

BLACK DIAMOND CITY COUNCIL MINUTES
Council Meeting of December 2, 2021
Hybrid Meeting Via Zoom and In-Person
Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular meeting to order at 7:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady (via Zoom), Oglesbee, Smith, Mulvihill, de Leon, O'Donnell, and Page

ABSENT: None

Staff present: Mona Davis, Community Development Director; Seth Boettcher, Public Works Director; Andrew Williamson; MDRT/Ec Dev Director; Rob Reed; IS Manager; Tristen Bennett, Mayene Miller; Finance Director; Judge Swain; Jamey Kiblinger, Police Chief; David Linehan, City Attorney; and Brenda L. Martinez, City Clerk/HR Manager.

AGENDA REVIEW AND APPROVAL:

Councilmember Deady **moved** to approve the agenda; **second** Councilmember Oglesbee. Motion **passed** with all voting in favor (7-0).

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson presented Councilmember Oglesbee with a service award plaque for her service on the City Council and to the City of Black Diamond.

Community Development Director Davis reviewed with Council the City Code and the Planning Commission appointment process.

There was back and forth discussion between Councilmembers with the focus being on the process and candidate qualifications.

A **point of order** was called by Councilmember de Leon to not use the you pronoun.

- 1) AB21-082 – Confirming the Mayor's Reappointment of Pam McCain to the Planning Commission Position #4**

Mayor Benson reported on this.

Councilmember Mulvihill **moved** to confirm the Mayor's reappointment of Pam McCain to Position #4 of the Black Diamond Planning Commission; term ending on December 31, 2025; **second** Councilmember Oglesbee. Motion **passed** (5-2 (de Leon, O'Donnell)).

- 2) **AB21-083** - Confirming the Mayor's Reappointment of John Olson to the Planning Commission Position #7

Mayor Benson reported on this.

Councilmember Oglesbee **moved** to confirm the Mayor's reappointment of John Olson to Position #7 of the Black Diamond Planning Commission; term ending on December 31, 2025; **second** Councilmember Deady. Motion **passed** (5-2 (de Leon, O'Donnell)).

- 3) **AB21-084** - Confirming the Mayor's Appointment of Carol Morgan to the Planning Commission Position #6

Mayor Benson reported on this item.

Councilmember Mulvihill **moved** to confirm the Mayor's appointment of Carol Morgan to Position #6 of the Black Diamond Planning Commission; term ending on December 31, 2025; **second** Councilmember Deady. Motion **passed** (5-1 -1). (O'Donnell – no, de Leon – abstained).

CONSENT AGENDA:

Councilmember Smith asked to have item #8 AB21-087 removed from the consent agenda and added to new business.

Councilmember Oglesbee **moved** to adopt the Consent Agenda with removing AB21-087; **second** Councilmember de Leon. Motion **passed** with all voting in favor (7-0). The Consent Agenda was approved as follows:

- 4) **Claim Checks** – December 2, 2021, Check No. 50745 through 50788 (void 50638) in the amount of \$501,755.94
- 5) **Minutes** – Council Meeting of November 4, 2021, Special Meeting of November 8, 2021, and Council Meeting of November 18, 2021
- 6) **AB21-085** – Resolution Regarding Final Plat Approval for The Villages MPD, Ten Trails Plat 2D Division 1
- 7) **AB21-086** – Resolution Accepting the 2021 Citywide Asphalt Overlays Project
- 9) **AB21-093** – Resolution Authorizing the Mayor to Sign the South County Area Transportation Board Agreement

PUBLIC COMMENTS:

Philip Acosta, Black Diamond spoke to Council.

Kristen Bryant, Bellevue spoke to Council.

Bob Edelman, Black Diamond spoke to Council.

PUBLIC HEARINGS:

10) AB21-088 – Proposed 2020 Comprehensive Plan Amendments

Community Development Director Davis reported on this and highlighted past actions on it.

Mayor Benson opened the public hearing at 7:51 p.m.

Philip Acosta, Black Diamond spoke on behalf of Friends of Black Diamond. He commented on the four points the city failed to adhere to. 1) Public Participation Plan, which did not keep the interested parties list up to date, 2) Planning Commission is not empowered to be a meaningful forum to debate the issues raised by the public, 3) Council is not consulted in an ongoing basis about comprehensive planning – it happens all at once, and 4) City staff is limited in its ability to do the work and required to do truly comprehensive planning. He noted that for these four reasons the public is forced into an adversarial process such as appeals and court actions. He commented that it would be easier to work with the Council and Planning Commission versus having to challenge all these decisions. He discussed the process of making changes and major changes requiring another having public hearing. He stated this should not be considered a problem as updating the comprehensive plan and listening to the public is an opportunity – not a burden. The public will get a better plan if Council considers and acts on the issues they are offering.

Kristen Bryant, a member of Friends of Black Diamond. She commented that despite the public participation improvement opportunities that were previously mentioned there was a lot of public input to the Planning Commission for the 2020 Comprehensive Plan. She noted that it actually started in the fall of 2019, and it was never finished and was instead rolled into the 2020 update. Before March 1, 2020, several suggestions for comprehensive plan amendments were sent in by the public, however in violation of city code 16.10.140 the city did not give those suggestions to the Planning Commission or create a staff report with preliminary recommendations on it. She shared that more public comments followed in June, July, and December. She commented that all of these public comments are part of a record that according to the Black Diamond Public Participation Plan section 6 she then read this excerpt. She noted that these comments were to be made available to Council and she stated she is not sure they were provided. She stressed that many citizens followed the public process to make those comments as they wanted to be heard. She then went on to share that her group put together three amendments for adoption by Council and reviewed Amendment A with Council. She discussed the map she shared showing significant travel times. She noted that every decision on transportation has been based upon the assumption of SR 169 will have 4 lanes and gave examples. She stressed that everything is based on this false assumption.

Kelly Sauskojus, Black Diamond noted continuing comments from the Friends of Black Diamond regarding the transportation modeling as stated it is assumed that SR 169 has 4 lanes in the future. She noted that this is despite the fact that there is no project and no funding existing currently to achieve this in actual reality. She added that SR 169 is two lanes and there are no projects at any point in the future that are actually slated or potentially funded. She discussed the Hearing Examiners decision and noted the citizens deserve better than faulty and inaccurate assumptions. Citizens deserve a transportation plan that actually takes into account reality and looks at funding and the future of transportation within the City. She noted their (Friends of Black Diamond) amendment B would add text that lays the groundwork for meaningful standards to be adopted into the comprehensive plan in 2022. She then discussed their amendment. She also read a quote from the 2020 comprehensive plan update and stressed that as written it will not work and shared why by quoting Gary Norris a transportation engineer with over 40 years of experience in transportation planning. She stated that their proposed Amendment B would be "The City shall update its level of service to a measurable unit for sidewalks, trails, bikeways, and transit. New development shall be required to include a concurrency analysis for these modes of transportation, showing how the level of service will be met. Traffic Impact Fees will include funding to meet the level of service." She then went on with Amendment C from Friends of Black Diamond which would remove the future land use map made in 2019. The land use would most closely match the city's zoning map as it existed prior to the most recent 2019 comprehensive plan update. She noted this action is necessary because the 2019 action never went through proper analysis with actual current information. She noted the comprehensive plan can not be based on faulty assumptions. She added the City has a duty to address significant deficiencies in its analysis whenever they are discovered and discussed what the adoption of a future land use map does for property owners and discussed rezones and SEPA.

Angela Fetting, Black Diamond continued with what her colleagues previously spoke about. She noted the Comprehensive Plan update process should be viewed as an opportunity and not as a burden. She shared with Council some of those opportunities and talked about Ten Trails being about only 10 % built out and 90% unwritten. She noted a lot has happened since the development agreement was approved 11 years ago and how can we improve that development for the benefit of the new residents and everyone in our community. She spoke about warning signs and future traffic congestion and GMA providing tools for us to phase growth to reduce traffic problems and asked are they using those tools to their best effect. She touched on small cities revitalizing themselves by investing in existing business districts and neighborhoods, and other cities have used planning tools to create design standards that promote this. She stated we can learn a lot from them and take action. She shared the City's development code being mostly decades old and Black Diamond is facing big city challenges with a small-town set of regulatory tools. She noted that to staff this may be too big of a problem to tackle and to the public this may be their last opportunity to protect what value we have in our community. She touched on the Puget Sound Regional Council encouraging Black Diamond to reduce its growth forecast in order to comply with regional planning goals. She noted this isn't a problem, it is an opportunity that communities over the region would like to have. She

explained that citizens are being told they must accept high density and additional growth, and most don't want it. She spoke on the new infrastructure money that will be available to protect our environment and will go to communities who have a good plan in place. She stressed that now is the time for Black Diamond to create a comprehensive six-year plan to improve parks, open space, wildlife and salmon habitat. She touched on how much of the open space preservation in Ten Trails is severe mine hazards, steep slopes, wetlands and streams and thinks Black Diamond can do better than that. She noted good planning isn't a chore or a box to be checked off, it's a way of thinking, a way to stimulate positive actions. Good planning isn't an overreach of government or a problem for developers – it's a way for the public to create the kind of community they want. Residents should not pay for the needs that are created by developers and they had that in mind when they proposed their amendments A, B, and C. She noted they are not the whole solution but are at least a start. In closing she stated that good planning isn't just about approving development permits, it's about incentives and rules to protect the public interest. She asked Council to please take tonight as an opportunity to update and create the comprehensive plan based on the citizen comments you have received over the last two years.

Gary Davis, Black Diamond noted living in Black Diamond a long time and shared his residence is at the top of Lawson Street. He stated that when the MPD was proposed some influential people lived on Lawson Street and the developer promised to protect Lawson Street from their traffic by building a new southern access road to their 1500-unit development and noted now the developer wants to change the plan that was approved and to instead send traffic down Lawson Street. He added that this is from the 2021 Comprehensive Plan and not the 2020 Comprehensive Plan that is begin discussed tonight. He stated that Oakpointe has started to pursue this through other means and not the comprehensive plan. He discussed there are neighborhoods around town that are being treated like conduits for new development traffic, but there are no plans for design standards to protect these neighborhoods from negative impacts of excessive traffic. He expressed that this is in stark contrast to the new Ten Trails homes where slow travel speed and pedestrian friendly environments are part of the design. He added that just because the rest of Black Diamond has a legacy of rural roads it doesn't mean the quality of life of those residents should be sacrificed. It isn't enough to add sidewalks or figure out how to increase intersection through pipe, you need to have a plan that deals with traffic safety in a comprehensive way. He noted that planning takes time and detail by comparison and we got the examples of Kirkland, Oakpointe, and Bellevue. He talked about Kirkland's walkable downtown with mixed retail, residential and office space and shared that Kirkland's zoning code is six inches thick. He touched on Oakpointe's headquarters being in Bellevue and Bellevue spending years updating their comprehensive plan and code to plan two transit oriented walkable communities. Traffic reduction and walkability won't happen just because you allow residential use in commercial zones. He suggested an amendment to reduce the allowance on single occupancy vehicles as follows: "The city will create more enforceable design standards that improve safety, enhance neighborhoods, and walkability, and that apply to pedestrians, bicycles, transit, automobiles and trucks." He also thinks they should create a Council to meet and focus on this issue and invite experts to brief Council on what other cities are doing. He stressed

that if things continue to go the way they are now people are going to get hurt and shared deficiencies.

Allison Ostrer, Seattle, seconded everything that the previous speakers spoke about. She noted coming to Black Diamond more over the last three years and during this time she has noticed Black Diamond becoming more congested and its natural beauty and charm being destroyed and converted into a cookie cutter style which mirrors neighboring communities. She suggested an actionable plan to create the walking, biking and transit. The plan would call for reducing congestion to be implemented on to try and reduce the negative environment being created.

Mayor Benson closed the public hearing at 8:16 p.m.

Community Development Director Davis addressed some of the public comments heard tonight with Council.

Councilmember Oglesbee **moved** to adopt Ordinance No. 21-1169, adopting the proposed Comprehensive Plan Update for 2020 as forwarded by the Planning Commission, but without the change to residential mixed-use in the Community Commercial zone; **second** by Councilmember Mulvihill.

There was Council comments.

Vote: Motion **passed** with all voting in favor (7-0)

UNFINISHED BUSINESS: None

NEW BUSINESS:

11) AB21-089 – Resolution Regarding Update to City's Fee Schedule

Community Development Director Davis explained this item to Council.

Councilmember Mulvihill **moved** to adopt Resolution No. 21-1458 amending the City's Fee Schedule and to include the new 2022 Utility Rate Schedule; **second** Councilmember de Leon. Motion **passed** with all voting in favor (7-0)

12) AB21-090 – Resolution Accepting Therapeutic Court Grant

Judge Swain reported to Council on this.

There was Council discussion.

Councilmember de Leon **moved** to adopt Resolution No. 21-1459, authorizing the acceptance of therapeutic court grant funds from the Administrative Office of the Courts and allow Judge Krista White Swain to execute Grant Agreement GRT22429 with the

Washington State Administrative Office of the Courts for a therapeutic court program; **second** Councilmember Mulvihill. Motion **passed** with all voting in favor (7-0).

13) AB21-091 – Resolution Regarding Professional Services Agreement for Services Related to Community Court Program Coordinator

Judge Swain briefed Council on this agenda item.

There was back and forth discussion between Judge Swain and Councilmembers.

Councilmember Page **moved** to adopt Resolution No. 20-1460, authorizing the Mayor to execute a Professional Services Agreement with Somer Johnson to provide the services of Program Coordination for the Black Diamond Community Court; **second** Councilmember de Leon. Motion **passed** with all voting in favor (7-0)

14) AB21-092 – Ordinance Amending the City's 2021 Operating Budget

Finance Director Miller highlighted for the Council the changes to the 2021 Operating Budget.

Councilmember Page **moved** to approve Ordinance No. 21-1170 adopting the 2021 Budget amendment; **second** Councilmember Mulvihill. Motion **passed** with all voting in favor (7-0).

8) AB21-087 – Resolution Regarding Professional Service Agreement with RH2 Engineering for Design and Permitting Service for 3rd Avenue Watermain Improvements

Councilmember Smith **moved** to adopt Resolution No. 21-1457 authorizing the Mayor to execute a Professional Services Agreement with RH2 Engineering, Inc. to provide engineering and permitting services for the 3rd Ave Water Main Improvement Project; **second** Councilmember Deady. Motion **passed** with all voting in favor (7-0)

DEPARTMENT REPORTS:

Fire – Chief Smith congratulated Councilmember Smith and recapped response statistics since the last update and noting them being typical. He commented on receiving a grant from AWC for the Community Center and made that presentation on Wednesday. He commented on their new board member and noted Thanksgiving being really quiet in Black Diamond and there were no calls in the City. He shared that they are getting ready to adopt their budget and working on a strategic plan. He reported that there will be no holiday engine this year and the department will be working on a station to have food and toy donation bins at.

MAYOR'S REPORT:

Mayor Benson let the public know that a letter was written to ESD board members in support of Dr. Carey as they were zoom bombed during their last board meeting.

COUNCIL REPORTS:

Councilmember Smith expressed being excited and shared that he registered for the training with AWC on Saturday. He noted talking with departments and city staff and continuing to hear from residents on their concerns and responding and keeping the open-door policy. He is excited and honored to be here with the council and excited to do good work for the city.

Councilmember Mulvihill reported attending a Jurassic Parliament class on public hearings. She thanked everyone for their public comments tonight. She reported attending all her meetings. She shared that the Community Center is having a toy drive and reminded everyone that gifts need to be turned in by December 9th. December 11 is Hometown Christmas in old town and there will be lots of activities for everyone. She also mentions that the Black Diamond Community Center will also be having a sale that day. On December 4th Nealy mansion will be open for holiday pictures on the porch from 11-3 and to give them a call before showing up. She announced that a new business is opening on the 31st and it's called the Vault.

Councilmember de Leon commented that all the holiday events sound fantastic and it's nice to be doing these again. She shared that she is also part of the AWC training on Saturday. She welcomed aboard Councilmember Smith and thanked Councilmember Oglesbee for her service. She wished safe happy holidays and to be safe while celebrating. She reported attending her committee meetings and was able to be the voting member for SCA and thanked Mayor Benson for that. She also thanked Mayor Benson for writing the letter of support for Dr. Carey and spoke on the gravity of these kinds of situations and thanked all the community members who spoke out too. She addressed a public comment heard tonight and noted it being addressed in November and shared that she apologized to the person at that meeting. She commented on the budget that she did propose having an exploration on a levy lid lift for police funding moving forward and gave examples of some needs. She thanked everyone for their public comments throughout the year and thanked staff for making the hybrid meetings possible. She again reminded everyone to stay safe during the holidays.

Councilmember O'Donnell emphasized that the adopting of the 2020 comp plan is not a reflection that Council did not hear the public comments heard tonight. He reported having an opportunity to attend an Economic Development Conference today and shared what he learned. He noted mentioning last time that he worries that we get public comments, and we don't do anything with them. He does feel that if there are more topics of concerns and interest, we can have some ad hoc committees where they can engage the community and would like to see this in 2022.

Councilmember Page welcomed Councilmember Smith and she looks forward to working with him. She thanked Councilmember Oglesbee for her four years of service to the City and appreciated her kindness. She thanked Mona for being here a year and thanked her for all she and her team do. She thanked John and Pam for their continued service on the Planning Commission and to Ms. Morgan on her new appointment. She encouraged

citizens to shop locally as those are dollars that stay here and there is no supply chain issue. She will be attending the AWC training. She noted being shocked too on what happened at the Enumclaw School District board meeting and reached out to Dr. Carey adding her support for him. She noted that she hears the public and gave the example of highway 169. She shared having an opportunity to meet with King County Housing Authority to see what plans there are for more housing opportunities in our community. She thanked everyone for reaching out to her as it meant a lot.

Councilmember Deady shared the schedule for getting tested at the COVID testing site in Enumclaw. She commented on missing the meeting on Tuesday due to her cold and gave background information on the City Administrator position with the City and hopes the Council in the future will do better with finance and that Council is providing input to bring forward. She gave kudos to city staff and the Mayor for doing a great job. She welcomed Councilmember Smith to the Council, and she looks forward to working with him. She shared enjoying working with Councilmember Oglesbee over the past few years and hopes she continues to give her input. She discussed ARPA funding for 2022 and would like to add having the school zoned sign moved. She expressed that Council needs to start thinking about who they want to be Mayor Pro-Tem and what Council standing committee they want to be on in 2022. She welcomed the three appointments to the Planning Commission. She discussed the upcoming events and the toy drive and thanked Public Works for all their hard work and thanked them for putting up the wreaths on Railroad Avenue and for lighting the tree on Hwy 169. She commented that she will be attending the webinar with AWC on Saturday too and wished everyone a wonderful holiday.

Councilmember Oglesbee thanked the community for electing her to serve the past four years. She shared that she does look forward to closing this chapter and welcomed all the new Councilmembers and believes the city will be in good hands. She expressed being ready to go back to her roots which is the volunteer portion in the community and looks forward to doing that. In closing she shared that she is proud of all the relationships she's built.

ATTORNEY REPORT:

City Attorney Linehan welcomed Councilmember Smith and extended to him a meeting invitation to get up to speed and ask questions. He noted he will miss Councilmember Oglesbee, and expressed it has been a pleasure to work with her and wished her all the best in her next chapter.

PUBLIC COMMENTS:

John Olson, Black Diamond spoke to Council.

Kristen Bryant, Bellevue spoke to Council.

EXECUTIVE SESSION:

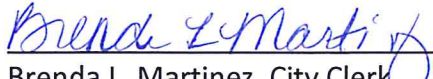
ADJOURNMENT:

Councilmember Oglesbee **moved** to adjourn the meeting; **second** Councilmember Deady. Motion **passed** with all voting in favor (7-0). The meeting ended at 9:59 p.m.

ATTEST:



Carol Benson, Mayor



Brenda L. Martinez, City Clerk