

**BLACK DIAMOND CITY COUNCIL MINUTES**  
**October 26, 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 Mulvihill and Boston collectively responded – **No**. **City Attorney Sterbank** commented he heard Councilmember Hanson reply yes and started the disclosure process with Councilmember Hanson.

**Councilmember Hanson** stated she received an email from a concerned citizen which she will provide to the City Clerk tomorrow, she noted it was about the single dwelling units and how they are counted. There was an equation on how it was counted and the way it was defined.

**City Attorney Sterbank** announced that the City will accept any chances to rebut the

substance in writing by the end of day on the following day the email is given to the City Clerk.

**City Attorney Sterbank** advised Council on two objections from yesterday's proceedings. One from Yarrow Bay and the other from Mr. Edelman. He read Mr. Edelman's objection into the record as requested and is O-8 and Yarrow Bay Objection is O-9, the Yarrow Bay objections track Mr. Edelman's objection.

### **EXECUTIVE SESSION:**

**Mayor Olness** recessed the special meeting into executive session at 4:08 p.m. to discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i) which was anticipated to last approximately 10 minutes with no action to follow.

The special meeting was called back to order at 4:19 p.m.

### **COUNCIL DELIBERATIONS:**

**Councilmember Hanson** stated she would like to make a clarification regarding the email she received and the single family definition in the document and noted there could be cause for misinterpretation.

**City Attorney Sterbank** clarified the suggested language and noted that language can be prepared to accomplish to define it more clearly.

**Councilmember Boston** addressed the ADUs and his thought is the unit count as new construction if a single family detached dwelling also has a detached ADU (at the time of construction) the it is counted and once that property sells to an individual it is governed by the city code regarding ADUs.

Discussion ensued regarding Councilmember Boston's suggestion.

**City Attorney Sterbank** stated the Development Agreement will run with the property and the limitation on the Master Developer, those will continue even if the home is built and sold as long as the agreement is in effect unless you craft some limitation.

**Mr. Williamson** noted the staff will have to tract the count for ADUs due to the Maple Valley Agreement.

**Mayor Olness** announced the City received an email today from Yarrow Bay regarding proposed language for ADUs, Sensitive Areas Ordinance applicability and Sensitive Areas determinations, Fish and Wildlife Habitat Conservation areas final, mine hazards areas, seismic hazard areas, steep slopes, wildlife corridor and disturbed them to Council.

**(M) Open Space Assessment – Council consensus** item (M) Open Space Assessment; Council likes the idea of having it set aside earlier than later, with the final sentence the applicant added is sufficient to address the Hearing Examiners recommendation.

**(N) Park Dedication Plan – Council consensus** item (N) Park Dedication Plan; Council agreed that revised language is sufficient.

**(O) Park Standards – Council consensus** item (O) Park Standards; ok with language as proposed.

**(P) High School in Commercial Area – Council consensus** item (P) High School in Commercial Area; ok with language as proposed.

**(Q) Police and Fire LOS – Council consensus** item (Q) Police and Fire LOS; ok with language as proposed.

**Mayor Olness** recessed the special meeting for approximately 5 minutes at 5:25 p.m.

**Mayor Olness** called the special meeting back to order at 5:32 p.m.

**(R) MPD Subject to COAs – Council consensus** item (R) MPS Subject to COAs; ok with language as proposed.

**(S) Conceptual Site Plan – Council consensus** item (S) Conceptual Site Plan; believes the Hearing Examiners recommendation has been satisfied.

**(T) City Approval of Traffic Reports – Council consensus** item (T) City Approval of Traffic Reports; ok with language as proposed.

**(U) Project Level Concurrency – Council consensus** item (U) Project Level Concurrency; ok with language as proposed.

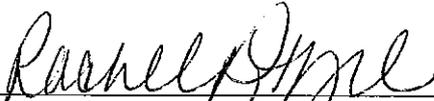
**Mayor Olness** recapped that Council will come back to (C)-ADUS and asked staff to address additional language; come back to (J)-Fish and Wildlife Buffer and then tomorrow stat with (V)-Land Use Plan Legend.

#### **ADJOURNMENT:**

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to continue the hearings on Thursday, October 27 for Council Deliberations at 4:00 p.m. in the Council Chambers. Motion **passed** with all voting in favor (3-0).

ATTEST:

  
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Rebecca Olness, Mayor

  
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Rachel Pitzel, Deputy City Clerk