

BLACK DIAMOND CITY COUNCIL MINUTES

Special Meeting - June 24, 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 back to order at 7:04 p.m. and lead us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Saas, Boston, Goodwin, Hanson 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

City Attorney Kenyon stated that by operation the Rule of Necessity all five Councilmembers are back and eligible to participate.

APPEARANCE OF FAIRNESS:

City Attorney Kenyon – asked the following question collectively of all five Councilmembers: Since last night for Councilmembers Goodwin, Boston and Saas and since Tuesday night for Councilmembers Mulvihill and Hanson, have you acquired any interest in the property that is subject to the MPD applications? All Councilmembers responded no.

City Attorney Kenyon – asked the following question collectively of all five Councilmembers: Since last night or Tuesday night does anyone stand to gain or lose financially as a result of the outcome of these proceedings? All Councilmembers responded no.

City Attorney Kenyon – asked the following question collectively of all five Councilmembers: Since last night or two nights ago has anything happened that could impact your ability to be fair and unbiased on these applications? All Councilmembers responded no.

City Attorney Kenyon – asked the following question of Councilmember Goodwin: Since last night have you had any ex parte contact with known opponents or proponents of the project?

Councilmember Goodwin stated no.

City Attorney Kenyon – asked the following question of Councilmember Boston: Since last night have you had any ex parte contact with known opponents or proponents of the project?

Councilmember Boston stated no.

City Attorney Kenyon – asked the following question of Councilmember Hanson: Since last Tuesday night have you had any ex parte contact with known opponents or proponents of the project?

Councilmember Hanson stated yes. She stated that as of this morning she was still undecided if she should come back and was unclear of how the mitigation would work with her living next to The Villages and at what point that would start if this were to pass so she called Ryan Kohlmann and asked how that process worked and he explained. City Attorney Kenyon asked her if this was anyone else on the phone conversation with her and she replied no. For the record Mr. Kohlmann works for YarrowBay.

City Attorney Kenyon asked if Mr. Kohlmann was present and if he cared to rebut the substance of the conversation made by Councilmember Hanson.

Mr. Kohlmann answered no.

City Attorney Kenyon – asked the following question of Councilmember Mulvihill: Since last night have you had any ex parte contact with known opponents or proponents of the project?

Councilmember Mulvihill replied she has not.

City Attorney Kenyon – asked the following question of Councilmember Saas: Since last night have you had any ex parte contact with known opponents or proponents of the project?

Councilmember Saas stated no.

City Attorney Kenyon – announced to audience if anyone had any objections or cares to offer rebuttal to the substance of Councilmember Hanson's ex parte contact, they may submit that in writing (email is fine) to the City Clerks' office by end of business day tomorrow and it will be considered timely filed.

STAFF PRESENTATIONS:

Community Developer Director Pilcher began his opening statement by beginning that this is a closed record hearing based upon the record, our staff report that was sent to the Hearing Examiner is part of the record, the Hearing Examiners decision is part of the record so we are here to highlight a few points of what occurred during that process. In front of Council are handouts with staff comments regarding the decisions on both The Villages and Lawson Hills MPDs, these are recommendations from staff on conditions the Hearing Examiner imposed. He began with wanting to make a correction on a statement that was made Monday evening, that the Hearing Examiner had determined that the EIS was inadequate; he read a quote from the Hearing Examiners decision on the FEIS, executive summary page 2 from The Villages (which is the same in Lawson Hills); he wanted to make it clear on the record that there was no question of whether or not, at least in the mind of the Hearing Examiner of whether the impact statements passed the test of adequacy, he did note there was some areas of concerns that he would address as specific recommended conditions of approval, there are approximately 160 conditions of approval from the Hearing Examiner decision on The Villages around 90% or more are consistent with what staff recommended, the main area of difference is transportation and noise. Mr. Pilcher reviewed some conditions of approval that staff suggests Council consider the recommended changes in the Hearing Examiner decisions, some are what staff feels are “oversights”, he gave some examples. Mr. Pilcher stated that basically (very quickly) staff’s recommendations in terms of what Council might wish to consider in terms of the Hearing Examiners recommendations made to you as a Council, Mr. Boettcher and Mr. Nix are here this evening in the event Council has any questions they would like to ask.

Councilmember Hanson – asked about the buffer on the East side of The Villages, is it something that can still be discussed, there still has to be a noise study done.

Councilmember Mulvihill – asked why staff felt it was okay to reduce the parking areas.

Community Development Director Pilcher replied the concept for the mixed-use town centers are to be more of a walk able environment, residential and commercial integrated, there is a desire to have some parking, but more concentrated on mix-use nature, making it an easier walking distance for those residents that live there.

Mayor Olness announced a five minute recess at 7:17 p.m. for Staff and Applicants to change places.

Meeting was called back to order at 7:22 p.m.

APPLICANT PRESENTATIONS:

Nancy Rogers gave opening statement by beginning they are pleased to be in front of Council this evening, it has been an extensive process, and they know that the Council’s

job is not an easy one and that Council is here to serve the public and citizens of Black Diamond. YarrowBay wishes to make it clear that they are pleased to be past the mandatory procedural issues and objections that we've all experienced these last few days, she can't promise that there won't be more procedural arguments, there may, but thank Council for their commitment to the process and public service. Ms. Rogers stated they are excited to finally show Council both MPD designs and how they bring the City's adopted vision to life, that process is going to unfold in the next fifteen years it's a long term project and think that you will see the vision for the City has been implemented. Ms. Rogers quoted the Comprehensive Plan. YarrowBay is asking that Council frame their thoughts around how The Villages and Lawson Hills MPD implement the vision and meet the code. Ms. Rogers describes how the MPDs are designed around the City's vision, open space and vitality, urban level densities and use the natural topography to ensure the City's vision to maintain the small town character. Asking that Council approve the Hearing Examiners conditions on both MPDs and summarized what was going to be presented to Council- summary of history, site plans, YarrowBay reactions to the various issue that were raised and discussed by the Hearing Examiner, submitting written document on changes to finding and conclusions and written arguments at the close to respond to public comments and answer any questions that may arise.

John Hempleman gave history of the BDUGGA, WSFFA, BDOSAA and Exhibit 39 (List B from Hearing Examiners Exhibit List).

Lori Felbert of the Dolin Group – pages 196- 210 overview of site plans; highlighted North area which is meant to be “destination retail”.

Nancy Rogers presented large vicinity maps to Council; density and small town character; growth targets; YarrowBay concerns with Hearing Examiner; Exhibit 122 Stormwater, protection of Lake Sawyer from phosphorus; Fiscal Impacts; Legal Issues; Traffic Impacts.

In conclusion, they are asking Council for approval of the MPDs.

Councilmember Hanson – question regarding front loading and alley loading revisions.

Councilmember Mulvihill – Homeowner Association maintenance question.

Nancy Rogers read proposed change to this condition.

Councilmember Hanson – contours of the land and work with it, concerned with truck loads for removing fill.

Nancy Rogers clarified Hearing Examiners recommendation.

Colin Lund addressed Councilmember Hanson's question.

Councilmember Mulvihill – Green Valley Road question on condition.

Nancy Rogers clarified what they are proposing in their revised condition.

Councilmember Hanson – clarified how the 30 units per acre came about and is concerned this is not what is in the document.

Colin Lund clarified 18-30 units per acre, looked at parcels that comply with this.

Nancy Rogers stated that they can look at ways to craft a condition to meet her concerns.

Councilmember Boston – stated that the MPD lacks clarity on commercial development and traffic.

Lori Felbert addressed Councilmember Boston's concern, gave examples of how the street network will work.

Councilmember Boston- commented that he thought the design codes have kind of been addressed as far as screening of tall buildings and angling so it doesn't look so big.

Lori Felbert clarified that beyond screening is the architectural character as well.

Councilmember Goodwin - distributed a series of questions that he would like to have a written response to. The questions were submitted to the City Clerk and numbered as Exhibit C-7.

Nancy Rogers stated that the statements that Councilmember Goodwin made were very helpful and they will have a written response to the questions Mr. Goodwin asked.

Councilmember Boston – question on traffic and trigger of 3,000 homes which seems like a lot of homes; mitigation of traffic before it becomes a problem.

Nancy Rogers responded mitigation starts on day one with the Phase 1 development of each MPD, mitigation will be a continued process; the 3,000 trigger is intended to trigger that truth testing report of the EIS analysis of transportation impacts.

Councilmember Boston – stated the 3,000 still seemed like a large number for “means testing” and can be related to stormwater maybe we should be testing more often and more places, you don't want to get to a point to where there is a problem.

Colin Lund responded part of it is you need enough vehicle trips to prove out where those trips are going to make any changes.

Councilmember Saas – question on parking lots and the reductions and are there examples within neighboring cities.

Colin Lund responded most city's have what is called a shared parking analysis provision in their codes; opportunity in LID techniques to manage stormwater.

Councilmember Hanson – stated that it looks like they will be using low impact development techniques.

Colin Lund gave examples of low impact techniques.

Councilmember Saas – questioned all schools or most that you are trying to achieve the ½ mile radius of the Master Planned Developments.

Nancy Rogers responded that she feels we can achieve this for all, except the one in Lawson Hills, she read revised condition.

Councilmember Saas – question regarding fiscal shortfalls and mentioned privatizing.

Nancy Rogers responded it's called a sensitivity analysis, which was prepared by Parametrix, looked at maintaining public infrastructure where it's that expense that kicks you over the fiscal imbalance and an opportunity to privatize things.

Colin Lund responded to infrastructure that is susceptible to privatization.

Councilmember Boston – questioned King County Comprehensive Plan and those numbers referenced are the ground floor minimum, describe disconnect and where it came from.

John Hempleman replied that King County is not as well familiarized with the BDUGGA like those of you in Black Diamond and those of us who have worked on it for a long time; King County was not going to project a larger number here than they thought was realistic; City's can plan for larger numbers than what is the minimum, in fact they are encouraged to do so, and King County will confirm that, they want more people in the City's than they project because that will help protect the rural areas from inappropriate growth in rural areas.

Councilmember Boston – replied that King County was looking at what has transpired in the last 15 years which is essentially nothing, and with that is basing their number on that, not even recognizing they had this agreement on the books.

John Hempleman replied candidly that he thinks King County wondered what ever happened, in other words they had the agreement, they were not the party to implement the agreement, the party to implement the agreement was the City, you know the history, the City was not capable of implementing this agreement in the 90's or the early part of this century. For a long time we were stalled because there was no water, it wasn't until Tacoma put in pipe line 5 and gave the City the option to buy water. The project just didn't make sense for property owners, City or the County to project a growth that he BEDUGGA dreamed of when there was no water supply; it would have been unrealistic for King County to allocate those numbers. King County would be happy if Black Diamond took more numbers, those are minimum numbers not maximum.

Councilmember Hanson – questioned wildlife corridor being 450 ft. wide and noted animals can't walk on water and would like the corridor to be looked into further.

Colin Lund responded that they will go back and take a look and see what can be done.

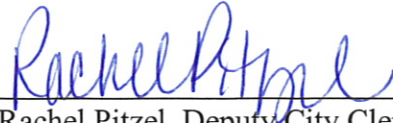
ADJOURNMENT:

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to continue the meeting to June 28, 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