

BLACK DIAMOND CITY COUNCIL MINUTES

Special Meeting - June 29, 2010

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

CALL TO ORDER, FLAG SALUTE:

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

ROLL CALL:

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

ABSENT: None

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

APPEARANCE OF FAIRNESS:

City Attorney Kenyon – asked the following question collectively of all five Councilmembers: Since the close of the hearing last night and in Councilmember Hanson's case the close of the hearing last Thursday night since you were excused last evening, have any of you inquired an interest in the property that is subject to the MPD applications? All five Councilmembers responded no.

City Attorney Kenyon – asked the following question collectively of all five Councilmembers: Since the close of the hearing last night and in Councilmember Hanson's case the close of the hearing last Thursday night has anything occurred that would cause you to gain or lose financially as a result of the outcome of these proceedings? All five Councilmembers responded no

City Attorney Kenyon – asked the following question collectively of all five Councilmembers: Since the close of the hearing last night and in Councilmember Hanson's case last Thursday night has anything occurred that would make it difficult or impossible for you to be fair and impartial in your consideration of these applications? All five Councilmembers responded no.

City Attorney Kenyon – asked the following question of Councilmember Boston: Since the close of hearing last night, have you had any ex parte contacts with any known opponents or proponents of the projects

Councilmember Boston replied no.

City Attorney Kenyon – asked the following question of Councilmember Saas:
Since the close of hearing last night, have you had any ex parte contacts with any known opponents or proponents of the projects?

Councilmember Saas stated no.

City Attorney Kenyon – asked the following question of Councilmember Hanson:
Since the close of the hearing last Thursday night since you were excused last night have you had any ex parte contacts with any known opponents or proponents of the projects.?

Councilmember Hanson disclosed Mr. Rimbos and Mr. Rothschilds ex parte contact after Thursday's meeting when they came up asking about when YarrowBay's answers to Mr. Goodwin's questions would be available, **she** answered she did not know and referred them to the City Clerk; disclosed speaking with Vick Harp on Thursday about recusing herself; talked about bears and the mitigation on the noise that is recommended by the Hearing Examiner and they discussed their concern that vibration was not addressed in his recommendation. **City Attorney Kenyon** asked if anyone other than Mrs. Harp was involved in the conversation and **Councilmember Hanson** replied no.

City Attorney Kenyon asked if Vicki Harp is present this evening and asked her if she cared to come to the microphone to rebut the substance of the communication that Councilmember Hanson just talked about. Mr. Kenyon added for the record Vicki Harp is present and has indicated from the audience that she agrees with Councilmember Hanson's statement. He then asked if Mr. Rimbos and Mr. Rothschilds was present and if they wished to rebut the substance of the communication that Councilmember disclosed.

Peter Rimbos explained this is the same communication that was referred to and discussed at last night's proceedings.

City Attorney Kenyon – asked the following question of Councilmember Goodwin:
Since the close of hearing last night, have you had any ex part contacts with any known opponents or proponents of the project?

Councilmember Goodwin stated none.

City Attorney Kenyon asked the following question of Councilmember Mulvihill:
Since the close of hearing last night, have you had any ex part contacts with any known opponents or proponents of the project?

Councilmember Mulvihill stated none.

City Attorney Kenyon announced to the audience if anyone has any objections or would like to rebut the substance of Councilmember Hanson's disclosures or any of the other

comments tonight they may submit that in writing to the City Clerks' office by end of business day tomorrow and those will be considered timely filed.

Mayor Olness explained the timer process that is being used for the proceedings.

PARTY OF RECORD STATEMENTS:

Ron Taylor expressed his concern regarding potential light pollution, citing pg. 3-29 from the Lawson Hills FEIS. He also expressed concern that no specific study of impacts to Botts Drive has been conducted, in particular, its intersection with Lawson Drive. He stated it is inappropriate to use Botts Drive for MPD traffic. Mr. Taylor also requested a larger buffer between the proposed Lawson Parkway and his property. He also stated his concerns regarding fire protection services, which he states are currently inadequate, even without these projects. He stated that fire services must in place in advance of need.

Cindy Proctor noted that the Council can go beyond the mitigation measures of the FEIS and impose additional conditions. She stated that Parametrix had indicated that additional water, transportation and fiscal analysis should be conducted, but the City declined to do so. She noted that the Washington State Dept. of Fish and Wildlife had not commented on the Draft EIS because the document did not indicate that an HPA would be required.

Ms. Proctor expressed several concerns with the fiscal analysis, noting that The Villages is projected to have a \$1M annual shortfall. She stated that based upon their presentation, YarrowBay wants to put road maintenance responsibilities onto the City. She noted that the projected housing prices are out of reach for most citizens and that the fiscal analysis assumed an overlay aggressive absorption rate. Ms. Proctor noted that p. 12-2 of the MPD application notes that the fiscal analysis is only as good as its assumptions.

Ms. Proctor questioned the assumed rate and timing of commercial growth, with the majority being projected for 3-5 years after commencing the project. She stated that typically, commercial follows residential growth.

Ms. Proctor advocated only vesting the project in phases over time. She provided pictures of YarrowBay's Bridges project on Lea Hill, noting the site had been cleared and graded with no houses being built.

Ms. Proctor questioned the use of TDRs and their availability. She noted that most "sensitive areas" are wetlands and/or their buffers. She stated her opposition to the potential use of Lake Sawyer Regional Park for either Enumclaw School District facilities or to mitigate impacts of the MPDs. She stated the MPDs fail to meet the open space requirements of the code.

Ms. Proctor further noted a density of 4 dwelling units per acre is not a guarantee. She stated that 1900 dwelling units should be considered a reasonable.

Robert Taeschner stated his concern of the environmental degradation that will occur as a result of the MPDs and also the negative impact they will have on the community. He

expressed his concern regarding increased traffic and the loss of trees. He stated the project should only be approved in incremental steps.

Jacqueline Taeschner related her family's history in the Black Diamond area and at Lake Sawyer. She expressed concern regarding the loss of wildlife habitat and the impacts to eagles in particular. She expressed concern regarding the amount of tree cutting that will occur as part of the MPD development.

Michael Irrgang expressed his concern regarding probable traffic congestion and noted the lack of queuing and travel time data in the record. He expressed support for the Hearing Examiner's recommendation for a new traffic study, noting that Auburn, Covington, Maple Valley, King County and Washington State Dept. of Transportation also had concerns. He objected to the proposal of Yarrow Bay to put off mid-point review until 3000 homes have been built.

Mr. Irrgang also expressed his concern regarding stormwater and potential flooding. He questioned the use of the TDR program and advocated that studies be revisited after the first 200 homes are built.

Gil Bortleson urged the Council to review the book "Rural By Design." He stated the proposed MPD is unsuitable for this area and will negatively impact area wildlife. He opposes placing schools in rural areas. He stated the 2005 DOE Stormwater Manual is not adequate and that the City should require Best Management Practices at the highest standards, which could be increased over time. He advocated the establishment of a stormwater committee that would make recommendations to the City Planning Commission and City Council in an "adaptive" management mode.

Susan Davidson asked the Council to consider the impact of these projects upon the community and environment. She expressed her concern regarding tree preservation.

Mark Davidson noted that for the Council, this is essentially a political decision and that they should strive for the common good. He stated that school sites should be large enough and located within the MPDs, and that fire stations, wildlife corridors, true open space and necessary infrastructure are also needed.

Clarissa MetzlerCross stated she is a farmer along Green Valley Road and is opposed to the mid-point traffic analysis. She advocated an incremental approach to the project. She stated her concern of increased along Green Valley Road, which is located within an Agriculture Protection District. She also stated that Green Valley Road has only 20 feet of right-of-way in some sections, so any roadway improvements would require the acquisition of designated agricultural lands.

Judy Taylor stated she is a member of the Upper Green Valley Preservation Society and a farmer along Green Valley Road. She indicated there are King County Policies concerning potential impacts to Agriculture Protection Districts and that Green Valley Road is a designated agricultural road. She stated her opposition to any improvements to

the roadway that would be necessitated by these developments. She also indicated that the Commission would like to schedule a presentation for the City Council.

Steve Garvich stated he is a Lake Sawyer resident and lived there at the time the lake was annexed to the City of Black Diamond. He stated the earlier vision of the community has been abandoned. He stated his concern regarding phosphorous levels in the lake, potential flooding of lakefront properties and that an additional traffic study should be required.

Mayor Olness announced that tomorrow night's proceedings will begin with number 68 on the sign up sheet and then proceed back to the beginning of the list again to call on those folks who were not present the first time their name was called.

ADJOURNMENT:

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Saas to continue the special meeting to June 30, 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