

BLACK DIAMOND CITY COUNCIL MINUTES

January 6, 2011

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

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

ROLL CALL:

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

ABSENT: None

Staff present were: Seth Boettcher, Public Works Director; Andy Williamson, Economic Development Director; Steve Pilcher, Community Development Director; Aaron Nix, Natural Resources/Parks Director; Jamey Kiblinger, Police Chief; Bob Sterbank, City Attorney and Brenda L. Martinez, City Clerk.

Councilmember Goodwin stated that at the discretion of Council he would like to suggest that he would like to provide the public five minutes instead of three minutes for public comments at the beginning of the session.

There was Council consensus to allow five minutes for public comments this evening.

PUBLIC COMMENTS:

Vicki Harp, Black Diamond – discussed chainsaw activity and night logging trucks on the premises of The Villages and wondered if there was logging going on or a study, would like to know what the activity is.

Danielle Bricker, Black Diamond – discussed just buying the RE/Max office on 30741 Third Avenue, and was requesting information on signage for that area as she is having hard time finding the standards for what is needed for that area and understandS it is a difficult subject.

Mayor Olness stated she would have Ms. Bricker contact the Community Development Department, or she asked Community Development Director Pilcher if he would like to address this issue now.

Community Development Director Pilcher stated that he thinks it would be best if Ms. Bricker came in and had a meeting to discuss the options available.

Meaghan Sheridan, Black Diamond – discussed the same issue in the same area for signage and stated that she talked to Mr. Williamson regarding this issue and he suggested that she contact Council regarding extending the moratorium for signage.

Councilmember Hanson asked them if they had discussed the sign issue with their landlord.

Ms. Sheridan stated that they were told that the rock that says “Diamond Square” is the only thing that we can have and that was approved and that is our only “monument” sign for that complex. She was told they can’t have any lighting or signage other than the “rock”. She asked if they can leave the signs out until a decision has been so people can still see there are those businesses there.

Community Development Director Pilcher clarified it is not a moratorium but a special allowance to let banners be put up due to the bridge closure through 12/31/10.

Council suggested that they attend the Planning and Community Service Committee meeting and go through the Planning Commission and bring back to Council what the committees recommended.

Judith Carrier, Green Valley Road – commented that the Traffic Calming Study has given her pause from the MPD approval ordinance, condition 33A- read excerpt, there is no Green Valley Road committee, there has never been a Green Valley Road committee because there never has been a need for one, there is a ladies luncheon group that meets monthly. Ms. Carrier asked Council if they remembered during the deliberations the email chain showing how she tried to get information to them, she stated she has referred to that chain at Council meetings several times lately that is one small piece of information she tried to give to Council because Councilmember Mulvihill thought there was an existing committee. Ms. Carrier addressed Councilmember Mulvihill stating that although Councilwoman Mulvihill may have had that thought as a fact from many sources, it may have come from some of Ms. Carrier’s earlier testimony that Councilmember Mulvihill read in the exhibits. Ms. Carrier stated she was suggesting a committee of concerned citizens living on Green Valley Road who had direct knowledge of it and the MPDs, meeting at the City would be reasonable in trying to alter the effect of traffic onto the roads for development. Ms. Carrier reiterated that there is no Green Valley Road committee; condition 33A seems to imply that the applicant will do nothing to calm road impacts if King County and the review committee don’t agree. But that puts King County and the citizens in a no win corner, either accept the traffic calming devices or accept the 300 to 400 percent increase in traffic. The MPD ordinances say the applicant would pay for this study, the City did not pay for this recent study of Green Valley Road. Ms. Carrier stated she found the conclusions in this Traffic Calming Study based on faulty analysis and errors presented as fact. There is no time here to go through them all, Council has gone through this study and challenges Council to go through again

to catch the goofs the 300 to 400 percent increase in traffic on Green Valley Road that Matt Nolen the King County Transportation expert witness at the appeal hearings predicted and still does, will be following the path of least resistance as traffic always has and always will, traffic goes where there is less traffic. Please look the study over again in detail.

Colin Lund, YarrowBay Group – addressed Council about Committees and the Green Valley Road committee that were adopted through the MPD conditions, three different committees the Green Valley Road Committee, Water Quality Committee and Noise Committee and he understands there are some questions about how that is going and getting the process going. Mr. Lund stated they began that process at the open house a few months ago and had sign-up sheets to invite people to come when they had certain issues not everyone was invited, but getting the word out that we are starting that process and forming the committees, we didn't have anyone at that point who was interested. We have had two people interested in the Water Quality Committee, our desire is to between now and the close of February to have notices out and get these committees up and running, it is a group that should meet together and continue on through the process and discuss the option and ideas and with a collective voice go to the County and let them know what they believe should be done. For the noise we are thinking we will have two committees, one for Lawson Hills and one for The Villages. YarrowBay will be posting on their website where citizens can sign up and ask to participate. The committees will be formed with two community members, two YarrowBay staff and one City staff member. The public is invited to attend all meetings; it is the committees who will help make the decisions.

Pam Roach, Green Valley Road – discussed receiving campaign contribution from YarrowBay around a year ago, she stated she gave the envelope back without looking at it and wanted to volunteer and use that money (assuming it's not too late) to provide the mailings to the citizens on the Green Valley Road. She stated that this is ridiculous when there was a situation at the Park; all she had to do was go to the voter registration roles and look for the precincts along on the Green Valley Road and sent out a mailing. Everyone along that road should know what is going on this is our linear neighborhood it starts up here at Highway 169 and goes down to Neely Mansion that is our neighborhood, we are not all clumped up like this like you want to do to the people that are going to be living in Black Diamond, we've lived there for years, decades. I have lived there 35 years. Raised five children there, those are our homes and what you are proposing when you have a gentleman saying you're going to have a two on three committee we can't wait to participate in that. Let's see two people on the road, somebody from the Council, let me guess it will be someone who wants all the you know, and then buddy up with YarrowBay this is wrong, we have a community to protect we have been left out of this we've been panicked we have looked at ways to help you guys to follow the law that's all, to mitigate things to make sure you're doing your jobs and I would say that I have been a State Senator for 20 years and I have never seen what I am seeing coming out of Black Diamond. Ms. Roach stated that she has done a lot of land use stuff, worked for Kent Pullen for 14 years at King County Council and this is the area she helped him represent and she remembers sitting at the big round table at King County Council and

there was a man very early on talking with Kombol's and others about potential for development and it was very clear that the Green Valley Road was to be protected. She stated she realizes situations that were arrived at 20 years ago have no binding authority over what you do, but she thinks Council should honor it and I think you should be looking out for the lifestyles of other people and she would like for Council to take these comments seriously and of course she would like to be on our doggone committee, who is putting the committees together, should we be involved in a committee that YarrowBay puts together, why doesn't "he" come to our meetings, why don't we host a meeting and invite him, and why don't we get to decide who will be the voting members. Maybe it will be a little different configured, I would think. I hope you take these remarks and consider them, think what you're doing to other people, respect us and that would be her request and so she has email lists, because when she did have a meeting down at Flaming Geyser Park, lots of people came it was very easy and once you do the one mailing they'll give you their email addresses and you can get in touch with people, she stated that when we found out what was going on up here, if you weren't ...(she changed mid-sentence) she had a guy from YarrowBay who handed her the contribution come to her house and she rode down the Green Valley Road with him to show him what we had and how unique it is, it is a real showcase of agriculture for King County, it is a protected road it has historic buildings on it, it is different than anything she has seen in King County, she has not seen anything like it and it should be protected and you should respect your neighbors and we are your neighbors, we have very little control over anything but to her it's a matter of if you're decent people or not or do we just bow to some big developer that comes and wants to build as many homes as they want. Do you really think you would want to live in a home that has six houses per acre, would you really think that's great, would you want that for your grandchildren, you can't even put a swing set in because not only will it hit the fence it will hit the house. But anyway, those are some of your decisions but she wishes you would leave us alone, let us have some control over our own neighborhood not dump your traffic onto us without at least trying to work with us and make things a little bit fairer and how neighbors really do treat neighbors.

Cindy Wheeler, Black Diamond – stated that she had a few comments prepared for tonight, but before her five minutes time limit starts she does have a few questions for Mr. Lund regarding his surprise presentation tonight and maybe he can answer them tonight, she turned to Mr. Lund and stated that she was surprised and distressed to hear him say that there was...

Mayor Olness stated that this was not appropriate that the time is slotted for public comment only.

Cindy Wheeler, Black Diamond – stated on the record I have in response to reading the development agreement contacted Steve Pilcher and volunteered to be a member of the Water Quality Committee and I was informed that those names who volunteered will be forwarded by city staff to YarrowBay, apparently Colin Lund did not receive my name, I certainly did not receive an invitation to the quasi-judicial open house that some people were invited to and he said he only had one water recipient response she knows at least

two lake residents have contacted Mr. Pilcher to volunteer for the Water Quality Committee and I think that needs to be honored. She then stated that as for her prepared comments this evening she wanted to thank Council and appreciated the extension with YarrowBay's sudden intrusion on the agenda. She stated there are some issues on the agenda that are very serious and worthy of votes that reflect the best possible outcomes for the majority of the people who are effected among those issues is the Tri-Party agreement, she is not personally a member of the Enumclaw School District but respects the gravity of the issues associated with this document from my fellow city residents who are. I simply emphasis that there is no time line or urgency for you to vote on this document, not tonight I would like to emphasis the importance and the necessity of each and every one of you to that are voting on this to have taken the time to fully read this very long and complicated document and consider in depth all the implications for those you represent, in addition it is equally important that you have taken the time or that you allow yourselves to take time to read the equally important correlating and supporting documents that go with this agreement, such as the Enumclaw School District Capital Facilities report. Finally on that topic, I would like to express my appreciation to those members of the Council who have taken the time and exhibited the effort to meet with the City of Black Diamond only representative from the Enumclaw School Board, that kind of communication and collaboration is what it will take to build a better future for us all. Another concern for her tonight is Resolution No. 11-729, amending the Council Rules and Procedures some of those proposed changes formalize a method to deny or refuse citizen input and or participation in sub-committee meetings, this is a major deviation in both philosophy and action from the City's original intended goal to have informed and involved citizens. I view this change in direction with great alarm the resolution before you, does say that citizens if they have input can speak when the issue is coming before the full Council clearly, by the time the issue is in front of full Council it is already drawn up and being considered for a vote this means you are only giving citizens three minutes in a desperate last minute effort to have input to shape their own city, is that really what you want. I can only speak for myself, as an American citizen I don't consider that sufficient access to my elected representatives and I would be unhappy and dissatisfied to have this deemed as acceptable representation. We have had two elected officials present here tonight complain in public forum about the presence of citizens at full Council meetings who seem continually unhappy and dissatisfied does it really make sense then to formalize a process that will ensure us that outcome continues. Additionally, as presented this bill has been drawn up by the City Clerk and reviewed only by her direct level boss, the Mayor. Quite a few of those changes relate to giving power to the Mayor over certain actions and decisions while we currently do not have a City Administrator we clearly should have one and many of the authorities vested in this document rightly lay within that position not with and elected one. And that way we have more checks and balances and that clearly serves the public good. Having attended a subcommittee meeting myself last year I find it disturbing for a document is created that limits the citizens the ability to have input and access to such meetings, one meeting I attended and asked to be placed on the agenda of which would be now the action of being put on the agendas would be subject under the approval rather than my right as a citizen that meeting revealed information provided only by citizens, Councilmembers weren't aware of it, paid staff wasn't aware of it and the information that came to light showed some

highly irregular distribution of public funds and some highly irregular use of public lands. Do we really want to shut down that kind of transparency and input and what does that say about us; this resolution also gives the Mayor the power and responsibility to bring matters before the Council even if the subcommittee doesn't arrive at a recommendation. Don't we create these committees to be specialist on certain topics, why not let the subcommittee have the authority to give themselves more time to get the data or come to a resolution before a vote, in short I think this resolution should not be approved I think it needs to have the review and input of more than just one employee and a boss before it's decided and I think it moves away from the transparency and honesty and communication and integrity and that's not a direction I want my City to continue to move.

Cindy Proctor, Sun Mountain Drive – stated that first, right at the last minute the former City Administrator, Jason Paulson and Black Diamond City Planner emailed this to Council and asked that I distribute it.

Mayor Olness stated if you give it to the Clerk we will make sure everyone gets a copy.

Ms. Proctor replied okay, they need it before they vote on the School agreement; it has to do with the BDUGGA since he helped draft it and the school agreement, so hopefully it won't get taken away. She stated she was here to respectfully ask the Council to table their vote and explore ways to improve the school mitigation agreement, she wished to remind all of us of why we are here, it is not to debate whether this is a community wide impact fee for schools the City is not in this case just a collector of fees this is a mitigation agreement in response to a specific land use request a land owner want to build and MPD, the City and Hearing Examiner said okay, but there is a list of conditions that you must do in order for that approval to continue, this agreement is a mitigation condition for the approval of the MPD, it is not a site specific single family permit request by an individual wanting to build a house on their lot. They wouldn't enter into mitigation for a school agreement, they would just be charged an impact fee if we had one. The sole purpose of this agreement is to mitigate the impacts of the MPD it is a condition of the approval mandated by both the Hearing Examiner and by the Black Diamond City Council. In the MPD testimony we heard from School Board member Nancy Merrill, the School Board President, she stated she wants to insure that both developments conditions will have adequate school facilities and that the developer pays its fair share of those new facilities; Kathy Dahlquist said that if adequate school construction were not a condition of the MPD approval the district would suffer from added cost of transportation and overcrowding; Tina McGann, President of the Black Diamond PTA, said the City must require the designation of schools sites and provide mitigation fees needed to pay for a portion of school construction; Mike Nelson testified the purpose of his testimony is to strongly ensure the MPD permits will not be approved and will be appropriately conditioned to ensure that adequate school facilities are provided; Denise Stiffarm, Enumclaw School District Attorney, provided the most powerful testimony by saying, the MPD Ordinance specifically references that schools and other public services must be provided in a fiscally responsible manner. Therefore, she asserted, the MPD provision requires that the City carefully consider whether the MPD provides adequate provisions. This is an irrevocable agreement with no ability to

re-look terms even if the school construction funding nature changes. We don't know how schools will be funded in the future, yesterday Governor Gregoire just proposed to create a single education department covering preschool through college, if approved by the Legislation, it would make Washington one of the only states in the Nation that puts all those departments into one single umbrella. Gregoire said she doesn't think her proposal would require a constitutional change, but we don't know. We don't know how things are going to be funded five years from now, we don't know how things will be funded in a year from now, why would we lock into 20 years, furthermore, on December 15, 2010 the Governor proposed these: Eliminate early learning for 3-year olds; eliminate K-4 class size reductions; Suspend I-728 (an unfunded mandate by citizens for smaller class sizes); Suspend I-732 (COLA increases for teachers); Suspend planned expansion for all-day kindergarten; suspend annual bonuses for National Board Certified teachers; increase tuition for higher education. We got a problem here and it's not going to be solved by letting a developer walk away without paying his fair share or portion. Whether you support the MPDs at this size and scale is not the issue tonight; the issue before all us tonight is about how we as a community want our legacy to our schools to be remembered. Right here, right now, will we be remembered for our hubris, and disengagement in our community and our own personal agendas or will tonight be remembered when good people, who care, came together to build a stronger community and build a positive bridge to our communities future.

Rich Ostrowski, Black Diamond – he stated he was still having a difficult time envisioning the full impact 6,000 new dwellings will have on Black Diamond. He stated he cannot imagine 5 times as many more people living here and enough additional cars that there would be enough room to park bumper to bumper from here to Renton using two lanes of the Maple Valley highway, tonight the Council will be deciding whether the tri-party school agreement adequately addresses the doubling of size of Enumclaw School District, he stated he does not believe it does, there are many possibilities for the final outcome of the tri-party agreement. One possible scenario, 26 percent of the dwellings can be built and if construction stops only the land for one elementary school is provided and possible low impact fees are collected, in a full build out scenario land for seven new schools could be provided instead of collecting low impact fees if all of the conditions are met. However, residents living in the Enumclaw School District would still need to approve and pay for the construction of these schools. The school impact fees proposed for the first five years are 1/3 of those recommended by the school districts own Capital Facilities Plan and the maximum impact fees for 20 years in the future can never be more than what was recommended for last year. I only wish I could receive a similar deal where my school property taxes were reduced by 2/3 for five years and then only approach last year's level 20 years from now. Historically development in the Enumclaw School District has been gradual and schools have evolved rationally. Because of this only a small portion about \$2 million per year of school property taxes are used to repay school construction bonds and the rest can be used for other purposes. Building seven new schools will require enormous construction bonds and even if the land for these schools is provided by the tri-party agreement it will still cost about \$250 million to build these schools, compare this to the \$2 million a year we are spending now which would only pay about two months of interest on these future school bonds. If residents living in

the YarrowBay Developments had to pay for these new schools by themselves their school property taxes would be several times more than what the rest of us pay, but since everyone living in the Enumclaw School District absorbs these costs equally all residents will see their school property taxes double, re-double and potentially double re-double, it would be worse if funding assistance from the state is reduced. The Council will be deciding tonight if the tri-party school agreement provides 20 years of adequate mitigation for the impacts the YarrowBay MPDs will have on the school system. Unfortunately you are making this decision without having any facts or any data; no analyses of the fiscal impacts of this agreement have been provided by the school district. This agreement will be binding for 20 years with fiscal side effects lasting much longer. The impact fees need to be set at an appropriate initial level and need to be adjustable with no upper limits. Please improve the school mitigation agreement while you still have the opportunity.

Peter Rimbo, Rural Maple Valley – stated he is a long time elected member of the Greater Maple Valley Area Council and at last Mondays at a standing room only crowd at our January monthly meeting, (named King County Representatives that attended), commented on the Black Diamond MPD, King County stated over and over again at that meeting that they repeatedly told you over and over again, that they do not want schools outside the urban growth area nor do they want to create new infrastructure to serve them nor maintain that new infrastructure, unfortunately the tri party school agreement ignores all of this, it is likely assumed that King County eventually will come around, and permit whatever the three parties want. That is a very risky assumption to make and a very risky assumption to base your tri-party agreement. Yesterday, Mr. Pilcher received a letter from King County which included comments on the tri-party school agreement, it stated and I quote: “review of the comprehensive school agreement indicates that three new schools to serve future urban development continue to be proposed and mitigated within the rural area, the issue we have raised in the EIS process do not appear to be resolved. Therefore, we now express further concern in the process of the comprehensive school agreement that impacts of the proposed MPDs adjacent unincorporated rural areas must be identified and mitigated”. I recommend that the three parties put those schools back where they belong, inside the urban growth area. Don’t exploit the rural area by using it to enable the adjacent urban development. Next non-controversial subject, the Parametrix task order on the traffic demand model, which you will be talking about tonight, the task order asks for an expanded traffic demand model then it states that its next phase of traffic modeling work at the 850th dwelling units, the City will calibrate the model to validate traffic levels and impact. Let me get this straight, you’re going to create or expand a traffic demand model now, then you’re going to wait until you can increase your population at that time you are going to look into validating, calibrating the model, when do you actually attend to run the model to analysis the traffic scenarios under different conditions to ascertain specific traffic problems, please seek better advice because you haven’t gotten good advice so far. The Hearing Examiner clearly told you that he had absolutely no confidence in your model, your assumptions and the results that you generated, consequently, he had no confidence in the mitigations that were proposed. That is why he told you to create a new model now, and run it now to determine real mitigations. So what I say to you tonight now is your chance to do what is

right. The transportation infrastructure throughout southeast King County has got to be forever altered to the detriment of all of us including you unless you intend to move away. I recommend that you change your model now, validate the existing traffic now, run it for future traffic scenarios now, and develop potential mitigation that may have some resemblance of working now, it is not too late to do what's right, please take my comments seriously I do understand this subject.

Lisa Garvich, Black Diamond – my husband and I were here a while ago and we were talking about some mitigation efforts on our road 232nd which was taken care of, but now unbeknownst to me until tonight was this Ordinance No. 11-958 that came across that talks about lifting the weight restrictions on city streets to deal with the impact of rerouted truck traffic.

Mayor Olness stated she hasn't had a chance to tell people yet, but that item has been pulled from the agenda as we have had some public comments on that issue.

Lisa Garvich, Black Diamond – excellent, moving right along, Resolution No. 10-724, the Covington/Maple Valley reporter, I think we can all agree that information to the public is critical, it's never been more critical than it is now, people are wanting to hear as much as possible and get the information as quickly as possible and in the most efficient means. If I have to pick up my newspaper at the little store or at the post office I won't pick it up, I know when I open my door I get it. There are only a few Lake Sawyer residents that get the Covington Reporter, the other half of the lake will have to request and pay for it.

Mayor Olness stated that this topic will be addressed later under unfinished business.

Arlene Parkin, Black Diamond – stated a couple of months ago she promised people at this meeting that she would contact Enumclaw and that she got ahold of Enumclaw Courier Herald editor and set up a meeting and talked with him, and told him that she felt Enumclaw should be invited to these meetings being we are a part of ESD and it turned out she was there for about 20-25 minutes and he said he knew the superintendent and the Mayor knew about this and she stated she didn't give a dang about the superintendent or the Mayor she wanted the people of the town to participate just like Ms. Roach was saying they are our neighbors, they are involved, they are going to have to vote on these issues. They also drive through Black Diamond; there are a lot of reasons here that Enumclaw should be aware of this. I knew when I walked out of there that he wasn't going to print anything up, I told him that if he didn't I would, came back from vacation and it was two weeks before I mentioned it again, and I stopped by the Courier Herald and they said they haven't had the time yet to get it in the paper, so I said okay fine and I got someone to help me write a letter so at least Enumclaw would be a little exposed to this. I got a call from a surrounding Mayor who told me we had to be careful with what we are doing and go slowly with this or else we are going to look like Bonney Lake if we don't watch out with what we are doing. I got a lot of comments from so many people who had no idea what was going on and I got to thinking what makes any of us think that Enumclaw is going to want to vote for our schools. What do we do then,

does anyone know. The Courier Herald contacted me and asked if I really wanted my letter printed and I said yes, I do. I can't believe they are hoping this is going away, but please let the people of Enumclaw know, because they are very much involved. Everyone should have right to know what is going to be expected of them.

Brian Derdowski, Issaquah – asked if he could give Council a brief handout, speaking on behalf of a number of individuals who reside in Black Diamond, as well as the sensible growth alliance and a couple of chapter of others of those organizations. I want to offer a very brief comment about the Parametrix contract, as you know, the development agreement is an implementing measure of the MPD approval without the development agreement, the MPD approval has no significance, the two are connected so you have decided that the development agreement is the way you implement the MPDs and as you know the development agreement is currently under review. This contract if you read the staff report says the purpose of this contract is “to satisfy condition 10 and condition 11 of the approval” that is putting the cart before the horse really. It prejudices the outcome of the development agreement review and the fact is the development agreement is going to consider issue of transportation mitigation and how best to implement the modeling and so forth. One way to approach this is to encourage you to add a condition that says this contract may be modified and the assumptions herein may be modified subject to the approval of the development agreement. That will give you the flexibility. As to the school tri-party agreement, one way to look at this agreement is that it's just between the school district and YarrowBay, and that the City is just basically collecting the fee. But in fact, that would be very wrong, because what you are actually doing is exercising your land use authority. You are exercising your land use authority when you approve this agreement. That is why I handed you this document, the first clause I cited makes it a statement – “the City is required to ensure that appropriate provisions are made for schools and school facilities”. He cited the RCW. You have the duty to determine if there is adequate provision for schools. You also have under a chapter the authority to review mitigations through an environmental standpoint. So that is not something you are agreeing to that is a statement of fact, you have the obligation to do it. But then the agreement says the following, “the City agrees that this agreement if fully implemented will fully and adequately mitigate the probable significant environmental impacts of the projects on school facilities and the City will find that appropriate provisions will be made for schools and school grounds to serve the MPDs”. When I first read this it was pretty straight forward, and that was that you're making a statement in this agreement, your agreeing that there is adequate provisions for schools and that those probable significant impacts are going to be addressed. That is a statement and expression of your land use authority. If it wasn't it wouldn't have to be in there. Now, last he looked when you use your land use authority, you need to do it by ordinance, it needs to go through SEPA, needs to have a public comment hearing and if you look at the record it's pretty botched up. I think a lot of people were trying, but its pretty mixed up; the Hearing Examiner couldn't really wrap his arms around it, because he said during the MPD hearings you need to go to the Council on that school agreement and we never really had the agreement in front of us. And the agreement continued to be worked on during your MPD deliberations so at no time was the public or anyone else able to say hey I got the agreement in my hands this is the documents that is going to deal

with all the Environmental consequences and I am going to address it, never had the opportunity to do that. Finally, I want to address the word “will”, look at this it says “the City will find that an appropriate provision will be made for schools and school grounds to serve the MPDs”. Why is that word “will”, do you know what that means, it means that if you sign this agreement, you’re going to say that when you review the school subdivisions you will in the future, will say that the school provision has been made, whether or not it has been, simply paying a fee does not necessarily accomplish that as you know, you can collect all kinds of money, the schools don’t actually get billed, you can have a lot of people in portables and real problems with the City. What’s my solution, to refer this to the development agreement review, YarrowBay and the school district has approved the documents, fine, the Hearing Examiner is your employee, the development agreement is the process you put in to place in order to implement the MPD, this agreement is an expression, is an action of your land use authority. Referring this to the Hearing Examiner so that he can take testimony and review it is a cleaner way to approach this.

Ron Taylor, Black Diamond – commented that he wanted to change the subject a little bit and discuss briefly again about one of the subjects he often does and that is the fact that the City continues to fall short certainly in providing basic fire services and meeting those policies that have been put in place in the past. He stated that he brings this up to in response to a recent action by the Council and that is we have purchased yet another police vehicle, we have 16. I know that three of those are going to be surplus, but I mean come on, we got 16 vehicles we only have two police officers on duty at a time so now with the purchase of the new one we are going to have 14 vehicles. The new one is going to cost us close to \$30,000 by the time that gets outfitted it is going to at least double if value, by the time you put light bars and sirens and all the communication in. I still am struggling to understand how we have this lopsided support. I think that one of the reasons we have as many police vehicles as we do is because we have assigned vehicles as near as I can tell and some of the officers drive those vehicles home, that’s okay I don’t have a lot of heart burn about that if we can afford to do so. But when we are not meeting our basic requirements in certain areas then it is a little more difficult to justify. Again, some subject in light of this most recent purchase I just want to again draw that contrast to your attention we currently do not own a working frontline fire apparatus that is less than 30 years old and so that’s my comments.

Joe May, Black Diamond – commented that he would like to put up on the Lake Sawyer Community Club website any information that YarrowBay would like to give us and he also has an email list of 200-300 people that we could easily inform them of that. He would also like to talk about the tri-party agreement, on December 20th he had the opportunity to address the Enumclaw School Board, he has seen a volunteer organization produce a document that he believes is the best they can do. These people worked 2 to 2 ½ years on this document. They have absolutely no interest or control over the YarrowBay MPD, their interest is the children, the kids, they have to provide schools for whatever population comes from this development. The impact fee, you have to think seriously about this there’s eloquent speakers that can site you chapter and verse, I can’t I am not interest in chapter and verse I do simple math on the back of the thing that says

6,000 homes times \$4,000 impact fee comes to \$24 million. Seven schools, don't know, I am guessing \$210 to \$280 million dollars, if YarrowBay builds out, those figures are going to be a reality. \$24 million versus \$240 million that's roughly 10 percent, I contend that this is not a tri-party agreement; it's a quad-party agreement, its YarrowBay, City of Black Diamond, Enumclaw School District and Enumclaw School District tax payers. I have kicked against the critical areas ordinance for two years I understand property rights and I understand people's right to develop their property. But I also have a right to swing my arm and I can swing it as fast as I want- but my right to swing my arm stops quarter inch from your nose, I get to swing my arm, I get to develop my property but when I impact everybody around me and I want to walk away with an impact fee or mitigation fee of \$4,000. I'd like that deal too, \$12,000 well that triples the number and pushes it up to \$50 \$60 million, you got to really seriously consider not the MPD, not the people who spoke before you, you have to consider the children in this, you have consider the education for the children that are coming to Black Diamond, and you have to consider it as a quad-party agreement.

Melanie Gauthier, Black Diamond – commented that she has two items to comment about, the first is to comment on the city newspaper and she did see that something else was done, but after reviewing what was actually in the packet it still doesn't show there has been a transfer of cost in that we will have to pay for a subscription, I believe, I don't know about that because I suddenly after the meeting the next day, received the paper at my front door step, handed to my stepson because I apparently yelled at the person's boss and that is why they are hand delivering my paper. Although the cost is low to the city, I believe the cost is being transferred on to the citizens, especially given the tax increases for the utilities I just looked at in the newsletter and that is not fair to us citizens. Secondly, I happen to be the wife of the Black Diamond Representative of the Enumclaw School Board so I purposely stayed out of the tri-party agreement, all I can say is that currently I am working on a personal development project in Jefferson County and it's on a lot of issues and she was just got approval for vesting of 5 years to be able to come to terms work through all the issues within five years, all I am saying is with the tri-party agreement she thinks there needs to be added reviews at least five year increments and not to tie it into a 20 years hoping you build out.

Mayor Olness announced that Agenda Bill No. 11-007 was pulled from the agenda.

PRESENTATIONS, ANNOUNCEMENTS, APPOINTMENTS:

Mayor Olness asked for nominations for Mayor Pro-Tem.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Goodwin to elect Councilmember Bill Boston as Mayor Pro-Tem for 2011. Motion **passed** with all voting in favor (5-0).

Agenda Bill No. 11-001, Confirmation of Council Standing Committee Appointments

Mayor Olness read the proposed Council Standing Committee appointments.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Hanson to confirm the 2011 appointments to the Council's Standing Committees. Motion **passed** with all voting in favor (5-0).

UNFINISHED BUSINESS:

Resolution No. 10-724, accepting the Covington/Maple Valley Reporter publication bid and designating it the official City Newspaper for 2011

Assistant City Administrator/City Clerk Martinez addressed Council on this issue and introduced Rhonda Madison, Sales Manager of the Maple Valley/Covington Reporter.

A **motion** was made by Councilmember Saas and **seconded** by Councilmember Hanson to adopt Resolution No. 10-724, accepting the Covington/Maple Valley Reporter publication bid and designating it the official City Newspaper for 2011.

Councilmember Goodwin commented that the Maple Valley/Covington Reporter was the lowest bid and they have come forward with a plan and we should give them the chance.

Vote: Motion **passed** with all voting in favor (5-0).

NEW BUSINESS:

Resolution No. 11-727, authorizing the Mayor to sign the Comprehensive School Mitigation Agreement with the Enumclaw School District and BD Village Partners, LP and BD Lawson Partners, LP

Community Development Director Pilcher reported four weeks ago a special work session was held to go over the agreement. This agreement has been in the works for three years, he noted the other meeting that was held on this. He also noted that a signed copy of the agreement was received by the City today, so Council would be the last party to authorize the agreement.

Councilmember Saas commented that as it relates to get an opinion from the public there are some great concerns and many unknowns and he keeps asking himself what can be done to tighten this up for any unforeseen variables in the future. He encouraged Council to delay and transfer along to public process with the Development Agreement.

Councilmember Goodwin commented that he does not support this at this time, thanked Mike Nelson and Nancy Merrill for their time spent educating him on the agreement, but feels this agreement is flawed.

Councilmember Hanson asked Councilmember Goodwin what he would change to make it better.

Councilmember Mulvihill asked what if the land is not available and gave example of Tahoma High School being in the City of Covington.

Councilmember Boston noted this agreement has been in the works for three years, and the school board is an elected board elected by the citizens to make choices that affect the school board, believes the agreement is acceptable for the City.

Councilmember Hanson discussed the impact fees, and the school sites being approved in the MPDs. Feels it is important having the land designated.

Councilmember Boston addressed the risk of passing bond issues and the responsibility to lobby to get it passed.

Councilmember Mulvihill noted she has watched the agreement go back and forth between YarrowBay and the School, and is not going to stand in the way of progress.

Councilmember Saas understands the need for schools here, but the first thing to be done is Black Diamond Elementary needs to be remodeled. He asked Counsel about where the appeal process is.

City Attorney Sterbank reported Monday they will be appearing in court and commented on designation of school sites in the land use map.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-727, authorizing the Mayor to sign the Comprehensive School Mitigation Agreement with the Enumclaw School District and BD Village Partners, LP and BD Lawson Partners, LP.

Vote: Motion **passed** 3-2 (Goodwin and Saas).

Resolution No. 11-728, authorizing the Mayor to enter into a contract with the Seattle-King County Department of Health to receive grant monies in the amount of \$5,901.79

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-727, authorizing the Mayor to enter into a contract with the Seattle-King County Department of Health to receive grant monies in the amount of \$5,901.79. Motion **passed** with all voting in favor (5-0).

Resolution No. 11-729, amending Section 17.1 of Council Rules and Procedures regarding Council Standing Committees

Mayor Olness noted the changes are being proposed to foster more effective committee meetings in order for the committee system to accomplish its intended purpose. She highlighted the proposed changes.

Councilmember Hanson noted committee meetings are to conduct city business and public is able to attend.

Councilmember Boston stated he would like to see 17.1.15 changed to delete the first sentence.

Councilmember Goodwin disagrees with comment made earlier and feels this is no different than how the committees are operating today.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-729, amending Section 17.1 of Council Rules and Procedures regarding Council Standing Committees. Motion **passed** with all voting in favor (5-0).

Resolution No. 11-730, related to a Grant Agreement with Washington State transportation Improvement Board for the Overlay of a Portion of 288th Street East

Public Works Director Boettcher reported the City was selected for a street preservation grant. He noted these grants are for overlay of streets that meet good structural requirements where major construction is not necessary. Some level of grinding and patching with City funds will be needed on this street to bring the street back to overlay status as it has deteriorated since the assessment rating was done to qualify. The amount the city will need to provide is \$11,239.

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Boston to adopt Resolution No. 11-730, authorizing the Mayor to execute the Fuel Tax Agreement for the 288th Street East Overlay project TIB#2-P-800(002)-1. Motion **passed** with all voting in favor (5-0).

Resolution No. 11-731, authorizing a Professional Services Agreement with Parametrix for a new Black Diamond Regional Transportation Demand Model

Public Works Director Boettcher reported staff is bringing this forward at this time to keep in line with the conditions of the approved Master Planned Developments. He noted this model will extend from the Northern City limits of Enumclaw on Highway 169 to the Northern City limits of Maple Valley. It will include all principal and minor arterials in Black Diamond, Covington and Maple Valley and the unincorporated areas between these cities, and specifically the Kent-Black Diamond Road. The intersection of SE 231st Street/SR 18 Westbound ramps; SR 169/SE 271st Street and SR 169/SE 280th Street will also be included. He further added the next phase of traffic modeling work, after the 850th dwelling unit has been permitted from the two MPDs the City will calibrate the model with recent traffic monitoring data to validate the traffic levels and impacts to the subject developments. Lastly, the cost of this study will be covered by YarrowBay.

Councilmember Mulvihill left meeting due to illness.

Mayor Olness called for a five minute recess at 9:00 p.m.

Mayor Olness called the meeting back to order at 9:01 p.m.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to adopt Resolution No. 11-731, authorizing the Mayor to execute the attached Task Order #5 of our existing On-Call Transportation Engineering Contract with Parametrix for \$16,842.85 to develop a new Black Diamond Regional Traffic Model. Councilmember Goodwin asked what the anticipated schedule is.

Public Works Director Boettcher replied mid-February.

Vote: Motion **passed** with all voting in favor (4-0).

DEPARTMENT REPORTS:

MAYOR'S REPORT:

Mayor Olness reported she reappointed Bill Boston as the South County Transportation Board representative; attended legislative breakfast and noted items address; new Judge was sworn in and his first day presiding will be Wednesday, January 12.

COUNCIL REPORTS:

Councilmember Hanson announced Railroad Avenue is complete and discussed two grants received; encourage School District to apply for safe routes for school grants.

ATTORNEY REPORT:

Mayor Olness welcomed Mr. Sterbank as Mr. Bacha is out of town this week.

PUBLIC COMMENTS:

Brian Derdowski, Black Diamond – addressed Council's action on the school agreement and suggested the Mayor ask for a legal opinion on the word "will" in the agreement as noted in section 3.2.1 that he addressed in his earlier public comments. Request that the Mayor asks for a legal opinion regarding the word "will", what the implications are, whether it is fatal or isn't fatal flaw and whether it should be fixed.

Rich Ostrowski, Black Diamond – thanked Councilmembers for talking to him about the agreement, he stated one thing that kind of worried him was he believed he heard some very critical errors made in the discussion with no offense to Councilmember Hanson, he believes he's paraphrasing you that he heard her say that the three schools that are outside of the city were not approved that YarrowBay would have to give us land within the city, the agreement is not written that way and I was surprised the attorney who always seems to step in when there's something that doesn't benefit YarrowBay

didn't make a single comment. I was surprised no one else did it made me think that maybe people don't understand the agreement. The language in the agreement states that if the schools outside of the urban growth boundaries are not permitted by the county that YarrowBay will pay the mitigation fee for those properties, that will be based on the value of that land and a school site in unincorporated King County that is what Black Diamond will get, they will have to use that money to buy a school site within the urban grown area. One other thing, he heard a lot of talk about the Capital Facilities Plan impact fee he isn't sure if anyone understands how that's calculated, but you can look at the King County ordinance for the one that is in the 2010 plan it does not include any of the effects of YarrowBay. If you look at the spreadsheet there is zero value entered in there for the value of the land there are no schools in there, that is just a little tiny measure for as students come in the school district one at a time, that was never meant to say this is what it costs to accommodate a facility large enough to accommodate the YarrowBay MPDs. He stated that he believed if Council would have understood more, that the vote would have turned out differently.

Cindy Proctor, Sun Mountain Drive – commented that Council was turning her into a cynic, but again not to be adversarial she wanted to make a clarification on Ms. Hanson's you had indicated that the land value right now we needed to get it right now because land value is going to go up, the way the MPD was approved is that there is only so many housing units you can put within the MPD, they are required to have a mitigation school site in there those sites are restricted uses, they can only be used for a public facility. Ms. Proctor stated that unfortunately she didn't get her (she paid a MIA appraiser to get a letter for the Hearing Examiner to address this issue) the value is not going to go up with market as if it was a buildable site for any developer, it's restricted for certain uses which is public uses such as a school, fire department something like that so that value escalation you were lead to believe going to escalate wildly-that's wrong. The MPD is required to have and Council is required to have an ordinance that sets aside land that's given, the land is not at risk. Mr. Boston you made a point that you are in the Kent School District and would approve your school and your community-this is not Enumclaw's community and the Kent School District is not going to be building seven schools within a 15 year period brand new, it's gradual and that's what Mr. Ostrowski had pointed out. Another comment that was made was that we have elected officials at the school board and therefore we were represented. Actually our school board representative was forced to recuse himself because his wife was an appellant, he was forced to not participate and represent his constituents it's been a astemic process in this city with Yarrow Bay development alleviate and remove in one way or another anybody who can add value to the conversation. And that's unfortunate. She stated she was very disappointed in that there is so much erroneous information from you guys and facts and all we ask is that you have workstudies, work with the community to understand these agreements. One final point before I get cut off, the Hearing Examiner said on condition 92 an updated fiscal analysis shall be required for any proposal to locate a high school within any lands designated in figure 3.1 for commercial office or retail use. You just approved an agreement on page 27 – 7.2.4 that says that if the high school site is set to be used in The Villages project as being used for commercial purposes that the developer at its sole discretion not you the city, not the Enumclaw School District, the developer at their sole

discretion can decide whether they want amend and give you more commercial land or whether they have to still be fiscal neutral, you just approved that and the fact that you don't know that is disturbing to her. That's all we ask is that you know all these facts, the whole basis of this MPD that we were told was that this would create commercial revenue and sales tax that was going to make this a vibrant community and you just waived it. It barely passes the smell test before, the Hearing Examiner told you that it was a requirement to do the fiscal analysis and you just waived it and that's unfortunate.

Vicki Harp, Black Diamond – commented that she would like to say that they are our elected officials now, you may not vote in the way that I like or I want but I respect that, that is what you are here for but I do have a problem with again always hearing that the citizens actually have mouths and we understand and we as citizen so understand or else we wouldn't be going where we are going a lot more than you guys do and that's not a derogatory thing, but to be talked down to at times is what I feel like by some people or hearing I talked to this person and I talked to this person and I really respect the Council that took advantage of all information that was provided if somebody wanted to listen and not just be one sided. I feel there are a few instances like that and thank you for what you do, it bothers me that there are note passing going on and winking and things and I do thank you, I know you do a lot of hard work

Ron Taylor, Black Diamond – commented that he understands how difficult it is to fund the Fire services and he wanted to float an idea, perhaps it would be in the best interest of the city to consider annexing to the district 44 and get out of the fire business and let them take it over and that way you wouldn't have to struggle with funding that's just something to think about and consider.

Chief Smith, Black Diamond – discussed the Fire Engine still being repaired.

Chief Kiblinger, Black Diamond – discussed the Lake Sawyer Road still closed due to an accident.

CONSENT AGENDA:

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Boston to adopt the Consent Agenda. Motion **passed** with all voting in favor (4-0).

The Consent Agenda was approved as follows:

Claim Checks – January 6, 2011, No. 36410 through No. 36466 in the amount of \$110,170.26

Minutes – Workstudy Notes of December 9, 2010, December 13, 2010 and Council Meeting of December 16, 2010

EXECUTIVE SESSION: None

ADJOURNMENT:

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Goodwin to adjourn the meeting. Motion **passed** with all voting in favor (4-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk