

**BLACK DIAMOND CITY COUNCIL MINUTES**  
**October 4, 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; Chris Bacha, City Attorney and Brenda L. Martinez, City Clerk.

**Mayor Olness** announced turned the meeting over to City Attorney Bacha for the appearance of fairness inquiries.

**APPEARANCE OF FAIRNESS INQUIRIES:**

City Attorney Bacha 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 on October 3, 2011? **City Attorney Bacha** stated he heard some yes's from Councilmembers and started the disclosure process with Councilmember Boston.

**Councilmember Boston** stated he received an email from David Bricklin regarding remanding and noted he gave a copy to the Clerk.

**Councilmember Hanson** stated she received the same email too and noted she brought a copy.

**City Attorney Bacha** then asked if anyone in the audience or on the dais had any objections to either of the Councilmembers proceeding tonight. He also noted that since

this question was not raised at last night's proceeding were there any objections to what was disclosed at last night's proceedings.

**Cindy Wheeler, Black Diamond** stated several Councilmember last night reported ex parte communications with her for submitting objections per the hearings procedures. She added it was clearly outlined in the email to them that is was not ex parte as copies were sent to Nancy Rogers as well and objected to them calling it ex parte.

**City Attorney Bacha** asked if anyone else had an objection. He then stated seeing no one respond and noted the only objection he heard was really not an objection to Council proceeding he found no basis for there to be an appearance of fairness issue.

**Mayor Olness** announced Councilmember Hanson would like to address Council rules and procedures.

**Councilmember Hanson** noted she had one suggestion for October 8 proceeding which was also used at the Hearing Examiner proceedings and that is there will be a running sign-up sheet will be available for the public for the first hour of the proceeding (9-10 am) and only those parties of record that signed up prior to 10 a.m. on the running sign-up sheet will be allowed to speak.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Mulvihill to add her suggestion to the Council Rules of Procedure. Motion passed with all voting in favor (3-0).

## **PARTY OF RECORD STATEMENTS:**

**Johna Thomson, Black Diamond** spoke about change and the difficult role Council has in this process. She spoke in favor of the development including aspects such as police, fire, schools, open space, jobs, and businesses. She compared developments in Maple Valley to Black Diamond. She stated she looks forward to the development of Lake Sawyer Park. She discussed the lack of corporate citizenship in town and applauded Yarrow Bay's donations to non-profits in town. She encouraged people to have a sense of community with their neighbors. She spoke about the development in Half Moon Bay in California and welcomes the benefits of growth.

**Angela Taeschner, Black Diamond** spoke to her concerns about eagles. She stated the need to map out roosts and nests and discussed tree removal concerns. She said the DA needs to be amended to address this and the Hearing Examiner is concerned about this.

**Robert Taeschner, Black Diamond** spoke about his history of living in the area and concerns of development such as phosphorous, traffic and the developer's profits.

**Jacqueline Taeschner, Black Diamond** spoke about citizenship, freedom, and her background as a teacher. She stated she believes experts should be part of the agreement and wildlife, eagles and wetlands need to be monitored.

**Jack Sperry, Black Diamond** was ceded speaking time by Peggy Sperry. He spoke about the lack of updated Development Agreements which are missing updates from the many exhibits that have been submitted. He said the funding agreement has conflicts of interest and stated the Hearing Examiner's Condition W should be implemented before acceptance of any implementing projects. He stated support for the Hearing Examiner's recommendation on page 31, regarding water availability certificates. He discussed the lack of support in the EIS for water being available and stated the submitted plat applications are not complete because no water certificates have been submitted. He stated the sewer availability section should be stricken. He discussed METRO sewer and recommended Council accept the Hearing Examiner's recommendation related to BDMC 17.10.12(H) regarding sewer availability certificates. He said the submitted plat applications are not complete because no sewer certificates have been submitted. He discussed the potential for increased flooding at Lake Sawyer and spoke about Yarrow Bay's consultant, Mr. Fure of Triad, and the City's consultant from RH2. He discussed information they used to refute his previous testimony and discussed the information provided by those consultants. He spoke about the history of flooding on Lake Sawyer, told the Council to ask Yarrow Bay to retain excess runoff during critical winter months and encouraged a no net increase in runoff provision be added.

**Mike Irrgang, Black Diamond** was ceded speaking time by Linda Irrgang. He spoke about his support of testimony on wildlife, the tax burden on Enumclaw taxpayers and traffic gridlock. He stated the Hearing Examiner did not have enough time and the City has followed the wrong process. He referenced the Growth Management Hearings Board decision and recommended Council seek new legal counsel. He spoke about previous Yarrow Bay testimony. He stated the DAs should not have been treated as a quasi-judicial matter. He spoke about the recusal of two Council members and the doctrine of sovereign immunity. He stated the City should fund legal costs for Council members and the Mayor pursuant to the doctrine of sovereign immunity. He spoke about subsidies Yarrow Bay will receive and that the Council should remand the DAs back to the Hearing Examiner.

**Ulla Kemman, Black Diamond** spoke about concurrency and Issaquah Highlands. She stated the DAs fail to provide details on how concurrency analysis will be provided at full build out. She said the DAs fail to explain how adjustments will be made if projects fail and the DA has no plan to develop a timely cost-benefit analysis which will leave the City unprotected when Yarrow Bay seeks cost recovery. She referenced the Hearing Examiner's MPD condition of approval #16 and supplementary conditions of the Hearing Examiner. She stated the Hearing Examiner did not have enough time and it is unclear who will build traffic mitigation and how much it will cost.

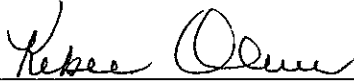
**Mayor Olness** asked the audience if there was anyone else who would like to speak tonight. She added tomorrow night starts the first night of the first-come-first served sign-up sheet. She explained we will name in the order they appear on the sign-up sheet and if a party of record is not present their name will be put to the back of the list to be

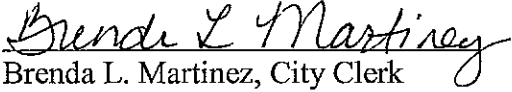
called again. If they are not be present when there name is called a second time they then forfeit their right to speak.

**ADJOURNMENT:**

**Mayor Olness** announced the special meeting will continue tomorrow, October 5, 2011 at 6:30 p.m. at the Black Diamond Elementary School Gymnasium and thanked everyone for coming.

ATTEST:

  
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Rebecca Olness, Mayor

  
Brenda L. Martinez, City Clerk