

BLACK DIAMOND CITY COUNCIL MINUTES

December 15, 2011

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the regular meeting to order at 7:01 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: 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.

PUBLIC COMMENTS:

Jack Sperry, Black Diamond – commented on waiting for new representation to make decisions on Planning Commission appointments and on proposed amendments to the Comprehensive Plan.

Bob Edelman, Black Diamond – commented that he supports the Resolution on reconfirming the Planning Commission members and on Agenda Bill No. 11-080.

Cindy Wheeler, Black Diamond – commented on the drafting of the Comprehensive Plan amendment Ordinance; commented on items 2 and 12 on the agenda.

Robert Taeschner, Black Diamond – commented on conscience; meetings held last year; results of last election.

Sean Taeschner, Black Diamond – commented on coming to City Council meetings and why he stopped; commented on tanks in foreign countries; commented on WAC and operating within the law; his voting record in the last election.

Rich Ostrowski, Black Diamond – commented on not knowing what to say; commented on passion for wooden boat building; elected official acting on what they think; new Council for next year.

Cindy Proctor, Enumclaw – commented on Melanie Gauthier not being contacted for Planning Commission interviews; commented on writing her Communities Facility District testimony.

George Calhoun, Black Diamond – commented on Black Diamond needing the proposed Development.

Mark Davidson, Black Diamond – commented on item number 11 on the agenda.

Erika Morgan, Black Diamond – commented on City needing economically viable pathway and has not seen this in any of the proposals; need for industry.

Lisa Garvich, Black Diamond – commented on three items on the agenda, numbers 12, 3 and 7.

PUBLIC HEARINGS:

Community Facilities District

City Attorney Bacha reported before Council tonight is a petition for the formation of Community Facilities District #2011-11-1. He discussed State Law and the procedures; discussed reimbursement agreement and recommended execution by the City; discussed any rule changes Council may feel are warranted; read from a written statement.

Mayor Olness opened the public hearing at 7:43 p.m.

Presentation by Randy Young - Mr. Young reported he was asked by the City to provide an independent analysis and was here to talk about whether or not the assessment analysis by Taussig is complete and accurate, does it do what the law requires it to do and provide factual information. Recommendation is the original report as supplemented with the additional question and answers have been satisfied.

Mayor Olness asked Council if they would like to have the applicant make a presentation.

Councilmember Goodwin stated he felt the applicant should be allowed the opportunity to make a statement.

Presentation by YarrowBay - Mr. Brian Ross stated the presentation would take 20 minutes.

Councilmember Hanson asked Council about receiving an email from Ms. Proctor asking for more time and is Council ok with allowing her the same amount of time.

There was Council consensus to allow Ms. Proctor the same amount of time.

Mr. Ross stated they have been working on this CFD legislation for quite a while and Mr. Hempelmann was key in helping write the legislation and the time to do this takes a long time. He stated what YarrowBay is asking for tonight is the formation of the CFD, as it is the best interest of the city. He stated they believe the improvements go far beyond the benefits; in

addition with this financing tool and allow them to get ahead with these improvements where they can now stack our money and do more improvements. He turned the presentation over to Mr. Hempelmann.

Mr. Hempelmann stated he was Counsel to YarrowBay on this matter, noted he worked for two years with the legislature to get this passed and it was passed by a strong majority in both houses; discussed the proposed petition; discussed that it was a financing tool; process of State Statute and why it is in the best interest of the City.

Mayor Olness announced the presentation was 25 minutes and should Ms. Proctor want to, she has 25 minutes as well.

Presentation by Cindy Proctor - Ms. Proctor thanked Council for the opportunity to present. Noted she has a professional interest in this; critical for replication purposed that we do it right and build a strong frame work for success. Supports CFDs and also knows if it not done right we can run into problems. The primary reason for these is growth to pay for growth and this is also mandated in the municipal code and agrees this sis a good opportunity to bring this to our community. She noted concerns she has and talked about rules under GASB and the need to have it show up on the city's audit. Discussed reviewing the Taussig report and has no issue with the methodology, issue with special assessment proposed does exceed the allowable under statute which is the related CFD financing costs and does not go on top of the assessment. Referred to page 3 of her hand out; Taussig report added it on top of it and in her opinion needs some clarification; referred to spine road and ring road; noted Council can ask for any material they need to make a decision; discussed the lawsuits involved with the MPDs and what affect his could have on the CFD; financing gap on Fire Station and assumes this is the number YarrowBay is proposing on gapping with their own money; page 9 of her report; taxing of schools and homes; discussed board make-up of three current City Councilmembers and would not be prudent for the Council to act on this tonight as three current members will be leaving at the end of the year. Ms. Proctor discussed the greater Wenatchee Regional Events Center failing; read excerpt from the Hearing Examiner on the hearing on Development Agreements; proposes the City reject the petition and ask the applicant to reapply after the City has done its own due diligence. She stated Council cannot approve in good conscience with the lack of information.

Mayor Olness recessed the meeting for 10 minutes.

Mayor Olness called the Special Meeting back to order.

Bob Edelman, Black Diamond –hopes before recommending approval you read all the material. Raised two questions which may have already been answered tonight, referred to page 8 and 9 of the Taussig report; stated he will submit copies of this written statement.

Cindy Wheeler, Black Diamond – commented she was impressed with Ms. Proctor's knowledge on this issue; respect and enforce tonight public hearing time and there be no rebuttal and no unlevelled playing field; obvious questions cannot be answered; asked a question regarding the Board and three Councilmembers sitting on it and it will be a violation of the open public meetings act; discussed Public Works Committee meeting she attended in

January of 2010; discussed transparency; asked council to wait for the answers before making a decision.

Lisa Garvich, Black Diamond – thanked Ms. Proctor for her efforts; commented on the dangling of the carrot for the Fire Station and how it didn't sit well with her; bottom line the Station and the property are not what comes to you when there is a need- it is the personnel and equipment and does not see where this is addressed; feels more investigation needs to be done to make sure the development pays for itself.

Robert Taeschner, Black Diamond – commented on an elephants gestation and diamonds taking centuries to develop; stated he was a school teacher and knows what it means to have a levy fail; if people are going to pay for this with assessments on the new homes you will build two different communities not one; commented this demonstration of the intersection and the two land highway; commented on teaching history; commented on gridlock and putting in parking meters.

Sean Taeschner, Black Diamond – commented on Walt Disney having a fire station and the need to have a Fire Station on site when the first house is ready to go; discussed research article and did for the Voice of the Valley two years ago of having lake residents being put on sewer and the money the residents pay of the \$13 per month for water run-off into the sewer system; build the houses and see what is happening to Detroit as most are laid off and cannot afford a house payment and why commit to such a high mortgage payment if you are not sure you will have continued employment.

Bill Wheeler, Black Diamond – reiterated a couple of things; we do not have a sewer plan for these and there is no need to rush; choose to not approve and make specific documents available to public.

Rich Ostrowski, Black Diamond – commented he is in between jobs and as a casual observer gave his opinion on a few things; on the surface the sound like a good thing but the law is a slippery slope to get a bill passed and then to get amended in the future; discussed Mr. Young saying this would add a \$1,000 per residence and what will folks do when they find out how much they will have to pay on top of the costs of the home and gave examples; heard this is the first CFD and during the break looked at the road improvements to Roberts Drive and Highway 169 and does not see the Lawson Hill road that will need to come through there.

Robbin Taylor, Black Diamond – commented in her simple thinking we are building the largest MPD ever in King County and now we will bring in the first CFD in Washington State and wonders if this looks anything like the perfect storm; can we really afford the failure of a CFD and is there reasonable her and reiterated we are heading for a perfect storm; we need to do this right by getting all the information at council's disposal to make the right decision.

Erika Morgan, Black Diamond – commented when is the funding district going to go off and believes it will happen; Black Diamond is a distinctive place and is different than other towns and has a wonderful history; there is an equality that exists in this town and we need to find another way to solve our money problems; stated what they really are asking you for is a variance.

Geoff Bowie, Black Diamond – thanked Council for providing the opportunity to comment on the formation of a Community Facilities District; he noted this will not take any ability of the city's bonding capacity and believes this is a good thing and noted we have been the first to do things before and urged Council to adopt.

Sheila Hoefig, Black Diamond – commented on the first house they bought in California and the high amount of foreclosures due to the special taxation in that area; she stated when you add on all the additional fees it makes them unaffordable; Hempelmann did not talk about the re-payment; City Council is not obligated to grant petition it only has to review the evidence.

Dave Amber, Black Diamond – commented restricted areas that will get taxed according to the Development Agreements and believes there are too many variables and is happy with the way the roads are now; concerned not everything is locked tight and believes there are too many ways for the Developer to pass on costs.

Vicki Harp, Black Diamond – commented that new things were very complicated and learned a long time ago the only this that is of value if you are smart enough and have enough integrity to know you do not have the answers and give time to dig into it; something that needs to be looked at and there does not need to be a decision tonight.

Phil Acosta, Black Diamond – commented he was concerned with the infrastructure and being a jogger and the risks; seems the folks behind the podium are on one side and the others are on another side; hopes Council will vote in good conscience.

Sarah Wheeler, Black Diamond – commented on not knowing much about CFDs before tonight and wondered why Council would make a decision tonight without all the information; she stated Council needs to know evidence before you justify your case; asked Council to get informed and to not pass tonight as they need to have all the information before them.

Mayor Olness Closed the public hearing at 9:45 p.m.

Councilmember Hanson asked about the bonds and the insurance.

City Attorney Bacha clarified bonds and insurance and stated that Mr. Young can talk more about that if Council wishes.

Councilmember Goodwin commented this is a mind numbing process; noted he reviewed all the CFD information and have formulated a list of questions which he read into the record.

City Attorney Bacha noted he could not guarantee that all the question could be answered tonight.

Councilmember Boston gave an analogy of building a bicycle and you need to build the bicycle first before you lean to ride and feel all these questions need to be addressed and maybe we are heading into a Special Meeting.

Councilmember Saas concurred and would like to see a Workstudy conducted on this.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Resolution No. 11-771, reconfirming appointments of the members of the Planning Commission

Mayor Olness reported in researching the past City documents it is unclear on appointments and the terms associated with each position of the Planning Commission. Once adopted, staff will input this information into a tracking system for future use.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-771, reconfirming appointments of the members of the Planning Commission. Motion **passed** (5-0).

Resolution No. 11-772, authorizing the Mayor to execute the 2012-2013 contract for legal services with Kenyon Disend, PLLC

Mayor Olness reported this agreement before Council is the same one the City has been operating under for the last year and a half, it contains no cost increases to the hourly rates and Chris Bacha remains the City Attorney with Mike Kenyon as the primary backup.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Boston to adopt Resolution No. 11-772, authorizing the Mayor to execute the 2012-2013 contract for legal services with Kenyon Disend, PLLC. Motion **passed** (3-2, Goodwin and Saas).

Resolution No. 11-773, authorizing the Mayor to execute an agreement with Kara Murphy Richards for Prosecuting Attorney Services

Mayor Olness reported in October, 2011 the City of Black Diamond conducted an RFP process for Prosecution Services. The City requested proposals from well qualified law firms and/or attorneys interested in providing full prosecutorial services for misdemeanor criminal violations and contested infraction hearings in the Black Diamond Municipal court. Two proposals were received and a selection panel including the Mayor, City Attorney, Acting Commander and Assistant City Administrator/City Clerk interviewed both applicants.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Boston to adopt Resolution No. 11-773, authorizing the Mayor to execute an agreement with Kara Murphy Richards for Prosecuting Attorney Services. Motion **passed** (5-0).

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Hanson to amend the agenda to take item number 10 now. Motion **passed** (5-0).

Ordinance No. 11-973, adopting the 2012 Budget

A **motion** was made by Councilmember Saas and **seconded** by Councilmember Hanson to adopt Ordinance No. 11-973, adopting the 2012 Budget. Motion **passed** (5-0).

Resolution No. 11-774, authorizing the Mayor to execute an Interlocal Agreement with the city of Covington and Maples Valley for joint Public Works Projects, Operations and Purchasing

Economic Development Director Williamson reported this is an Interlocal Agreement between the City of Black Diamond, Covington and Maple Valley and this was born out of the Tri-City Council meeting. The City performing the work will be the lead agency and meet all the responsibilities that go with the specific issues and scheduling.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Saas to adopt **Resolution** No. 11-774, authorizing the Mayor to execute an Interlocal Agreement with the city of Covington and Maples Valley for joint Public Works Projects, Operations and Purchasing. Motion **passed** (5-0).

Resolution No. 11-775, final acceptance of the 2011 Pavement Patching Project: Lawson Street at Newcastle Intersection

Economic Development Director Williamson reported this is the paving that was done at the intersection of Lawson and Newcastle. He noted the City was \$3,000 over budget; however we did come under the total amount the City authorized for this project.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-775, final acceptance of the 2011 Pavement Patching Project: Lawson Street at Newcastle Intersection. Motion **passed** (5-0).

Resolution No. 11-776, authorizing the purchase of one new 2012 Chevrolet Tahoe

Acting Commander Goral reported this is for the replacement of the K-9 vehicle. The vehicle will be purchased off the State bid price, approximately \$29,300 not including equipment. He added this vehicle is a 2012 Chevrolet Tahoe.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-776, authorizing the purchase of one new 2012 Chevrolet Tahoe. Motion **passed** (5-0).

Resolution No. 11-777, entering into an Interlocal Agreement with King County for Jail Services

Acting Commander Goral reported King County is offering two new options for jail services agreements, in addition to staying on the current agreement. The City currently utilizes King County jail for felony arrests at no cost. At times, mainly due to medical situations, we are required to utilize King County jail for misdemeanor arrests.

A **motion** was made by Councilmember Saas and **seconded** by Councilmember Hanson to adopt Resolution No. 11-777, entering into an Interlocal Agreement with King County for Jail Services. Motion **passed** (5-0).

Resolution No. 11-778, authorizing the Mayor to enter into a contract with Seattle-King County Department of Public Health to receive grant monies in the amount of \$5,919.34

Economic Development Director Williamson on behalf of Mr. Nix noted this is an acceptance of grant funds for the Spring Recycling Event in 2012.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Saas to adopt Resolution No. 11-778, authorizing the Mayor to enter into a contract with Seattle-King County Department of Public Health to receive grant monies in the amount of \$5,919.34. Motion **passed** (5-0).

Ordinance No. 11-973, adopting amendments to the City of Black Diamond Comprehensive Plan

Associate Planner Welsh reported the Ordinance before Council is a follow up to the hearing on December 1, 2011. This ordinance is prepared to adopt all times in the ordinance.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Ordinance No. 11-973, adopting amendments to the City of Black Diamond Comprehensive Plan, excluding sections 1, 5, 6, 7, 12, 13, 14 and 15 based upon the recommended action. Motion **passed** (5-0).

Confirmation of Mayor's Appointment to the Planning Commission

Mayor Olness reported in November of 2011 staff advertised for an upcoming vacancy on the Planning Commission. Seven applications were received and reviewed by the Mayor and the Associate Planner, Stacey Welsh. Interviews were conducted for six of the applicants (one was out of the Country). She noted Ms. Gauthier was contacted on two different phone numbers.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Boston to confirm the Mayor's Appointment of Pam McCain to position #4 of the City of Black Diamond's Planning Commission with effective date of the appointment being January 1, 2012. Motion **passed** (4-0, Goodwin abstained).

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Olness read letter to Robert Kaye for his many years of service on the Planning Commission; State audit commended the City for a clean audit with no findings; animal services update; new Councilmember orientations; recognized this is the last meeting for Councilmembers Boston, Hanson and Mulvihill; wished everyone a Happy Holidays.

COUNCIL REPORTS:

Councilmember Hanson updated everyone on the Suburban Cities Association meeting she attended.

Councilmember Boston extended invitation to new Councilmembers to attend SCATBd; SEATS is another one about mass transit and advised them to get involved in this.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Cindy Proctor, Enumclaw – commented she does not understand what happened on the Comprehensive Plan and does not recommend doing it this way next year; question on workstudy for CFD.

Johna Thompson, Black Diamond – thanked the three Councilmembers leaving for their hard work and service and feels they deserve a lot of credit.

Cindy Wheeler, Black Diamond – asked everyone to consider something earlier and no one having access to the four documents presented tonight.

Bob Edelman, Black Diamond – commented on question he raised in the first comment period on the legality of the appointment of Planning Commission member.

City Attorney Bacha responded that there is no prohibition making the appointments before the term expires.

Geoff Bowie, Black Diamond – commented on the budget that was passed tonight; his attendance at a Planning Commission meeting; thanked Kristine Hanson, Bill Boston and Leih Mulvihill for their service and thanked their families for allowing this.

Dennis Boxx, Black Diamond – commented on a slam he heard about the new Council.

CONSENT AGENDA:

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

The Consent Agenda was approved as follows:

Claim Checks – December 15, 2011 Check No.37699 through No. 37745 in the amount of \$115,082.27

Payroll – November 30, 2011 No. 17597 through No. 17617 and ACH Pay in the total amount of \$276,370.23

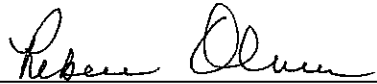
Minutes – Special Council Meetings of September 20, 2010, September 26 and 29, 2011, October 3 through October 6 and October 8 and 10, October 24 through 28 and October 31, 2011, Special Council Meeting of November 1, 2011, Regular Council Meeting of December 1, 2011 and Special Council Meeting of December 6, 2011 and Special Meetings of December 12, 2011.

EXECUTIVE SESSION: None

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