

BLACK DIAMOND CITY COUNCIL MINUTES
November 1, 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 2:00 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 this afternoon with the Appearance of Fairness questions as we have for each of the closed record hearing proceedings.

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? Council collectively responded – **No**

EXECUTIVE SESSION:

Mayor Olness recessed the special meeting into executive session at 2:01 p.m. to discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i) which was anticipated to last approximately 15 minutes with no action to follow.

Mayor Olness announced a 10 minute extension to the Executive Session at 2:15 p.m.

The special meeting was called back to order at 2:22 p.m.

COUNCIL DELIBERATIONS:

Mayor Olness announced that before we move on we have a question regarding the Rules of Procedures. She stated that Thursday's audio was put on the Clerks page and not the Development Agreement page, because Friday's session ended late and staff was not available to post that night. She asked Council if they wish to change their Rules of Procedure to say objections for these days need to be 24 hours after posting.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to allow objections for the October 27 and October 28 proceedings be extended to today at 5:00 p.m. Motion **passed** with all voting in favor (3-0).

Councilmember Boston stated that at the end of yesterday's proceedings Council asked staff to prepare a catalog of all the changes that have been made thus far.

(A) Open Space Boundaries – Council consensus item (A) Open Space Boundaries – recommendation has been met.

(B) Land Use – Council consensus item (B) Land Use - recommendation has been met.

(C) Accessory Dwelling Units (ADUs) – Council consensus item (C) Accessory Dwelling Units (ADUs) - recommendation has been met.

(D) City Enforcement of Privately Adopted Sign Standards – Council consensus item (D) City Enforcement of Privately Adopted Sign Standards – no new language and accepted as presented.

(E) Covington Water District - Council consensus item (E) Covington Water District - no new language and accepted as presented.

(G) Baseline for Water Conservation Plan – Council consensus item (G) Baseline for Water Conservation Plan – accepted with adding “occupied homes”.

(H) Sewer Certificates – Council consensus item (H) Sewer Certificates; no new language and accepted as presented.

(I) Stormwater Enforcement – Council consensus item (I) Stormwater Enforcement; no new language and accepted as presented.

(J) Fish and Wildlife Buffers – Council consensus item (J) Fish and Wildlife Buffers; no new language and accepted as presented.

(K) Detail of Constraints Maps – Council consensus item (K) Detail of Constraint Maps; accepted language change in 8.1, 8.2, 8.2.1, 8.2.2, 8.2.5 and 8.2.6 in both agreements. **City Attorney Sterbank** asked Council to go back to (K) on page 17 and 19 – 8.2.2 and in the first sentence “the onsite wetland area of” should be stricken in both agreements.

(L) Mine Hazard Areas – Council consensus item (L) Mine Hazard Areas; Council is ok with the revised language and recommendation.

(M) Open Space Assessment – Council consensus item (M) Open Space Assessment; No change to condition (M).

(O) Park Standards – Council consensus item (O) Park Standards; No change to condition (O) other than what was presented.

(P) High School in Commercial Area – Council consensus item (P) High School in Commercial Area; No change to condition (P) other than what was presented.

(Q) Police and Fire LOS – Council consensus item (Q) Police and Fire LOS; Fiscal Impact Analysis Changes (Q).

(R) MPD subject to COAs – Council consensus item (R) MPD subject to COAs; No new language to condition (R).

(S) Conceptual Site Plan – Council consensus item (S) Conceptual Site Plan; minor changes to language in condition (S).

(T) City Approval of Traffic Reports and (U) Project Level Concurrency – Council consensus items (T) and (U) City Approval of Traffic Reports and Project Level Concurrency; page 32 and page 35 regarding Exhibit C-7- added language at the bottom for Conditions (T) and (U).

(V) Land Use Plan Legend – Council consensus item (V) Land Use Plan Legend; minor changes to language in condition (V).

(W) Funding Agreement – Council consensus item (W) Funding Agreement; No new language to condition (W).

(X) Stormwater Monitoring – Council consensus item (X) Stormwater Monitoring; No new language to condition (X).

Other Implementing Language:

(Y4)- Forest Practices - page 42 - **Council consensus** - ok with the revised language and recommendation which are the same for both agreements.

(Y5)- Pipeline Road - page 43 - **Council consensus** - ok with the revised language and recommendation.

15.7 Exhibits Language Change:

14.0 – Definitions – page 48 - **Council consensus** - ok with definition change.

4.2 – Total Number of Dwelling Units – page 48 - Council consensus - ok with the revised language and recommendation in both agreements.

Funding Agreement:

Page 4 – Top of page and Wind-Down/ Wind-Up (ii) - Council consensus - ok with the revised language and recommendation.

Page 6 –Wind-Down/ Wind-Up (i) - Council consensus - ok with the revised language and recommendation.

Page 10 – Building Permit Surcharge - Council consensus - ok with the revised language and recommendation.

Page 13 –Surcharge Accounting (b) - Council consensus - ok with the revised language and recommendation.

The Villages Development Agreement and Lawson Hills Development Agreement – Public Access to Parks:

9.9.3 – Public Access - Council consensus - ok with the revised language and recommendation.

The Villages Development Agreement – Buffer Landscaping – New Section 5.5.10:

Section 5.5.10 – Buffer Landscaping – Council consensus - ok with the revised language and recommendation.

No Net Phosphorous Implementation Plan (Memorandum) - ok with the revised language and recommendation.

City Attorney Sterbank distributed revised language regarding transportation and read the language into the record; clarified for the record that SE Landburg is the name of the northerly lag of the intersection.

A **motion** was made by Councilmember Boston and **seconded** by Councilmember Mulvihill to strike from the Record and not consider the statements made by Mr. Young and Mr. Ervin as outlined in the objection by Mr. Edelman and Yarrow Bay. Motion **passed** with all voting in favor (3-0).

Councilmember Boston noted that as we know the Hearing Examiner is an independent voice in this process and he said the following in his recommendations “The Examiner recommends approval of the Development Agreements if the 24 revisions A through X in section 8 of his recommendation are incorporated into the agreements” **Councilmember Boston** noted that was done, he goes on to quote the Examiner, “His recommendations were done with the premise that the City Council must approve the Development Agreements if they reasonably implement the Master Planned Development conditions of approval, the priority in his recommendation was to ensure that all significant concerns of

the public were addressed and that the Development Agreements implement the Master Planned Development conditions of approval, with the recommended revisions adopted all the requirement of the Black Diamond Municipal Code 18.98.090 are fulfilled". The Council has thoroughly vetted the recommendations of the Hearing Examiner; City Staff diligently negotiated more conditions and based on citizens input and discussions on supplemental conditions have further strengthened the agreements, the Hearing Examiners recommendations have been met.

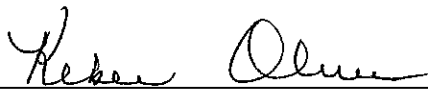
A **motion** was made by Councilmember Boston and **seconded** by Councilmember Hanson to direct the City Attorney to prepare Ordinances for adoption of Lawson Hills and The Villages Development Agreements with the agreed upon changes by Council during deliberations. Motion **passed** with all voting in favor (3-0).

Mayor Olness announced this brings us to the end of item number 10 on the agenda and Council has directed the City Attorney to draw up the Ordinances for adoption.

ADJOURNMENT:

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to continue the hearings on Tuesday, December 6 for Council Deliberations at 2:00 p.m. in the Council Chambers giving the Mayor authority to reschedule the hearing if there is more time required. Motion **passed** with all voting in favor (3-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk