

MINUTES

**McCall City Council
Regular Meeting
Legion Hall (McCall City Hall - Lower Level)
October 8, 2009**

Agenda

Call to Order and Roll Call
Work Session
Pledge of Allegiance
Public Hearing
Public Comment
Consent Agenda
Business Agenda
Executive Session
Open Session
Adjournment

CALL TO ORDER AND ROLL CALL

Mayor Kulesza called the regular meeting of the McCall City Council to order at 5:30 p.m. Council Member Bailey, Council Member Delaney, Mayor Kulesza, and Council Member Witte answered roll call. Council Member Scott was absent.

City staff present were Lindley Kirkpatrick, City Manager; Bill Nichols, City Attorney; Jerry Summers, Police Chief; Linda Stokes, City Treasurer; Cindy Blackman, Personnel Manager; Anne Kantola, Library Director; Dennis Coyle, Parks and Recreation Director; Bradley Kraushaar, City Planner; and BessieJo Wagner, City Clerk.

Council Member Scott joined the meeting at 5:36

COUNCIL WORKSESSION

Consolidated Department Report

Mr. Kirkpatrick updated the Council on the meeting schedule for November and December and asked the Council if the dates would work with their schedules. The general consensus was approval of the dates as presented (November 4, & 19, and December 3, & 17, 2009).

The Council reviewed the consolidated department report. Council members expressed their appreciation for several recent projects, including the work in Art Roberts Park, the Krahn Lane Business Park Charrette, and the chip sealing of Spring Mountain Boulevard.

Council Member Bailey thanked Golf Superintendent, Eric McCormick and his crew for the efforts they put forth to ensure the completion of Art Roberts Park.

Council Member Bailey expressed concerned with the proposal of making a street a one way street on Colorado Street to address the parking issues. He felt that the offer to remove an old building and create a parking lot would solve the problem.

Council Member Witte stated that she would like to know the actual number of those requesting to have their water turned off for the season. Mr. Kirkpatrick stated that staff was working on two proposals to bring to Council, one was to continue to charge a base rate to customers who have had their water turned off and, the other was to charge a lower rate during the time that the wanted was turned off. Council Member Witte suggested that it should be considered to lower the base rate with a higher use rate percentage to encourage water conservation. Mr. Kirkpatrick reminded Council that the fix cost was established to ensure that the debt bond payment would be earned.

Council asked for a deadline for water rate fees to be considered at the November 19, 2009 meeting.

Council Member Bailey complemented the design charette process for the Krahn Lane business park.

Council Member Scott stated that the Spring Mountain Ranch to Deinhard chip seal project was well done.

Mayor Kulesza led the audience in the Pledge of Allegiance at 6:00 p.m.

PUBLIC HEARING

AB 09-206 DR-09-31 – 1632 E. Lake Street - an appeal of a Planning & Zoning decision **- a PUBLIC HEARING**

Bradley Kraushaar, City Planner, summarized the issue with DR-09-31 and the applicant's neighbor's concerns. The concern was that the patio was planned to be on the property line so the neighbor asked for additional vegetative visual barrier. Mr. Kraushaar stated that it was staff's recommendation that Council uphold the Planning and Zoning Commission's decision.

Council wanted to ensure that the Planning and Zoning Commission meeting was properly noticed. It was confirmed that the applicants were notified and the meeting was properly noticed. Council Member Delaney wanted it clarified that the Commission had all the information that the Council was presented with at the time of their decision. Mr. Kraushaar confirmed that they had all the same information with the exception of the new appeal information from the applicants.

Mayor Kulesza opened the public hearing at 6:18 p.m.

Jay Craig, Franz Witte Landscaping, asked the question of was it the Koeplin's responsibility to provide a visual barrier or was it the other property owner's responsibility to provide their own visual barriers.

Council Member Delaney stated that at the Planning and Zoning Commission meeting there was a sense that there would not be any issues with the conditions. She stated that the Commission should have the opportunity to hear the concerns of the applicants since there were concerns and the applicants were not at the meeting.

Shannon Koeplin, applicant, stated that they had presented a plan that met code so they did not think there would be an issue. She stated that their lot was small and that putting in more trees would take up the small yard space. She stated that they were planning on removing a spruce and two aspen trees. She stated that the neighbor that was concerned with their plans had done some poor and distasteful landscaping. She stated that they had concerns with the visual issues from the opposing neighbor. She described, through the photos, their perspective as to how they would like to utilize their property.

Pete Eisenman, neighbor to the South, stated that the two trees the Koeplins' wish to remove was on the property line and that they would be disturbed if they were to take them out as they provide a barrier. The buffer area that they would like to see would be down by the dock. He also stated that they want the side walk moved over so the Koeplin's would not need to remove any of limbs from his tree. Mr. Eisenman stated that they liked the trees and if the blue spruce comes out it makes their yard wide open to the neighbors.

Council Member Scott asked if the Eisenman's would be willing to put the barrier on their property if the Koeplin's paid for it. Mr. Eisenman stated that he would be willing if it was on the property line.

Jay Craig spoke on Illustration 4 and why the pathway goes in the direction as proposed. He stated that the trees that the pathway goes by are important to the Koeplins so the proposed direction provides protection for the aspen trees.

The Council had discussion as to whether to remand it back to the Planning and Zoning Commission and whether the Planning and Zoning Commission had the right to require the Koeplins to plant a visual barrier. The question was posed as to whether the Design review process followed code. Mayor Kulesza stated that he would like to see the neighbors work out a solution between the two.

Council Member Delaney moved to remand DR-09-31 back to the Planning and Zoning Commission for reconsideration, hearing no second, the motion died.

Council Member Witte stated that she would allow the Koeplins to go ahead with their project.

Eisenman stated if they take out the aspen there will not be a visual barrier, he was concerned that the side walk and boulders would kill his trees; he did not want to see the spruce tree taken out. He stated that he would back off the request for additional barrier if they agreed to leave the spruce tree.

Mrs. Koeplin stated that the boulders are to protect the family from the wood, rebar and hide the dirt berm created by the Eisenmans; she stated that there are many trees and does not feel that removing the two trees would take that much away from the visual barrier.

Mr. Kraushaar stated that the Planning and Zoning Commission did not have any opportunity to hear from the property owner and that they made their decision without that information. Mr. Kraushaar stated that the design guideline number two, which covers adjacent uses and new construction should be compatible with existing uses and that the related uses should avoid conflict; he also posed a question to Mr. Nichols, City Attorney, as to whether design guideline number two would grant the Planning and Zoning Commission authority to require the barrier and whether the Planning and Zoning Commission should reconsider.

Council Member Bailey stated that the Koeplin's project improves the appearance from the lake.

Council Member Scott stated that she agrees that the property owner should have the right to decide whether to keep a tree or remove it. She also stated that the Koeplins should be able to move forward with their project.

Council Member Witte asked how the Koeplins boulders and pathway would affect Mr. Eisenman's trees. Mr. Craig stated that there would be potential of Mr. Eisenman's trees being affected.

Hearing no further comments, Mayor Kulesza closed the public hearing at 7:11 p.m.

Council Member Bailey did not feel that the City could deny the Koeplin's project, he stated that the overall project was a plus and not to plant more plants close to the water.

Council Member Delaney stated that the Planning and Zoning Commission did not have the opportunity to hear the issues since the applicant made the choice not to be there. She stated that with respect to the Planning and Zoning Commission they should have the opportunity to hear all the issues.

Mayor Kulesza would like to see a compromise however does not think that they will find a compromise.

Mr. Nichols suggested that if the Council's decision was to overrule the Planning and Zoning Commission decision then the motion should include no requirement to come back for further approval should they decide to move the pathway.

Council Member Bailey moved to approve the application subject to the conditions of approval that the Planning and Zoning Commission published dated September 1, 2009 with the following modifications to the conditions:

- 1. Strike condition 1a**
- 2. Revise 1 b&c to add "recommend" the applicant.**

Council Member Witte seconded the motion.

Discussion

Council Member Bailey stated that he would caution the property owners on removing the spruce however he did not feel that the City could prevent them from removing the tree as it was on their property. Mayor Kulesza would like to see a compromise between the two neighbors, and for the applicant to consider flat sided boulders as not to damage the roots of the trees.

In a voice vote Council Member Bailey, Council Member Witte, Mayor Kulesza, and Council Member Scott voted aye, Council Member Delaney voted nay and the motion carried.

The Council granted the appeal, filed by the property owner, and modified the conditions of approval imposed by the Planning and Zoning Commission.

PUBLIC COMMENT

Mayor Kulesza called for public comment at 7:21p.m.

John Blaye, Upper Payette River Economic Development Council, handed out the results of the Business Retention and Expansion Program survey.

Robert Lyons, 903 Anne Street, wanted to bring to Council's attention a building concern from a home owner on Lick Creek. The house has a deck that is non-conforming to the current McCall City Code. Mr. Lyons stated that he felt that code takes away a property owner's right to maintain their property, he stated that new ordinances make older homes non-conforming and the owners cannot maintain them. He stated that it was difficult to sell these homes. It was his opinion that the City made new ordinances that make property non-conforming and does not allow for grandfathering. He stated that the Council should look at the ordinances that were pushed through quickly. He voiced his concern with the possibility of a law suit against the City. He was also concerned that insurance may not cover a "non-conforming structure." Mr. Lyons asked the Council to look at the code.

Hearing no further comments, Mayor Kulesza closed public comment.

CONSENT AGENDA

Staff recommended approval of the following items:

- Special Meeting Minutes: 4/10/09, 4/13/09, 4/17/09, and 5/08/09
- Warrant Register printed on 10/01/09
- Payroll Report for pay period ending 9/18/09
- AB 09-201 Alcohol Catering Permits
- AB 09-202 Certified Local Government grant application for Historic Preservation Commission training
- AB 09-208 Winter Snow Removal Equipment Rental
- AB 09-203 Personal Property Lease Agreement – Artist Leasing Art to the City of McCall – Zella Bardsley
- AB 09-209 Idaho Transportation Department Speed Study Request
- **AB 09-214 Parks and Recreation Director Appointment – (added 10/06/09)**
This item was moved to End of Business after the Executive Session.

Some discussion took place to clarify the warrant register and correct the minutes.

Council Member Bailey moved to approve the Consent Agenda, minus AB 09-214. Council Member Scott seconded the motion. In a roll call vote, Council Member Delaney, Council Member Bailey, Mayor Kulesza, Council Member Scott and Council Member Witte, all voted aye and the motion passed.

BUSINESS AGENDA

AB 09-211 McCall Area Planning & Zoning Commission Appointments

The Council confirmed Mayor Kulesza's appointment of Jim Betts to the P&Z, for a three year term. Mayor Kulesza refused to submit Ronda Sandmeyer's name for the Council's consideration. There was some discussion about the process and the authority of the Mayor. It was clarified that appointments to city committees must be made by the Mayor and confirmed by the Council.

There was also some discussion about Mayor Kulesza's reasons for not bringing Ms. Sandmeyer's name forward. Mayor Kulesza's concern with Ms. Sandmeyer was the possibility of a conflict of interest with her profession and he was concerned with Ms. Sandmeyer not supporting the city. He gave an example that during the campaigning of the special election, Ms. Sandmeyer supported a flier with false information on it about the City and he did not think that it was in the public's best interest to appoint someone who may be biased or negative against the City.

Mayor Kulesza recommended the appointment of Jim Betts as McCall Area Planning and Zoning Commissioners for a term of three (3) years, expiring October 2012. Council Member Bailey moved to support the Mayor's recommendation to appoint Jim Betts. In a roll call vote, Council Member Delaney, Council Member Bailey, and Council Member Witte, all voted aye, Council Member Scott abstained and the motion passed.

It was Council Member Delaney's opinion that with the opportunity to get involved, it could change a person's perspective.

Council Member Scott asked for Mayor Kulesza to entertain a second motion to appoint Ronda Sandmeyer, the Mayor stated that he would not.

AB 09-212 Model Community Land Trust Ground Lease from Rural Development

The Council heard from local mortgage broker Graham Hubner about a model ground lease prepared by the National Community Land Trust Network. The model lease appeared to further the community housing goals of the Council and would be acceptable to the lenders who typically serve that market. Mr. Hubner recommended that the Council consider revising the McCall Avenue Homes lease to resemble the model lease. He stated that the model lease can be modified to meet the needs of the City while still meeting the requirements of the lenders.

Mr. Hubner stated that he had received a letter from Joann Butler, Attorney for Neighborhood Housing Services, which supported the model lease. He stated that he had received opinions from other counsel as well and most were with the opinion that the model ground lease gives the City more protection than their current lease.

Mr. Nichols stated that the model lease was much like the deed restrictions of the Community Housing Covenants.

The model lease will be further reviewed by the Council, Neighborhood Housing Services, and USDA Rural Development. Council action will be scheduled for a future meeting.

AB 09-213 Community Land Trust Ground Lease Rider

Mr. Hubner explained the differences of the different types of loans that are available under different circumstances. He explained that on lease hold or affordable housing generally need a rider to the lease to enable a lender to lend on that property. Mr. Hubner explained the need for the rider and which lenders would require it. Nick Partin, Rural Development, requested from the General Council at Rural Development a rider specific to Mr. Kraushaar so that he could receive a loan to purchase one of the McCall Avenue homes prior to the City revising the ground lease.

No action was taken by Council.

AB 09-205 McCall Area Merchants Association Presentation to Council

Ronda Sandmeyer gave a presentation to the Council, providing background on the Merchants Association, some of their accomplishments, and describing why the City should provide them funding. The Council did not take any action at this time.

Council Member Scott Recused at 9:11 p.m.

AB 09-204 SUB-06-08: The Timbers– Request for 2nd Development Agreement Amendment

Bradley Kraushaar introduced Mike Hormaechea, developer for The Timbers condominiums. Mr. Hormaechea explained that in the current economic climate it would not be equitable to add carports and or storage units to the already completed Timbers Condominiums. After a brief discussion, the Council amended the Development Agreement to remove the requirement to construct carports and storage units.

Council Member Delaney moved to approve the 2nd Amendment to the Development Agreement for the Timbers Condominiums (SUB-06-08), deleting Article V from the First Amended Development Agreement and authorize the mayor to sign all necessary documents. Council Member Witte seconded the motion. In a roll call vote, Council Member Delaney, Council Member Witte, Council Member Bailey, Mayor Kulesza, and Council Member Scott all voted aye and the motion carried.

Council Member Scott rejoined the meeting at 9:25 p.m.

AB 09-207 Revision of the 2003 Personnel Policy Manual

Cindy Blackman, Human Resources Manager, reviewed the proposed changes to the Personnel Policy Manual. Ms. Blackman stated that by updating the Personnel Manual she was able to incorporate ICRMP's recommendations and to separate out operating procedures. The Council discussed several sections of the manual and suggested changes. The Council was very supportive of the proposed changes. Adoption of the revised Personnel Policy Manual will be scheduled for a future Council meeting.

AB 09-210 Facilities Plan - Strategic Plan for a Public Charette

The Council reviewed the materials put together by Jerry Summers, Chief of Police, and Anne Kantola, Library Director. The process proposed included a conceptual design for a strategic planning charrette. The Council strongly supported a thorough public involvement process, involving several workshops, leading to the formation of a separate group to advocate for the passage of a bond to build the campus plan. At the conclusion of the discussion, the Council directed staff to bring the topic back to the new Council in January or February for their implementation.

EXECUTIVE SESSION

At 10:22 p.m. Council Member Scott made a motion to go into executive session for Employment – Pursuant to Idaho Code §67-2345(1)(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. Council Member Witte seconded the motion. In a roll call vote Council Member Scott, Council Member Witte, Council Member Bailey, Council Member Delaney, and Mayor Kulesza all voted yes and the motion carried.

OPEN SESSION

AB 09-214 Parks and Recreation Director Appointment – (added 10/06/09)

The Council unanimously confirmed Mr. Kirkpatrick’s selection of Dennis Coyle as the new Parks & Recreation Director. Mr. Coyle will officially start work on October 26. Mr. Kirkpatrick stated that Mr. Coyle would be joined by Kurt Wolf, who will start as the new Recreation Supervisor on October 26, 2009.

ADJOURNMENT

Without further business, the Mayor adjourned the meeting at 11:56p.m.



Bert Kulesza
Bert Kulesza, Mayor

ATTEST:
BessieJo Wagner
BessieJo Wagner, City Clerk