

BLACK DIAMOND CITY COUNCIL MINUTES

December 6, 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 2:01 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 and Mike Kenyon, City Attorneys 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 – **Yes. City Attorney Sterbank** started the disclosure process with Councilmember Hanson.

Councilmember Hanson stated she received correspondence from different folks over the course of the last few weeks.

Councilmember Mulvihill stated a Save Black Diamond person visited her; she received two emails and she will get copies to the Clerk.

Councilmember Boston stated he received four emails.

City Attorney Sterbank announced Council will provide the Clerk with copies of these and record is open to rebut the substance of them.

EXECUTIVE SESSION:

Mayor Olness recessed the special meeting into executive session at 2:03 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 2:18 p.m.

COUNCIL DELIBERATIONS:

City Attorney Sterbank distributed to Council a notebook and gave a brief synopsis of its contents; he noted Exhibit 1 to the ordinance is council-directed changes; Exhibit 2 is findings of fact; Exhibit 3 is conclusions of law and Exhibit 4 is the blacklined version of the Development Agreement. He ended he would be happy to take questions from Council.

Council discussed the Conclusions of Law and Findings of Facts regarding Schools-14.1, Construction costs- 14.2.

City Attorney Sterbank noted that in the last sentence of the Conclusions of Law in 14.6 the sentence should end after phases and "*to voters of the ESD*" should be stricken.

Council discussed Conclusions of Law and Findings of Facts regarding Schools in unincorporated area- 14.8, Surcharge- 15.4, Trails-16.3, Amount of Open Space- 16.1, Noise Committee- 23.2 and Traffic-10 and 10.5.

Discussion took place regarding the Development Agreement and the Findings of Fact 11.5.1, 11.4.7 and 11.4.8.

Mayor Olness recessed the special meeting for approximately 5 minutes for a break at 3:22 p.m.

Mayor Olness called the special meeting back to order at 3:29 p.m.

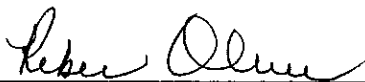
Councilmember Boston stated the language for the Park-n-Ride lot can be found on page 14 of the Findings of Fact and stated he would like to spend more time reviewing and suggested Council continue the meeting to another date.

ADJOURNMENT:

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Boston to continue the hearings on Monday, December 12 at 10:00 a.m. in the Council Chambers. **Mayor Olness** announced Council still needs to report on rebuttal period for

ex parte contacts disclosed today, **Mr. Sterbank** announced the rebuttal period will be 24 hours from posting on the City's website. Motion **passed** with all voting in favor (3-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk