

BLACK DIAMOND CITY COUNCIL MINUTES

December 1, 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, Mulvihill and Saas.

ABSENT: Councilmember Boston (excused).

Staff present were: Steve Pilcher, Community Development Director; Andrew Williamson, Economic Development and Engineering Services Executive Director; Mayene Miller, Finance Director; Greg Smith, Fire Chief; Chris Bacha, City Attorney and Brenda L. Martinez, City Clerk.

Mayor Olness asked for a motion to amend the agenda to have the Executive Session first on the Agenda.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Mulvihill to amend the agenda to have the Executive Session first on the Agenda. **Motion** passed (4-0).

EXECUTIVE SESSION:

Mayor Olness recessed the regular meeting into executive session at 7:02 p.m. to discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i) which was anticipated to last approximately 15 minutes with no action to follow.

Community Development Director Pilcher announced a 10 minute extension to the Executive Session at 7:17 p.m.

The regular meeting was called back to order at 7:24 p.m.

PUBLIC COMMENTS:

Ericka Morgan, Black Diamond – read a letter into the record regarding disposal of toxic waste by City Employees.

Ron Taylor, Black Diamond – commented he was speaking on behalf of the Planning Commission, is available for input tonight regarding the Planning Commission's recommendations regarding the 2011 Comprehensive Plan amendments.

Rich Ostrowski, Black Diamond – commented on proposed development by YarrowBay regarding density and the resubmittal of their Master Planned Development applications.

Brian Derdowski, Issaquah – commented on Planning Commission recommendations on the Comprehensive Plan amendments and suggested having the Planning Commission do a presentation at the next Council meeting before action is taken.

Robert Taeschner, Black Diamond – commented on taking his children to the woods and what will we tell future children about where the forests went.

Cindy Proctor, Enumclaw – commented on public notice for the CFD and the Development Agreement not being adopted yet.

Cindy Wheeler, Black Diamond – asked for information and open and transparent government regarding the Planning Commission vacancy; how long the term is and when the applications are due.

PUBLIC HEARINGS:

Final 2012 Budget

Finance Director Miller responded to questions that were brought up during the last Public Hearing on November 22, 2011; legal costs in stormwater, explained allocations to all funds. She added we did not increase utilities this year and we are holding the line. She was pleased to present a balance budget.

Mayor Olness opened the public hearing at 7:44 p.m.

Robert Taeschner, Black Diamond – commented on being on a party line and the upgrade; using snail mail; why purchase new equipment if the old ones are still working.

Janie Edelman, Black Diamond – thanked City Councilmembers for their service to the Community; read a statement for Carol Benson regarding raising the property tax by 1 percent.

Brian Derdowski, Issaquah – echoed the comment of thanking Council for their service. Commented that approving revenue forecast is one of the best calls or vote Council can make and should consider doing this in the future budget cycles; hold back on spending in budget areas that can be re-evaluated after the first quarter for those certain items that are discretionary expenditures as this could be helpful during these difficult times of municipal finance.

Erika Morgan, Black Diamond – commented on surface water management billing.

Geoff Bowie, Black Diamond – commented on the Preliminary Budget for 2012 and sees no line item for paying the Water Department for maintaining fire flow and this is a responsibility of General Government; huge amount of employees in the city and hope we do not have too many people with not enough to do; commented on the CIP regarding re-roof of

Police building; hold off on spring improvements; do away with Tacoma Water, we don't need it; commented on funds being spent on a public works facility; commented on utility tax and some residents not paying this and we need to have everybody be equal and the solution is either everyone pays this or we do away with it.

Mayor Olness Closed the public hearing at 8:00 p.m.

2011 Comprehensive Plan Amendments

Community Development Director Pilcher reported how the Comprehensive Plan amendments get into the amendment cycle. He noted the list in front of Council came from staff, Councilmembers or citizens for the docket. He stated you can amend the Comprehensive Plan once a year and staff is not asking for any action tonight, but would like to receive direction of what they would like in the ordinance. He highlighted the proposed amendments and noted the written comments received thus far.

Mayor Olness opened the public hearing at 8:04 p.m.

Bill Kombol, Black Diamond – commented on CPT-11-02- net vs. gross and would like to know exactly what it means, what it entails and what impacts it will have on property owners; supports CPT-11-03; discussed analysis that needs to be done regarding the TDR program.

Peter Rimbo, Maple Valley – commented he was representing the Citizens Technical Team; commented on CPT-11-08 Transportation concurrency standard for SR-169; noted this all under Chapter 7 and gave Council his recommendations; urged Council to adopt these common sense recommendations.

Brian Derdowski, Black Diamond – addressed letter from YarrowBay regarding three-year limitation and not being able to address CPT-11-02; second objection is not a showing in change of circumstance and there is plenty of findings of fact that would provide the need for the change; TDR program and using gross acreage and urged Council to adopt this amendment; spoke on behalf of Save Black Diamond regarding CPT-11-10; supported Mr. Rimbo on the concurrency issues and we need to have the tools in place to address the land use issues.

Mike Irragang, Black Diamond – commented on Mr. Rimbo's recommendation regarding concurrency and reminded all that over the last two years we have had ample discussion on transportation capacity on Highway 169 and modeling and all the hearings have had numerous experts testify and all have different ideas on how to model traffic; he added YarrowBay and himself through different mechanism show that traffic is going to double on Hwy 169 however we disagree with what constitutes a traffic problem and we need to apply some common sense on what's a traffic problem and we also need to apply common sense when experts disagree and laymen's disagree, but all sides agree the development will have an impact on traffic. He discussed his commute problems and feels it makes sense to use a mechanism to test what is going on and uses the freedom to apply the different measures that Mr. Rimbo has defined and it would be outright insane not to give yourself more flexibility and thanked them all for their dedicated service over the last couple of years.

Robert Taeschner, Black Diamond – commented that short term memory goes first and February of this year a long service State Senator stood here and said, “you can’t count on any money coming from the State of Washington to do anything on Hwy 169”.

Cindy Proctor, Enumclaw – commented on CPT-11-01 re-designation of Parks and there are multiple funding sources for the Regional Park and in talking with Sharon Claussen of King County, referred to RCO map and Interlocal Agreement and the triangle that is in part of the RCO site, and when you look at the parks overlay language one of the uses for the park is underground utilities, referred to YarrowBay map and underground storage being on parks grounds; recommends creating an amendment to the parks plan and create a task force, create a matrix of all uses and restrictions and compliance, encourage voluntary independent; supports net vs. gross; and supports eminent domain that Mr. Derdowski spoke to; commented on public notification process for the Comprehensive Plan amendments and noted the code.

Cindy Wheeler, Black Diamond – commented that she wrote a letter to Planning Commission expressing dismay and concern to the City not adhering to the city code; all Park items should be tabled.

Sheila Hoefig, Black Diamond – commented she supported the Planning Commission recommendation to table this idea until next year and send back to City staff; feels the new park zone is not in the best interest of the citizens as the parks would all be placed in one category; urged Council to look at what other cities have done to see what works and what doesn’t. Staff has failed to notice affected citizens within 500’ and is this legal to take it any further since it wasn’t properly noticed. She added this amendment vests the Lake Sawyer Regional Plan and gave example of a dance hall and referred to map, this is a Community Park and should not facilitate YarrowBay and adds uses to the land that should not be allowed and gave example of the amphitheater, baseball field lights, golf courses and do we have a business plan for a golf course and does not take into consideration the mandates of the funding agreement and the Planning Commission did not have all the information to make an informed decision other than tabling it. Takes the power away from Council and gives it to staff; suggested fixing it by the Funding Agreement and the TDR exchange.

Robbin Taylor, Black Diamond – commented on CPT-11-02, speaker commented the net would limit in-city development; referred to in-city is a sending and not a receiving and that is kind of a bogus issue it would limit in-city development; it is specifically referring to MPDs and that is where gross vs. net comes into play and it would not limit the little guy; spoke to the death of the TDR program if this does cause it to collapse I agree with removing the cities 1,000 TDRs and that could keep it alive; not conceding that this would bring the death to the TDR program as the net vs. gross pertains specifically to the MPDs. CPT-11-10, some protections as citizens from the taking of property, but we have also seen the supreme court in Connecticut and we have no language specific to eminent domain we need to as we have a large developer in town who will need to build roads and Council needs to protect the citizens and there needs to be strong language regarding the use of eminent domain if its originally bought and developed by a developer, eminent domain should not be used.

Colin Lund, YarrowBay – distributed information to Council and asked that they look at it after the presentation; CPT-11-02 gross vs. net basis, this is incomplete when it went forward

to the Planning Commission he stated the packet he just handed out includes additional information; asked that they vote no on the four amendments.

Geoff Bowie, Black Diamond – commented that we need to finish up in-city forest, gross vs. net issue, not clear and it appears the gross vs. net is more than the MPDs and it looks like it could undermine the TDR program and that program was an attempt to not duplicate King County in COBD and prevent from taking from landowners; three large landowners looking at selling or developing their property and the 1,000 credits were created to prevent an artificial shortage; the city could always go in the back room and print some credits up and sell those credits, obtain the cash and go to the property that you were seeking to protect and buy them; not sure if we noticed the people, but now we have a buffer on their property and it restricts what they can do with their property and if that buffer swings on their property the density is going to be the underlying of the net not the gross.

Rich Ostrowski, Black Diamond – commented on citizens talking from their heart and totally disagrees with everything Mr. Lund said; referred to the TDR program and talked about the benefits and to provide an incentive for folks who own property so it's not developed on; believes the TDR is a good program but the City should not act like a federal reserve; commented on Hwy 169 and this highway having issues with the projected growth and it will have to be expanded and if we can't how hard will it be to get to Enumclaw; Lake Sawyer Park and the need to keep it the jewel it is, however we do need to make it more accessible to folks.

Mayor Olness Closed the public hearing at 9:05 p.m.

Councilmember Hanson commented on Hwy. 169 and feels Councils concern with having 169 being a level C was we didn't want there to be a chance of eminent domain being used in the historic section.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Ordinance No. 11-969, amending the 2011 Budget Ordinance No. 10-957 and amendment No. 11-959 and No. 11-963 to reflect changes in Revenues and Expenditures

Finance Director Miller reported this is a housekeeping budget change and noted a change to the agenda bill as the word reduction should not be there. Discussed State Law requires 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. She noted the final adjustments to the 2011 budget equals \$101,238.

A **motion** was made by Councilmember Saas and **seconded** by Councilmember Hanson to adopt Ordinance No. 11-969, amending the 2011 Budget Ordinance No. 10-957 and amendment No. 11-959 and No. 11-963 to reflect changes in Revenues and Expenditures. Motion **passed** (4-0).

DEPARTMENT REPORTS:

Economic Development Director Williamson reported on a sewer line rupture that happened on November 18. He added the Utility Department was notified at 5:30 p.m. by the contractor who was installing utility lines for CenturyLink; he reported when boring, he smelled a weird smell. Public Works determined it was a rupture in a mainline and emergency response was initiated. Three houses were filled with sewage and those homeowners are working directly with CenturyLink's insurance company on their claims. City costs are approximately \$45,000 and does not include the costs to the property owners. Secondly, the City has applied for a \$700,000 Stormwater Grant with the Department of Ecology.

MAYOR'S REPORT:

Mayor Olness reminded everyone of the Community Center Christmas Tree Lighting on December 2nd at 6:30 p.m. with Santa arriving at 7 p.m. She also reminded folks about the Holiday Engine coming around to neighborhoods this weekend..

COUNCIL REPORTS:

Councilmember Goodwin reported that for those not familiar, YarrowBay has made applications for CFDs and we have a lot of due diligence that needs to be done as we have strict timelines to adhere to and we need to do our due diligence and have a report that was prepared by David Taussig reviewed by an expert for some professional advice; recommends that the Mayor engage into an agreement with Henderson & Young to provide this service and not to exceed what is necessary.

Councilmember Hanson complimented Public Works on the incredible job they did during the sewer mainline break.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Mike Irragang, Black Diamond – thanked Councilmember Hanson for her comment earlier regarding Hwy 169 needing widening; referred to Mr. Rimbo's submittal that outlines many options that can be done; asked Council to defer a vote on the Development Agreements this year and recognize the ruling made by the Growth Management Hearing Board.

Erika Morgan, Black Diamond – commented on the sprinkling of road chips on Morgan Street in October of 2010; May 11, 2011 city dump truck unloading of street sweepings in the Regional Park; removal of beavers from Rock Creek basin; November 2011 found more and larger road chips sprinkled again.

Peter Rimbo, Black Diamond – responded to Ms. Hanson's statement tonight regarding Hwy 169 being widened and the options he outlined during his testimony.

Brian Dardowski, Issaquah – commented on he supports the funding of a study by Henderson & Young Company regarding the CFDs; Save Black Diamond is commissioning review too and would like to know the scope of the City's study.

Cindy Proctor, Enumclaw – thanked Ms. Hanson for her work during the difficult last two years; special session of the legislature; Hempelmann testimony today in Olympia regarding CFDs; need to be more thoughtful and stop rushing things.

Rich Ostrowski, Black Diamond – read a formal letter he wrote to Santa for the record.

Cindy Wheeler, Black Diamond – commented there is a theme here tonight the citizens want correct information.

Geoff Bowie, Black Diamond – commented on sanitary sewer system; fair impact fees for all school districts.

Melanie Gauthier, Black Diamond – commented on CFD and why does it need to be done so quickly.

City Attorney Bacha explained the City needs to comply with the strict timelines that are written into the state statute.

CONSENT AGENDA:

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Goodwin to adopt the Consent Agenda. Motion **passed** with all voting in favor (4-0).

The Consent Agenda was approved as follows:

Claim Checks – December 1, 2011 Check No.37672 through No. 37698 in the amount of \$51,923.58


Minutes – Special Council Meetings of August 18, 2010, August 23, 2010, September 14, 2010 and November 22, 2011

EXECUTIVE SESSION: None

ADJOURNMENT:

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Mulvihill to adjourn the meeting. Motion **passed** with all voting in favor (4-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk