

CITY OF BLACK DIAMOND

March 21, 2013 Meeting Agenda 25510 Lawson St., Black Diamond, Washington

7:00 P.M. - CALL TO ORDER, FLAG SALUTE, ROLL CALL

PUBLIC COMMENTS: Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending this evening.

EXECUTIVE SESSION: To evaluate Council candidate qualifications pursuant to RCW 42.30.110(1)(h) with action to follow.

PUBLIC HEARINGS: None

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:

Council Appointment of Position #3

UNFINISHED BUSINESS:

NEW BUSINESS:

AB13-022 – Resolution Amending Fee Schedule Regarding Building Permit Fees
 AB13-023 – Resolution Removing Section 9.7 from the Council Rules and Procedures
 Mr. Pilcher

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 3.) Claim Checks March 21, 2013, Check No. 39453 through 39508(voided checks No. 39452) in the amount of \$111.333.82
- **4.)** Payroll Checks February 28, 2013, No. 17987 through No. 18006 and ACH Pay in the amount of \$277,180.26
- 5.) Minutes Council Meeting of March 7, 2013 and Workstudy Notes of March 7, 2013

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

City of Black Diamond Post Office Box 599 Black Diamond, WA 98010

ITEM INFORMATION			
SUBJECT: Resolut		Agenda Date: March 21, 2013	AB13-022
amending the Fee S		Department/Committee/Individual	AD15-022
	-A, Building Permit	Mayor Rebecca Olness	
Fees		City Administrator – Mark Hoppen	
		City Attorney –Chris Bacha	
		City Clerk – Brenda L. Martinez	
		Finance – May Miller	
		Public Works – Seth Boettcher	
Cost Impact: None		Economic Devel. – Andy Williamson	
Fund Source: NA		Police – Jamey Kiblinger	
Timeline: The 2013 Fe	ee Schedule was adopted	Court - Stephanie Metcalf	
2/7/13		Comm. Dev Steve Pilcher	X
Attachments: Resol	lution No. 13-860; Exh	ibit A; Incorrect version adopted on 02	2/07/13
Table 1-A, Building is to amend the Feet An adjustment to the International Codes	g Permit Fees, was inces Schedule to include the sees fees may be constant are required to be ad		lle. This proposal
COMMITTEE REVI	EW AND RECOMME	INDATION: NA	
		N to adopt Resolution No. 13 g Table 1-A Building Permit F	
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
March 21, 2013			
, , ==	F	· · · · · · · · · · · · · · · · · · ·	······

RESOLUTION NO. 13-860

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, UPDATING THE CITY'S FEE SCHEDULE

WHEREAS, as codified in Chapter 2.62 of the Black Diamond Municipal Code, the City of Black Diamond has previously authorized and adopted an official schedule of fees that specifies the amounts to be charged for services provided by city employees and their agents; and

WHEREAS, this fee schedule is updated from time to time to add or change fees for services the city provides; and

WHEREAS, this fee schedule was most recently amended on February 7, 2013; and

WHEREAS, staff has discovered that the updated fee schedule included an outdated Table 1-A for Building Permit Fees;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

<u>Section 1.</u> The City's official fee schedule, as previously adopted by Resolution No. 13-855 and is hereby amended to replace Table 1-A Building Permit Fees with the correct Table 1-A Building Permit Fees as shown in attached Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 21ST DAY OF MARCH, 2013.

	CITY OF BLACK DIAMOND:	
	Rebecca Olness, Mayor	
Attest:		
Brenda L. Martinez, City Clerk		

Exhibit 1

Table 1-A BUILDING PERMIT FEES

TOTAL VALUATION	FEE	
\$ I.00 TO \$500.00	\$26.00	
\$501.00 TO \$2,000.00	\$26.00 for the first \$500.00 plus \$3.35 for each additional \$100.00, or fraction thereof, to and including \$2,000.00	
\$2,001,00 TO \$25,000.00	\$76.20 for the first \$2,000.00 plus \$15.40 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00	
\$25,001.00 TO \$50,000.00	\$430.40 for the first \$25,000.00 plus \$11.10 for each additional \$1,000,00, or fraction thereof, to and including \$50,000.00	
\$50,001.00 TO \$100,000.00	\$708.20 for the first \$50,000.00 plus \$7.70 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00	
\$100,001.00 TO \$500,000.00	\$1093.20 for the first \$100,000.00 plus \$6.15 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00	
\$500,001.00 TO \$1,000,000.00	\$3556.30 for the first \$500,000.00 plus \$5.25 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00	
\$1,000,001.00 AND UP	\$6169.65 for the first \$1,000,000.00 plus \$4.05 for each additional \$1,000.00, or fraction thereof	
Other Inspections and Fees:		
 Inspections outside of n 	ormal business hours\$100.00 per	
hour' (Minimum charge - two		
2. Re-Inspection fees	\$75.00 per	
assessment'		
3. Inspections for which n	o fee is specifically indicated\$75.00 per	
hour'		
(Minimum charge - one l		
	ue to additions or revisions to plans\$84.00 per	
hour'		
(Minimum charge - one h	our)	
hour'	ue to Deferred Submittals\$84.00 per	
(Minimum charge - I hou	٠,	
	nts for plan checking and Inspections or bothActual cost +	
20%	its for plan checking and hispections of both	
	of the permit fee when required,	
	La and waster and form one)	
Public Improvement Projects Fee	Wavier. The city administrator may, in his discretion, waive any or all of the permit fees uilding Code and any amendments thereto, for any public improvement project for which	

Public Improvement Projects Fee Wavier. The city administrator may, in his discretion, waive any or all of the permit fees required under the International Building Code and any amendments thereto, for any public improvement project for which the city is providing some or all of the funding for said project.

Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

Versim Adapted 2/7/2013

Exhibit 1

Table 1-A BUILDING PERMIT FEES

	THE TENED
TOTAL VALUATION	FEE
\$1.00 TO \$500.00	\$23.50
\$501.00 TO \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 TO \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 TO \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 TO \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 TO \$500,000.00	\$993.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 TO \$1,000,000.00	\$3,233.00 for the first \$500,000.00 plus \$4,75 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 AND UP	\$5608.75 for the first \$1,000,000.00 plus \$3.65 for each additional \$1,000.00, or fraction thereof
(Minimum charge – two	
Re-Inspection fees	\$104.15 per assessment
 Inspections for which no (Minimum charge – one) 	fee is specifically indicated
4. Additional plan review d	ue to additions or revisions to plans\$104.15 per hour ¹
5 Additional plan review di (Winimum charge – I ho	ie to Deferred Submittals
	ts for plan checking and Inspections or both
Plan review shall be 65%	of the permit fee when required.

<u>Public Improvement Projects Fee Wavier.</u> The city administrator may, in his discretion, waive any or all of the permit fees required under the Uniform Building Code and any amendments thereto, for any public improvement project for which the city is providing some or all of the funding for said project.

Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

CITY COUNCIL AGENDA BILL

City of Black Diamond Post Office Box 599 Black Diamond, WA 98010

	ITEN	M INFORMATION	
SUBJECT:		Agenda Date: March 21, 2013	AB13-023
Resolution No. 13-	861, authorizing the	Department/Committee/Individual	
	ve Section 9.7 Vote	Mayor Rebecca Olness	
by Proxy from Cou	ıncil Rules of	City Administrator - Mark Hoppen	
Procedures		City Attorney - Chris Bacha	
		City Clerk - Brenda L. Martinez	X
		Finance – May Miller	· · · · · · · · · · · · · · · · · · ·
		Natural Resources/Parks – Aaron Nix	
Cost Impact:		Economic Devel. – Andy Williamson	
Fund Source:		Police – Jamey Kiblinger	
Timeline:		Court – Stephanie Metcalf	
		Comm. Dev. – Steve Pilcher	
Attachments: Reso	lution No. 13-861; Str	ikethrough of Section 9.7	
regarding voting b			
COMMITTEE REV	IEW AND RECOMM	ENDATION:	
		N to adopt Resolution No. 13-8 on 9.7 Vote by Proxy from C	
	RECORD	OF COUNCIL ACTION	
Meeting Date	Action	Vote	
March 21, 2013			
			

RESOLUTION NO. 13-861

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE CITY CLERK TO REMOVE SECTION 9.7 VOTE BY PROXY FROM COUNCIL RULES OF PROCEDURE

WHEREAS, the City Council of the City of Black Diamond desires to remove Section 9.7 from Council Rules of Procedure regarding vote by proxy;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

<u>Section 1.</u> The City Clerk is hereby authorized to remove Section 9.7 from Council Rules of Procedure regarding vote by proxy.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 21ST DAY OF MARCH, 2013.

	CITY OF BLACK DIAMOND:
Attest:	Rebecca Olness, Mayor
Brenda I Martinez City Clerk	

unless, as provided by RCW 42.36.090, a challenge to a member or members of the decision-making body would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law; in such cases, any challenged member(s) shall be permitted to fully participate in the proceedings and vote as though the challenge had not occurred, if the member(s) publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine.

- 9.6.2 Refusal to abstain. Should the Mayor or a Councilmember refuse to abstain from participation and voting on an issue after the City Attorney has determined that abstention is necessary, the challenged person may be disqualified from participating and voting on that issue upon a vote to disqualify that is passed by a majority of the other Councilmembers present who are eligible to vote on the underlying issue.
- 9.7 <u>Vote by Proxy</u>. Except as prohibited by law, if the Mayor or a Councilmember is eligible to vote on an issue but will unable to be present to cast the vote, the absent person may arrange for another Councilmember who will be present to vote on behalf of the absent person, *provided*, if the item being voted upon has been substantively amended during the council meeting, a proxy vote shall not be allowed unless the absent Councilmember has been informed of the change to the item and indicated how they wish to vote on the amended item.

SECTION 10 – PUBLIC COMMENTS

- 10.1 Requesting to speak. During the Public Comment period, members of the audience may comment on any matter related to City business. At the discretion of the Mayor or other Presiding Officer, citizens may also speak on individual agenda items at the time they are considered by the Council. Persons addressing the Council who are not specifically scheduled on the agenda will be requested to fill out the speaker sign-in sheet at the City Clerk's desk, then step up to the podium, give their name and address for the record, and limit their remarks to three (3) minutes. All remarks must be addressed to the Council as a whole. The City Clerk shall serve as timekeeper. The Presiding Officer may make exceptions to the time restrictions when warranted. See Section 3.6 for requests to make special presentations to the Council.
- 10.2 <u>Time limit</u>. Comments are limited to three (3) minutes per person, and a total of fifteen (15) minutes per topic. Groups who have a designated speaker may have a total of ten (10) minutes to speak. The Mayor or other Presiding Officer may make exceptions to the time restrictions when warranted by special circumstances.



February 21, 2013

City of Black Diamond Attn: Mayor Olness PO Box 599 Black Diamond, WA 98010

RE: Request to Meet and Negotiate Pursuant to Section 2(a) of the MPD Funding

Agreement

To Mayor Olness:

The purpose of this letter is to request a meeting in accordance with Section 2(a) of the MPD Funding Agreement as set forth in Exhibit N to the Villages and Lawson Hills MPD Development Agreements on behalf of BD Village Partners, LP and BD Lawson Partners, LP (collectively referred to herein as YarrowBay). The basis for our request is set forth in detail below.

YarrowBay had a fiscal analysis prepared for Phase 1A of The Villages and Lawson Hills MPDs pursuant to the MPD Conditions of Approval and Section 13.6 of the Development Agreements for both projects. The final fiscal impact analysis prepared by DPFG is dated September 20, 2012 (the "Fiscal Impact Analysis"). The Designated Official, with the assistance of the MDRT's fiscal consultant, approved the Fiscal Impact Analysis on October 23, 2012.

Table 2 within the Fiscal Impact Analysis provides a summary of the MPDs' Phase 1A financial performance over a 10-year timeline beginning in 2012 and ending in 2021. The analysis estimates that residential occupancy of The Villages MPD will begin in 2015 and a limited amount of commercial space will begin being occupied and generating sales tax revenue in 2016. The Villages MPD Phase 1A is currently on schedule to achieve these anticipated timelines. Based on Phase 1A's anticipated fiscal performance as set forth in the Fiscal Impact Analysis, without supplemental revenue, The Villages MPD will generate a deficit beginning in year 2015 as specified in the Net Annual General Fund Surplus (Deficit) category of Table 2. However, this deficit is significantly overcome by the funding obligations of YarrowBay as set forth in the MPD Funding Agreement, which is assumed to be an annual contribution of \$1,653,685. The result, as shown in Table 2, is a Modified Cumulative General Fund surplus for the City of Black Diamond in excess of \$14 million by 2021. Further, the pre-MPD funding deficit for the City will likely be significantly less because the City of Black Diamond Hearing Examiner has required, as a condition of preliminary plat approval for the Phase 1A Preliminary Plat, that the Fiscal Impact Analysis be redone with a municipality other than Black Diamond used as a comparable city for calculating the cost of police service.

In summary, there is a significant fiscal surplus anticipated for the City of Black Diamond as a result of Phase 1A of The Villages and Lawson Hills MPDs. The MPD Funding Agreement addresses in several places how such a surplus should be treated by the parties to the agreement.

First, Recital "J" of the MPD Funding Agreement provides:

Whereas, the City, BD Village and BD Lawson recognize that while the City currently does not have sufficient revenues to pay for the staff necessary to effectively and efficiently handle its current workload, the parties expect that the Villages MPD and Lawson Hills MPD will produce revenue for the City and, as a result, that the need for some portions of the funding under this MPD Funding Agreement will be reduced over time and ultimately eliminated.

As such, both the City and YarrowBay fully expected when entering into the MPD Funding Agreement that revenues produced by The Villages and Lawson Hills MPDs would reduce and ultimately eliminate the staff funding obligations as specified on Exhibit C of the agreement (i.e., 13 staff positions). The anticipated surplus documented by the Fiscal Impact Analysis clearly indicates an ability for the City to substantially reduce its reliance on YarrowBay to fund the staff positions listed on Exhibit C.

Second, Recital "L" of the MPD Funding Agreement provides: "Whereas, on an ongoing basis, the City, BD Village and BD Lawson agree to manage their operations in a fiscally responsible manner." The results of the Fiscal Impact Analysis indicate that the parties to the MPD Funding Agreement should reanalyze the balance of the funding obligations between the City and YarrowBay. Fiscal responsibility dictates that both parties attempt to reach a more balanced budget going forward.

Third, Recital "M" of the MPD Funding Agreement provides:

Whereas, the City, BD Village and BD Lawson hereby agree that the purpose of this MPD Funding Agreement is to create an instrument to fund City staff as necessary to implement The Villages MPD and The Villages Development Agreement as well as the Lawson Hills MPD and the Lawson Hills Development Agreement.

This recital clearly establishes that the purpose of the MPD Funding Agreement is to fund City staff necessary to implement the MPDs and the Development Agreements. In accordance with Section 3 of the MPD Funding Agreement, "the primary function of the MDRT is to process, review and implement development permits and development agreements of the Villages MPD and the Lawson Hills MPD." According to Section 3(a), the MDRT is comprised of (1) the City's Economic Development Director, (2) the City's Community Development Director, (3) the City's MPD planner, (4) a new City administrative support position, (5) necessary consultants as determined by the City after consultation with the Master Developer and (6) additional City staff as identified by the Developer through the Annual Review. Based on the current and pending work anticipated by the MDRT's 2013 work plan, the current funding obligation of YarrowBay under the MPD Funding Agreement exceeds the cost of the positions that are necessary to implement the MDRT's current and future year anticipated work plans.

Fourth, Recital "N" of the MPD Funding Agreement provides in relevant part:

Whereas, the City, BD Village and BD Lawson hereby also agree that the intent of this MPD Funding Agreement includes the following: (i) to create a mechanism to reduce the

Developer's Total Funding Obligation (as defined below) by ultimately eliminating the Developer's funding of City Staffing Shortfalls (as defined below) and instead funding one hundred percent (100%) of such City staff with City revenue; (ii) to establish a hierarchy of City staff necessary to provide basic administrative services within the City and for sufficient City staff to implement the Villages MPD and Lawson Hills MPD, The Villages Development Agreement and Lawson Hills Development Agreement, and to review and process implementing development permits for the Villages MPD and Lawson Hills MPD; (iii) to ensure funding of City staff assigned to the Master Development Review Team ("MDRT") to be established as defined herein...

With the exception of the noted basic administrative services within the City, the clear intent of the MPD Funding Agreement is to implement the MPDs and Development Agreements through the four MDRT staff named in the agreement itself and the MDRT's consultants.

Fifth, Recital "O" of the MPD Funding Agreement provides in relevant part:

Whereas, the City, BD Village and BD Lawson further agree that this MPD Funding Agreement is intended to cover three types of costs: (i) certain City staffing costs on an interim basis (i.e., City Staffing Shortfalls as defined below); (ii) MDRT Costs (as defined below); and (iii) any fiscal shortfalls created by the Village MPD...

The Villages and Lawson Hills MPD Development Agreements were executed on December 12, 2011. Since that time, BD Village and BD Lawson have been paying for City staffing shortfalls as well as the MDRT and its consultants. Table 2 of the Fiscal Impact Analysis approved by the Designated Official in October of 2012 indicates that a number of current City staff positions could be eliminated from YarrowBay's MPD Funding Agreement obligation in order to better balance City costs and revenues.

Finally, Section 2(a) in the MPD Funding Agreement provides in relevant part:

If the most recent Fiscal Analysis (as defined below) or Annual Review (as defined below), whichever is more current, projects a fiscal benefit for the City, then the City and Developer shall promptly meet and negotiate in good faith to determine whether and when the salary and benefit costs of one or more City staff positions identified on Exhibit C should be funded by the City...

The Fiscal Impact Analysis approved by the City's Designated Official projects a fiscal surplus for the City of Black Diamond as a result of Phase 1A of The Villages and Lawson Hills MPDs. Therefore, YarrowBay respectfully requests a meeting to determine which of the City staff positions identified on Exhibit C of the MPD Funding Agreement should be funded by the City on a going forward basis.

Thank you for your prompt attention to this matter. Please contact me at 425-898-2100 at your earliest convenience to set a meeting date. YarrowBay looks forward to working with the City of Black Diamond to reach agreement on the appropriate staffing levels to be funded under the MPD Funding Agreement.

Sincerely,

Colin Lund

Chief Entitlement Officer

YarrowBay

cc: Michael Kenyon, Kenyon Disend, 11 Front Street South, Issaquah, WA 98027

Nancy Rogers, Cairncross & Hempelmann, 524 Second Avenue, Suite 500, Seattle, WA 98104

Megan Nelson, YarrowBay



CITY OF BLACK DIAMOND

Memorandum

TO: CITY COUNCIL MEMBERS, CITY OF BLACK DIAMOND

FROM: MARK HOPPEN, CITY ADMINISTRATOR \mathcal{MH}

SUBJECT: YARROW BAY FUNDING REDUCTIONS

DATE: MARCH 8, 2013

Yarrow Bay has triggered Section 2A. of the MPD Funding Agreement signed by the City of Black Diamond and Yarrow Bay on December 15th, 2011. This section of the agreement states:

If the most recent Fiscal Analysis...or Annual Review..., whichever is more current, projects a fiscal benefit for the City, the City and Developer shall promptly meet and negotiate in good faith to determine whether and when the salary and benefits cost of one of more City staff positions identified on Exhibit C should be funded by the City. If so, then the city shall identify the appropriate City staff position to be removed from the Developer's total funding obligation whether or not the Wind-Down timing threshold associated with such City staff position...has been triggered. (p.4)

Negotiations held on March 6 resulted in a clear understanding that Yarrow Bay is entitled and intends to reduce its obligation to fund City of Black Diamond staff by \$120,000 in 2013 beginning on July 1, by an additional \$240,000 during the 2014 budget year, and by additional reductions in succeeding years.

This will result in a Full-time Equivalent reduction of approximately 3.5 staff members by the beginning of the 2014 budget year if General Fund and utility revenue remain constant.

Yarrow Bay's intended objective is to reduce its costs per Fiscal Analysis and this section of the agreement until its costs are supporting only MDRT costs. Yarrow Bay could have initiated this process immediately per agreement.

The reduction of \$120,000 plus \$240,000 plus approximately \$42,000 facility support out of Yarrow Bay support of \$1,844,305 equates to a percentage reduction in outside staff and facility support dollars of 21.8% for City of Black Diamond 2014 operations.