

**BLACK DIAMOND CITY COUNCIL MINUTES**  
**March 6, 2014**  
Council Chamber, 25510 Lawson Street, Black Diamond, Washington

**CALL TO ORDER, FLAG SALUTE:**

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

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to postpone AB14-025A, resolution confirming the Mayor's appointments to the Planning Commission to a Special Meeting on March 13 to conduct a public interview process before confirmation of the candidates. Motion **passed** voting in favor (5-0).

**ROLL CALL:**

**PRESENT:** Councilmembers Deady, Morgan, Edelman, Benson and Taylor.

**ABSENT:** None.

Staff present were: Stacey Welsh, Community Development Director, Greg Smith, Fire Chief; Christy Todd, City Administrator; P. Stephen DiJulio, Interim City Attorney and Brenda L. Martinez, City Clerk.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to move item No. 7 (AB14-032, Resolution Authorizing contract with BergerABAM for 2015 Comprehensive Plan Update) to follow the presentation on the Agenda. Motion **passed** voting in favor (5-0).

**PRESENTATIONS:**

City Administrator Todd introduced the BergerABAM team who was chosen to do the 2015 Comprehensive Plan Update.

**BergerABAM** – gave background information regarding their team and also discussed the approach they will be taking to perform the 2015 Comprehensive Plan Update along with the proposed schedule for the update. Mr. Shaffer spoke on the Capital Facilities element of the Comprehensive Plan Update. Ms. Chumley spoke on the public outreach part of the update that she will be in charge of.

**Resolution No. 14-936, authorizing the Mayor to execute a Professional Services Agreement with BergerABAM for the 2015 Comprehensive Plan Update**

City Administrator Todd noted that Community Development Director Welsh took the lead on this project. She noted the City received five proposals which were reviewed by staff

consisting of Ms. Todd, Ms. Welsh, Mr. Nix and Mr. Boettcher. From the five proposals three consultant firms were interviewed and staff is recommending the firm of Berger ABAM to assist the City in completing this work. She discussed the grant deadline and the work that needs to occur now. She noted this document will serve the City until 2025, and it is difficult to get a contract in place that will take this into effect. The Scope of Work will need to be negotiated as this work will cost more money than what is called for in the proposed contract. Staff is recommending Council's approval of the attached resolution, with an understanding that later in the year, Council will be asked to consider a contract amendment with BergerABAM. City staff is working diligently to complete an agreed Scope of Work with BergerABAM in time to meet the Department of Commerce (DOC) grant deliverable deadline.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Benson to adopt Resolution No. 14-936, authorizing the Mayor to execute a Professional Services Agreement, in substantially similar form, with BergerABAM for the 2015 Comprehensive Plan Update. Motion **passed** voting in favor (5-0).

### **PUBLIC COMMENTS:**

Joe Corsel, Hirbachi Wholesale, Black Diamond – noted applying with the Liquor Control Board to establish a business under I-502, which would bring jobs and revenue to the City of Black Diamond. He noted discussing this with the City Administrator and is disappointed that the Council will be considering a long extension to the moratorium.

Angie Rand, Covington, Co-owner of Lady Buds – discussed the City deciding not to renew their business license. She has a petition from folks asking that their business stay open.

Vali Bauer, Covington, Co-owner of Lady Buds – commented on opening Lady Buds in 2012 and now the City has decided to deny their business license and they have not had any complaints. She noted wanting to stay in Black Diamond and noted she had heard the City was homophobic and hoped that her and Angie's sexuality is not the reason for the denial.

Colin Lund, YarrowBay – spoke on behalf of BD Lawson and BD Village Partners and addressed a Development Agreement issue that is in reference to Item #6 on the agenda. They are not opposed to the plan and study, but unfortunately they did not have a copy of the draft documents until late last night. He noted a March 5<sup>th</sup> letter addressed to the Mayor and highlighted some major points in the letter.

Renee Brealy, Black Diamond – commented on her family living here for 50 years and she is really nervous seeing business after business closing and is worried about this.

Ginger Passerelli, Black Diamond – noted having a business in Black Diamond and wondered if her business license could be denied and wondered if she is in danger of losing her business license if someone doesn't like her.

Samantha Morgan, Maple Valley – commented on having an issue of an establishment like Lady Buds not having their license renewed as she feels safe going to this establishment and it is not a scary place.

Bob Edelman, Black Diamond – commented it is his understanding that the business license renewal is not being done frivolously. He noted that their business license did not include dispensary of marijuana and that is the reason for the denial of reissuance.

## **PUBLIC HEARINGS:**

### **AB14-027 – Regarding Extending Moratorium Prohibiting the Establishment, Location, Operation, Licensing, Maintenance or Continuation of any Medical Cannabis Collective Garden or any Medical Marijuana Dispensary**

Mayor Gordon opened the public hearing at 7:47:21 p.m.

Community Development Director Welsh reported that last October Council adopted Ordinance No. 13-1011, establishing a six month moratorium upon the establishment, location, operation, licensing, maintenance or continuation of any medical cannabis collective garden or any medical marijuana dispensaries. The Council can consider extending the moratorium for one year with a work plan, as required by law to enact a one-year moratorium. She noted the extension proposed by staff is for one year, with a work plan. The work plan, to be developed and presented on March 20, 2014 will allow staff the Planning Commission and the City Council the necessary time to consider changes to State Law from the 2014 legislative session, and to move any propose zoning and development code changes through established governmental processes. She noted this moratorium is authorized pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Angie Rand, Covington, Co-owner of Lady Buds – noted patients being able to exchange medicine anywhere they want and they provide a safe environment and asked Council to think about this.

Vali Bauer, Covington, Co-owner of Lady Buds – welcomed the Council to come see their place of business and noted it being very safe and secure and extended the invitation to all.

Mayor Gordon closed the public hearing at 7:57:03 p.m.

### **AB14-028 – Regarding Extending Moratorium Prohibiting the Acceptance or Processing of Applications, or Issuance of Permits and Approvals, and Uses or Activities Associated with Production, Processing, and Retailing of Marijuana and Marijuana-Infused Products**

Mayor Gordon opened the public hearing at 7:57:08 p.m.

Community Development Director Welsh reported that last October Council adopted Ordinance No. 13-1012, establishing a six-month moratorium on prohibiting the acceptance or processing of applications, or issuance of permits and approvals, and uses or activities associated with production, processing, and retailing of marijuana and marijuana-infused products. She noted Council can consider extending the moratorium for one year with a work plan, as required by law to enact a one-year moratorium. She noted the extension proposed by staff is for one year, with a work plan. She also noted that Initiative Measure No. 502 authorizes the manufacture, packaging, distribution and retail sale of marijuana and marijuana-infused products for recreational purposes, subject to further promulgation of

rules by the Washington State Liquor Control Board. The Board has adopted rules pertaining to licensing of the producers, processors, and retailers, and is now accepting applications for licensing of producers, processors, and retailers. A recent Attorney General's opinion stated that local governments can use zoning to ban marijuana establishments from their jurisdictions.

City Attorney DiJulio noted the options Council can consider on the March 20<sup>th</sup> meeting – 1) Take no action; 2) six-month moratorium; and 3) a one-year moratorium which does require a work plan.

Community Development Director Welsh discussed with Council the highlights to the proposed work plan should Council choose to impose a one-year moratorium.

Sam Calabrese, Black Diamond – noted medical and recreational marijuana being very different, who is running these things, and who is coming in to have the medicine being tested and it makes it difficult and unsafe because there are no regulations on the medicinal guidelines of a dispensary. Discussed the 1,000 ft. buffer area and once you impose this; the area that is left it is very limited for I-502 facilities. He discussed security issues that are in place for this type of license. He noted they are not habitual marijuana users they are entrepreneurs.

Joe Corsel, Black Diamond – asked if he could ask the City Attorney if Council could bifurcate the moratoriums.

City Attorney DiJulio noted the Council has discretion to separate the two moratoriums and how they wish to deal with them.

Ginger Passerelli, Black Diamond – stated Black Diamond has never experienced this type of matter before and wonders if there are retail stores for medicinal or recreational use what it will mean to other businesses and the town. She noted working with Law Enforcement and being a business owner and property owner she does not want a bunch of folks coming to town for this and is concerned about this as she has seen too many things and is worried that there could be robberies so someone can go buy recreational marijuana.

Tina McGann, Black Diamond – voiced her support for a one-year moratorium, she stated it gives Council the time to do their research and make an informed decisions. She noted she is concerned about schools and how it will affect them as there are now drug and alcohol problems in the schools.

Renee Brealy, Black Diamond – noted being confused between medical marijuana and recreational. She noted being supportive of medical marijuana, but not of recreational.

Mayor Gordon closed the public hearing at 8:19:47 p.m.

Councilmember Deady noted she is in support of a one-year moratorium.

Councilmember Taylor agreed with this as it will take time to go through the process. He did note if the process ends sooner the moratorium can be lifted.

Councilmember Benson stated she is in support of a one-year moratorium.

Councilmember Edelman noted she is supportive of a one-year moratorium and noted this will be a huge task for the limited staff at the City.

Councilmember Morgan agreed with Councilmember Taylor.

## **UNFINISHED BUSINESS:**

## **NEW BUSINESS:**

### **Resolution No. 14-933, confirming the Mayor's appointment of Carol Morris, of Morris Law, P.C. as City Attorney**

A **motion** was made by Councilmember Benson and **seconded** by Councilmember Edelman to adopt Resolution No. 14-933, confirming the Mayor's appointment of Carol Morris, of Morris Law, P.C. as City Attorney. Motion **passed** voting in favor (5-0).

### **Resolution No. 14-934, authorizing the Mayor to execute a Professional Services Agreement with Morris Law, P.C.**

Councilmember Morgan noted some amendments she would like to see to the agreement.

Interim City Attorney DiJulio noted not seeing anything wrong with the proposed amendments.

City Administrator Todd noted that Councilmember Morgan's concerns are being addressed already in the new proposed Scope of Work and would be happy to share this with Council later tonight.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Benson to adopt Resolution No. 14-934, authorizing the Mayor to execute a Professional Services Agreement with Morris Law, P.C.

Vote: Motion **passed** voting in favor (3-1-1, Morgan- No and Taylor - Abstained).

### **Resolution No. 14-935, to adopt a General Government Facilities Mitigation Fee Plan**

City Administrator Todd reported that Julie Bassuk and Sean McCormick are here tonight to go over the proposed draft plan and she also noted she would like direction to see if Council would like to hold a public hearing on March 20<sup>th</sup> before adoption on April 3<sup>rd</sup>.

Ms. Bassuk walked through the high points of the document and how they got to where they are. She noted the essential assumptions on page 1 that sets forth the plan. She noted this plan includes all facilities except fire. She discussed the facility program and the comparable cities analysis and the most comparable city is Bonney Lake based on the indicators they looked at. One area she did want to bring attention to is the 92,000 sq. ft. that is being recommended is not City Hall and Police. That number also includes Public Works shop and storage. The City Hall and Police sq. ft. is approximately 37,000. She noted that at the

last meeting Council asked if there was a time limit to spend the money and Mr. Young responded no, however he was thinking of a different part of SEPA and there is a five-year time limit to spend the funds.

Councilmember Edelman suggested holding a public hearing on March 20, 2014.

*First Reading of Resolution No. 14-935 – No Action Taken*

**Ordinance No. 14-1022, relating to Council meeting dates and locations; amending 2.04.010, meetings of the Black Diamond Municipal Code; providing for severability; and establishing an effective date**

City Administrator Todd reported this item is a follow-up to a discussion she had with Council a few weeks ago. She noted Council is currently scheduling Special meetings on a regular basis in order to address matters that require in-depth Council review. To set a regular date and time each month a work session would allow for greater flexibility because any time a special meeting is scheduled, State law governs what can be discussed at that meeting, and how the meeting must be called. She noted the proposed ordinance would establish the second Thursday of each month, beginning at 7 p.m. for purposes of a work session and when the work session is finished, the Town Hall meeting would begin.

Councilmember Deady noted she would like to see the workstudy start at 6 p.m. and then go into the Town Hall meeting at 7 p.m.

Councilmember Taylor stated he is okay with committing to a 6 p.m. start time once a month.

Councilmember Edelman commented on not wanting to limit the workstudy and it could potentially shorten the Town Hall meeting on a particular night.

Councilmember Morgan stated she was in favor of the idea of starting the workstudy at 6 p.m.

City Administrator Todd recapped the ordinance and Council's desire to change the start time to 6 p.m.

Councilmember Deady suggested a 6 – 7:30 timeframe on the workstudy with the Town Hall meeting starting at 7:30 – 8:30 p.m.

Councilmember Benson noted we could anticipate when the Town Hall meeting would start.

A **motion** was made by Councilmember Benson and **seconded** by Councilmember Edelman to adopt Ordinance No. 14-1022, relating to Council meeting dates and locations; amending 2.04.010, meetings of the Black Diamond Municipal Code; providing for severability; and establishing an effective date, with the exception of changing the meeting time to 6 p.m. Motion **passed** voting in favor (5-0).

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**Resolution No. 14-937, opposing a Ballot Measure by King County to assess a \$60 Vehicle Tab Fee and a 0.1% Sales and Use Tax on King County Residents**

City Administrator Todd reported this is a follow-up of a Public Hearing the Council held on February 20<sup>th</sup>, Council made a motion that evening to direct staff to draft a resolution to King County that disagrees with the County-wide Transportation Benefit District. The proposed resolution is in accordance with that direction.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Taylor to adopt Resolution No. 14-937, opposing a Ballot Measure by King County to assess a \$60 Vehicle Tab Fee and a 0.1% Sales and Use Tax on King County Residents. Motion **passed** voting in favor (5-0).

## **DEPARTMENT REPORTS:**

### **Administration – City Administrator Todd:**

Ms. Todd reminded Council to stay alert to the emails she is sending in regards to the Council Retreat. The date has been set for March 22<sup>nd</sup> and the location is still being determined.

Councilmember Benson stated she would like to see it at the Bakery.

Councilmember Edelman stated she would like to see it at the Bakery.

Councilmember Deady stated she would like to see it at the Bakery.

Ms. Todd noted she will work on reserving the room and if not, then it will probably be at the Fire Station. She asked if Council would like to hire a professional facilitator for a certain portion of the agenda. ***Council's consensus was to hire a Facilitator.*** Discussed July 3<sup>rd</sup> meeting being a Council meeting and wondered if Council would like to hold it or would they like to cancel it. ***Council consensus was to not hold it on the 3<sup>rd</sup> and let the public know it will occur on July 24<sup>th</sup>.*** Discussion on implementing an annual Council recess and noted this is usually done for two weeks and noted if she would like to do this she can help them move forward with it. She added typically this occurs sometime in July and August and also a two week recess in December. Update on Reserve at Woodlands and noted she is in contact with Lauren Smith at King County and noted having a meeting set up and she will keep Council updated after the meeting so Council knows where the discussion went. Finally, Suburban Cities Association (SCA) meeting and the topic was about the McCleary decision and the consequences of that decision will affect everyone, she noted how the legislature will address this is unknown. She noted there is a PowerPoint on this and she would be happy to get this out to Council if they are interested.

## **MAYOR'S REPORT:**

Mayor Gordon reported he was very proud to attend the swearing in of Officer Megan Ross; MAKERS meeting; SCA Networking dinner; Dave Reichart getting funding and grants for police and has agreed to sponsor grants and has been an incredible resource.

## **COUNCIL REPORTS:**

### **Budget, Finance, Administration Committee:**

Councilmember Benson noted reviewed vouchers and the proposed ordinance that was before Council tonight.

### **Planning and Community Service Committee:**

Councilmember Edelman noted meeting was very productive and discussed the interview process for the Planning Commission applicants.

### **Cemetery and Parks Committee:**

No report.

### **Public Safety Committee:**

Councilmember Taylor no report since the meeting is in the next few days, but wanted to reminded Council that we have a budget for a Council Chamber remodel and is looking forward to getting this started.

### **Public Works Committee:**

Councilmember Taylor meeting is scheduled for tomorrow.

### **Regional Committees-**

**WRIA 9:** Councilmember Morgan noted she is working with them on ideas for Abrams Avenue.

**Growth Management Planning Council:** Councilmember Deady and Benson attended in Councilmember Edelman's absence; the discussion was mostly on the transportation issue.

**Sound Cities Association – Public Issues Committee (PIC):** Councilmember Edelman noted meeting next week so no report this week.

**South County Area Transportation Board (SCATBd):** Councilmember Benson attended on the 18<sup>th</sup> which was an update on the public comment for the transportation.

**South East Area Transportation Solutions (SEATS) Coalition:** Councilmember Benson noted the Speaker was from Burlington Northern and the oil transports; Seattle is considering stopping all transports because of safety issued.

### **Sound Cities Association – Mental Illness and Drug Dependency Oversight**

**Committee:** Councilmember Benson noted they discussed funds to help mentally ill and homeless.

## **ATTORNEY REPORT:**

Interim City Attorney DiJulio thanked Council for the opportunity to provide service the last 7 weeks or so.



## **PUBLIC COMMENTS:**

Robbin Taylor, Black Diamond – commented she wanted to remind Council of the purpose of the Town Hall meeting was for a dialogue back and forth with Councilmembers as the regular business meetings is not a time for that back and for dialogue and is concerned with not having a start time. She cautioned them to be careful so it does not appear Council is taking away something that was given to the public for back and forth dialogue.

## **CONSENT AGENDA:**

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

**Claim Checks** – March 6, 2014, No. 40640 through No. 40687 (voids 40558; 40642; 40645-40650) in the amount of \$84,933.56

**Payroll Checks** – January 31, 2014 No. 18235 through No. 18263 and ACH Pay in the amount of \$355,636.28

**Minutes** – Special Council Meeting of January 9, 2014, Town Hall Meetings of January 9, 2014 and February 13, 2014 and Council Meeting of February 20, 2014

## **EXECUTIVE SESSION: None**

## **ADJOURNMENT:**

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

ATTEST:



Dave Gordon, Mayor



Rachel Pitzel, Deputy City Clerk