

MINUTES

**McCall City Council
Regular Meeting
Legion Hall (McCall City Hall - Lower Level)
June 25, 2009**

Agenda

Call to Order and Roll Call
General Work Session
Public Comment
Consent Agenda
Business Agenda
Committee Minutes
Executive 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, Council Member Scott, and Council Member Witte answered roll call, a quorum was present.

City staff present were Lindley Kirkpatrick, City Manager; Bill Nichols, City Attorney; Brock Heasley, Parks and Recreation Director; Eric McCormick, Golf Superintendent; Tim Swanson, Interim Public Works Director; Linda Stokes, City Treasurer; Michelle Groenevelt, Community Development Director; BessieJo Wagner, City Clerk.

GENERAL WORK SESSION

Restaurant and Formula Retail Business Code

Council discussed the history of the ordinance that governs this issue. They also discussed the percentage and if it is working for McCall and what may have facilitated the need for the discussion. The question was posed whether it may be too restrictive and prevent new businesses from coming to McCall.

Council Member Bailey stated he felt that they should go through the process of revisiting the code for this restriction.

Mike Hormaechea spoke to the Council on his perspective of how the ordinance is highly restrictive to growth in McCall. He stated that the character of McCall can be preserved through design review. He pointed out that the competitive nature of business helps a community to grow.

Council Member Bailey made the point of whether the change or no changes benefit McCall.

The question “Will the ordinance stand or will the Council start the process for the public to give input for possible change?” was presented. General consensus was that the Council was in favor of revisiting the code. Mayor Kulesza is not in favor of removing the code but is willing to start the process to initiate public and community opinion.

Craig Allen stated concern that with allowing formula retail in it would just swap businesses and take away from the unique businesses in McCall.

Mayor Kulesza led the pledge of allegiance at 6:11 p.m.

PUBLIC COMMENT

Mayor Kulesza called for public comment at 6:12 p.m.

Damon Yurkees, Representing Gravity Sports stated that there are businesses from Boise offering free demos of kayaks that are affecting their ability to rent their goods. They would like to open some kind of discussion as to prevent them from making these offers. He would not like to see anything banned, he just would like to have the Council consider somehow limiting the large corporations from taking away from their short selling season. A possible solution could be an imposed fee.

Hearing no further comments, Mayor Kulesza closed the public comment at 6:17p.m.

CONSENT AGENDA

Staff recommended approval of the following items:

- Minutes February 12 & April 23, 2009
- Warrant Register printed on June 18, 2009
- Payroll Report for Period ending June 5, 2009
- AB 09-115 Highway Banner application - McCall Amateur Golf Tournament
- AB 09-126 Alcohol Beverage Catering Permits
- AB 09-120 Line Item Transfers from Contingent Revenue and Contingent Expense Golf Fund Auction Proceeds
- AB 09-121 Line Item Transfers from Contingent Revenue and Contingent Expense Insurance Reimbursement
- AB 09-124 Contingent Revenue and Line Item Expense transfers for Capital Matrix, Idaho Gem Grant, and Road and Bridge grant revenue and expenses

Some discussion took place to clarify the warrant register.

Council Member Delaney moved to approve the Consent Agenda minus the April 23, 2009 Minutes. Council Member Witte seconded the motion. In a roll call vote Mayor Kulesza, Council Member Bailey, Council Member Delaney, Council Member Scott and Council Member Witte all voted yes and the motion carried.

Council Member Bailey moved to approve the April 23, 2009 Minutes. Council Member Witte seconded the motion. In a roll call vote Council Member Bailey, Council Member Witte, Mayor Kulesza, and Council Member Scott all voted yes and the motion carried. Council Member Delaney abstained.

BUSINESS AGENDA

Council Member Scott and Council Member Delaney recused themselves.

AB 09-113 DR-07-64 – McCall Aviation Hangar: Design Review Findings and Conclusions.

The Council tabled this agenda item until later in the meeting due to some of language in the Decision and Order needing to be rewritten. It needed to include information on the landscaping plans and color of the building. Mr. Nichols stated he would have something for the Council to review by the end of the meeting.

Council Member Scott and Council Member Delaney returned to the meeting

AB 09-122 Idaho Power Report – Blake Watson

Blake Watson, Customer Service Representative for Idaho Power, gave a brief presentation of what was happening with Idaho Power both locally and state wide. He covered topics of economic impact, and plans for future growth.

AB 09-127 Art Roberts Park Idaho Power Easement and Recreation Easement

Brock Heasley, Parks and Recreation Director, gave a brief history of the Art Roberts Park utility easement. Council Member Delaney wanted it clarified that this easement is not the only option to serving the utilities. It was stated that there are other avenues to service the utilities; however the easement will make it much easier. Council Delaney stated that in future staff reports of similar requests, she would like it stated that it is a preferred option as opposed to the only option as applicable so that Council has complete information.

Council Member Delaney moved to approve the Recreational Pathway Easement and the Idaho Power Easement and authorize the Mayor to sign all necessary documents. Council Member Bailey 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 yes and the motion carried.

AB 09-114 CUP-09-01: 1950 Bear Basin Rd – Moore Residence Not a Public Hearing

Bradley Kraushaar, City Planner, walked through the conditions of approval with the Council. He highlighted that the applicant had met with the City's Arborist as a condition of approval, for the removal of some trees on the applicant's property. Mr. Kraushaar also explained that the applicant would assert that they would control noxious weeds.

Council Member Delaney moved to approve CUP-09-01 subject to the attached Findings and Conclusions as corrected. Council Member Bailey 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 yes and the motion carried.

AB 09-116 SUB-09-02: Amended Westshore Properties Final Plat
Not a Public Hearing

This Item was pulled from the agenda due to the property being in the impact area and therefore not requiring Council action.

AB 09-117 SUB-09-03: Crystal Beach Condominiums Amended Final Plat
Not a Public Hearing

Bradley Kraushaar, City Planner, stated that the application is to amend an existing subdivision along E. Lake Street to add additional common area to the plat. The applicants are requesting to add the rezoned property, which once housed a bank, to the condominium's common area. The application had already been approved by the McCall Area Planning and Zoning Commission as a Record of Survey, but to satisfy state platting requirements and to aid the Assessor's office in the appropriate assessment of common space to individual condominium owners, the applicant has resubmitted the plat and requested that the same application be approved as an amended final plat.

Council Member Bailey pointed out that in the original agreement the applicants would build the sidewalk. Ms. Groenevelt stated that would happen within three years of the Development Agreement, December 18, 2008.

Council Member Scott moved to approve SUB-09-03: Amended Crystal Beach Condominiums subject to the presented Findings and Conclusions. Council Member Delaney seconded the motion. In a roll call vote Council Member Scott, Council Member Delaney, Council Member Bailey, Mayor Kulesza, and Council Member Witte all voted yes and the motion carried.

AB 09-118 SUB-07-05: Northfork Subdivision – Plat recordation extension request –
Not a Public Hearing

Bradley Kraushaar, City Planner, stated that the applicant is requesting a 6 month extension of the final plat recordation deadline. He stated that per City Code a final plat must be recorded within 18 months from the date of Council approval. The final plat for SUB-07-05 was approved by the McCall City Council on December 13, 2007, and the request for an extension was received on June 11, 2009.

The development application was originally approved as camping sites, without individual parcels able to be sold individually. The applicant is wishing to further evaluate the process required to amend the subdivision and planned unit development applications to create parcels, so that they may be sold as real estate. The applicant is requesting the 6 month extension to further research the amendment process. The new deadline for plat recordation would be 6 months from the date of Council approval: December 25, 2009.

Council Member Delaney moved to approve the SUB-07-05 plat recordation extension request for a 6 month extension, establishing a new recordation deadline of December 25, 2009. Council Member Scott seconded the motion. In a voice vote all members voted yes and the motion carried.

AB 09-125 Amended Ground Lease with Neighborhood Housing Services for the Remaining McCall Avenue Homes

Bill Nichols, City Attorney presented the restated Ground Lease and the Council worked through the document and the proposed changes line by line. Some of the substantive changes were as follows:

- To 1.1 add the words “Qualified Persons” to the beginning of the paragraph. Change the word “rent” to “lease”; and the word “Premises” to “Real Property” throughout the paragraph.
- 1.1 A) 2. Delete the following words: “or retired... who has been a full-time employee in Valley and/or Adams Counties immediately prior to his/her retirement and/or lives currently in Valley or Adams County as his/her primary residence”
- 1.1 A) 3. Delete the following words: “residing in Valley or Adams County who has been a full-time employee in Valley and/or Adams Counties immediately prior to his/her disability and lives currently in Valley or Adams County as his/her primary residence”
- 1.1 A) 4. Delete the following words: “retired” throughout the paragraph and add the words “in the Premises” after “who had been living”
- 1.1 C) delete in its entirety
- 1.2 A) 2. Add the following words to the end of the paragraph: “who are also working in Valley or Adams Counties. The Local Employer must provide evidence that at least one non-dependent resident is currently employed by that Local Employer.”
- 1.2 B) Add the Following: “3. Not more than three individuals who are not related by affinity or consanguinity may reside on the Premises.”
- 1.3 Change “Premises” to “Real Property” after the words “of the value of the”
- Section Three, Second Paragraph, six lines down change “that the Premises are not used by such qualified persons” to “the Lessee does not meet the criteria set forth in 1.1 or 1.2 above.”
- Section Three, Third Paragraph, five lines down change the word “Realtor” to “licensed Idaho real estate broker” also in the same change eight lines down.
- Section Four, Change the first “Premises” to “Real Property”
- Section Five, Change “Premises” to “Real Property”
- Section Seven, Change the first “Premises” to “Real Property”
- Section Twenty, Change “Premises” to “Real Property” in the title of the section and in the paragraph

Council Directed Mr. Nichols to bring back the modified document to the next City Council Meeting for Council approval.

AB 09-123 Resolution 09-07: Initiation of Validation Proceedings for Bear Basin and Meadows Road

Tim Swanson, Public Works Director, gave a brief explanation for the road validation process. Bear Basin Road as shown on the easements does not fall in the same place as the platted road associated with the subdivision. The process is designed to realign the road to where it actually exists. As a result Bear Basin Road will lie within a decided boundary.

Council Member Delaney moved to adopt Resolution 09-07 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 yes and the motion carried.

AB 09-113 DR-07-64 – McCall Aviation Hangar: Design Review Findings and Conclusions

As per the Council's request, Mr. Nichols stated the following changes to the Conclusion of Law would be made: "The revised Design Review application as supplemented by the inclusion of the updated landscaping plans and architectural drawings presented at the public hearing on April 23, 2009 complies with all provisions of McCall City Code, Title 3, Chapter 16."

Mr. Nichols then stated that the changes under the Decision and Order would read:

"IT IS HEREBY ORDERED AND THIS DOES ORDER, the revised Design Review Application, which includes a building construction height not to exceed a height of 42 feet for the proposed hangar and the lobby height not to exceed a height of 32 feet, is hereby approved, and the applicant shall comply with: (1) the conditions listed in the Staff Report attached hereto as Exhibit 1, (2) the further condition that if there are any significant or major revisions between the final landscaping plan and the landscaping plan presented on April 23, 2009, then no building permit shall be issued until the revised landscaping plan has been approved by City Council, and (3) all other applicable ordinances and regulations (e.g. building codes, etc.)."

Council Member Bailey moved to approve the findings and conclusions for the DR-07-64, McCall Aviation subject to edit the Conclusion of Law and Order as presented by the City Attorney to the City Council on June 25, 2009 and to include discussion by city staff with the architect on the issue of the color of the building. Mayor Kulesza seconded the motion. Council Member Bailey, Mayor Kulesza and Council Member Witte all vote aye and motion passed. Council Member Scott and Council Member Delaney were recused from this agenda item.

AB 09-119 City Manager Evaluation

Mayor Kulesza gave a summary that the Council had met in an Executive Meeting and the majority of the Council found Lindley Kirkpatrick to be "Fully Competent" in his position of City Manager. The evaluation included information from the City Manager's direct reports. He received a cost of living increase only as had all other employees, but did not receive a merit increase.

Mayor Kulesza stated that the Council had also reviewed the City Manager's contract of agreement and made some minor changes to update it. In Mr. Kirkpatrick's current contract there was a 3 month severance with no benefits, in the proposed new contract the 3 months severance includes salary and all benefits. The Council had also discussed a proposal to add to his contract a "cooling off" provision that would include up to a three month "cooling off" period in one version or a sixty day "cooling off" period in another version. The Council had also discussed a "cooling off" period of 45 days and no "cooling off" period. Mayor Kulesza stated that the discussion would be to decide which version the Council would agree on.

The Council had discussion as to which "cooling: off period they supported. It was stated that Mr. Kirkpatrick requested a 3 month period. Mayo Kulesza supported the 3 month period; however he stated that he could live with 2 months. Council Member Witte stated that she would support 2 months, but only in the case that Mr. Kirkpatrick was terminated without cause. Council Member Delaney stated that she would support 30 days or zero. She would agree to a cooling off period only for the sake of the stability for the employees. Council Member Scott stated that she supported 2 months.

In conclusion, each Council Member made a statement of which “cooling off” period they supported. Mayor Kulesza supported a 3 month “cooling off” period, Council Member Witte supported 2 months, Council Member Delaney supported 30 days, Council Member Scott supported 2 months and Council Member Bailey supported 3 months. Mayor Kulesza stated that he would prefer the 90 days but would concede to the 60 days.

Council Member Scott moved to approve the City Managers Contract Agreement as amended to remove paragraph 4g, modify paragraph 6 to include the words “Severance includes:” before paragraphs A, B, & C. Council Member Bailey seconded the motion.

Discussion

Clarification by Mr. Nichols on what would happen should the form of government be changed to the Strong Mayor/Council in August as far as the severance part of the contract is concerned. He stated that termination event would be the change in the form of government, does not necessarily mean when the new Council is seated. Under 5b of the proposed contract it states: “If the City, citizens or legislature acts to amend any provision of the code pertaining to the roles, powers, duties, authority or responsibilities of the City Manager’s position that substantially changes the form of government of the City of McCall, the City Manager shall have the right to declare that such amendment constitutes termination.” Mr. Nichols stated that if that is the case then the existing Council could on December 31, 2009 say that the City Manger is terminated due to the change in government.

Mr. Nichols explained further that the cooling off period gives the new Council an opportunity to come into City Government and learn how things are ran prior to making any changes. There was continued discussion as to when the City Manager would resign in the case where the change in government would take place.

Council Member Bailey amended the motion to include an amendment to paragraph 5b to add the words “but no more than sixty (60) days prior to the effective date of that amendment” after the words “have the right to declare”. Mayor Kulesza seconded amended motion. Those in favor of the amendment – in voice vote Council Member Scott, Council Member Bailey, Mayor Kulesza, and Council Member Witte all voted yes, and Council Member Delaney voted no and the amendment passes. Those in favor of the original motion - in voice vote Council Member Scott, Council Member Bailey, Mayor Kulesza, and Council Member Witte all voted yes, and Council Member Delaney voted no and the motion passes.

COUNCIL DISCUSSION

Council Member Scott had an update to the six areas of concern from Dr. Balch’s letter about McPaws.

1. Rabies vaccinations - the concern was that he felt that all animals should be vaccinated against rabies prior to adoption.
 - A. The McPaws Board responded saying that they would like to vaccinate all the animals, however it was cost prohibitive, the vaccine itself is \$1.50-\$2.00 but the administration of logging and reporting to the state it would take the cost closer to \$20 per vaccination and at an average of 800 animals per year it would cost them

\$16,000. They did say that any animal that was taken out to an event was vaccinated for rabies.

Council Member Scott spoke to Dr. Koepke and Dr. Houlihan who stated that it is not a significant issue in Valley County as in 30 years of practice Dr. Houlihan has not seen one case of rabies. They also indicated that it is good to build the relationship with your vet with the initial vaccinations. The other concern is that the rabies vaccinations cannot be given until 3 months and often animals are adopted at 8 weeks.

2. It was alleged that McPaws was not following code citing some evaluations that were done by his wife during her time at McPaws, where it was not reported to the county as required.
 - A. McPaws has revised their policy and procedures to ensure that they are compliant with county code.
3. Neutering – the concern was that the Valley County and municipalities code was that all animals being adopted from a shelter should be neutered.
 - A. Neither code stipulates that requirement. However McPaws is ensuring that every animal adopted out is spayed or neutered.
4. Feline leukemia and feline immunodeficiency virus testing – the concern was that the Valley County and municipalities code stated that testing must be offered.
 - A. Neither code stipulates that requirement. McPaws stated that the test is very expensive and they do vaccinate against those two diseases. Within Council Member Scott's discussion with the Veterinarians it was stated that the tests can be falsely negative so they could test clean, however still be infected. The test could also be falsely positive. So the safest course of action would be to vaccinate and then if the cat is showing symptoms to then test and to educate the owners to choose.
5. McPaws should conduct an open bid process for veterinarian services provided, and should share their budgetary information so it is shown how much the Executive Director is being compensated.
 - A. Council Member Scott stated that is not true for a non-profit organization. The question may be should the City be conducting an open bid process for animal control services. The City Attorney stated that probably the City should. It could possibly be a sole source issue.
6. Recommendation to appoint independent veterinarian oversight, someone who does not work directly with the shelter.
 - A. Council Member Scott stated that it could be a policy decision for the Council to consider. There would most likely be a cost to that that the city would have to pay for.

It was the general consensus of the Council that there was not any significant issue with McPaws. They would continue looking at the rabies issue and invite Barbara Hutchins to a Council Meeting to have her input on the issue. The next step will be that Council Member Scott will draft a response to Dr. Balch.

COMMITTEE MINUTES

The Council received copies of the following minutes:

- Tree Advisory Committee – February 11, 2009
- Tree Advisory Committee – March 11, 2009
- McCall Public Library Board of Trustees – May 20, 2009
- Historic Preservation Commission – April 21, 2009

EXECUTIVE SESSION

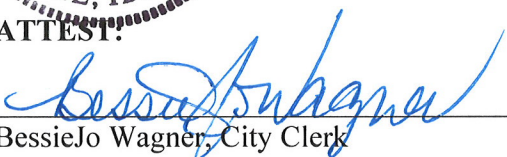
At 10:45 p.m. Council Member Bailey made a motion to go into executive session for Litigation – Pursuant to Idaho Code §67-2345(1)(f). Council Member Scott seconded the motion. In a roll call vote Council Member Delaney, Council Member Witte, Council Member Bailey, and Mayor Kulesza all voted yes and the motion carried.

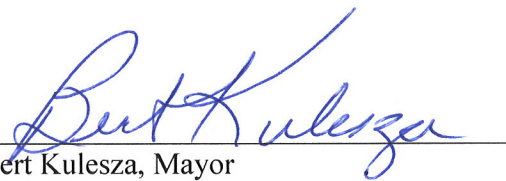
ADJOURNMENT

Without further business, the Mayor adjourned the meeting at 11:45p.m.



ATTEST:


BessieJo Wagner, City Clerk


Bert Kulesza, Mayor