

BLACK DIAMOND CITY COUNCIL MINUTES
Special Council Meeting of February 28, 2019
Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the special meeting to order at 5:31 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Oglesbee, Edelman, Stout, and Wisnoski.

ABSENT: Councilmember Deady (excused)

Staff present: Barb Kincaid, Community Development Director; Andy Williamson, MDRT/Ec Dev Director; David Linehan, City Attorney; and Brenda L. Martinez, City Clerk.

WORK SESSION:

1) Discussion on the City's Transfer of Development Rights (TDR) Program

Attorney Linehan discussed with Council the items that are included in the packet and noted he would be starting at the high level and sharing what a TDR program is supposed to do and how the City's TDR program is structured and what it does and then discuss the proposal.

Attorney Linehan briefed Council on what a TDR program is and does. He noted where the program is located in the City's code (Chapter 19.24) and that this program is used when some cities want to preserve their natural areas and cultural areas for future generations in exchange for protecting areas that would be developed and moving them into another area of the city for development. He noted this would be done through receiving areas and currently the City has sending and receiving areas and discussed the map that was approved at the time of adoption of the program outlining those areas.

He discussed how the City's TDR program came about and noted the receiving areas were largely due to the City wanting to annex certain areas and the result of those negotiations was the Black Diamond Urban Growth Area Agreement (BDUGAA). He noted key portions of the BDUGAA are included in the packet and defines the intent of the TDR Program in order for the annexation. The take is there would be commitments to preserve open space and have offset. He shared that it lays out the way that can be achieved - in order to allow urban density there would be preserved space.

The following is the topics/highlights of discussion.

- Process used to assess TDRS on parcels.
- Primary and secondary open space and not knowing how they were arrived at.
- BDMC 19.24.030 discusses the calculation.
- Bonus credits and what those are.
- The specifics of the Black Diamond's TDR Program and how the process would work and be implemented. The table of contents for chapter 19.24 was reviewed. Also, Chapter 18.98 and the MPD requirement.
- BDMC 19.24.060 regarding the process taken by the property owners and referred to section D7 that explains how the City is protected.
- TDR data base and how these are tracked and the process for when they are transferred. You need a DCR to sell the bank and once sold the conservation easement gets recorded. This is in perpetuity and runs with the land and will remain on the title.
- BDMC 19.24.055 – TDR Bank. The City currently owns TDRs in the bank (1,000) and owners can acquire TDRs through this bank. Property owners are also allowed to sell TDRs to the bank. It was noted that one of the keys to selling the TDRS in the bank is for the City to be able to use the proceeds to buy open space or something that provides a public benefit.
- Purpose of the TDR bank and the trust feature.
- Proposed resolution regarding the trust. It was noted the City Councils need to be involved in this because before any developer can use the trust account the Council has to take actions and approve a trust agreement with a developer which outlays the terms and processes of how the mechanics work. Council also needs to approve the ability of a sending site have their rights stripped off without a site to send them. This trust process allows all properties to participate and use the trust account. The other part is to set a fee to compensate the City for doing this. There was discussion on how the fee was arrived at and all the fees associated with this program.
- Discussion on what other cities have TDR Programs. It has mainly been counties.
- Discussion on how to update the fee.
- Discussion on the Trust Agreement and Conservation Easement. He noted the trust agreement is ministerial and the more interesting part is the conservation easement. Attorney Linehan shared that this draft t is a significantly modified version from the City of Sammamish and noted the key things in the conversation easement are Section 4) Grantor's Reserved Rights and Obligations and Section 5) Prohibited Uses and Activities. These restrictions are designed to preserve the conservation value.
- Discussion on section 4.1.1. of the Conservation Easement regarding recreation.
- Discussion on the process for selling partial TDRs and how that would work.
- Discussion on including the TDRs in the City's GIS system.
- Discussion and confirmation that this type of trust agreement would be applicable to any developer with minor changes.
- It was noted by staff the City is obligated to make this program work and staff needs this trust agreement to make the program work. This would be a step by step process of how the mechanics of the trust would work, as that is what is missing in the code.


- Discussion on Section 7 of the Conservation Easement regarding enforcement and Attorney Linehan shared it lays out a robust authority to enforce if resources are available.
- Discussion on how the price of the City's TDRs is determined. It was stated it would be by fair market value and there was discussion on how that would occur.
- Next steps moving forward. It was shared this would come back to Council and would be on the March 21 agenda for consideration.

ADJOURNMENT:


Councilmember Stout **moved** to adjourn the meeting; **second** Councilmember Edelman. Motion **passed** with all voting in favor (4-0).

The meeting ended at 6:45 p.m.

ATTEST:



Carol Benson, Mayor



Brenda L. Martinez, City Clerk