

BLACK DIAMOND CITY COUNCIL MINUTES

October 3, 2011 Special Meeting

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

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the special meeting back to order at 6:30 p.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; Chip Hanson, IS Manager; Bob Sterbank, City Attorney and Brenda L. Martinez, City Clerk.

Mayor Olness turned the meeting over to City Attorney Bob Sterbank for Appearance of Fairness.

APPEARANCE OF FAIRNESS INQUIRIES:

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 since the last proceeding? **City Attorney Sterbank** stated he heard some yes's from Councilmembers and started the disclosure process with Councilmember Boston.

Councilmember Boston stated he received email from Peter Rimbo and Cindy Wheeler and have submitted copies to the Clerk. **City Attorney Sterbank** then asked Councilmember Boston to summarize the content of the emails. **Councilmember Boston** they were objections to the way the proceedings were being handled and objections to the applicants offer.

Councilmember Mulvihill stated Colin Lund and Brian Ross brought Congressman Dave Reichert into her to introduced her to him on Friday.

Mayor Olness announced to Council that staff has received inquiries regarding Council's adopted Rules of Procedures for these hearings. She stated one of the questions was if no one signs up for Thursday would Council close the hearing that night. There was Council consensus to keep the schedule that was adopted and proceed until the 8th with party of record statements.

City Attorney Sterbank reported he also received an inquiry regarding the rules and would like to raise it to the Council. He stated one individual has indicated that they have someone who has ceded time to them and they may not need to use that ceded time and wondered if the speaker does not use any of the ceded time can the individual who ceded their time then speak. Council consensus was yes as long as none of the ceded time was used.

Mayor Olness commented the next inquiry is regarding written statements being presented at the hearings as indicated in the adopted rules and asked Council if folks could also submit them by email to the City Clerk. Council consensus was yes. **Mayor Olness** noted they would need to be submitted by Saturday, October 8.

PARTY OF RECORD STATEMENTS:

Eric Frimodt, General Legal Counsel spoke on behalf of the Covington Water District. He provided a background on their water service area within The Villages, and he stated their involvement is protective of their service and they are not opposed to the development. He said the updated joint staff report seems like all parties are coming to the same conclusion. He stated they agree the Hearing Examiner recommended language should be added and are supportive of the city's and applicant's language. He explained he is not certain that the parties are working to resolve the issue as of yet and a transfer of service responsibility agreement does not exist for the area within The Villages.

Vicki Harp, Black Diamond stated the Hearing Examiner did not have time to address all the issues and Council should not consider lack of issues addressed as acceptance of them. She spoke about additional language to be added regarding noise to Section 13.7. She said the 6 months should be over any 2 year period and that it should be clarified that the noise study will be completed prior to construction. She discussed several additional recommended changes to the noise committee and reductions in work hours. She spoke about the Black Diamond Municipal Code and design guidelines.

Gomer Evans, Black Diamond spoke in favor of the development and encouraged Council to approve the agreements. He spoke about the history of Black Diamond and the time put in by staff on the agreements.

Sheila Hoefig, Black Diamond was ceded speaking time by Julie Early. She stated she would like the community to be walkable. She said that in regards to Lake Sawyer Regional Park (LSRP) the Master Planned Developments (MPDs) and Development Agreements (DAs) are a back door takeover since they give Yarrow Bay the ability to

construct facilities in LSRP. She referenced table 9.5 in the DA and stated that active use of LSRP was not contemplated in the original EIS. She stated her opposition to joint use of land and would like the Council to protect LSRP. She said they could exclude LSRP as a receiving site for recreational facilities since it should be a passive park. She explained fee-in-lieu should have a public process with the Council. She spoke about the Hearing Examiner condition to restrict the distance and the percentage of facilities for off-site parks, since all parks can be off-site and fee-in-lieu because right now there is no specification for what fee-in-lieu money can be used for. She said she wants the developments to have parks in them, but table 5.2 of the DA allows Yarrow Bay to walk away from their commitments with staff's blessing. She questioned what would happen if fee-in-lieu money never gets used for parks. She said there needs to be a place for the money to go and an implementation plan for its use. She questioned off-site replacement of open space and what happens to the land that was supposed to be open space. She spoke about the need for an open space tracking matrix and was unsure whether Yarrow Bay meets the open space requirements. She stated the Lawson Hills open space shortage needs to be addressed. She discussed open space boundaries on the constraints map and stated they should have a surveyed map not a visual map.

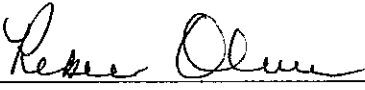
Bill Wheeler, Black Diamond stated that regarding fee-in-lieu payments for recreational facilities, citizens need a voice through the City Council and not have city staff in charge of it. He said the Hearing Examiner said the Council does have an opportunity to amend this section and the option to accept in-lieu payments should be to the Council only after a public hearing. He spoke about the funding agreement and Condition W from the Examiner. He said the required funding agreement should be removed and approved separately. He explained that the Hearing Examiner needed more time and Council should remand the DAs back to the Hearing Examiner. He stated that the funding agreement is full of conflicts of interest and it should be reviewed by an independent financial expert.

Mayor Olness asked if there was anyone else present tonight that would like to speak. Seeing none she then urged folks to sign up for tomorrow's proceeding and reported first-come- first served signups will start on Wednesday.

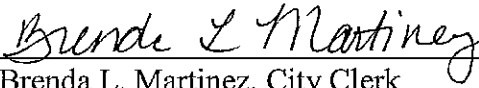
ADJOURNMENT:

Mayor Olness announced the special meeting will continue tomorrow Tuesday, October 4, 2011 at 6:30 p.m. at the Black Diamond Elementary Gymnasium and thank everyone for coming tonight.

ATTEST:



Rebecca Olness, Mayor



Brenda L. Martinez, City Clerk