

BLACK DIAMOND CITY COUNCIL MINUTES

October 5, 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; Margaret King, City Attorney and Brenda L. Martinez, City Clerk.

Mayor Olness announced she would now turn the meeting over to City Attorney King for appearance of fairness inquiries.

APPEARANCE OF FAIRNESS INQUIRIES:

City Attorney King 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 time you were asked this question? Council collectively responded **no**.

Mayor Olness clarified the schedule for October 8th. She stated the proceedings will start at 9 a.m. on Saturday as adopted by Council in their rules and will break for lunch from noon to 1:30 p.m. The meeting will start again at 1:30 p.m. Council will take appropriate breaks when needed in the afternoon and will go until finished.

PARTY OF RECORD STATEMENTS:

Cindy Proctor, Enumclaw was ceded speaking time by Bob & Janie Edelman and Arlene Parkin. She spoke about an illegal process, legal concerns, concerns about the

schedule, the MPD approval and other violations, obligations of the Council and the history of the MPD approval. She stated she wants the project to comply with the Comprehensive Plan in effect at the time, not the 2009 version. She said she wants Council to address school mitigation further, referenced pages 91-96 of the Hearing Examiner recommendation and costs incurred by the Enumclaw School District to prepare the Tri-Party Agreement. She recommended the City invalidate the Tri-Party Agreement. She referenced contents of her submitted exhibits and discussed fiscal comments related to the funding agreement and a related condition from the Hearing Examiner. She spoke about concerns related to the funding agreement. She stated the Hearing Examiner did not have enough time. She stated opposition to Yarrow Bay's permit surcharge to recover costs, and she said that the City has no need to allow for cost recovery for Yarrow Bay. She stated concerns about funding of the MDRT and the refund to Yarrow Bay if staff works on other projects. She stated the funding agreement should be a separate legislative action. She said CFDs were not addressed by the Hearing Examiner and they should not be used for parks and schools. She explained that the Council could add a developer impact fee as another option and referenced her submitted exhibit related to CFDs and the Council workshop on CFDs. She discussed expansion areas and vesting.

Rich Ostrowski was ceded speaking time by Collette Ostrowski. He stated support for testimony provided by others. He spoke about his desire for a single family dwelling to not include a duplex, triplex, or quadplex and associated definitions in the Development Agreement. He stated ADUs should count towards the total number of dwelling units and referenced the Hearing Examiner's related recommendation. He stated concerns on school issues and referenced Condition P from the Hearing Examiner. He said he disagreed with page 93 of the Hearing Examiner's recommendation for school sites and stated it should include schools as well. He stated the Tri-Party Agreement is inadequate and spoke about additional language to be added to the DA related to schools. He spoke about the future of Black Diamond.

Robert Rothschilds, Black Diamond spoke about the establishment of stormwater requirements, including the no net phosphorous commitment. He spoke about monitoring and discussed mistakes that can be made. He said the Council should ask the City Attorney to point out the DA section that addresses how a wetland can be restored if it is damaged. He provided examples such as a timeframe and replacement plantings and stated the need for more specific language in the DA for this. He stated phosphorous will enter the watershed, so Council should ask the City Attorney about the DA section that explains how it will be mitigated.

Melanie Gauthier, Black Diamond spoke about the timing for Council deliberation. She discussed funding agreement comments not stated by the Hearing Examiner. She stated there seems to be a conflict of interest and the funding agreement should not be included in the DA. She stated the vehicles seem excessive and spoke about building permit fees and other fee schedule concerns. She said she believes the City needs to add a fee schedule to the DA and that staff are overpaid compared to other jurisdictions. She

recommended staff research fee schedules in other cities and the Finance Director research staff salaries.

Gil Bortelson, Green Valley Road was ceded speaking time by Marlene Bortelson. He spoke about the inability of environmental impacts to be mitigated due to the size and density of the development. He stated the Hearing Examiner did not have enough time, an independent outside review is recommended and spoke about items contained in the MPD code and the concepts of Randall Arendt. He discussed the concept of integrating usable open space into the project. He spoke about the Sensitive Areas Ordinance and stated the Council and Mayor should take a field trip to Black Diamond Lake. He spoke about the fish and wildlife habitat clarification provided by the applicant's submitted illustration, wetland restoration and related recommendations. He spoke about the City's Comprehensive Plan direction related to the size of the project and potential gridlock.

Courtney Feeney, Black Diamond spoke about the current housing situation in Diamond Glen and the country's housing crisis. She stated the housing industry is unstable and market is depressed. She urged the Council to reconsider the development agreements once the market is better, spoke about bankruptcy among real estate developers and the failure of the Cascadia development. She asked if the investment of Yarrow Bay is more important than that of a single homeowner. She said there should be a decrease in the number of homes in the development.

Jay McElroy was called to speak but was not present.

Bruce Earley, Black Diamond spoke about the size of the projects. He stated some of his concerns on stormwater and traffic have been addressed by Yarrow Bay while other concerns still exist. He said some of the Hearing Examiner recommendations do not go far enough. He said there needs to be a regional traffic solution and stated concerns about the speed of the review process. He stated the Hearing Examiner did not have enough time. He spoke about the recent letter from David Bricklin and encouraged Council to remand the DA back to the Hearing Examiner. He spoke about the timing of deliberation, Council members' recusal and the doctrine of necessity. He referenced a recent letter from Kristen Bryant. He stated he does not agree with acceptance of the Hearing Examiner's recommendations without any other changes. He spoke about the latitude Council has with respect to the DAs. He stated the funding agreement puts pressure on the City.

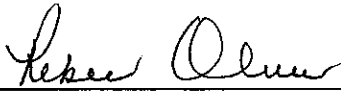
Mayor Olness asked the audience if anyone else wished to speak tonight. Seeing no one she noted that Jay McElroy will be the first person called upon at tomorrow night's proceedings.

ADJOURNMENT:

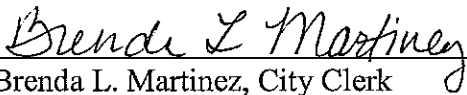
Mayor Olness announced the special meeting will continue tomorrow, October 6, 2011 at 6:30 p.m. at the Black Diamond Elementary Gymnasium. She announced we will start with a special council meeting at 6:30 which should only last a few minutes. Council

will adjourn that meeting and then continue with public hearing on the development agreements. In closing she thanked everyone for attending tonight.

ATTEST:



Rebecca Olness, Mayor



Brenda L. Martinez, City Clerk