

BLACK DIAMOND CITY COUNCIL MINUTES
September 2, 2010
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, Boston, Goodwin, Mulvihill and Saas.

ABSENT: None

Staff present were: Seth Boettcher, Public Works Director; Aaron Nix, Natural Resources /Parks Director; Greg Smith, Fire Chief; Jamey Kiblinger, Police Chief; Chris Bacha, City Attorney and Brenda L. Martinez, City Clerk.

PUBLIC COMMENTS:

Vicki Harp, Black Diamond – discussed AB10-071 and discussed prior history of an incident when her husband was on the Council.

Judy Auvea, Black Diamond – commented on feeling her Councilmembers are doing a great job.

Erika Morgan, Black Diamond – complimented the Police Department regarding the incident that took place in town last Friday; commented on the challenge of trails in town and the garbage.

Judith Carrier, Green Valley Road – asked questions about what will happen next in the MPD process; thanked Council for considering the Green Valley Road during their deliberations.

Cindy Proctor, Enumclaw – commented on the Office of Surface Mining; Labor Days thanked Labor Day Committee and Staff; commented on Councilmembers Saas and Goodwin statement that we should focus on building a bridge with the citizens; commented on disappointment with staff regarding possibility of hearing citizens input on the development agreement; commented on 12 minutes a month to discuss input at Council meetings; commented on each Council's statements they made when they took office; threatening phone calls she received during the MPD process; commented on Councilmember Hanson's social network page.

Mike Irrgang, Black Diamond – expressed his concern with the way the Closed Record Hearings were done; commented on ex-parte communication and the vote that was taken on the MPDs.

Lisa Garvich, Black Diamond – commented on the proposed changes to the Order of Business.

Brian Derdowski, Sunset Way, Issaquah – commented on his time as a King County Councilmember; his involvement in the MPSs; his vote against the Black Diamond Open Space Agreement; commented on Stormwater Management Plan; and Development Agreement.

Jack Sperry, Black Diamond – distributed graph showing water level in Lake Sawyer and commented on the water level being almost 7 inches higher at this time than in previous years and asked Council to start thinking about potential flooding that could take place this winter; weir needs cleaning.

Cindy Wheeler, Black Diamond – echoed Cindy Proctor; discussed emails she sent to Council yesterday regarding the move of the public comments being changed and asked Council not to adopt this; City Administrator absence.

Joe May, Black Diamond – read a letter from Mr. Rimbo in his absence regarding transportation infrastructure.

PUBLIC HEARINGS:

Proposed Changes to the Tree Preservation Code

Natural Resources/Parks Director Nix reported on the proposed ordinance and announced some policy discussion still needs to be made with the final step being submitted to Department of Commerce for a review period.

Mayor Olness opened the public hearing at 7:45 p.m.

Jack Sperry, Black Diamond – confused on language in the proposed ordinance on exemptions and asked for clarification.

Cindy Wheeler, Black Diamond – stated she has commented on this numerous times and her comments have not been carried through; concerned on why the removal of the original condition of suspending building permits for six years; commented on Rebecca Olness having the section put in the ordinance and feels this is an important clause and would like to see it added as there is precedence for it to be in there; commented on Clause E and feels five feet from the drip line does not seem like a sufficient clause.

Lisa Garvich, Black Diamond – stated she surfed on the internet other tree ordinances that have been adopted and found a lot of other places have a community board so the

ordinance reflects the intent of what needs to be done; diversity of the trees species and when trees will be planted, and how soon after do those replacement trees need to be planted and what happens if the replacement tree dies and how will the trees during construction be protected and hopes a little more research can be done.

Brian Derdowski, Sunset Way, Issaquah – thanked Council for taking up this issues; noted clustering is missing in this ordinance and feels this is very important; gave examples such as the fee of \$100 referred to section D; enforcement and protection of drip line; recommended language for drip line on page 8; page 10 noted C in regards to impractical and recommends looking at a number of things as the use of impractical could come back to get you; requested keeping the public hearing open to allow time to receive written comments later; idea of doing side by side comparisons.

Mike Irrgang, Black Diamond – appalled by this document as 11 pages are thrown out the window by three lines on page 7 to permit the clear cutting; commented on conversation with Paul Reitenbach.

Cindy Proctor, Enumclaw – conflict on monetary penalties and the way it is written in this ordinance; discussed earlier incident regarding using Chapter 8 to enforce the code; important that we enforce codes and that it is consistent and encouraged us to look at other city codes as the purpose is to be a deterrent.

Mayor Olness closed the public hearing at 8:05 p.m.

Mayor Olness announced that written comments will stay open for one week.

City Attorney Bacha clarified this is not a quasi judicial matter and Council can take public comments on this at any time.

Councilmember Mulvihill suggested the fines should be based on board feet of the tree not just the tree and this might be more of a deterrent.

Councilmember Goodwin specifically requested to see a side by side as discussed in the committee meeting and feels this is important and the \$1,000 penalty.

Councilmember Boston state the \$100 is not a fine it is part of the replacement; this is done when someone retains a tree permit.

Councilmember Saas gave an example of clear cutting.

Councilmember Hanson would like to see something regarding clustering trees and being an advantage.

Councilmember Mulvihill feels clustering is safer.

Councilmember Goodwin pointed out under the current ordinance there is no minimum and this allows for a 20 percent retainage.

Councilmember Boston stated he felt there was some confusion regarding the deposit for the replacement tree and the violation, they are two different issues.

Natural Resources/Parks Director stated he will take the comments and suggestions into consideration when drafting the ordinance.

PRESENTATIONS:

Mayor Olness reported that Chief for a Day will not take place tonight as Preston just had surgery and he will come when he is able.

Mayor Olness read the following proclamation:

WHEREAS, more than 14 percent of Washington's high school students smoke cigarettes, and more than 10 percent of the state's male high school students use smokeless tobacco; and

WHEREAS, more than 45 Washington kids under age 18 start smoking every day; and

WHEREAS, more than 240,000 children in Washington State are exposed to secondhand smoke at home from the approximate 15 percent of the state's adults who smoke; and

WHEREAS, more than eleven-and-a half million packs of cigarettes are bought or smoked by Washington kids each year; and

WHEREAS, each day in the United States, more than 3,500 kids try their first cigarette, and approximately 1,000 others under age 18 will become new regular, daily smokers; and

WHEREAS, 80 percent of all adult smokers began smoking while in their teens, and two-thirds became regular, daily smokers before the age of 19; and

WHEREAS, roughly one-third of all youth smokers will die prematurely from smoking-caused diseases; and

WHEREAS, there are now more opportunities than ever to quit smoking, including support, medical treatments, and nicotine replacement;

NOW, THEREFORE, I, Rebecca Olness, Mayor of the City of Black Diamond do hereby proclaim September 12-18, 2010, as

Tobacco-free Teens Back to School Week

in Black Diamond, and I urge all citizens to join me in this special observance.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Resolution No. 10-708, amending Council Rules and Procedures adopted on May 7, 2009 and revised on January 7, 2010

Mayor Olness reported as requested by Council at the last meeting this resolution would amend Section 3 of the current Council Rules and Procedures and establish a new order of business for regular Council meetings to better meet the needs of the Council, staff and citizens.

Councilmember Saas stated the interpretation was to allow Council the time to address public comments and didn't see a reason for changing the way it is addressed now and is opposed to adopting this.

Councilmember Goodwin agreed with Councilmember Saas; asked public to be respectful when addressing Council with their concerns.

Councilmember Boston commented that he made the motion and asked for the change of order and felt this was a good choice and noted we could change this to where staff does their report and then public comment; noted surrounding cities process and commented this is the Council's time and does not want to take anything away from anyone and thought it would be more advantageous.

Councilmember Mulvihill stated she liked the change to allow staff to give input after the public comments.

Councilmember Boston stated that he was amendable to whatever the votes shows; appreciated the way Mr. Derdowski addressed the Council tonight.

Resolution died for lack of motion.

Resolution No. 10-709, adopting the Stormwater Management Program (SWMP) 2010 annual update

Public Works Director Boettcher reported this went to the Public Works Committee earlier this year and a public hearing was held. This was taken back to the Public Works Committee again and they recommend approval. Encourage approving and cover anything missed in a revision as this is an ongoing process, noted the 2008 typo has been fixed.

Councilmember Goodwin asked for clarification on the different stormwater plans and does not understand how they are inter-related.

Public Works Director Boettcher replied the Stormwater Comprehensive Plan covers the entire plan for the City; the Stormwater Management Plan is a low subset and is an annual update and addresses what we are going to do to meet our permit requirements. March 31 is a report on the previous year and this is a plan for what we are going to do.

Councilmember Goodwin asked if the City is aware of any potential deficiencies that should be addressed and maybe haven't been.

Councilmember Saas replied that the plan comes with the action the City is required and we can add to this.

A **motion** was made by Councilmember Saas and **seconded** by Councilmember Hanson to adopt Resolution No. 10-709, adopting the Stormwater Management Program (SWMP) 2010 annual update. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS:

Public Works Director Boettcher reported that the City had issued a notice to proceed on the Morgan Street Sidewalk Project.

MAYOR'S REPORT:

Mayor Olness commented that there appears to be concern that staff was not present during the Closed Record Hearings and noted that staff was present during the deliberations as the meeting was Skyped for them, this was done as we had limited space in the Council Chambers and to also allow staff to discuss questions and comments from Council without disruption; read news release from Glen Waugh from the Office of Surface Mining regarding the John Henry Mine.

COUNCIL REPORTS:

Councilmember Hanson addressed comments from Ms. Proctor at the beginning of the meeting.

Councilmember Mulvihill announced that Black Diamond Labor Days is this weekend and encouraged all to attend.

Councilmember Goodwin stated two issues; John Henry Mine and suggested petitioning the Office of Surface Mining; second, he attended a Regional Water Quality Committee for King County and gave a brief update on the meeting.

Councilmember Boston reported he would like to bring back to perspective trying to keep it positive on what we do, we banter, and we bicker and talked about what is really important; congratulated the Auburn Little League All Stars.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Brian Derdowski, Sunset Way, Issaquah – thanked Councilmember Boston for his kind words; commented on the challenge of getting legal advice.

Cindy Wheeler, Black Diamond – thanked Councilmember Goodwin for his expertise in the reclamation and feels there is also additional issues that need to be addressed; commented on the treatment of citizens.

Mike Irrgang, Black Diamond – echoed Mr. Derdowski comments on showing a lot of dedication and work over the last months; urged Council to spend time in the community.

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 2, 2010, No.35998 through No. 36003 and No.36005 through No. 36050 (voided No. 36004) in the amount of \$126,006.06

Minutes – Council Meeting of August 19, 2010

EXECUTIVE SESSION: None

UNFINISHED BUSINESS: None

ADJOURNMENT:

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

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk