

BLACK DIAMOND CITY COUNCIL MINUTES
Special Meeting – September 20, 2010
Council Chambers
25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the special meeting regarding the closed record hearing of the proposed Master Planned Developments back to order at 4:01 p.m. and lead us all in the Flag Salute.

ROLL CALL:

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

ABSENT:

Staff present were: Stacey Borland, Planner; Andrew Williamson, Economic Development Director; Steve Pilcher, Community Development Director; Aaron Nix, Natural Resources/Parks Director; Seth Boettcher, Public Works Director; Mike Kenyon and Bob Sterbank, City Attorneys and Brenda L. Martinez, City Clerk

EXECUTIVE SESSION:

Mayor Olness announced an Executive Session at 4:01 p.m. to discuss potential litigation pursuant to RCW 42.30.110(1) (i) which was expected to last approximately 10 minutes.

The special meeting was called back to order at 4:13 p.m.

APPEARANCE OF FAIRNESS:

City Attorney Sterbank – asked the following question collectively of all five Councilmembers: Do you have any interest in the property that is subject to the Master Planned Development (MPD) applications? All Councilmembers responded- No.

City Attorney Sterbank – asked the following question collectively of all five Councilmembers: Do you stand to gain or lose financially as a result of the outcome of these proceedings? All Councilmembers responded- No.

City Attorney Sterbank – asked the following question collectively of all five Councilmembers: Has anything happened since last proceedings you can think of that could impact your ability to be fair and unbiased? All Councilmembers responded- No.

City Attorney Sterbank – asked the following question collectively of all five Councilmembers: Any ex parte contact outside of the proceeding? If so, describe contacts.

Councilmember Mulvihill responded no.

Councilmember Boston responded no.

Councilmember Saas responded no.

Councilmember Hanson responded no.

Councilmember Goodwin responded yes; regarding community forum on September 15th at the Black Diamond Community Center, it was filmed and limited conversation to what was on the record; received two phone calls from Ms. Wheeler asking about cancellation and from Mr. Rothschilds to discuss water quality and discussed the John Henry Mine.

City Attorney Sterbank stated that in addition he would like to state on the record, the City did receive a letter earlier today from the applicant and the City of Maple Valley indicating that they have reached a tentative agreement on traffic issues and suggested new condition language, 16 in The Villages and 15 in Lawson conditions.

Councilmember Hanson stated she received an email from Riahn Webb who thanked her for being on the Council and her hard work and sending positive support and feels Council is doing a good job.

Ordinance No. 10-946, approving the Master Planned Development for The Villages; amending the City's Zoning Map to Designate Certain Property "Master Planned Development – MPD"; providing for Severability and Establishing an Effective Date

General-

Councilmember Saas stated he would like to start by topic in the conditions, start with General 1-9; number 3, proposal offsite trails, was this added to the previous draft and if so, why.

City Attorney Sterbank explained the proposal called for them to be constructed at a certain point of occupancy, this was the reason for the additional exception.

Transportation-

Councilmember Boston asked why the phrase proportionate share is struck out on the new conditions that arrived today.

City Attorney Sterbank assumes this is because the definition of proportionate share has some disagreement between the parties; and seems they have come to an agreement with a substitution.

Mayor Olness noted number 16 on page 5 is the one being substituted.

Councilmember Saas referred to 17a, under the assumption it would be validated after 850 homes have been occupied and this says when 850 permits have been issued; would like to know the variation between permits and occupied.

Councilmember Goodwin argues for the most conservative case and feels it would be when permits are issued.

Councilmember Boston asked if what we are trying to do is get a baseline.

Councilmember Goodwin stated suggesting we err on the side of caution be conservative.

Councilmember Hanson agrees with final occupancy.

City Attorney Sterbank clarified there would be documentation of final occupancy from staff; as it is worded right now, it calls for validation as it exists after a certain number of units, this question would be what's the occupancy rate or the trips coming from 850 units if they are occupied.

Councilmember Mulvihill stated that when this suggestion was made, we were thinking those homes would be occupied.

City Attorney Sterbank stated it can be changed to certificate of occupancy.

Councilmember Boston stated he doesn't see a reason to change it.

Councilmember Saas stated that the 850 came from the Phase 1A; in his mind he was thinking of 500 being the number, so it's still between 500 and 850.

Councilmember Hanson felt we are changing the intent.

Councilmember Saas stated he would like to be more conservative in respect to traffic.

Mayor Olness polled Council:

Councilmembers Saas, Goodwin and Boston: Leave
Councilmembers Hanson and Mulvihill: Change

Council consensus to leave as is.

Councilmember Saas referred to 17e page 8.

City Attorney Sterbank stated it was in 17d.

Councilmember Mulvihill referred to page 10, condition 22; this has to do with private streets and would like to see it maintained by the City.

City Attorney Sterbank clarified this condition was recommended by the Hearing Examiner following staff's recommendation, having a street design that calls for the majority not all of them to be alley loaded rather than from the street itself, staff noted that results in two which is alley and street, which would increase the City's maintenance costs, certainly the Council could choose to adjust as you see fit.

Councilmember Hanson stated that costs incurred is by Public Works and whatever we can do to decrease would be helpful and homes do not pay the taxes generated for this level of service and if we could try the HOAs to maintain, would be more cost effective for the City to not maintain the alley.

Councilmember Mulvihill asked why it was changed in everything else but here; what is the incentive for the homeowners association.

City Attorney Sterbank clarified that it was primarily changed in stormwater and also landscaping for LID stormwater related facilities.

Councilmember Boston replied he felt the City has recourse if things start to deteriorate.

City Attorney Sterbank stated we can certainly create this enforcement in the language that provides should the applicant or future home owner fail to maintain as directed, the City could bill the HOA.

Mayor Olness proposed adding language to condition 22 on page 10.

Council consensus was to add such language.

Councilmember Mulvihill referred to condition 31; pipeline road is on private property.

Councilmember Hanson stated she believes there is an agreement in place on this already.

City Attorney Sterbank clarified or the City sets date requirements in the development agreement.

Councilmember Boston referred to condition 34, need to capitalize "A" on agreement.

Councilmember Saas referred to condition 33b, should read in almost last sentence condition 33, not 34.

Noise-

Councilmember Mulvihill referred to condition 37, questions regarding broadband backup and assumes this is more acceptable.

Councilmember Hanson referred to condition 41, and asked what is meant by one or more.

City Attorney Sterbank clarified that the cessation could be triggered by this.

Public Utilities, Water-

Councilmember Hanson referred to condition 53 and stated it was impressive regarding water savings.

Councilmember Boston referred to condition 48 and asked does this mean they will construct a reservoir near Railroad Avenue or somewhere in the loop.

City Attorney Sterbank clarified it needs to be constructed in the 850 pressure zone in the alternative to the reservoir it would construct a loop back to the existing system.

Public Works Boettcher clarified that a tank is needed in the western portion of The Villages in the high knoll area near Black Diamond Lake; the reference to Railroad Avenue is where it hits, but the tank would be located in The Villages on the high spot.

Councilmember Boston referred to condition 44f, second paragraph, read excerpt.

City Attorney Sterbank clarified the way it was drafted was to address noise continuation for existing residents, those particular parcels in The Villages that are adjacent to the existing residences believe the intention if the existing residents parcel was acquired there is not a need for the noise continuation that would have previously been done already.

Public Utilities, Sewer-

Councilmember Hanson referred to page 17, condition 73, and asked City Attorney Sterbank to refresh her memory of the allowable deviations from design objective or standards.

City Attorney Sterbank clarified this is a reference to stormwater monitoring requirements, those have been identified during testimony in the record from Rothschilds and one of the components in the new condition 81, refers to an estimated maximum annual volume of total phosphorus that would be one item that is going to be monitored, the development agreement would also state what the target range is for those annual loads and what the allowable deviation will be and if there is an exceedance.

Visual and Aesthetics- No comments

Public Services-Parks and Recreation-

City Attorney Sterbank noted on page 20, number 95 that is the condition that specifies timing of construction of on and off site trails and parks.

Schools-

Councilmember Boston stated he was concerned with the very last sentence in 98 regarding schools located either within the MPDs or within one-mile of the MPDs; gave example of a High School and the fact that Enumclaw High School has some age and would the School District might find that it is better to build a new high school that would encompass both cities in unincorporated King County; feels there should be some kind of consideration that the builder should have to do for all schools, does this really encumber the school district, or could this be a major amendment; example they decide to put a high school on the Enumclaw side of the Kummer Bridge, would this be in one mile of the City limits, what if it was a mile and one quarter; it stuck out that all school sites, high schools are expensive to construct and he would only want to do one rather than two because of cost and if you combine things and come up with a better product, but he is fine with leaving it in here.

Councilmember Hanson asked how it would be approached.

City Attorney Sterbank stated this sentence was proposed by the applicant.

Councilmember Goodwin stated he felt it is important to focus on the elementary schools and it is different with high schools.

Councilmember Boston stated currently Enumclaw with population of 11,500 have student high school population of 1, 402 and this has dropped 150 over two years.

City Attorney Sterbank replied you could modify if your focus is only on elementary and middle schools and provide flexibility for high school.

Councilmember Boston gave example of growing up and the high school servicing the whole county in the mid-west; fine with all elementary and middle schools be within one-mile of the MPDs.

Councilmember Mulvihill stated she was stuck on having a high school in Black Diamond.

Public Service-Public Safety- No comments

Erosion Hazards-No comments

Landslide Hazards-No comments

Mine Hazards-No comments

Vegetation and Wetlands- No comments

Fish and Wildlife- No comments

Climate Change- No comments

Land Use-

Councilmember Hanson referred to condition 141, page 25 regarding high density areas.

City Attorney Sterbank replied Council had an extensive conversation about changing the designation up or down one density for those parcels adjacent to other residential uses; crafted some language that addressed this, Council did not discuss this condition and consensus amongst Council was to apply those standards.

Councilmember Mulvihill replied yes, it be worked out as part of the development agreement.

Sensitive Areas-Open Space- No comments

Administration-

Mayor Olness announced a short recess at 5:16 p.m.

Mayor Olness called the meeting back to order at 5:24 p.m.

Administration (continued)-

Condition 156b, the last sentence appears to end without finishing and needs to be changed to reflect the dropped language.

Ordinance No. 10-947, approving the Master Planned Development for Lawson Hills; amending the City's Zoning Map to Designate Certain Property "Master Planned Development – MPD"; providing for Severability and Establishing an Effective Date

Exhibit C Condition for Lawson Hills

General- No comments

Transportation-

Number 15 will be replaced with the agreement between the applicant and Maple Valley.

Councilmember Hanson asked if City Attorney Sterbank could refer to the conditions that are specific to Lawson Hills only

City Attorney Sterbank referred to conditions on page 10, condition 23, 25, 26 and language has been added to condition 31 per Council's request last week.

Noise-

City Attorney Sterbank noted 41 and 44 are unique to Lawson Hills.

Public Utilities, Water-

City Attorney Sterbank noted that 51 and 52 are Lawson specific.

Public Utilities, Sewer-

City Attorney Sterbank noted that 57 and 58 Lawson specific.

Stormwater and Water Quality-

Councilmember Goodwin asked if there is something different.

Mayor Olness referred to page 20; number 90 is specific to Lawson Hills.

Public Service-Public Safety- No comments

Erosion Hazards-No comments

Landslide Hazards-No comments

Mine Hazards-

Councilmember Goodwin referred to mine hazards and asked if it was the same.

City Attorney Sterbank clarified 115 is different.

Vegetation and Wetlands- No comments

Fish and Wildlife- No comments

Climate Change- No comments

Land Use-

City Attorney Sterbank referred to some parcel specific conditions such as 133.

Sensitive Areas-Open Space- No comments

Administration-

Mayor Olness stated that 160b is correct only needs to be changed in The Villages condition.


A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Hanson to adopt Ordinance No. 10-946, approving the Master Planned Development for The Villages; amending the City's Zoning Map to Designate Certain Property "Master Planned Development – MPD"; providing for Severability and Establishing an Effective Date, subject to changes as discussed and any typo's or grammatical changes and any changes with Maple Valley and applicant. Motion **passed** with all voting in favor (5-0).

A **motion** was made by Councilmember Goodwin and **seconded** by Councilmember Boston to adopt Ordinance No. 10-947, approving the Master Planned Development for Lawson Hills; amending the City's Zoning Map to Designate Certain Property "Master Planned Development – MPD"; providing for Severability and Establishing an Effective Date, subject to changes as discussed and any typo's or grammatical changes and any changes with Maple Valley and applicant. Motion **passed** with all voting in favor (5-0).

ADJOURNMENT:

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

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk