

BLACK DIAMOND CITY COUNCIL MINUTES
September 15, 2011
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 Hanson, Goodwin, Boston, Mulvihill and Saas.

ABSENT:

Staff present were: Seth Boettcher, Public Works Director; Andrew Williamson, Economic Development and Engineering Services Executive Director; Steve Pilcher, Community Development Executive Director; Amy Donlan, Permit Tech Supervisor; Greg Smith, Fire Chief; Chris Bacha, City Attorney and Brenda L. Martinez, City Clerk.

PRESENTATIONS, ANNOUNCEMENTS, APPOINTMENTS: None

Mayor Olness asked City Attorney Bacha to speak.

City Attorney Bacha discussed the Hearing Examiner recommendation being delivered yesterday and reminded Council they are still in a quasi-judicial role and cautioned them on the dialogue taking place at the meeting tonight.

PUBLIC COMMENTS:

Peter Rimbos, Maple Valley – commented on suggested Rules of Procedures that are on the agenda tonight.

Jamie Edelman, Black Diamond – continued reading from Mr. Rimbos' written statement regarding the suggested Rules of Procedures.

Jack Sperry, Black Diamond – commented on Council having patience with the next phase of proceedings regarding the Development Agreements.

Cindy Proctor, Enumclaw – commented on the suggested Rules of Procedures and the Hearing Examiners recommendation.

Cindy Wheeler, Black Diamond – commented on the use of Municipal funds to pay the proceedings and for the Hearing Examiner to give a completer recommendation and allowing the Hearing Examiner more time.

Brian Derdowski, Issaquah – noted he was speaking on behalf of SAVE Black Diamond and others, commented on what a Development Agreement is and the reason for a public participation process; allowing the Hearing Examiner more time and commented on suggested Rules of Procedures.

Melanie Gauthier, Black Diamond – asked if Council received a letter from Mr. Bricklin regarding City Legal Counsel.

Clarissa Metzler-Cross, Green Valley Road – read comments from Judith Carrier regarding the suggested Rules of Procedures.

Bob Edelman, Black Diamond – commented on time not being extended to Hearing Examiner; hiring independent Counsel.

Colin Lund, YarrowBay – commented on observations from tonight’s public comments; noted Hearing Examiner’s time to write recommendation.

Mrs. Sperry, Black Diamond – commented on suggested Rules of Procedures for the Closed Record Hearings.

PUBLIC HEARINGS: None
UNFINISHED BUSINESS: None

NEW BUSINESS:

Ordinance No. 11-965, relating to Business Licenses for Solicitors; amending Chapter 5.12 “Solicitors”, by repealing and replacing in its entirety Chapter 5.12; requiring a Solicitor’s License, imposing license fees, limiting solicitation hours, providing for the Right to Appeal, and, establishing penalties for violations; providing for severability; and establishing an effective date

Permit Tech Supervisor Donlan reported staff found there were some missing items to the Code and it needed to be updated. The recommended amendments to the Solicitors code will clearly identify the types of businesses required to attain a Solicitor License. It will also set up specific guidelines that will be used to determine approval or denial of the application.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 11-965, relating to Business Licenses for Solicitors; amending Chapter 5.12 “Solicitors”, by repealing and replacing in its entirety Chapter 5.12; requiring a Solicitor’s License, imposing license fees, limiting solicitation hours, providing for the Right to Appeal, and, establishing penalties for violations; providing for severability; and establishing an effective date.

Councilmember Saas asked about changing the time period and moving it to 8 p.m. rather than 9 p.m.

City Attorney Bacha noted legal counsel looked into this and advised the time period allowed is what courts have previously approved.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Saas to amend the time to 8 p.m. Motion **passed** (5-0).

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Saas to adopt Ordinance No. 11-965, relating to Business Licenses for Solicitors; amending Chapter 5.12 "Solicitors", by repealing and replacing in its entirety Chapter 5.12; requiring a Solicitor's License, imposing license fees, limiting solicitation hours, providing for the Right to Appeal, and, establishing penalties for violations; providing for severability; and establishing an effective date as amended. Motion **passed** (5-0).

Ordinance No. 11-966, relating to regulation of Gaming Activities; repealing sections 9.48.060 (Skill Games – Pinball, Pool – Operator's fees), 9.48.070 (Skill Game Operator's License – Application- Prerequisites), 9.48.080 (License- Posting – Duration – License Sticker), 9.48.090 (Exception), and 9.48.100 (Violation – Misdemeanor – License Revocation) of the Black Diamond Municipal code; providing for severability; and establishing an effective date

Permit Tech Supervisor Donlan noted the recommended would repeal this Chapter of code due to the fact the information can be obtained on the business license application.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Saas to adopt Ordinance No. 11-966, relating to regulation of Gaming Activities; repealing sections 9.48.060 (Skill Games – Pinball, Pool – Operator's fees), 9.48.070 (Skill Game Operator's License – Application- Prerequisites), 9.48.080 (License- Posting – Duration – License Sticker), 9.48.090 (Exception), and 9.48.100 (Violation – Misdemeanor – License Revocation) of the Black Diamond Municipal code; providing for severability; and establishing an effective date. Motion **passed** (5-0).

Ordinance No. 11-967, relating to licensing and regulation of Cabarets; providing for severability; and establishing an effective date

Permit Tech Supervisor Donlan reported the recommended amendment would delete this Chapter of Code. The information can be obtained on the business license application process. If issues arise regarding music in businesses, they can be mitigated through the nuisance ordinance and Code Enforcement.

A **motion** was made by Councilmember Saas and **seconded** by Councilmember Hanson to adopt Ordinance No. 11-967, relating to licensing and regulation of Cabarets; providing for severability; and establishing an effective date. Motion **passed** (5-0).

Resolution No. 11-765, updating the City's Fee Schedule

Permit Tech Supervisor Donlan reported periodically, city staff reviews the adopted fee schedule to ensure fee amounts are sufficient to cover the expense of providing various City services. In addition, changes to city code and procedures at times require the initiation of new

or changed fees to address new or modified processes. The proposed amendments are intended to address those situations. Ms. Donlan highlighted the changes.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Boston to adopt Resolution No. 11-765, updating the City's Fee Schedule. Motion **passed** (5-0).

Agenda Bill No. 11-059, Suggested Rules of Procedure for Development Agreement Closed Record Hearings

Mayor Olness noted these suggested Rules of Procedures are based on last year's Master Planned Development Closed Record Hearings and the recent Development Agreement Open Record Hearings, staff has put together the attached suggested Rules of Procedure to help achieve a clear and orderly hearing process. She added the attached suggested Rules of Procedures incorporate most of the rules used by Council last year during the Master Planned Development Closed Record Hearings with a few additions that were used by the Hearing Examiner during the Open Record proceedings this past July. The intent for tonight is to review and discuss with adoption occurring on the first night of the Closed Record Hearings which is September 21, 2011.

Councilmember Goodwin noted he does not feel there is need for discussion tonight as Council will be setting them on the first night of the Closed Record Hearings.

Councilmember Hanson stated she would like to proceed tonight with discussion.

Mayor Olness noted each item and Council made suggestions to the proposed rules of procedure.

DEPARTMENT REPORT:

Economic Development and Engineering Services Executive Director Williamson announced the Boat Launch will be open this weekend and striping will be done shortly. It took the Contractor approximately 10 days to complete.

MAYOR'S REPORT:

Mayor Olness reported she attended Reichert Mayor's Meeting in August; attended the new Teacher breakfast at Black Diamond Elementary, Rachel's Challenge Community Event on September 20 at the Black Diamond Elementary School Gymnasium and urged the public to attend; September 7 attended the CEO lunch on Economic Development; 9-1-1 Program; Suburban Cities Association Public Issues Committee meeting; support of funding from Block Grants program; receive letter from King County regarding a recent audit on the Sidewalk Project with no findings and the city staff was praised for their professional conduct assistance and cooperation.

COUNCIL REPORTS:

Councilmember Hanson reported on the Metropolitan Solid Waste Management Advisory Committee she attended last Friday. She noted the next meeting will be in November.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Peter Rimbos, Maple Valley – commented on the handout he turned in and clarified his statements.

Brian Derdowski, Issaquah – commented on the Closed Record Hearings being on the Hearing Examiners recommendation and the entire record; suggested Rules of Procedures.

Bob Edelman, Black Diamond – concurred with the previous speakers.

Cindy Proctor, Enumclaw – agreed with the previous speaker; commented on Hearing Examiner recommendation.

Melanie Gauthier, Black Diamond – stated she believes the recommendation we got was wrong and to give the Hearing Examiner more time.

Cindy Wheeler, Black Diamond – commented on the rushing of the process; commented on suggested Rules of Procedures.

Erika Morgan, Black Diamond – commented on Abrams Avenue and the ditch done by Puget Power.

Colin Lund, YarrowBay – commented on the Hearing Examiners recommendation and asking for more time.

Tamie Deady, Black Diamond – stated she agrees with comments made tonight; allowing Hearing Examiner more time.

Sheila Hoefig, Black Diamond – commented on missing pieces in the recommendation and not being complete.

Councilmember Saas stated that staff needs to ask the Hearing Examiner how much more time would it take to complete and have that answer to Council on the 21st.

CONSENT AGENDA:

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

Claim Checks – September 15, 2011, No. 37383 through No. 37425 (voided No. 37385) in the amount of \$102,369.53

Payroll Checks – August 30, 2011 No. 17519 through No. 17545 (voided No. 17527) and ACH Payment for a total amount of \$286,703.25

Minutes –Special Council / Workstudy Meeting of August 30, 2011

EXECUTIVE SESSION: None

ADJOURNMENT:

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

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk