

BLACK DIAMOND CITY COUNCIL MINUTES

Special Meeting - June 21, 2010

Black Diamond Elementary Gymnasium
25314 Baker Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the special meeting regarding the closed record hearing of the proposed Master Planned Developments to order at 7:04 p.m. and lead us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Hanson, Boston, Goodwin, Saas and Mulvihill.

ABSENT: None

Staff present were: Steve Pilcher, Community Development Director; Stacey Borland, Planner; Andy Williamson, Economic Development Director; Chip Hanson, IS Manager; Mike Kenyon and Bob Sterbank, City Attorneys and Brenda L. Martinez, City Clerk

Mayor Olness announced to the audience that there is a sign up sheet in the back of the room for parties of record to sign up to speak and that speakers will be heard in the order of the sheet. She also noted that the soonest we would start parties of record statements would be Wednesday evening.

RULES OF PROCEDURES:

City Attorney Kenyon explained the process of the Closed Record Hearing and noted that under State law on an application there can be no more than one open record hearing and one closed record hearing. On the MPD applications before you the Hearing Examiner conducted the Open Record Hearing and has forwarded his recommendation to the Council; the Hearing Examiner makes a recommendation and Council makes the final decision by a majority vote. Council conducts the Closed Record Hearing and hears from speakers such as staff, the applicant and parties of record meaning those folks who either provided oral or written testimony before the Hearing Examiner. He added that speakers can not offer new evidence, but they can argue for their position either for the MPDs or against them or argue for or against certain conditions. He further added that anything Council decides must be supported by the record.

Mr. Kenyon discussed the current procedural rules adopted by Council are not adequate for a hearing of this magnitude and recommended Council adopt new procedural rules for this hearing. Mr. Kenyon went over suggested rules with Council. He also reviewed

with Council the process for Appearance of Fairness inquiries and the questions he will ask Councilmembers.

Mayor Olness reviewed one by one with Council the suggested Rules of Procedure as shown on Exhibit A; discussed dates school is available for the closed record hearing – June 22-July 8.

Councilmember Goodwin stated Council should block out all those dates suggested.

Council consensus was to go from June 21-July 8, 2010.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Goodwin to amend tonight's agenda to allow for public comments. Motion **passed** with all voting in favor (5-0).

PUBLIC COMMENTS:

Peter Rimbos asked about substitutions.

There was Council consensus to allow substitutes from organizations only.

Cindy Proctor questioned why the record was not here as well as the transcripts.

Rich Ostrowski commented on parties on first come first serve basis, would like to see those representing an Agency be taken first.

Robert Taeschner would like wife to speak on behalf of daughter.

Council responded that would be okay.

Dave Bricklin spoke in regards to the Exhibits and transcripts; tree ordinance violation; legislative process vs. quasi-judicial.

Paul Reitenbach asked for time for his two staff members to speak.

There was Council consensus to allow for staff members to speak.

Cindy Wheeler thanked Council and addressed Exhibits being at the meeting.

Christy Todd commented on rules and would like to pool Maple Valley's three speakers regarding transportation.

Nancy Rogers commented on procedural rules; requests limiting the amount of people who can grant time to another and suggests limiting it to no more than 5; emails, final

comments, agrees with page limits; commented this is a quasi judicial process not legislative; commented on Mr. Bricklin's comment regarding Hearing Examiner comments at the beginning of the Open Record Hearing; question on parties of record.

Bob Edelmann addressed ground rule of Appearance of Fairness Doctrine regarding quasi judicial on participants not only voting members.

Jack Sperry commented on page limits in the court of appeals; ex-parte communication; written submission different than oral testimony.

Jaqueline Taeschner expressed belief we are in a republic and we elect you to represent us and want all the material here and want to be heard.

Brian Derdowski not a party of record.

Jeff Taraday commented on closed record hearing allowing limited new evidence and you would not be breaking state law.

Vicki Harp commented on expert witnesses being allowed for both FEIS and MPD by the Hearing Examiner.

NEW BUSINESS:

Resolution No. 10-695, suspending Council Rules and Procedures regarding Quasi Judicial Hearings and Closed Record Hearings and establishing new procedures for the MPD Closed Record Hearings

Tabled until the June 22, 2010 continuation of the Special Council Meeting.

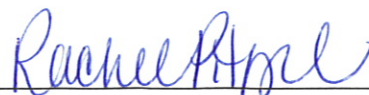
ADJOURNMENT:

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Boston to continue the meeting to June 22, 2010 at 7 p.m. in the Black Diamond Elementary Gymnasium. Motion **passed** with all voting in favor (5-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk