

BLACK DIAMOND CITY COUNCIL MINUTES
October 25, 2011 Special Meeting
Council Chambers
25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the special meeting back to order at 9:00 a.m. and lead us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Hanson, Boston and Mulvihill.

ABSENT: None

Staff present were: Stacey Borland, Associate Planner; Andy Williamson, Executive Director of Engineering Services and Economic Development; Steve Pilcher, Executive Director of Community Development; Bob Sterbank, City Attorney and Brenda L. Martinez, City Clerk.

APPEARANCE OF FAIRNESS INQUIRIES:

City Attorney Sterbank explained he will start tonight with the Appearance of Fairness questions as we have each of the proceeding Closed Record Hearing evenings.

City Attorney Sterbank asked the following questions collectively to Council:

1. Do any Councilmembers have any interest in the property that is subject to the Development Agreements? Council collectively responded – **No**
2. Do you stand to gain or lose financially as a result of the outcome of these proceedings? Council collectively responded – **No**
3. Can you hear and consider the application in a fair and unbiased manner? Council collectively responded – **No**
4. Any ex parte contact with parties of record or applicant while this quasi-judicial matter has been pending? Councilmembers Mulvihill and Boston collectively responded – **No**. **City Attorney Sterbank** commented he heard Councilmember Hanson reply yes and started the disclosure process with Councilmember Hanson.

Councilmember Hanson stated she received an email from Ms. Wheeler who wanted clarification.

City Attorney Sterbank announced that Ms. Wheeler was not there that morning so the City will offer her the opportunity to rebut the substance in writing by the end of day tomorrow, October 26, 2011.

COUNCIL DELIBERATIONS:

Councilmember Boston stated he would like to discuss the ADUs. **Mr. Williamson** explained he has had time to discuss with the applicant and referred Council to the Maple Valley agreement and the verbiage it contains regarding ADUs. **Councilmember Hanson** would like staff to talk with applicant regarding the split between the two agreements and also the 3 to 1.

Mayor Olness introduced Randy Young and noted he is here to discuss those recommendations decided yesterday and the fiscal impact.

Randy Young discussed his experience and background; discussed his role in fiscal section.

Discussion between Council and Mr. Young ensued regarding mitigation studies; capital impact costs and mitigation for Fire and Police.

Councilmember Hanson reiterated the definition of sing family and how it will give the City more impact fees. **Councilmember Boston** stated in Section 13 he understands that Mr. Young was asked to review public statements before the Hearing Examiner and if Mr. Young had any comments to those observations. **Mr. Young** noted he prepared a declaration and it is part of the record, Exhibit 217 and summarized the main points to his declaration.

Councilmember Hanson read an excerpt from the Hearing Examiners recommendation on page 98 and would like to see the language go beyond that. **Mr. Young** commented on the Hearing Examiners recommendation and asked to go back to 13.6 of the Development Agreement and pointed out where those words are found, referred to subsection 6 page 129 and under Section 6 Annual Reviews and read an excerpt from this section and gave an example of how this would work.

Councilmember Hanson discussed city staff funding shortfalls. **Mr. Young** explained.

Councilmember Hanson discussed Phase 3 counts and expansion parcels. **Mr. Williamson** responded to the expansion parcels question and noted if they apply to bring those in it would be a major amendment. **Mr. Pilcher** responded that in The Villages Phase 3 there is approximately 2,400 dwelling units and ¼ million commercial space; in Lawson Hills there is 1,050 dwelling units and no commercial space for Phase 3.

Councilmember Boston quoted from Mr. Edelman's rebuttal exhibit regarding the surcharge. **Mr. Williamson** noted the change to the Development Agreement is that this surcharge would only be on the MPD property.

Councilmember Hanson asked Mr. Edelman a clarifying question regarding his statement. **Mr. Edelman** responded.

Mayor Olness recessed the special meeting for approximately 15 minutes at 10:37 a.m.

Mayor Olness called the special meeting back to order at 10:53 a.m. and announced the Council will be recessing for lunch at 12:00 p.m. for one hour.

Councilmember Boston asked if Mr. Young has reviewed the Funding Agreement between the city and the applicant. Discussion ensued regarding revenue and expenses; surcharges and fiscal analysis.

Mayor Olness suggested going back to the recommendations Council discussed yesterday that were in Mr. Young's area of expertise.

Councilmember Boston asked about in lieu payments for recreational facilities. After much discussion it was Council's consensus to come back to this item.

Discussion took place regarding the Funding Agreement being executed prior to the Development Agreements; fiscal impacts for Phase 1 through 3; fiscal concurrency; annual review and the checks and balances.

Mayor Olness recessed the special meeting for 1 hour for lunch at 11:52 a.m.

City Attorney Sterbank announced before the break he wanted to apprise Council of a discussion he had with Mr. Edelman during the morning break and Mr. Edelman felt Council had allowed testimony by Mr. Young and during this process we have allowed parties of record to send in objections by the end of business day on the following day. He noted since Mr. Edelman has left he would try and communicate this to him.

Mayor Olness called the special meeting back to order at 1:01 p.m. and **Councilmember Boston** called for an Executive Session.

EXECUTIVE SESSION:

Mayor Olness recessed the special meeting into executive session at 1:01 p.m. to discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i) which was anticipated to last approximately 10 minutes with no action to follow.

The meeting was called back to order at 1:13 p.m.

COUNCIL DELIBERATIONS (continued):

Mayor Olness introduced Mr. Ervin and explained he is here to answer any questions Council may have regarding CFCs, stormwater, water, sewer and wetlands.

Discussion ensued regarding wetlands; stormwater model; hydrology; BMPs; no impact on Lake Sawyer; stormwater management practices; conceptual stormwater plan; Council requests continual monitoring.

Mr. Williamson stated Council would like continued monitoring more clearly in the document rather than having it in an Exhibit to the document; staff will chat with the applicant and will arrange for language to bring forward at another session.

Discussion took place regarding no net standards; phosphorus and stormwater retention ponds.

Mayor Olness recessed the special meeting for approximately 10 minutes at 2:19 p.m.

Mayor Olness called the special meeting back to order at 2:31 p.m.

Discussion took place regarding Horseshoe Lake flooding; stormwater codes; storage-sewer capacity and detention facility; fire flow; latecomer fees and water availability.

(F) Certificates of Water Availability – Council consensus item (F) Certificates of Water Availability; to leave language in.

Items (F) and (H) have been completed.

(I) Stormwater Enforcement – Council consensus item (I) Stormwater Enforcement; ok with Yarrow Bay language; monitoring phosphorus.

(J) Fish and Wildlife Buffers – Council consensus item (J) Fish and Wildlife Buffers; to come back to this item.

(K) Detail of Constraints Maps – Council consensus item (K) Detail of Constraint Maps; Resolved.


(L) Mine Hazard Areas – Council consensus item (L) Mine Hazard Areas; Council is ok with the revised language and recommendation.

Mayor Olness recapped that Council will come back to ADUs, (J) Fish and Wildlife Buffers and proceed from item (M) Open Space Assessment onward.

ADJOURNMENT:

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Boston to continue the hearings on Wednesday, October 26 for Council Deliberations at 4:00 p.m. in the Council Chambers. Motion **passed** with all voting in favor (3-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk