamond Municipal Code 18.14 regarding the vesting period for previously approved project permits to a workstudy scheduled for September 20, 2012. Motion **passed** with all voting in favor (5-0).

Ordinance No. 12-979, amending Black Diamond Municipal Code 17.16 and 18.08 regarding administrative appeals of preliminary plat decisions

Executive Director of Community Development Pilcher reported this has been an issue that has been discussed for quite some time. A resolution was passed this year by the Council to have the Planning Commission look at this change and give a recommendation. The proposed ordinance would resolve an apparent conflict between Black Diamond Municipal Code 17.16 and 18.08 by clarifying that an appeal of a hearing

Examiner decision on a preliminary plat application would be directed to the City Council instead of Superior court. He added the Commission conducted a public hearing on June 12, 2012 and considered the testimony and asked to receive information from the City's insurance carrier and legal counsel regarding this issue. On August 7, a presentation was made by Michael Tierney, an Attorney under contract with CIAW and Mr. Bacha, City Attorney. After considering the information provided, the Commission voted unanimously to recommend that the City Council not adopt the proposed ordinance and to instead amend Chapter 17 so that it agrees with Chapter 18 as it is more efficient, it is a better application of the law and it provides better protection to individuals and bodies.

Councilmember Dedy noted struggling with this issue and understands the risks involved and MRSC says there is no trend for this policy decision.

Councilmember Goodwin noted not supporting the Council being the appellate body and believes these should go directly to the Superior court. This puts the council in the position of being "legal eagles" and is inconsistent with why he ran for Council. He noted the net affect if enacted would add another level of costs.

Councilmember Benson asked legal counsel if we could adopt going either way or can we adopt this ordinance and modify to go either way?

City Attorney Bacha responded this was drafted at the Council's request that appeals go to the City Council and does not recommend taking action to change the ordinance tonight.

Councilmember Taylor noted adoption of this ordinance as it is throws Council into quasi-judicial and limits Council's involvement with citizens. He believes Council has more action to the process if Council stays out of the appeal process and is more sensible to have it go to the Superior Court and agrees with the Planning Commission.

Councilmember May discussed the quasi-judicial element and does not like that and agrees with the Planning Commission recommendation.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Dedy to not take action on Ordinance No. 12-979, amending Black Diamond Municipal Code 17.16 and 18.08 regarding administrative appeals of preliminary plat decisions but direct the attorney to bring back an ordinance that is consistent with the Planning Commission recommendation. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS:

Community Development – Executive Director of Community Development Pilcher reported on the results of the permit center customer service survey. He noted overall the results that came back were very positive.

Administration – Records Access – Interim City Administrator Butkus reported the issue came before Council as a citizen requested quicker access to the preliminary plat of Phase 1A. He discussed: Problem/Opportunity; Guiding Principles; Efficient and Effective Government; Options/Pros and Cons; Identify a means to PDF documents and place either on City web or another site; where to post on the web; further actions (potential); general comments, questions, observations and assignment with results; review of summary; recommendation.

Councilmember Taylor commented this is definitely a direction we need to look at.

Councilmember Benson commented in moving forward we need to look at setting up the protocol to file everything in PDF.

Councilmember Goodwin commented in his experience everything is electronic now and that is how construction does business.

Interim City Administrator Butkus stated that in his experience he has seen it done, it is just going to need some resources, and there is an opportunity to set a policy decision for future plats.

MAYOR'S REPORT:

Mayor Olness reported August 22nd assisted at the Black Diamond Community Center distributing school supplies; August 23rd hosted the SEARCH (South End Regional Coalition for Housing) at Council Chambers, we are one of the member cities, SEARCH's mission is to provide and maintain affordable housing and services to our residents, planning a joint meeting of the City Council in October; August 30th participated in the Suburban Cities Association Caucus of the Growth Management Planning Council, we will meet on September 11th on proposed changes to the Urban Growth Area; attended Labor Days; interviewed four candidates for the Municipal Judge vacancy today and hope to make a decision by the beginning of next week; reminded folks of the Town Hall meeting next Thursday, September 13th at 7 p.m. at the Community Center also reminded folks the next City Council meeting is Thursday, September 20th with a Workstudy at 6 p.m.

COUNCIL REPORTS:

Councilmember Deady reported she talked with Chief Kiblinger and she did a ride along with Officer Lynch and her goal is to set up a time with all officers on the force.

Councilmember Benson reported she attended Maple Valley City Council meeting and noted they have a lot of contentious items; noted the room set up is very easy and the Clerk position is with the City Attorney; organized way Council is recognized when wanting to speak by raising hands.

PUBLIC COMMENTS:

Jack Sperry, Black Diamond – commented on public access to preliminary plat access report that was done by Mr. Butkus and gave another perspective; he noted being able to review MPD material on the website, but no information is on the website about the Preliminary Plats and needed to make an appointment with staff to view this material. Feels electronic format would mean easier access to staff and citizens and strongly supports moving in this direction.

Robbin Taylor, Black Diamond – commented on sending the ordinance back to be reconciled with Title 17; she noted this does no good to her if Council writes them out of the process and wonders why YarrowBay is so anxious to have the council out of the process.

Colin Lund, YarrowBay – submitted letter to Mayor and Council regarding the status update of the Lawson Hills and Master Planned Development Committees; he discussed the committees and their meeting schedules; Green Valley Road Committee chair has not wanted to meet and poses to be on hold at this time.

CONSENT AGENDA:

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

- 1.) **Claim Checks** – September 6, 2012 Check No. 38671 through No. 38724 (void check No. 38672) in the amount of \$85,882.90
- 2.) **Minutes** – Town Hall Notes of August 9, 2012, Workstudy Notes of August 16, 2012 and Council Minutes of August 16, 2012

ADJOURNMENT:

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

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk