

BLACK DIAMOND CITY COUNCIL MINUTES
Town Hall Meeting of May 10, 2012
Community Center, 31605 3rd Ave, 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 Deady, Goodwin, May, and Taylor.

ABSENT: Councilmember Benson (Excused)

Staff present were: Chip Hanson, IS Manager; and Brenda L. Martinez, Assistant City Admin/City Clerk.

Mayor Olness welcomed everyone to the meeting and announced that the meeting would go until 9:00 p.m. unless we finish earlier. She explained that everyone will have a chance to speak before anyone is allowed to speak for a second time.

Councilmember Taylor commented that if Council is accepting of this he would like to start out tonight's meeting with Councilmembers starting out by discussing and sharing some issues from previous meetings so it is more of a two way forum. He further suggested starting out the meeting tonight with each Councilmember noting some topics or ideas they would like to discuss tonight. He noted this is just a suggestion and does not have to be done tonight.

Councilmember Goodwin supports Councilmember Taylor's suggestion.

Councilmember Taylor spoke on the Council direction to have the Planning Commission look into reconciling Title 17 and 18 and asked folks to become familiar with that. He added we will be discussing in the next few meetings the permit application process and how that occurs in the city and want folks to be thinking about these.

Councilmember Deady discussed hearing from folks regarding going from Strong Mayor-Council to a Council-Manager form of government.

Councilmember Goodwin discussed the upcoming workstudies and their topics – Community Facility Districts, Shoreline Management Plan, Capital Improvement Plan, Fire Impact Fees, Master Development Review Team process and asked folks to get informed on these issues.

PUBLIC COMMENTS:

George McPherson, Black Diamond stated he appreciates the opportunity to speak with Council and referred to an email he received the other day regarding Council looking at a new form of government for Black Diamond and is concerned about this. He noted when he was on Council it was a lot of work, but also fun and he did not see the kind of things that are going on today. He gave an example of one councilmember losing her seat in the elections and how her business in town suffers. He added this City has had a strong Mayor form of government since its inception and believes people want to know who the buck stops with, and when he thinks of Black Diamond he knows who the Mayor is and in many cities people do not know who the city councilmembers are, but they know who the Mayors are. He feels there is a good balance of power between the Council and the Mayor - the Council has the power to determine the budget and how the money is handled and the Mayor deals with the staff and they are responsible to her or him. He noted if the community does not like the Mayor or does not feel they have done an adequate job they can vote that person out of office as was done with councilmembers in the past election. He enjoyed working on the Council and never felt they were in opposition with the Mayor, but it seems that is what is happening now and feels this is very unfortunate for our community. He mentioned the email he received and referred to "the old guard" and after looking it up it means – slow to accept change; conservative. Also in the email it stated that if a change of government does not happen it will be a tragedy and tragedy is a strong word and he does not believe this is true as the city would still continue to function under either form of government. In closing he stated he would not be in favor of a change in government until a lot more knowledge and study on the part of the Council has been done as many are new Councilmembers.

Bob Edelman, Black Diamond commented on the letter Mr. McPherson referred to and stated they are not his thoughts. He noted the inadequacies of the Strong Mayor form of government in our City is not the incumbent, but rather it is a systematic problem. The adequacy of City management depends almost entirely on the style of the Mayor and this is the problem. He gave the following examples of: laissez fair approach, non-professional City Administrator who was also the Police Chief, professional City Administrators either fired or left; no City Administrator – Mayor is managing staff to save money, and city finances being a mess. He noted he is not trying to place blame with the current Mayor as this has developed over the years. He discussed the City Council having no staff and being put in the awkward position of having to direct the Mayor in an open City Council meeting, unless he/she agrees with the action. He further added by Council passing a resolution this only puts it on the ballot – it would then be up to the voters to decide which form of government they want for Black Diamond. In conclusion he noted the Council-Manager form of government has been a success throughout the state and currently there are 48 code cities with City Managers ranging in size from Carnation to Bellevue. He again stressed by City Council passing a resolution it is to put it on the ballot and is not the final action.

Cindy Wheeler, Black Diamond commented that Council doing a new resolution simply results that it is put out to a vote of the people and needs to be discussed and debated by the citizens. She agreed within the past our current form of government has served the City fairly well. She noted she is a fiscal conservative. She stated we need a City Administrator because there is lack of guidance as basic key duties are being missed that puts the City in legal jeopardy. She feels it should be put out to a vote and would like to see more public forums on this issue. She noted she is confused by an article in newspaper regarding YarrowBay withdrawing their 2nd MPD applications and wanting their full refund back. She asked for assurances and responses that Council will be open and give a full accounting of what is being returned as all staff time spent on these applications will not be reimbursed. She added this should also include the legal brief that Council authorized for the declaratory judgment as this is something the City should not be paying as it was part of the legal strategy.

Councilmember Deady stated her understanding when she asked the Mayor is that YarrowBay will be charged with whatever amount in incurred up to the point in which they were pulled, but has not heard what that amount is.

Mayor Olness commented that when this happens within the next day or so Council will be made aware of the accounting on the reimbursement.

Councilmember Goodwin stated he feels the City owes the citizens an accounting of what time has been spent and what is being returned so it will be provided.

Councilmember Taylor echoed Councilmembers Goodwin and Deady's comments regarding having a full accounting of the reimbursement.

Councilmember Goodwin clarified that the \$200,000 application fee from YarrowBay has not been part of balancing the City's budget and has played no role in terms of fiscal balance of the City so that is not an issue. The issue is what costs the City has incurred as part of processing the applications.

Peter Rimbo, stated these meeting are welcomed as they are a give and take. He spoke on form of government. He talked about the decisions Council makes directly affecting his life. He discussed the three branch system of government and the need to have it carefully structured so each are equal in power and support. He discussed the Black Diamond system and the executive branch having more power than the legislative branch and gave examples. He urged Council to put this on the ballot in November as Black Diamond Council needs independent staff and counsel with the major decisions that are forth coming and with a change of government this would happen as staff and counsel would be available to them.

Councilmember May stated that he has been looking at this change of government and it interests him, because as Black Diamond grows the professionalism a City Manager would bring to this equation might be a good thing. It seems to him that the level of decision that will have to be made will need a higher level of expertise. He noted

following the City of Langley on their change and noted another City that wants to go from a council-manager to a strong mayor form of government. He added he is trying to educate himself on this subject and is looking at the pros and cons. He also added that turning it over to the voters would give them the say. He commented on ways this could be structured so voters could vote for the Mayor, for example Position #1 could be to elect the Mayor so that ability is not lost to the voters. He feels this could be a good move for the City going forward and it is a consideration of his.

Mr. Rimbos stated the key is how you structure it.

Councilmember Deady stated a City Manager would be trained in managing a City and would go to school for that and would have expertise to management and administration and an ethic of clean and efficient government. She asked Mr. Rimbos how he feels about Maple Valley's form of government. He responded he does not live in Maple Valley he lives in King County however, his understanding is that City Manager David Johnston is doing a good job as that is what he has heard. He noted his direct expertise is with the King County Executive and the different branches of government in King County and is happy with the way their system of government works. His local experience is that it works pretty well and encouraged Council to go talk to the City Managers of Maple Valley and Covington. The key is you are hiring a professional and you expect a professional job.

Mr. McPherson asked if Mr. Rimbos was saying that he would like to have a staff for the Council. Mr. Rimbos responded that Council needs to have access to independent staff and legal counsel. Mr. McPherson responded the City already has staff so does that mean the hiring of additional staff. Mr. Rimbos responded yes, some. Mr. McPherson asked if the City was experiencing financial difficulties and is the City in the black. Mayor Olness responded yes the City is in the black and has been able to put money in reserves for the last two years. Mr. McPherson asked is Council prepared to hire additional staff.

Mr. Edelman believes there is a misunderstanding of what a Council-Manager form of government would be. Under this form the staff would report to the City Council and be administered by the City Manager. And the answer to Mr. McPherson's questions it would start out as one – the City Manager. Existing staff would report to the City Manager and it would be up to him and the City Council as to whether that staff needs to be reduced or expanded. Staff now reports to the Mayor and the only way the City Council can have control over the staff in the sense of directing action from the staff is to do it in a City Council meeting with a vote of three of the five members as happened with the issue of Title 17, and Title 18 change. Mayor Olness responded that neither staff nor she was requested by any member of the Council sitting here to look at 17 and 18 and it did in fact come up before the Planning Commission last year. She and staff saw a resolution at 10:00 a.m. Thursday morning the day of the meeting and it is not fair to say staff would not look at it, because that is not true. Mr. Edelman commented that last year the Planning Committee requested staff to prepare the ordinance we are talking about and nothing happened – it was set aside and nothing has happened since so this is what happens when you have a request of staff rather than direction to staff.

Councilmember Taylor echoed a number of things Councilmember May said regarding the form of government. He noted like many subjects there are pros and cons and he does agree with where we are headed we probably could benefit from a manager who is both credentialed and experienced. The good thing is we are not making the decision we are asking the voters to make that decision and he is okay with that – putting it before the voters.

Mr. Rimbo commented there is not a way to make the current system work because the City still needs a full time experienced and credentialed City Manager and you can't do that under the current system and this is one of the major reasons we need to change. Another reason he believes citizens should vote to change this if it is put on the ballot, is that there would be more control over the critical issues and decisions that need to be made in the future and does not see that and that is why we are where we are today.

Mario Sorci, Black Diamond believes we are talking about a professional and a professional City Administrator would do the same thing as a job as a manager and would give that level that is necessary in the current form of government – if you want a professional you hire an administrator who is no different than a manager. His question is if Council decides to put this up for a vote of the people would each Councilmember currently sitting call for a special election to put all of their positions up for vote either in or out and do that in a reasonable period of time after the election if the form of government was changed. Several Councilmembers replied they haven't thought of that. Councilmember Deady stated in all her research on changing the form of government she has not found anything to change the full Council layout. Mr. Sorci stated he is saying if you bring it up it gives the people an option if they turn it down to vote the people out who put it on the ballot at one time. His other question is regarding the MPDs and would like to get an answer from Council if for whatever reasons the MPDs go down and it doesn't happen (hypothetical) and YarrowBay decides to sell the 1s, 5s, 10s, and 20 acre parcels to individual owners how is the Council planning on dealing with 40 applications for 10 or 20 acre pieces where you will no longer get the impact fees, school structure, and anything else you would normally get where you could have it under one large MPD and dealing with one person who is willing to do it.

Councilmember Taylor noted this is the beauty of the MPDs and this is a good thing so there is not piece meal as that becomes messy.

Councilmember May stated what comes to his mind is the MPD is in fact law and does not know if Yarrow Bay could simply sell off parcels – he would have to get some knowledge on it as he is totally unclear on it. It is his understanding that if YarrowBay was to sell it to a successor the successor might have the same responsibilities that YarrowBay might, but he doesn't know. He also believes Council thinks MPDs are the best way to develop. He doesn't see this happening as YarrowBay is committed and dedicated, but does not know if the MPD in place today has to stay as is no matter who the successor is in ownership and will need to do some research.

Councilmember Deady responded that maybe a moratorium would need to happen. She does not know what to think about getting 40 applications in to do piece meal at the same time.

Mr. Sorci clarified he is not talking about YarrowBay he is talking about if the MPD doesn't happen and YarrowBay decides to sell the property in pieces.

Councilmember Goodwin stated we sit here as a Council and the MPDs have been approved with conditions as well as DAs that have been approved. He noted the LUPA issue. Staff and Council's focus is implementing the MPDs and DAs as adopted. He noted voting in favor of the MPD approvals with conditions, even though he wished it could have been smaller it did meet the requirement of the code and that is what we are dealing with and the cards that were dealt. He doesn't know there is anybody here on the Council that doesn't want to see development occur and at this point and time we clearly have to accept the approvals that are in place and the efforts should be directed towards doing all that we can as a City and a Council to make it the most successful it can possibly be. This is not what has been characterized as being for or against and it not the issue it is making sure the agreements are implemented appropriately and is not either or.

Mr. Sorci commented that when he was on the Council they stopped using acronyms and would appreciate if this Council could adopt this too so everyone knows looking forward what is being talked about.

Councilmember Taylor noted he also agrees a professional City Administrator may accomplish the same under a Strong Mayor and is one of the pros and cons he has considered and is a valid point.

Janie Edelman, Black Diamond likes the concept of MPDs, but does not like the lack of trees. She complimented Council on doing their due diligence and appreciates them doing the research to make an informed and educated decision regarding changing the form of government. She noted North Bend receiving 45 applications from qualified applicants for their City Administrator position and there being qualified people in the greater Seattle community and is sure would be able to fill the shoes if they so desired that that is the way the City should go.

Susan Ball, Black Diamond stated it sounds to her that if you are going to consider this change in the type of government it needs to be in the hands of the Black Diamond voters to decide this.

Councilmember Taylor clarified that if Council does decide to do this that is what they would do – it would be put on the ballot in the general election and the voters would decide.

Erika Morgan, Black Diamond noted she hasn't been thinking a lot about the differences between the two forms of government – strong mayor vs. weak mayor. She has lived and been active in both types of government. She believes that a lot has to do with the culture

of the people who are there and the strong mayor system has severed Black Diamond well up to a certain point. She discussed her family business in Tuscan, Arizona and since her dad passed away they hired a professional for four months to see what he could do to straighten it out. She added he has been on the job for three days and seeking clarification from them on things that the business has not been doing and have been asking them to do. A properly trained professional is completely invaluable and encouraged Council to consider having a professional in charge.

Valerie Brazier, Black Diamond wonders if there are any plans in the future to clean up the debris in the park at the south end of the lake due to the storm and would like to recommend having a work party help out on the ground work.

Mayor Olness noted Lake Sawyer Park Foundation had a work crew had a couple of weeks ago to start some of the clean-up. Ms. Brazier stated nothing has happened at the south-end of the park as the piles there are still the ones she has made. Mayor Olness noted the City has received FEMA money to aid with the clean-up of debris from the storm and someone has been hired to do the clean-up. She added we are very fortunate to receive this FEMA money, but wanted to make it clear that had the City not received these funds we could not have afforded the clean-up.

Councilmember Goodwin stated he liked the idea Ms. Brazier had and he feels we should be able to get back to her on this within the next few weeks to tell her what the plan is for opening it up for citizen participation.

Councilmember Deady noted this was a private group and not City sponsored and does not remember seeing anything published in the newsletter or on the website about this event.

Tina McGann, Black Diamond commented on the change of government being proposed and added this makes her nervous as they are taking away her right to vote for who is in charge of the City and this is one thing she values immensely as a citizen. She stated she agrees with Mr. Sorci that we could get a City Administrator who shares the vision of the City and how it should be run and this makes more sense than spending the extra money for an election.

Councilmember Deady stated the election would not cost the City any money. Ms. McGann responded yes it does cost money to put an item on the ballot. Mayor Olness also stated that yes it would cost the City money. Councilmember Deady stated it was her understanding that it would only cost money if it was a special election.

Robbin Taylor, Black Diamond stated she's heard the argument before as Ms. McGann proposed that you are taking away the vote and what people need to realize you are still voting for your Councilmembers and are not losing your vote on anything. She added what this does in her understanding is bring the staff closer to accountability to the public and right now staff is not accountable to the public they are accountable to the Mayor and the Mayor can stand between the staff and the Council. This would bring the staff closer

to accountability to the Council and therefore to the people so people would still have their vote for everyone on the Council, but it brings the staff and the City Administrator closer to accountability to the people and Council.

Mark Davidson, Black Diamond addressed Council on the possibility of the proposed change in the form of government. He supports the concept for two reasons and the most important being the need of a professional management as we grow and added this is not meant to be disrespectful in any way. We need to have an administrator who understands what we need as we move forward into the future with a huge population growth. We no longer can afford to be a little City and believes the current structure supports that no matter who sits in the Mayor's position. He added at the very least we need to find a City Manager or someone of that kind of position that we see in other towns and he would have said this 10 years ago had he known where we were headed.

Mira Hoke, Black Diamond and Community Relations for YarrowBay, stated she is here as a citizen tonight and commented on business promotions within the City. She noted there are two events coming up in the City in the not too distant future; Miner's Day in July and Labor Days in September. She is aware a forum is being planned to gather businesses in Black Diamond together and is excited to hear this. She added that Miner's Day is in its 8th year and this event helps to bring people to town and also helps promote the historical district. She discussed a unique idea this year is centered around finding a sponsor for a dunk tank and encouraged Councilmembers to get involved with the dunk tank and if anyone is interested to please contact her or anyone on the committee.

Councilmember Goodwin asked her to sign them up. He also asked how else Council could help. Ms. Hoke noted she is currently working with City staff and asked that they help to encourage businesses to be involved and to really embrace the heritage of Black Diamond. She also suggested they talk it up with friends and family and to stop by the Discovery Center to talk with her regarding other ways businesses can promote within this forum.

Mayor Olness clarified a City sponsored event means we take responsibility for closing the streets and have police, fire, and public works presence at no charge.

Mr. Rimbo clarified two points one being City Administrator and City Manager and their different meanings. Second point is he is not aware of a single person that is directly against Master Planned Developments and feels a Master Planned Development here would work well, however the major argument is that it is far, far, far too large. Nobody is against the Master Planned Developments they are against the gigantic size, cost, impacts to the environment and transportation system in southeast king county and the most likely fact the town will probably go bankrupt. He stated we need to have folks stop saying people are against Master Planned Developments because this is simply not true.

Colin Lund, YarrowBay stated the projects are not too large and Council adopted this with a 5-0 vote. Councilmember Goodwin stated he voted yes as they met the code

requirements. Mr. Lund added he believes one of the issues raised in the TRD lawsuit is that YarrowBay does not quite meet the density requirement on Lawson so TRD is suggesting they are not quite doing enough units and this is an interesting perspective. The current date for the LUPA case is July 30. He noted he is concerned with Ms. Wheeler asking about the accounting of the MPDs refund of the second application. YarrowBay has withdrawn these applications and has asked for a full refund of the fees that have not been spent, however he fully expects staff time being deducted along with noticing and whatever else has occurred that would be deducted from the \$206,700 that was made to the City when they made the application. He is hopeful this would be worked out in the next few days and they receive a refund. He is also concerned about the accounting being posted on the website and would expect equal treatment for every other project that comes through the department whether it be a building permit, plat, rezone, comp plan amendment, because if the City is going to put accounting for a project specific on the website be prepared to put every project that comes through the door as Council is setting themselves up for a standard by putting this type of information up on the website.

Brock Deady, Black Diamond appreciates Councilmember Goodwin helping a potential volunteer with information about what she wanted to do. He thinks volunteers should be met with open arms and we need to thank them for their suggestion and volunteering because the City is short of money and we need to have volunteers to help pick up the waste and debris and to not close our eyes to potential volunteers, but open them and take Councilmember Goodwin's advice and let them know when they can volunteer.

Bob Edelman, Black Diamond commented on Title 17 and 18 and how the Hearing Examiner decision would be appealed. He noted YarrowBay being anxious to move on the PPAs and wonders when those applications will be processed through the Hearing Examiner.

Mayor Olness noted appropriate staff is not here and is unable to answer this. She added the MDRT has started review of them.

Mr. Edelman asked if the code changes have been prepared for the next Planning Commission meeting.

Mayor Olness responded there was a request from the planning department to the City Attorney to draft changes for the Planning Commission and believes this will be for the next meeting of the Planning Commission.

Janie Edelman, Black Diamond has an idea and appreciates Ms. Brazier's help of picking up debris and making the piles. Her suggestion is that we get a whole bunch of people with pickup trucks and go down to the park and fill them up and every truck gets a senior citizen to go over by Iddings to drop this stuff off because if you are a senior citizen it does not cost any money.

Councilmember Deady agreed we need to get a list of people who are willing to help the City at no cost as more storms will be coming.

Mayor Olness noted that at the last town hall meeting there was a lot of comment regarding the Green Valley Road Committee and announced she received today an email from Lauren Smith of King County assuring that she will receive in writing confirming that Jay Osborn or Ruth Harvey will be attending the Green Valley Road Committee meetings.

Mark Davidson, Black Diamond commented on the term anti-growth being used to describe anyone who has concerns with the YarrowBay development. His testimony before the Hearing Examiner and Council stated both times it is very clear we live within the redline and there will be growth and it is not fair to labeled anti-growth as it is not true. He then echoed Mr. Rimbos' comments regarding YarrowBay and their ability to do it and what the issues are and to pay attention to those and do it right.

Councilmember Taylor mentioned Councilmember Deady and he have been attending CERT classes and highly recommends community members to attend one as it is worthwhile training. He also added they are getting caught up on their first aid and CPR.

Councilmember Deady noted if you are CERT certified to please let the Council know so a database can be made.

Councilmember Taylor stated most of the training will be held at Station 96 by the Amphitheater and is for two nights a week for four weeks.

Councilmember Goodwin is excited to learn he and Councilmember May have special value as senior citizens and is anxious to see which Councilmember gets the most money from the dunk contest.

Tina McGann, Black Diamond invited Council and the community to the Enumclaw School Board workstudy on June 5 at 6:30 p.m. in the Black Diamond School Library. She noted last year her family cleaned the coal carts and asked if this year they could paint them. She added they will provide the paint and do all the work

Mayor Olness stated her first reaction is yes, but we need to check with public works first. Mayor Olness shared with folks the McGann family adopting a flower bed down by the bakery and has done some planting and weeding in it. She also added that Jean Boston has adopted a flower bed too and the Lake Sawyer Community Club doing the weeding around the coal cart on 288th. She commented we do appreciated people doing this as the City simply does not have the manpower or the time to take care of all the aesthetics around our community. She thanked folks for volunteering and asked that anyone interested in volunteering to please check in with her beforehand.

Mayor Olness thanked everyone for coming and announced the next town hall meeting will be June 14, 2012.

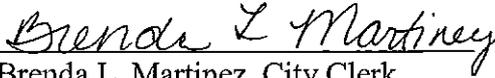
ADJOURNMENT:

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

ATTEST:



Rebecca Olness, Mayor



Brenda L. Martinez, City Clerk