

**CITY OF BLACK DIAMOND**  
**CITY COUNCIL**  
**SPECIAL MEETING MINUTES / WORKSTUDY NOTES**  
**December 27, 2011**  
Council Chamber, 25510 Lawson Street, Black Diamond, Washington

Mayor Olness called the meeting to order at 6:00 p.m. and lead us all in the Flag Salute.

**PRESENT:** Councilmembers Hanson, Goodwin, Boston, Saas and Mulvihill.

**ABSENT:** None

Staff present: Steve Pilcher, Community Development Director; Mayene Miller, Finance Director; Chris Bacha and Mike Kenyon, City Attorneys and Rachel Pitzel, Deputy City Clerk.

**WORKSTUDY:**

**Formation of Black Diamond Community Facilities District 2011-1**

City Attorney Bacha asked how Council would like to address the workstudy, the petitioner has sent in comments and would they like to hear from them.

Council consensus was to hear from the Petitioner.

**YarrowBay, Mr. Hempelmann** – thanked Council and stated that YarrowBay thought the questions brought up about the mechanics and how they would operate were great questions; took questions from Mr. Goodwin and Ms. Proctor and provided detailed answers to those questions; he summarized the questions regarding finances, Board of Supervisors, staffing, proposed improvements and budget for proposed improvements, better number on budgets, redoing a preliminary assessment roles and long term relatively low interest for petitioners; he stated with the CFD the city has a sure source of Capital and the money is literally in the bank (CFD account); YarrowBay has said the CFD will free up other dollars to finance other improvements in the City and finance them at an earlier time.

Councilmember Boston asked about the 28 year bond.

Mr. Hempelmann clarified the years as 22- 28 and stated it is put in a reserve amount (over one year of the Interest and Principal) and at the end of the term whatever the reserve has in it can be used to pay it off.

City Attorney Bacha stated that Mr. Young is here as well if Council would like him to address questions that were raised.

Council consensus was to hear from Mr. Young.

**Mr. Young** – thanked Council and summarized the comments from the December 15 meeting; discussed fire protection issues; constructing a fire station; how mitigation and impact fees work; summarized his write up in the packet material Council has in front of them; he stated the applicant would be causing a need for an addition of two fire stations; questions he heard were does YarrowBay pay that and build the station and how does the fee work. Mr. Young stated the Fire Station costs approximately \$3.2 million dollars and it would take 1,800 houses to pay that amount, or it can come out of YarrowBay’s pocket and they would not pay the impact fee and get a credit up to the value of the station; he discussed fire impact fees, operating costs and sales taxes off of the Development.

City Attorney Bacha stated that unless Council had any other questions, he wanted to address questions that were raised. Discussion took place on the following:

- Liability and Cost Control
- Organization Structure
- Special Assessment Analysis
- Board of Supervisors
- Council’s and Staff Roles

Councilmember Mulvihill stated she can’t see how the city wouldn’t be liable if councilmembers are on the Board of Supervisors for the CFD.

City Attorney Bacha clarified that in that case those Councilmembers are not working on behalf of the City, they are working on behalf of the CFD, it’s intended as a shield, and it is a separate entity.

Councilmember Goodwin passed out questions he prepared. Questions asked:

1. Clarifying the Assessment Process and how it will work
2. Time frame on finalized assessments to each Parcel
3. Additional CFD for the same parcels to finance other benefiting needs
4. Litigation in other States regarding CFDs
5. Potential for lawsuits
6. CFD project funding obligations
7. Infrastructure Improvements provided for in the Development Agreements
8. Approving formation of CFD automatically require agreement to certain installments of improvements
9. Withholding cost estimates for each project
10. Draft Resolution No. 11-770

City Attorney Bacha and Mr. Young addressed Councilmember Goodwin’s questions.

### **Resolution No. 11-770, authorizing the formation of Black Diamond Community Facilities District No. 2011-1**

Councilmember Boston stated the formation is only the first step, the real work begins with the Board of Supervisors and it would be a privilege to serve on that board; the CFD is another financing tool, highly recommended and read an article in the paper that was from Chris Hurst regarding Black Diamond and the CFD; talked about other people’s

money and how everyone uses other people's money to buy a house, car and other type of loans.

Councilmember Hanson agreed that the CFD is a good thing and the real job starts with the Board and talked about the control the Board will have on approving certain projects; questioned the homeowner's inequities and being dispersed over the parcels one paying more than the other and if the board can control those assessments.

City Attorney Bacha stated that the analysis was done on existing parcels.

Mr. Young stated the law allows for parcels to be divided and assessments to be divided, the law does not allow latitude or leveling or un-leveling, it has to be a special benefit if the applicant changes unit number then it would change.

Discussion took place on due diligence and the risks involved for the City.

Councilmember Boston stated he can't help but ask, but the formation of the CFD was in the best interest of the City or was the opposition for it to delay the project?

Councilmember Saas suggested letting Ms. Proctor speak.

Council consensus was to allow Ms. Proctor to speak and follow up with YarrowBay comments.

Ms. Proctor thanked Council and stated the Taussig report is important and to say that it is all up to the Board of Supervisors is incorrect; discussed the special assessment needs; wastewater facility; FEIS and transportation mitigation; discussed that she had not seen in any of the Taussig report that makes this the best interest for the city and stated that Council does not have to pick the Board tonight that the new Council can do that.

Mr. Hempelmann reported that the laws on the interim facilities is very clear and remains in the City with staff, the CFD cannot do anything; he reminded Council that the resolution Council has in from of them reiterates that point under the law the CFD can't build anything without the approval of the city. He discusses special benefits; final assessment role; security of bonds; discussed the CFD being a financing mechanism. Concluded that it is the best interest for the City the Board of Supervisors will be able to implement this Finance mechanism that will benefit all.

City Attorney Bacha reported that the Council is not giving its approval of those projects and we don't want to give that impression that's why they have included that language in the resolution. He discussed the questions regarding risk and providing the staffing to get the CFD up and running but not setting any rules or procedures, that is the Boards job.

Councilmember Boston stated that there is no intention of trying to name the Board of Supervisors this evening, that the new Council coming up can handle that and whatever the CFD dishes out.

**A motion** was made by Councilmember Mulvihill and **seconded** by Councilmember  
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Boston to adopt Resolution No. 11-770, authorizing the formation of Black Diamond Community Facilities District No. 2011-1. Motion **passed** (4-1, Goodwin).

**Resolution No. 11-779, authorizing the Mayor to execute an Interlocal Agreement between the City of Black Diamond and Community Facilities District No. 2011-1**

City Attorney Bacha reported that this would authorize an ILA with the CFD to put in place the necessary administrative support to provide for the operation and functioning of the day to day activities including by the way of example, providing meeting space, preparing and posting of the notices of the CFD and to provide for reimbursement of the costs of such administrative support to the City.

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Mulvihill to adopt Resolution No. 11-779, authorizing the Mayor to execute an Interlocal Agreement between the City of Black Diamond and Community Facilities District No. 2011-1. Motion **passed** (5-0).

**ADJOURNMENT:**

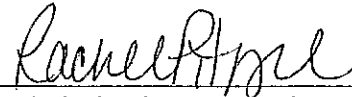
A **motion** was made by Councilmember Mulvihill and **seconded** by Councilmember Boston to adjourn the meeting. Motion **passed** with all voting in favor (5-0).

The Workstudy / Special Meeting ended at 8:09 p.m.

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk