

BLACK DIAMOND CITY COUNCIL MINUTES

March 3, 2011

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the regular meeting to order at 7:01 p.m. and lead us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Hanson, Goodwin, Boston, Saas and Mulvihill.

ABSENT: None

Staff present were: Steve Pilcher, Community Development Director; Andrew Williamson, Economic Development Director; Aaron Nix, Natural Resources/Parks Director; Greg Goral, Police Sergeant; Greg Smith, Fire Chief; Chris Bacha, City Attorney and Brenda L. Martinez, City Clerk.

PUBLIC COMMENTS:

Valerie Brazier and Polly Rohrbach, Black Diamond – presented Council with a petition to recall the MPD Ordinances.

Peter Rimbos, Maple Valley – discussed position of the three Councilmember's decision to not meet with the citizen's technical team.

Bob Edelman, Black Diamond – commented on Preliminary Plat submitted by YarrowBay and the City deeming it complete and the notification process.

Cindy Proctor, Enumclaw – discussed Preliminary Plat application; code process and vesting.

Melanie Gauthier, Black Diamond – addressed the lack of not having a City Administrator since fall of 2009.

Cindy Wheeler, Black Diamond – commented on Council being elected to serve the City and staff not making Council aware of all City happenings; staff and attorney being impartial; commented on petition submitted.

Robert Taeschner, Black Diamond – discussed upcoming election; past letter written to Council; Council working for the people.

Linda Irragang, Black Diamond – thanked Council for allowing the opportunity to speak; spoke of growing up in Texas along the border; son being in war in Middle East; folks risking life and limb to come to the US; commented on the Pledge and reflecting on the words spoken and the colors of the flag.

Colin Lund, YarrowBay – commented on listening to comments that staff and Council are not doing a good job and feels differently; discussed Mr. Ross having the authority to sign on behalf of BD Lawson LP and BD Villages LP and willing to provide this additional information to the City if needed; commented on preliminary plat that was submitted and includes Phase 1A and the process it will go through; look forward to working with staff and Council and the citizens.

William (Bill) Bryant, Black Diamond – commented he has lived in Black Diamond for 68 years; commented on Council needing to listen to the people more.

PUBLIC HEARINGS:

Tree Preservation Ordinance

Mayor Olness announced that Council has had two workstudies in the last two months regarding the ordinance and this is the third public hearing as it has changed significantly, there will be no action tonight we will take public testimony and take that in to consideration before bringing the tree preservation ordinance to Council.

Natural Resources/Parks Director Nix recapped what the Mayor discussed regarding workstudies and previous public hearings on the ordinance; distributed public comments received today via email to Councilmembers.

Mayor Olness opened the public hearing at 7:28 p.m.

Erika Morgan, Black Diamond – commented on the land behind her that was logged five or six years ago and was replanted. These trees were 125 years and were replaced with replacement trees and wonder if they are going to be significant trees.

Natural Resources/Parks Director Nix asked Ms. Morgan if they had a forest permit, which she replied she thought so. Mr. Nix replied he believed yes, under the ordinance they would be considered significant trees.

William (Bill) Bryant, Black Diamond – asked what 20 percent retention means, does that include wetlands; suggested 50 percent; gave example of Diamond Village and the housing development North of Four Corners having no trees and does not want to see this in Black Diamond; would like Council to look at the comments he submitted.

Jack Sperry, Black Diamond – commented on section 19.30.050 of the Black Diamond Municipal Code and asked why this exemption has been removed and wondered why; noted this is the only one of seven points being changed; section 19.30.080 read from the Black Diamond Municipal Code; commented on drip line radius and concerned his lot and many others could not adhere to this to get construction materials on property, what about those on adjacent properties and needs to be replaced with language that is used in other cities, he quotes his changes.

Brian Derdowski, Renton – commented on section 19.30.060 Tree Removal Permit and no criteria for the acceptance and denial; gave suggestion for acceptance and denial; not clear when the general site design is invoked; 30 percent density bonus instead of 20 percent concerned it appears a site that is mainly sensitive area then I get credit for my 20 or 30 percent of tree retention and most jurisdictions do not allow this; section 19.30.060(d) third sentence (read excerpt) needing to drop the word and; agrees with Mr. Sperry's comments on drip line where five feet is not enough and precludes you from cutting trees down; not sure about the \$500 fee and encouraged Council to address these issues.

Monica Steward, Black Diamond –noted having trees that keep various vendors busy, updated tree ordinance contains a number of issues and primary concern is what happens with development. All the benefits described in the opening language do not go away, even if the tree ordinance says okay, thus if developments are going to remove more trees, retaining trees is even more important, trees must be preserved in groups to minimize wind, no part of ordinance clarified the 20 percent needs to be on lots and not wetlands; including roads in the count; no process in place, there must be language added for the survival of trees left and also need a bigger penalty so ensure compliance, clause that specify the developer must pay an expert to determine the health of the trees, handed in her comments that she read.

Jacqueline Taeschner, Black Diamond – commented that she is protective of her trees; when the present ordinance was adopted she was proud of what went into it and is not frightened as the ordinance we have is quite satisfactory and considering the fact we are citizens of the US we engage in giving over our consent to those who govern us, she thinks the responsibility of those who govern us needs to be questioned at this point. She stated she moved that a consent of those being governed when any ordinance on heritage trees being considered need to be achieved.

Robert Taeschner, Black Diamond – discussed living in Queen Anne and the 70 trees they planted and most are still there and then discussed trees on their property in Black Diamond and his wife hugging a tree on their property after returning from a trip back East. Discussed some members of Council creating the first ordinance and there were many fine ideas in it.

Dennis Boxx, Black Diamond – noted two things he is concerned with regarding the ordinance, paying \$500 to thin his trees or having to pay \$500 to remove a tree that is too close to his house.

Mayor Olness closed the public hearing at 8:01 p.m.

PRESENTATIONS, ANNOUNCEMENTS, APPOINTMENTS:

Raise the Bar - XTERRA-Black Diamond

Brad Williams and Toby Mollet, Raise the Bar Covington Washington, distributed 2011 proposal; in 2009 voted #1 off-road triathlon in U.S.; 2010 the USA Triathlon National Council attended and XTERRA was recognized in their magazine as a “must do” race; 2011 will be the 4th year and pride themselves on the safety factor that derives all their decisions; provide great race for all in attendance. They also stated they would like to take this opportunity to address the privately owned island they used on the lake; they just became aware that it was privately owned and were unaware, thought it was public use and would revisit the race course for this year.

Councilmember Goodwin asked how many participants last year.

Mr. Williams replied just under 300.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Resolution No. 11-738, authorizing the Mayor to execute Amendment No. 1 to the Lease for a portion of Unimproved Real Property with the Sorci Family, LLC

Economic Development Director Williamson reported this lease would extend the lease of the Modulares for three years and highlighted other changes from the current lease.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-738, authorizing the Mayor to execute Amendment No. 1 to the Lease for portion of Unimproved Real Property with the Sorci Family, LLC. Motion **passed** with all voting in favor (5-0).

Resolution No. 11-739, authorizing the Mayor to execute Amendment No. 1 to the Lease for Real Property with the Sorci Family, LLC for the use of City office space

Economic Development Director Williamson reported this has been to the Finance Committee and the use of the old Library space as City Hall. He noted changes to the lease and noted it is for three years.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-739, authorizing the Mayor to execute Amendment

No. 1 to the Lease for Real Property with the Sorci Family, LLC for the use of city office space. Motion **passed** with all voting in favor (5-0).

Resolution No. 11-740, updating the city's official fee schedule to change certain travel document fees

Assistant City Administrator/City Clerk Martinez reported the City of Black Diamond became an approved Passport acceptance Facility in 2009 and in order for the City to collect the fees associated with this service those fees have been added to the official fee schedule. Recently we were notified of a change to one of the fees, and adoption of this resolution will update the current fee schedule to reflect the most current charge.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Boston to adopt Resolution No. 11-740, updating the City's official fee schedule to change certain travel document fees. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Olness congratulated the Enumclaw High School Wrestling Team for winning State; the parade will be rescheduled for next Monday.

COUNCIL REPORTS:

Councilmember Goodwin addressed the phosphorus restrictions on turf fertilizers and commented this bill just recently passed in the House and has now moved to the Senate and the prospects for passage are fairly significant.

Councilmember Mulvihill commented that the Black Diamond Labor Days Committee is starting to meet March 15 at 7 p.m. at the Black Diamond Bakery.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Peter Rimbos, Maple Valley – commented on Snoqualmie Ridge article in the Seattle Times and the differences from the proposed MPDs regarding traffic; discussed topics the technical team will address next week.

Bob Edelman, Black Diamond – responded to Mr. Lund; read from code; commented on his comment on Mr. Ross' perjury and read the certificate Mr. Ross signed.

Cindy Proctor, Enumclaw – commented on Mr. Lund's comment that City staff does work hard; discussed her recent PDR sent February 7, 2010; Tim Ford email sent to City.

Cindy Wheeler, Black Diamond – commented on twelve minutes a month to address Council; her tax bill and the increase of 44% to fees for Black Diamond; doubts on ordinances being enacted; rules being enforced equally and fairly.

Ericka Morgan, Black Diamond – commented on the problems she is having with her address and the Planning Department of Black Diamond.

William Rusk, Auburn – commented on XTERRA and stated he was the property owner of the island on Lake Sawyer and they are not permitted to use that property until they talk with him.

Vicki Harp, Black Diamond – commented on this being a sad situation; being a representative of Boeings; frustrated with the City moving forward and not adhering to the Growth Management Hearing Board decision.

Rob Deady, Black Diamond – commented on collecting signatures for the petition and talking with folks and hearing their concerns; listen to the citizens; commented on property taxes.

Sheila Hoefig, Black Diamond – commented on XTERRA event and her discussion with Amy Donlan at the City; commented on camping being allowed; Sunrise Resort providing camping and rentals and taking business away from our community; parking in the park; turn-around spot on the lake.

Jack Sperry, Black Diamond – commented on XTERRA and their website photos of the event.

Brian Derdowski, Black Diamond – commented on being part of the concept of the Growth Management Hearing Board; King County appeal loss; court process.

Robin Taylor, Black Diamond – commented on the sink hole she testified to the Hearing Examiner and contacted the Office of Surface Mining and was informed it is a sink hole on Lawson Hill.

Robert Taeschner, Black Diamond – commented on Senator Roach being here two weeks ago and her comment on there being no financing available for Highway 169.

CONSENT AGENDA:

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt the Consent Agenda. Motion **passed** with all voting in favor (5-0).

The Consent Agenda was approved as follows:

Claim Checks – March 3, 2011, No. 36687 through No. 36731 (voided No. 36691) in the amount of \$108,446.64

Minutes – Special Council Meetings of August 9 and 10, 2010 and Special Council Meeting of February 16, 2011, Workstudy Notes of February 17, 2011 and Council Meeting of February 17, 2011

EXECUTIVE SESSION:

Mayor Olness announced an Executive Session at 8:49 p.m. to discuss with legal counsel litigation pursuant to RCW 42.30.110(1)(i) and to discuss personnel pursuant to RCW 42.30.110(1)(f). No action was anticipated to follow the Executive Session, which was expected to last fifteen minutes.

Mayor Olness announced a 10 minute extension of the executive session.

The special meeting was called back to order at 9:19 p.m.


ADJOURNMENT:

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

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk