

BLACK DIAMOND CITY COUNCIL MINUTES
October 24, 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 4:00 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; 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 Hanson and Boston collectively responded – **No**. **City Attorney Sterbank** commented he heard Councilmember Mulvihill reply yes and started the disclosure process with Councilmember Mulvihill.

Councilmember Mulvihill reported she had contact at the debates on the 10th, 19th and 23rd. Several parties were in attendance.

Councilmember Boston asked if a party of record asked a question directly of a Councilmember one on one in a public forum, is that ex parte communication.

City Attorney Sterbank asked if it was a question directly asked about the Development Agreements.

Councilmember Hanson stated it was at the candidate forum and Ms. Wheeler approached her after the meeting regarding the response to the buffers on the Shoreline Master Plan.

City Attorney Sterbank stated that the disclosures are asking for disclosures that relate to the Development Agreement application. Are there any other disclosures?

Councilmember Hanson stated she also read an email from a party of record asking to take time in the deliberations.

City Attorney Sterbank announced that Ms. Wheeler was in the audience that evening and asked her if she would like to rebut the disclosure from Councilmember Hanson.

Ms. Wheeler stated no, because there wasn't any ex parte communication.

COUNCIL DELIBERATIONS:

Mayor Olness announced that she would like Council to set the schedule for the week and talked about the availability of the Council Chambers.

A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Hanson to hold Council Deliberations on Tuesday, October 25 at 9:00 a.m. to 2:00 p.m., Wednesday, October 26 and Thursday, October 27, from 4:00 p.m. to 6:30 p.m. in the Council Chambers and set further schedule on Thursday, October 27. Motion **passed** with all voting in favor (3-0).

Mayor Olness reminded the audience that this is Council's time to deliberate and the public testimony portion is over and would appreciate silence in the Council Chambers so Council can concentrate on their deliberations.

Councilmember Boston recommended that staff and legal counsel be available to ask questions regularly and to ask by invitation any consultants. He also stated as far as the process he would like to use the Hearing Examiners 24 recommendations plus his addendum as the guide.

Council discussed the following recommendations:

(A) Open Space Boundaries – Councilmember Hanson read Yarrow Bay verbiage and **Councilmember Boston** read from the Black Diamond Municipal Code 18.98.100. Council discussed minor amendments and the process and asked legal counsel if he saw any risk to the City by doing it this way. **City Attorney Sterbank** stated risk analysis is discussed during executive session and this is more about process and the code. **Councilmember Hanson** asked if legal felt the yarrow Bay language would meet what

the Hearing Examiner recommended. **Council consensus** item (A) Open Space Boundaries has been met.

(B) Land Use – read Yarrow Bay amended language and is comfortable with this language as they have made it stricter. **Councilmember Boston** referred to Exhibit “L” and gave an example of what the language is saying. Discussion on the 5 to 10 percent increase and would like to make it clearer – 5 percent would be minor amendment and approvable by the designated official. **Councilmember Boston** noted there needs to be some flexibility and less than 5 percent is acceptable. **Councilmember Hanson** asked what the process for a minor amendment is. **City Attorney Sterbank** stated the process Councilmember Boston read earlier from the Black Diamond Municipal Code “A” through “I”. **Councilmember Hanson and Mulvihill** are good with this language.

(C) Accessory Dwelling Units (ADUs) – **Councilmember Boston** read the Yarrow Bay proposed language. **Councilmember Hanson** read the ADU definition in the Black Diamond Municipal Code 18.56.010. **Councilmember Mulvihill** stated she is looking for clarification on why we are treating ADUs in the MPDs differently than those in the rest of the town. **Councilmember Hanson** suggested that X amount of ADUs equals X amount dwelling units. **Councilmember Mulvihill** likes three 800 sq. ft. ADUs equals one standard size home. **Councilmember Boston** noted the applicant is willing to forgo the ADUs and council is willing to give them some flexibility. **Councilmember Hanson** asked staff to negotiate this with Yarrow Bay and then come back to this issue. **Councilmember Boston** read an excerpt from Lisa Schmidt and Peter Rimbo's comments regarding attached/detached numbers; further discussion on ADUs continued. **City Attorney Sterbank** referred to the applicant's agreement with Maple Valley regarding ADUs.

(D) City Enforcement of Privately Adopted Sign Standards – **Council consensus** item (D) City Enforcement of Privately Adopted Sign Standards; fine with changes proposed.

(E) Covington Water District - **Council consensus** item (E) Covington Water District; fine with language proposed.

(F) Certificates of Water Availability – **Council consensus** item (F) Certificates of Water Availability; would like to come back to this issue and discuss the WSFFA further.

(G) Baseline for Water Conservation Plan – **Councilmember Boston** referred to Mr. Sperry's statement, likes the language “of occupied”.

(H) Sewer Certificates – **Councilmember Mulvihill** read excerpt from recommendation. **Economic Development Director Williamson** referred to page 54 Section 7.3.2 of The Villages Development Agreement. **Councilmember Hanson** read excerpt, she then noted she feels more comfortable with the Development Agreement and should stick with it. **Council consensus** item (H) Sewer Certificates; to leave language in.

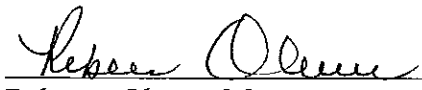
Mayor Olness noted that Council may want to look ahead and see if there are any recommendations that they want to make sure are addressed tomorrow.

Councilmembers noted they would like consultants available tomorrow to look at (N), (P), (Q) and (W), along with the Fee in Lieu.

ADJOURNMENT:

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Hanson to continue the hearings on Tuesday, October 25 for Council Deliberations at 9:00 a.m. in the Council Chambers. Motion **passed** with all voting in favor (3-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk