

**CITY OF BLACK DIAMOND CITY COUNCIL
SPECIAL COUNCIL MEETING**

July 24, 2014

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

Mayor Gordon called the meeting to order at 7:00 p.m.

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

ABSENT: None

Staff present: Mayene Miller, Finance Director; Aaron Nix, Community Development/Natural Resources Director; Andrew Williamson, MDRT/Economic Development Director; Tim MacDonald, Police Officer; Greg Smith, Fire Chief; Carol Morris, City Attorney and Rachel Pitzel, Deputy City Clerk.

PUBLIC COMMENTS:

Bill McDermott, Black Diamond – commented he had general questions regarding the springs and was hoping Mr. Williamson can recap on the progress; asked if he could get a location of the upcoming sidewalks and paving projects.

MDRT/Economic Development Director Williamson responded the springs are being re-evaluated and moving forward with the secondary Scope of Work; WSFFA agreement needs an upgrade on the chlorination system. He noted the paving and patching are randomly throughout the city. Trying to get more bang for the buck, the sidewalk project has a grant for and will start from the Council Chambers up to 5th Avenue.

Bill Bryant, Black Diamond – commented he walks around town quite a bit and doesn't think we need sidewalks on Roberts Drive. He asked if council received his daughter Kristen's comments for tonight's public hearing.

Councilmember Edelman responded she did research and comparisons and knows that the City Attorney has also looked at all of this and just received a letter from YarrowBay with their input. She is on the committee and a meeting is for August 5th where they will incorporate everyone's comments. She stated they are not throwing anything out and they are paying attention to it.

PRESENTATIONS: None

PUBLIC HEARINGS:

Proposed Ordinance Amending BDMC regarding Development Agreements

Mayor Gordon opened the public hearing at 7:09:55 p.m.

City Attorney Morris reported the Development Agreement statute allows the City to enter into an agreement the most important is the agreement has to be consistent with the Development Agreement regulations. She explained the ordinance addresses the Code and sets up a new procedure. She explains the ordinance and how it works.

Councilmember Edelman asked about the insertion of “twenty” in section 18.66.040(B).

City Attorney Morris explained they can use any number there they see fit, but she is suggesting twenty.

Brian Derdowski, Issaquah – commented he is speaking on behalf of Save Black Diamond, congratulated staff and City for reviewing the Development Agreement code and it not being consistent. He stated there is language that is unenforceable and encourages Council to look into that. He noted the wetland delineations are final, that is not consistent with the City Attorney ordinance, and he noted Ms. Morris is correct and created one of the strongest Development Agreement codes around. He gave some background on other development agreements and discussed it being a “permit application” and he stated that suggests it is more than what it is.

City Attorney Morris responded that the ordinance does say the City may enter into the development process and she discusses the reasons people would ask for a development agreement.

Mayor Gordon closed the public hearing at 7:25:02 p.m.

Proposed Ordinance Amending BDMC regarding SEPA Codes

Mayor Gordon opened the public hearing at 7:25:27 p.m.

City Attorney Morris reported Black Diamond SEPA ordinance is similar to other cities ordinances and hasn't been amended since 1994. She discusses the rules that still apply even though they haven't been updated. The biggest glaring error is clear procedure for handling appeals. Her recommendation is if you have SEPA appeal that is continues to go to the Hearing Examiner, she said there isn't any opportunity to have a second appeal usually. She recommended the Council handles SEPA appeals. Discussed the reasoning, and stated she responded to some citizens responses that she provided in an outline in the material which should help everyone.

Brian Derdowski, Issaquah – commented, Black Diamond – commented he has tested this presentation and has additional handouts that he will hand out to Council, he asked for a few more minutes to talk.

Mayor Gordon reminded Mr. Derdowski the time limit is 5 minutes.

Mr. Derdowski gave handouts out and discussed policies and goals that they want accomplished. He stated he went to the County for guidance and was told the model is the current one and stated the proposed ordinance was identical to the 1988 model. He stated he created a comparison side by side document for council to use as a tool and

created a document that showed some “issues”. He discussed his handouts and explained what they believe should be included.

Councilmember Edelman stated Council spent many hours on this and will provide everyone with what they come up with, she readdressed her comments she made at the beginning of the meeting regarding the committee and when they meet and everyone’s input will be heard.

City Attorney Morris stated Mr. Derdowski was correct about adding additional WACs and policies.

Councilmember Edelman stated that is what Council will be doing.

Mr. Derdowski discussed if the public wanted to get up at next week’s meeting during the public comment period they can still do that and comments will be considered.

City Attorney Morris stated as the Council goes through this, we can have additional public hearings and would rather have comments made at the public hearing rather than the public comment period so they are on record. She noted that the best way for a complete record is to provide comments at a public hearing and anyone can talk to Council but it’s not going to be recorded. The record is what the Growth Board reviews. If Council has been receiving phone calls or letters, council needs to address that at the hearings so we protect the record.

Councilmember Edelman noted that what might be the best is to have citizens follow up with an email to the clerk, Mayor, etc., so that any comments should be put in writing to be put in the official record.

Mayor Gordon made an announcement that citizens should submit comments by email or written comments.

Mayor Gordon closed the public hearing at 7:43:39 p.m.

UNFINISHED BUSINESS: None
NEW BUSINESS:

Ordinance No. 14-1032, amending the budget for calendar year 2014 as adopted by ordinance 13-1018 and 14-1019 for means of appropriations, adjustments and transfers within various funds in accounts in the 2014 budget and the update of Exhibit A for two salary schedule titles

Finance Director Miller reported this is a technical housekeeping budget change for 2014 which totals \$1,089,474. This includes two reclassifications between REET I and REET II. She discussed making sure all the grants and funding is showing. The majority are changes for the Capital projects. She discussed the exhaustion of expenditures, working with the Finance committee on updating them on where the city is at, discussed legal costs for public disclosures and cannabis enforcement issues and legal review costs. She stated she included a budget change to combine a position and the savings by combining and reducing those positions.

Council discussed having several committee meetings on the budget changes and felt Ms. Miller did a good job putting this budget together so they can move forward this year.

Councilmember Taylor asked what the budgets amount for legal fees was.

Ms. Miller responded with the amount of \$176,000.

A **motion** was made by Councilmember Benson and **seconded** by Councilmember Edelman to adopt Ordinance No. 14-1032, amending the budget for calendar year 2014 as adopted by ordinance 13-1018 and 14-1019 for means of appropriations, adjustments and transfers within various funds in accounts in the 2014 budget and the update of Exhibit A for two salary schedule titles.

Councilmember Taylor noted he wanted to address a basic issue with the budget change in staff. He noted Council worked really hard to get a City Administrator in place and it has been thrown out and that concerns him because the Mayor is not in town during the day and concerned the City does not have someone “watching the store”. He felt it should have been brought to Council as a whole and not decided at the committee level.

Councilmember Benson stated that for this year it was prudent because the City did not have the money to have a City Administrator and we don’t have deep pockets to pay an Administrator.

Councilmember Taylor stated his concern is if someone came to the City to deliver a lawsuit, no one is there to take it.

Mayor Gordon noted that Ms. Martinez is the Assistant City Administrator and is there all day long and has held that position for many years and is qualified to handle City business as the Assistant City Administrator/City Clerk.

Mr. Williamson noted that a Courier would deliver any papers to the City Clerk and the Mayor may not be in town during the day, but staff has never had a problem getting a hold of him or the City Attorney when needed.

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

Resolution No. 14-963, awarding the low bid on the 2014 roadway Grind and Patch project to Puget Paving and Construction, Inc.

Public Works Director Boettcher noted it is summer and time to patch up the roads and do some paving, they solicited bids and received five from the small works roster, Puget Paving and Construction, Inc. came in with the lowest bid.

Council asked if a list of these projects existed and would like the public to have access to that list.

Mr. Boettcher stated it can be put on the website under the projects page within the Public Works webpage.

A **motion** was made by Councilmember Benson and **seconded** by Councilmember Deady to adopt Resolution No. 14-963, awarding the low bid on the 2014 roadway Grind and Patch project to Puget Paving and Construction, Inc. Motion **passed** with all voting in favor (5-0).

Resolution No. 14-964, awarding the low bid on the Lawson Street Sidewalk Improvements project to R.W. Scott Construction Co

Public Works Director Boettcher noted that Lawson Street Sidewalk Improvement from SR 69 up around to 6th Avenue, this is funded through TIB. The City received three bids and R.W. Scott being the lowest bidder and recommends adoption.

A **motion** was made by Councilmember Taylor and **seconded** by Councilmember Benson to adopt Resolution No. 14-964, awarding the low bid on the Lawson Street Sidewalk Improvements project to R.W. Scott Construction Co. Motion **passed** with all voting in favor (5-0).

Resolution No. 14-965, authorizing the Mayor to execute the final contract amendment to the Ogden Murphy Wallace contract

Councilmember Benson noted the City entered into a contract that has been amended twice. Negotiations took a little longer, but we were issued a discount and did some public records requests with this contract. The City needs to have this contract amendment since it is added to our budget already.

A **motion** was made by Councilmember Benson and **seconded** by Councilmember Edelman to adopt Resolution No. 14-965, authorizing the Mayor to execute the final contract amendment to the Ogden Murphy Wallace contract. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS:

MDRT/Economic Development Director Williamson reported on the John Henry Mine and stated OSM is having a team meeting today and where they are, more information will be available to the City next week. Due to a reduction in funding the Community Development building will only be open three days a week and he noted the new hours. Public Works will be aggressive with the TIB programs to get the money for projects; discussed the project of getting water to the community gardens and complimented Mr. Nix and staff.

MAYOR'S REPORT:

Mayor Gordon reminded everyone of the Great Horror campout this weekend and noted a few benefits coming up in the next few months and once they are closer he will discuss further.

COUNCIL REPORTS:

Councilmember Benson: reported there is a Public Works committee meeting tomorrow; Great Horror campout.

Councilmember Edelman: no report

Councilmember Deady: no report

Councilmember Morgan: reported she turned in a report last week on the cemetery report; SEPA regulations; attending a native planting workshop on Sunday.

Councilmember Taylor: reported there is a white paper Ad Hoc document on the website.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Carol Lynn Harp, Black Diamond – commented she saw a billboard on W. Valley Hwy. regarding the Great Horror Campout.

Keith Watson, Black Diamond – read a letter into the record regarding the Black Diamond Community Center.

Councilmember Edelman noted Mr. Watson found page 4 of the lease agreement that had been missing. She stated that it “bugged” her how both the City and the Community Center have missing pages of the agreement.

Cheryl Hanson, Director of Black Diamond Community Center – commented on the BASK program and the School District asking them to move out of the portable. She noted 28 tax payers are parents of BASK students, they want to move the facility to the gym and wants to know if they can have a hearing or what needs to be done so they can get this going.

Mr. Williamson noted the City suggested a pre-application meeting; there is not a hearing to be held. Staff suggested a pre-application meeting to work through some safety issues. He suggested Ms. Hanson call to schedule a meeting when Mr. Nix returns from vacation and see where it leads from there.

Ms. Hanson noted they will work whatever process will work. She stated she has to meet Fire codes and raise money and needs the time to fundraise to get this accomplished.

Brian Weber, Black Diamond – commented on the importance of the code amendment and the due diligence is appreciated. He noted public hearing testimony is important and would like to mention the Council Rules section 11.1.3 and the five minute time limit and group limits and the flexibility allotted. He also discussed BASK and stated it’s an excellent program.

Joe Androsko, Black Diamond – commented he appreciated all of Council’s support at Miners Day and thanked them for coming.

Robbin Taylor, Black Diamond – commented on issues regarding the funding agreement and the concern about staff funding and salaries. She noted being a small city and staff being paid County wages, she noted when the funding agreement is gone the salaries will stay and we will not be able to afford to pay staff the salaries they have now and Council needs to look into this.

CONSENT AGENDA:

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

Claim Checks – July 24, 2014, No.41140 through No. 41209 in the amount of \$168,109.89

Payroll Checks – June 30, 2014 No.18349 through No. 18370 and ACH Pay in the amount of \$276,538.30

EXECUTIVE SESSION:

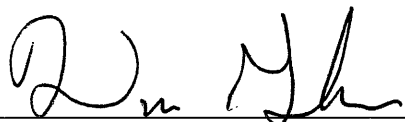
Mayor Gordon announced an Executive Session at 8:53:10 p.m. to discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i) with possible action to follow the Executive Session, which was expected to last approximately 20 minutes.

The regular meeting was called back to order at 9:16:55 p.m.

ADJOURNMENT:

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adjourn the special meeting. Motion **passed** with all voting in favor (5-0). The special meeting ended at 9:17:01 p.m.

ATTEST:



Dave Gordon, Mayor



Rachel Pitzel, Deputy City Clerk