

**BLACK DIAMOND CITY COUNCIL MINUTES**  
**December 20, 2007**

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

**CALL TO ORDER, FLAG SALUTE:**

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

**ROLL CALL:**

**PRESENT:** Mayor Botts, Councilmembers Sorci, Bowie, Cline, McPherson and Olness.

**ABSENT: None**

Staff present were: Gwendolyn Voelpel, City Administrator; Andy Williamson, Economic Development Director; May Miller, Finance Director; Dan Dal Santo, Utilities Supervisor; Greg Smith, Fire Chief; Loren D. Combs, City Attorney and Brenda L. Streepy, City Clerk.

**PUBLIC COMMENTS:**

**David MacDuff, YarrowBay** informed Council that they will be hosting an open house on January 19, 2008 at Sawyer Woods Elementary. He explained that this open house is a continuation of the one previously held at the Black Diamond Bakery.

Further, Mr. MacDuff noted that “save the date” cards had been mailed to all residents informing them of the open house and early next year they will mail out a flyer outlining exactly what this open house is about.

**PUBLIC HEARINGS:**

**Continuation of Special Event Application hearing concerning temporary office space – Yarrow Bay**

City Attorney Combs reported this is a continuation of the public hearing from the December 6 Council meeting to hear additional testimony and to allow surrounding property owners to meet with YarrowBay to work out a mitigation agreement.

Mr. Combs discussed with Council a letter that was received from adjoining property owners stating that they and YarrowBay have reached an agreement as to what special conditions should be placed upon the special event permit and requested that the letter be entered or attached to the official record.

**Mayor Botts opened the Public Hearing at 7:09 p.m.**

**David MacDuff, YarrowBay** stated that when the public hearing was opened a few weeks ago YarrowBay had not had a chance to review the comments that were received and made known that YarrowBay completely accepts the conditions that have been put forth in the agreement with the adjoining property owners.

**Mayor Botts closed the Public Hearing at 7:10 p.m.**

A **motion** was made by Councilmember Olness and **seconded** by Councilmember McPherson to allow the special event permit for temporary office space subject to the conditions set forth in the letter from the adjoining property owners.

A **motion** was made by Councilmember Sorci and **seconded** by Councilmember Cline to amend the motion to state there will be a six month review period to see if any appropriately zoned property is available within the City as well as to monitor compliance with the conditions as set forth in the letter by the adjoining property owners.

Councilmember McPherson stated he feels the six month review period is an unnecessary condition.

**Vote:** Motion **passed** 3-2, with Councilmembers Olness and McPherson voting against.

**Vote:** The main motion **passed** as amended with all voting in favor (5-0).

**UNFINISHED BUSINESS: None**

**NEW BUSINESS:**

**Ordinance No. 07-843, adopting the Budget for calendar year 2009**

Finance Director Miller addressed Council on the 2008 final budget. Ms. Miller explained that the netted budget is only up by one percent and a good portion of the City's taxes are going to public safety. Ms. Miller noted that there have been a few minor changes since the last public hearing, i.e. property tax, fire service contract amount and the amount the City gets reimbursed from FD #17. The changed budget includes new rates in sewer and trued up the sewer debt payment fund and also allowed money for remodeling of the old City Hall and added the position of Community Development Director as well as the new judge salary of \$33,000.

A **motion** was made by Councilmember Sorci and **seconded** by Councilmember McPherson adopting the Budget for calendar year 2008. Motion **passed** with all voting in favor (5-0).

**Ordinance No. 07-846, amending the 2007 Budget Ordinance's No. 06-822 and 07-832 to reflect changes in revenues and expenditures**

Finance Director Miller reported that this is a housekeeping issue to keep in compliance with State laws that require municipal budgets to be amended by the City Council when expenditures are higher than budgeted amounts or when budget authority is exhausted from any particular fund at mid-year and/or year end.

A **motion** was made by Councilmember Olness and **seconded** by Councilmember Sorci amending the 2007 Budget Ordinance's No. 06-822 and 07-832 to reflect changes in revenues and expenditures. Motion **passed** with all voting in favor (5-0).

**Ordinance No. 07-847, eliminating the City of Black Diamond's Business and Occupation Tax effective January 1, 2008**

Finance Director Miller reported that this ordinance eliminates the Business and Occupation (B & O) tax effective January 1, 2008. Ms. Miller noted that Council began ramping down the B & O tax rates in 2007 with the intent of discontinuing the tax effective January 1, 2010. During Council discussions regarding the 2008 budget, members directed staff to prepare an ordinance to sunset the tax two years earlier than originally planned. Ms. Miller explained that the impact has already been accounted for in the 2008 budget.

A **motion** was made by Councilmember Cline and **seconded** by Councilmember Bowie to adopt Ordinance No. 07-847, eliminating the City of Black Diamond's business and occupation tax effective January 1, 2008.

Councilmember McPherson stated that a few years back the City had motor vehicle excise tax that was eliminated and the city would receive monies from that and then it was cut in half and then it went down to zero, he stated others had to work really hard to work with this issue and balance the budget and now the city has the one percent cap on property tax and we do want to be business friendly. Councilmember McPherson stated that in the workshop held on this matter Council found out that the city was one of the highest cities for B & O rate and Council decided to meet somewhere in the middle and to sunset it by 2010. Councilmember McPherson asked how the sales tax scenario looked for the future.

Finance Director Miller stated that it hasn't really changed.

Councilmember Sorci stated that new sales tax distribution was determined on where you live, not where you buy it at point of sale. Mr. Sorci also stated that it is very erroneous for business owners and it would be insanity and very difficult for business owners.

Councilmember McPherson stated that revenues are hard to come by and when you have a source and decide to abandon it you really need to think about it.

**Vote:** Motion **passed** 4-1, with Councilmember McPherson voting against.

**Ordinance No. 07-848, amending sections of the Black Diamond Municipal Code related to business licensing to define exemptions modify fees and add a penalty structure**

Finance Director Miller reported to Council that the ordinance revises the City of Black Diamond's business licensing program effective January 1, 2008. Ms. Miller noted that Council directed staff to draft an ordinance updating the business license fees to more closely reflect other municipalities' charges and to include a sliding scale based on number of employees. Ms. Miller explained that the impact has already been accounted for in the 2008 budget.

Council discussed charges for number of employees, penalty fees and common carriers.

City Attorney Combs stated that changes can be made to the language in Section 2(5) to add common carriers whose offices are not located in the City are exempt.

A **motion** was made by Councilmember McPherson and **seconded** by Councilmember Olness to adopt Ordinance No. 07-848, amending sections of the Black Diamond Municipal Code related to business licensing to define exemptions, modify fees and add a penalty structure and amending language in Section 2(5) to add common carriers whose offices are not located in the City as exempt. Motion **passed** with all voting in favor (5-0).

**Ordinance No. 07-849, regarding utility taxes and utility occupation licenses and providing a tax on cable service**

Finance Director Miller reported that this ordinance revises the City of Black Diamond's utility tax and utility occupation codes effective January 1, 2008. Ms. Miller noted that Council directed staff to draft an ordinance adding a one percent utility tax for cable service. Ms. Miller explained that cable service providers are already subject to a five percent franchise fee, and this change brings the charges into alignment with those remitted by other utility service providers in the city. Ms. Miller noted that in addition, utilities have been paying the annual business license fee and this ordinance moves all tax and license provision for utilities to Chapter 5.08 of the Black Diamond Municipal Code for ease of use.

A **motion** was made by Councilmember Sorci and **seconded** by Councilmember Olness to adopt Ordinance No. 07-849, regarding utility taxes and utility occupation licenses and providing a tax on cable service. Motion **passed** with all voting in favor (5-0).

**Resolution No. 07-473, authorizing the Mayor to enter into an agreement with Olympic Environmental Resources for the 2008 special collection recycling event**

Public Works Supervisor Dal Santo reported that the City has identified the need for recycling services associated with its 2008 special collection event. Mr. Dal Santo noted that the City has applied for grant funds from the Seattle-King County Health Department, King County Solid Waste Division and the Washington State Department of Ecology, total grant funds are estimated at \$18, 838.32 which will pay for the services contained in the agreement.

A **motion** was made by Councilmember Cline and **seconded** by Councilmember McPherson authorizing the Mayor to enter into an agreement with Olympic Environmental Resources for the 2008 special collection recycling event. Motion **passed** with all voting in favor (5-0).

**Resolution No. 07-474, authorizing the City Administrator to enter into a lease for a structure to be used by the employees of the City for health and fitness**

Mayor Botts left the meeting and Mayor Pro-Tem Sorci presided over the issue.

City Attorney Combs reported to Council that the City believes it is important for the health and fitness of its employees to regularly work out and currently there is no local facility for that use. Dorothy and Howard Botts have an unused garage located adjacent to City facilities which the City could lease and convert to a health facility for all city employees. Mr. Combs stated that the rental agreement to allow city staff to use the structure as a work out facility is under the threshold. Mr. Combs also noted that this is a five year lease and the language is pretty straight forward.

A **motion** was made by Councilmember Cline and **seconded** by Councilmember McPherson to adopt Resolution No. 07-474, authorizing the City Administrator to enter into a lease for a structure to be used by the employees of the City for health and fitness. Motion **passed** with all voting in favor (5-0).

Mayor Botts re-joined the meeting.

**DEPARTMENT REPORTS:**

**Public Works –**

Public Works Supervisor Dal Santo reported that the City was awarded the overlay grant of \$100,000 to overlay the Lake Sawyer Road.

**Economic Development –**

Economic Development Director Williamson reported to Council the activities that are happening in Black Diamond and passed out a handout. Mr. Williamson noted that on page two deals with the comprehensive plan meeting scheduled and that letters were sent out with many responses from the community. Mr. Williamson also reported that the next issue was a housekeeping issue and reminded Council that last November they agreed to allow PSE to do some mitigation on Ginder Creek and Council asked that PSE come back with a plan. PSE has picked the Ginder Creek area. Mr. Williamson stated that Council approved this to take place in November, subject to seeing the plan. Mr. Williamson noted that an agreement from Council was needed to move forward with this issue.

Councilmember Bowie wanted to know who would be the lead in the project. Mr. Williamson stated that it would be a Community Development project.

There was Council consensus to move forward with PSE and the Ginder Creek project.

## **MAYOR'S REPORT:**

Mayor Botts reflected on the passing year and stated that the City Council was losing three Councilmembers. Councilmember McPherson served six years, Councilmember Cline served nine years and Councilmember Sorci served nineteen years. Mayor Botts noted that three new Councilmembers will take office in January. Plaques were handed out to the three members leaving and Mayor Botts thanked them for their service to the City. Mayor Botts expressed how exemplary this Council has been and should be proud of what they have accomplished. Mayor Botts stated that he looks forward to the coming year and the opportunities.

## **COUNCIL REPORTS:**

Councilmember Bowie updated Council on the water projects pertaining to schedule A and discussed issue of the springs across the river and the new transmission line to discussions regarding transferring the water rights from one side of the river to the other side. Mr. Bowie asked Council to scrap this idea and to authorize staff to start the process of selecting an engineer to do the design phase of the spring enhancement and transmission main.

A **motion** was made by Councilmember Bowie and **seconded** Councilmember Sorci authorizing the Mayor to commence the work to move forward with the springs enhancement river crossing and transmission line. Motion **passed** with all voting in favor (5-0).

Councilmember Sorci thanked the Mayor for the plaque and stated that he really enjoyed the past 19 years and would be available to serve on any committee if so needed.

Councilmember Cline stated that he loved being a part of everything that was accomplished in his tenure on the Council.

Councilmember McPherson expressed he enjoyed the hard work and appreciated the time and had really enjoyed serving on the Council as well.

## **ATTORNEY REPORT:**

Attorney Combs stated that he had the pleasure of serving with all three of the leaving Councilmembers and has served with hundreds of Councilmembers and this City is phenomenal and applauded them for their hard work on staying the course of the City's vision. Mr. Combs also thanked Mr. Rick Luther for a good run and applauded him for the incredible job he has done behind the scenes to serve the City.

Attorney Combs reported there will be a twenty minute executive session on potential litigation with no action to follow.

## **PUBLIC COMMENTS:**

**Leih Mulvihill, Black Diamond** thanked the outgoing Councilmembers for all their hard work they had done and look forward to working with all the remaining Councilmembers to ensure the City's vision stays true.

**Bill Boston, Black Diamond** thanked Councilmembers for their service and wanted them to remember that he is always open to advice.

**CONSENT AGENDA:**

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

1. **Minutes** – Council Meeting of December 6, 2007
2. **Claim Warrants** – December 20, 2007, No. 30974 through 31028, 30967 through 30973 in the amount of \$142,256.48
3. **Authorizing Copier Purchases for City Hall and Community Development**

**EXECUTIVE SESSION:**

Mayor Botts recessed the regular meeting for an Executive Session at 9:13 p.m. to discuss real estate negotiations and potential litigation. No action was anticipated to follow the Executive Session, which was expected to last twenty minutes.

The regular meeting was called back to order at 9:33 p.m.

**ADJOURNMENT:**

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

ATTEST:

  
Howard Botts, Mayor

  
Brenda L. Streepy, City Clerk