

**CITY OF BLACK DIAMOND
CITY COUNCIL
TOWN HALL MEETING MINUTES**

April 12, 2012

Community Center, 31605 3rd Avenue, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the regular meeting to order at 7:00 p.m. and lead us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Goodwin, May, Benson and Taylor.

ABSENT: None

Staff present were: Chip Hanson, IS Manager; and Brenda L. Martinez, Assistant City Admin/City Clerk.

PUBLIC COMMENTS:

Mayor Olness announced two councilmembers approached her last week regarding setting rules for the town hall meetings. Mayor Olness stated the rules that were suggested have already been established through Council's adoption of the resolution amending council rules and read the second paragraph of section 3.21.2. She then noted we would be going by the adopted rules tonight and welcomed folks to come forward to speak at either microphone.

Jack Sperry, Black Diamond commented that he appreciates the openness of this Council and their taking the time to understand the issues before them. He applauded them for the action with the courts regarding clarification of the validity of the second set of MPDs filed by YarrowBay and feels many Black Diamond citizens would agree. Citizens recognize this city needs to grow to stay viable, but the city needs to do it in a careful manner that minimizes risk to the citizens and the environment. The City should move these MPDs along as required by the law, but never act by the threats of any developer. He thanked council for their courage and diligence.

Susan Harvey, Ravensdale commented on the email she sent Council regarding a question she had. She stated she has a very basic question concerning the authority of a municipal code over an area outside of its limits. She noted the Green Valley Road area lies within unincorporated King County so how is it that compliance to the Black Diamond Municipal Code is referenced in issues pertaining to the Green Valley Road

area, which is outside the limits of the City of Black Diamond? She noted she asks this because there is a concern over the scope and composition of the Green Valley Road Committee and the behavior of that committee being regulated by the Black Diamond Municipal Code.

Mayor Olness stated the Green Valley Road Committee is in the Conditions of Approval for the MPDs. She then announced she has been in contact with King County asking for them to appoint a representative to the Green Valley Road Committee to serve as the City's representative. She added she has not yet heard back from King County on this.

Councilmember Goodwin responded this is not the Municipal Code but rather the Conditions of Approval for the MPDs. He noted he supports the Mayor's decision to have a representative from King County to take the City's place on the committee, because ultimately King County is the body that has to step forward and has the authority over the Green Valley Road.

Ms. Harvey stated they also have an issue with the scope of the committee. And the committee is ready to give up. She referred to BDMC 18.98.200 being cited as to why there could not be a change to the scope or makeup of the committee. She added King County does not want to be on the committee as they do not want to be the tie breaker.

Mayor Olness stated that any changes to the scope or composition to the committee would require a change to the Conditions of Approval and that is where the Municipal Code would come in, and it is her understanding that none of the conditions have been met.

Ms. Harvey reiterated the scope of the committee needs to be changed so that other issues than speed bumps can be looked at.

Councilmember Goodwin suggested since the issue is mitigation of traffic let's take the next step with King County and see where it goes and then come back and see what's missing.

Peter Rimbo, Maple Valley clarified the Condition of Approval language regarding the Green Valley Road Committee and said the issue is the scope of the committee. The scope needs to be changed so they can have meaningful mitigation. He also thanked the City for trying to change the City representative to a King County representative.

Judith Carrier, Green Valley Road asked Mayor Olness if the representative from King County will be from the transportation department. Mayor Olness responded yes. She then asked about the process that was taken for the Mayor's decision to change the City's representative from staff to King County. Mayor Olness responded she went to legal and got an interpretation and the decision was made that it just needed to be someone who represented the City and that is why she contacted King County. She also noted that she had heard from staff and councilmembers that there were folks on the Green Valley Road who were concerned there was not a County representative and would like to have one.

In addition she noted the make-up of the committee was not changed only who the representative of the City would be.

Discussion continued regarding the process for changing Conditions of Approval and where to find this at.

Councilmember Taylor clarified the process for minor and major amendments.

Ms. Carrier reiterated the issue is the scope of the committee and we need to know how to change it.

Ms. Harvey asked Mayor Olness if the County representative would be acting on behalf of the City or the County. Mayor Olness noted the King County representative will be serving as the City representative.

Cindy Proctor, Enumclaw thanked Council for being here tonight and having this forum. She read the following Hearing Examiner's Development Agreement recommendation: "to further reduce conflict it is suggested that the Funding Agreement contain a provision prohibiting the applicant from threatening to withhold funding on the basis of the City's personnel decision making issues". She noted previous Council did not add this language to the Agreement. She also noted in regards to the April 6th letter to the Mayor and Council it appears that YarrowBay is pursuing two paths 1) trying to pressure the City to act faster on the PPAs, MDRT, CFDs, etc., and 2) trying to set up a claim for damages. She commented on the PPAs submitted by YarrowBay and not meeting certain criteria within BDMC. She discussed letters sent from Steve Pilcher and Colin Lund of YarrowBay. She discussed Brian Ross' declaration of March 2012 and his April 6th letter regarding the delay of the project not matching. She discussed the security schedule in the Funding Agreement and the deposit for Consultants. Discussed the process for the procurement of the MDRT consultants. Feels the City has been acting prudently in getting the MDRT formed. Asked Council to make sure they are getting all the facts. Applauded Council for having courage and thanked them for this opportunity to speak.

Peter Rimbos, Maple Valley commented on Council's hands being tied regarding the MPDs. Noted and thanked Council for their actions over the past several months. Noted the Master Developer is attempting to exert ever increasing pressure by creating artificial timelines. Asked Council to give Kenyon Disend their 60-day notice and to also consider adding technical support members outside of the Funding Agreement. Discussed a change in the form of government. Black Diamond needs to reform its government structure to mirror that of Maple Valley and Covington so a City Manager can be hired who reports to the Council and the need to ensure the MPDs truly serve the City. Need for a real comprehensive evaluation and believes it will clearly show the size and breadth of the proposed MPDs need to be drastically reduced.

Tom Daniels, Black Diamond asked is it true if the City sues YarrowBay that YarrowBay could possibly come around with a counter suit suing the City for millions and could the City afford this or would it have to go bankrupt. Councilmember Goodwin stated he did

not know how to answer the question other than to ask YarrowBay that question as it's up to them.

Kristen Bryant, Bellevue stated that everything Black Diamond does affects King County. She is amazed that so many people are here and the theme still seems to be the developments as this will have the most significant impact to someone who lives in the area. Discussed the Master Developer Review Team the City is forming. She commented on the different consultant positions that will review the YarrowBay projects as they go forward. She understands the team will be responsible to make sure the development complies with the Conditions of Approval, Development Agreements, City Code and State law as they move forward. She noted these are the professionals who will be policing this and it is extremely important that the City gets a really good and strong team. Discussed her profession of writing program codes and the use of software testers. Feels Council should consider with the formation of the Master Developer Review Team of not using the same consultants the City used a few years ago. When applying rules to a land use project she believes interpretation will come up over the 20 years and the City needs to make sure we make the review team as strong as possible and also have the public's interest in mind. She also noted the public actively working with the Council to make sure the contracts they will be adopting are the best. She thanked Council for their time and looks forward to working with them on this.

Sarah Cooke, Wetland Consultant stated she was asked to come tonight by some of the citizens to discuss the role of an MDRT as she was on the Issaquah team for the last 20 plus years. She stated she wanted to share with Council components that she feels are crucial in this process since they are still looking at the big picture. She added had the City of Issaquah had such a meeting like this it is very clear had they looked at the big picture before forging ahead with the Highlands and the East Village development things would have been done a little bit differently. She discussed the buffers of these developments being insufficient; however they were able to implement some fixes over the years. She noted that being a project reviewer is not an absolute science and there will always be grey areas. There are always two interests involved; the private sector (developer) and the public interest. It is crucial at this juncture to make sure the Major Development Review Team is an impartial group and that they were not involved in the prior process and are fresh eyes and can look at this with a clean perspective. She commented she divides a review into three things: interpretation, review competence, and complexity. Quality control is an absolute must and we need to make sure this is in the contract. Lastly, you need to write the contract to maintain the independence of the MDRT staff as they need to be impartial and present all the facts to Council. She noted she never had her hands tied with the City of Issaquah and a lot of times they did not like what she had recommended, but they let her make those recommendations and then determined after the fact what they were going to do. It is really important for Council to figure out a way to put forth contracts so that independence is maintained. She further noted she would be happy to discuss this at a more detail level with Council in regards to what worked and what didn't in the City of Issaquah.

Councilmember Benson asked Ms. Cooke to provide Council with a business card so that maybe something could be set up.

Bill McDermott, Black Diamond asked for a round of applause for Kristen Bryant.

Cindy Wheeler, Black Diamond noted she appreciated Council's efforts and exertion to honestly discern facts to form the basis of their decisions. Feels there has been a lot of poor decisions by staff and previous Council that have painted the City into some really tight corners and the only way to get through this is by telling the truth, talking straight, and dealing with real facts. She discussed the audio from the last Council meeting and noted there is a lot of anger and confusion out there. Some of the lessons to be learned are based on history and if we don't learn from our history then we are doomed to repeat them. She stated she heard on the tape a comment by Mayor Olness and Andy Williamson that staff had not heard any concerns about those contractors and she believes this has been lost in the history as she has been saying there is a problem since the EIS. She commented about Parametrix's findings at the end of the EIS and the need for more studies and stated this was never brought forward by staff. She added the additional studies would have been funded by the developer. She is concerned with putting together the same team as last time and having Council doing double time to make sure no information is withheld. She commented about YarrowBay emphasizing over and over that they had preliminary plat approvals since last February and they blame the City for having them for over a year, however the approval does not match City Code. She also commented on staff writing a letter to another developer asking that they comply with the code that YarrowBay did not have too. She referred to page two of a letter from Brian Ross and the reference to the gift of Lake Sawyer Regional Park to the community and noted YarrowBay had nothing to do with this – it was County taxpayer funds. She reminded Council to make sure they are receiving all the facts because there is a record of staff not doing so.

Gwendolyn Vuckich, Green Valley Road noted she is a Green Valley Road Committee member and thanked Council for these meetings and the change on the committee. She stated she looks forward to working with this committee as a representative for those folks living on the Green Valley Road. She added residents on this road do have a concern with excess traffic and how they will mitigate that. She reiterated there still is a problem with the scope of the committee as heard by several folks earlier tonight and looks forward to working with Council on possibly making changes to the scope. She reminded all for the need to have an open mind and a feeling of working together.

Harvey Senecal, Black Diamond commented on the conversation at the beginning of the meeting regarding the Green Valley Road Committee and how cordial and informative the conversation was as could have been adversarial and it wasn't. He wanted to refresh everyone's memory that this is a vision Black Diamond residents long before he moved to town have been working on for their city for decades. He stated he believes in a master plan, but they are never perfect and there is a lot of grey area and that is why everyone needs to be working together and then everyone has a whole lot more leeway to act within their boundaries. He added this is way to adversarial and we need to be a team

working together on a dream and hopes everyone at the meetings gets more cordial as the meetings continue. He asked folks to remember the dream and goal and the need to come up with creative solutions and to be positive.

Sherry Greco, Green Valley Road commented she has lived in the area for almost two years, but has had the fortune of living in Ohio, Michigan, California and Florida. She added living in all these different places she has seen a couple of places where development was done right – Easton Town Center, Columbus Ohio and Marysville Ohio - you build the roads first and then you build the homes and shopping centers because people will come - you don't have to do it backwards. Anyone who wants to build in Marysville, Ohio has to put up a bond for the elementary school first and then build the infrastructure; all before the first house is built. She noted this development is being done backwards – build the homes first and then build the roads. She stated if you do it right it helps everybody if you do it wrong you will be bankrupt so keep in mind you can make the plans go forward and not always pulling your butt through at the end.

Erika Morgan, Black Diamond asked about money in the budget for Abrams Way work and wonders if the right permitting has been obtained. She added this road is degrading and has mentioned this problem and needs to have assurance that what is going on on that road will not add to more silting. She further added the road has degraded a lot. In the past the road usually flooded once or twice every few years, but now it floods at least four times a year. She stated she mentions this because she sees a lot of things going on in this town and is concerned with the MDRTs also and will be forwarding information she is working on. Discussed information she found on the internet regarding a Parametrix contract for traffic with Oregon State University in Portland.

Mayor Olness announced that the Public Works Department is looking into the flooding on Abrams Avenue and can assure her that the necessary permits will be obtained before anything is done.

Colin Lund, YarrowBay commented on the Green Valley Road Committee and the real issue is - is there an opportunity to change the scope of the Green Valley Road Committee. Members of the public asked the committee if there was a way to change the scope and in looking at the approved Conditions of Approval it is very clear what the scope of this committee is and then looking at what the process is to do a modification of Council conditions he noted there is a test that must be met in order to make a change to a Council condition. He stated he does not think the standard has been met to change the condition, but will let Council or the City Attorney figure that out. He pointed out that YarrowBay will be forward constructing things and highlighted how this will work in the process. He discussed trying to get bonds in place through the CFDs, because with the use of CFDs they can get out in front of the improvements faster than they could otherwise as a private developer.

Mike Irrgang, Black Diamond commented on his less than expert, but still a very good and completely valid transportation analysis. He noted the method he used to calculate his analysis. He concluded that Hwy169 is a two lane road and is at capacity because

there is already grid lock for several hours a day. YarrowBay agreed that his conclusion of if you add those 6,000 homes you would double the traffic from today and if you are going to double the traffic today then you need twice as many lanes to get to Renton and this is simple common sense. He stated it is against the law to increase the lanes on Auburn-Black Diamond Road and Green Valley Road and YarrowBay's improvements are merely simple bandaids. YarrowBay is only going to fix intersections and additional lanes are what is needed. He closed with saying YarrowBay has misrepresented the numbers and they continue to do so and the only way to solve this problem is not by their threatening letter it is to change the form of city government and finally having a city council that represents the people, the public interest, voters of the community and this City Council needs to be supported by a staff that works for them and not YarrowBay and a lawyer who works for them and not YarrowBay and this needs to be done quickly.

Bill Roth, Black Diamond stated the comments he is about to make are clearly his comments and he is not influenced by anyone else and is not receiving any compensation, benefit or any such matter from anyone for making these comments – they are clearly his. He commented on reading the recent letter from Brian Ross and understanding what actions the City Council is going to take and would like to say should our city government become involved in litigation against YarrowBay City funding will be depleted thus leaving the potential of lowering the level of service and gave examples of police and fire. He added all the residents of Black Diamond will experience negative fallout should City funds be depleted including a decrease in property values. He is confident a better Black Diamond will be created by collaborating between our City and YarrowBay. The MPD will bring needed changes to Black Diamond – anyone who questions the need for change in our City needs to only recall how businesses in our community suffered during the closure of the Green River Bridge. He further added it is sad that people think Black Diamond is only a place they might stop on their way to somewhere else. He prefers to live in a City where people want to come and shop and feels the MPD will do this. He urged Council to not support litigation against YB, but to foster collaboration with YB leading to a partnership of mutual respect, the build out of the MPD, and to ultimately improve Black Diamond. He closed by borrowing from the subject line of Brian Ross's letter collaboration or litigation...the choice is yours.

Tim Nixon, Black Diamond commented the only way the community will get out of the grid lock or tension is through meetings like this where we share thoughts and collaborate; although he does not see a ton of collaboration between what is considered the adversarial parties. He is very concerned with the Development Agreements because of how incomplete and disjointed they appear to be. He feels what is missing is the need to take small steps and then a review process to figure out a course of action to fix things. Suggested when staff brings forth changes that the document is done with strikethroughs so Council can easily see what the changes are. Need for updates on where the projects are at and this is all done with managing the process. Applauded Council for having these public forums and hopes we will all come back together and have the best project for the future of the City.

Rick Bengal, Black Diamond thanked Council for jumping into this and the time involved. Added Council is doing great and had these types of meetings happened last year we probably would have built a great community and that clearly was not the desire. He supports Council. He reaffirmed the conversations that were said – our government needs to be rethought and the need to rethink about what the power of the Mayor's position is and think about legal representation and how that supports the Council.

Lisa Garvich, Black Diamond thanked Council for all the hard work they are doing. Discussed the ration of break-ins in the community and wonders what Black Diamond Police have been doing - are they beefing up patrols or is there an effort to put together some community block watch groups and sees this being a continuing problem as we grow.

Mayor Olness responded the Police have a couple of leads and are looking into them and they do believe there is a connection. She alerted folks to the redesigned police webpage that has reports of all activities happening within the Community as well as a message from the Chief and crime prevention tips. She agreed block watch is a good idea and will share this with the Chief.

Clarissa Metzler-Cross, Green Valley Road discussed getting the scope of the Green Valley Road Committee enlarged to study more than just traffic calming devices. Appreciates the City putting a King County representative on this committee. Need to increase the scope to be able to study more than just traffic calming devices. This is one of the few areas left in King County that is agriculture and with the increase in traffic to this road the plausibility of maintaining agriculture will be difficult. She asked Council to look into the process for changing this Condition of Approval as it is important to look at all the roads that will be affected by this development. In closing, she thanked Council for these forums and wished we had them all along.

Sheila Hoefig, Black Diamond thanked Council for having this type of forum and for being present and taking the time for the citizens. She stated she has a lot of financial concerns and feels Council is now looking at matters in detail and are out to protect our city. She asked about getting information regarding the recent burglaries to the Lake Sawyer Community Club so they may distribute to the lake community. Mayor Olness responded she would ask them.

Sarah Wheeler, Black Diamond thanked Council for this transparency and being able to talk instead of listening and not being able to introduce any ideas that are important to the public. She noted this is the first of many meetings and as we keep going and the more we keep talking we will be able to work it out.

Colin Lund, YarrowBay commented the City of Maple Valley did a very comprehensive review of traffic and hired a very highly qualified traffic engineer who concluded certain improvements that were necessary for mobility through the City of Maple Valley. He added YarrowBay and Maple Valley negotiated for weeks and have entered into a transportation mitigation agreement with them and the first project is starting this summer


which is a road widening project. He noted this is a great example of construction starting before any plat is approved. He further added YarrowBay has also entered into a transportation mitigation agreement with the City of Covington regarding traffic improvements and noted projects within Black Diamond too. He stated he does take exception with folks saying YarrowBay is not doing appropriate measures early enough as they are.

Councilmember Goodwin thanked everyone for coming tonight.

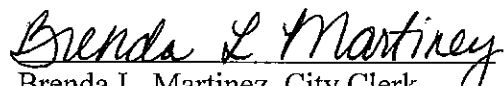
ADJOURNMENT:

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

ATTEST:



Rebecca Olness, Mayor



Brenda L. Martinez, City Clerk