

MINUTES

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

Agenda

Call to Order and Roll Call
Department Reports
Public Hearing
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, and Mayor Kulesza answered roll call. Council Member Witte and Council Member Scott were absent. A quorum was present.

In addition to the Council Members, present were Lindley Kirkpatrick, City Manager; Bill Nichols, City Attorney; Jerry Summers, Chief of Police; Eric McCormick, Golf Course Superintendent; Michelle Groenevelt, Community Development Director; Brock Heasley, Parks and Recreation Director; Linda Stokes, Acting Treasurer; Carol Coyle, Grant Coordinator; and BessieJo Wagner, City Clerk.

COUNCIL WORKSESSION

Mayor Kulesza amended the agenda to add an executive session and move the grant items and add a grant item to the Business Agenda.

City Manager Report

Mr. Kirkpatrick stated that first quarter budget review is coming up at the end of January. The first property tax payment is due in by the week of January 20, 2009. These two items will give the City a look at what the year may look like financially.

A date was set for the Payette Lakes Water and Sewer District Joint Board Meeting, January 16, 2009. The tentative agenda will cover how to compare the City's waste water facility plan and Payette Lakes Water and Sewer District's analysis of the alternatives and work on reaching an agreement, and to structure some future agreement. They will also discuss the litigation schedule.

An update to the issue with the Pancake House is that the City is working with their Attorney Victor Villegas to come up with a new agreement. It will take Council action so it will be an agenda item for a future Council Meeting.

Council Member Witte had had a question from a previous meeting on the lead test results; Mr. Kirkpatrick provided a memo covering the issue of lead.

The Consolidated Department Head Report

Mayor Kulesza asked Chief Summers what the letters FTO and POST stood for. Chief Summers stated that it is Field Training Officer, and Police Officer Standards Training.

Mayor Kulesza asked what R-Nav Approach is, as referred to on page 5 of the Consolidated Department Report. Mr. O'Morrow, Browns Industry, replied that it is a precision approach procedure to assist aircraft, in this case, with vertical guidance.

Clarification of the number of Business license and the number of businesses that show closed. Some of the closures may be due to the business moving out of the city limits.

Mr. Kirkpatrick asked the Council about the LOT summary in the packet, if it was in the format and contained the information the Council wanted to see. The general consensus was affirmative.

Mayor Kulesza stated that Connie Heinzmann with McCall Hospital is working with Dr. Ed Droge on the new plans for the expansion at the hospital. She wanted to know if the Council was interested in a presentation for the new plans. Mayor Kulesza stated that Ms. Heinzmann would contact Mr. Kirkpatrick to set a date for the presentation.

Council Member Witte joined the meeting at 5:51 p.m.

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

Mayor Kulesza stated that there was a change, the advertised public hearing for Impact Fees for this meeting was cancelled, and the agenda was amended to add a Business Agenda item, an additional grant item and the three grant items on the Consent Agenda were moved to the end of the Business Agenda.

PUBLIC HEARING

AB 09-01 CA-08-06 & CA-08-07: Omnibus Code Amendments to Title 3, Title 8, and Title 9.
Ordinance amending Title 3
Ordinance amending Title 8
Ordinance amending Title 9

Michelle Groenevelt, Community Development Director, gave an overview of each code amendment. The staff report in the Council packet explained each change and then each Ordinance showed the amendments. At the public hearing for the Planning and Zoning Commission, the two amendments that people had concerns with were one that spoke about the radius of public notice to go from 300 feet to a thousand feet, and the other was the one

regarding financial guarantees and how the City would require them. After reviewing the public comments, looking at the different sections of the code on financial guarantees, and receiving feedback from different sources, staff decided on the proposal that was presented to Council.

The financial guarantee proposal says that the final plat is recorded with the development agreement and the developer has the guarantees in place. What has happened is that the developer may start the infrastructure after preliminary plat and then run out of money and has no way to fix it or finish it. The proposed amendment would require that developers have final plat approval with the guarantees in place, with exception if a developer would want to move forward with infrastructure then additional information would be collected with assurance that they have the financial guarantees in place.

Ms. Groenevelt stated that she had only received two public comments on the code amendments. One of the comments was about the sale of vehicles on the scenic route; the concern came from an authorized dealer so there would be no conflict. The other comment was about the 30 inch retaining wall and the person inquiring just needed clarification.

Mayor Kulesza asked about the selling of vehicles on the scenic route, and wanted to know the intent of the ordinance. Ms Groenevelt clarified that the problem has been that there have been multiple vehicles, along Third Street in various business parking lots or vacant lots, with for sale signs. This amendment states that for someone to sell a vehicle in a business parking lot they would have to be an authorized dealer. This amendment would apply to everyone with the intent to sell a vehicle on the scenic route.

Mayor Kulesza asked about the number system, and road naming and site addressing standard. He wanted to know what kinds of difficulties are anticipated with implementing the new system. Ms. Groenevelt stated that the major change has to do the process of renaming a street. Currently the code requires the process of a conditional use permit, it would be revised so the process would be more defined and not as lengthy, and people would still have the option to appeal the process. The Planning and Zoning Commission felt that it could be something that could be done at staff level. Ms. Groenevelt stated that the Road Standard document has been drafted. The intent of the document would be the same, only the process would change.

Some discussion took place to clarify the code amendments and correct typos.

Council Member Witte stated that the staff report summarizing each code amendment conflicted with the ordinance. She stated that in Ms. Groenevelt's report it states on page 2 of 8 that "Add "Public Service Facility" to list of uses in the Commercial Zone use table, as a Conditional Use Permit in the NC, and CC zones, and not permitted in the CBD zone." The Ordinance states that it would be administrative approval in the CBD zone. Mr. Kirkpatrick clarified that the ordinance is correct, it would be administrative approval as apposed to "not permitted in the CBD zone."

Council Member Witte stated that on page 18 of 18 of the Title 3 ordinance, the wording is different than what was in the report. The report reads "The approval date for Design Review applications that accompany either Subdivision or Planned Unit Development applications shall be the same as the date of Final Plat and/or Final Plan approval." And the Ordinance reads "The approval date for Design Review applications accompanying applications requiring Council

approval shall be same as the Council approval date of the accompanying application(s).” She felt that the wording in the report was clearer than the wording in the ordinance. Mr. Nichols made a suggestion that the word “other” be inserted after the word “accompanying” in the ordinance. There was a general consensus and the suggestion was accepted.

Council Member Witte questioned approving the ordinance for Title 8 amendments that refers to a document the Council was unable to refer in conjunction with the ordinance. It was clarified that when the ordinance is presented for approval the street standards document will also be part of the packet.

Mayor Kulesza opened the public hearing at 6:36 p.m.

Darrell Cobb – 1550 Chris Lane – He asked if any of the changes had to do with signage. Ms. Groenevelt stated that the only reference to signage in the amendments was that if there is a double sided sign then only one side counts in the dimensions. Mr. Cobb then stated that as the lead for the McCall Area Merchants Association, he would like to invite the City officials to come to one of their meetings to see how the business community and the City could work together on some projects that would make McCall a better place to live, work, and play. One of the issues is that businesses need to attract people to their establishments, and would like to know if they could use special signing to promote a special or sale to attract customers. He would like to invite Mr. Kirkpatrick, the Mayor and other Council Members, as well as members of the Planning and Zoning Commission to one of their meetings to see if they could work out some sort of agreement. Council Member Delaney asked that Mr. Cobb send them a copy of his meeting schedule.

Mr. Cobb continued with a personal comment stating that he thinks there are bigger issues than not being able to have a “for sale” sign in the window of a vehicle. He felt that being concerned about a handful of vehicles throughout town was minor compared to other issues. Council Member Bailey stated that the issue is not with the one car on the side of the road, it is the one car that sits for 8 months or the multiple vehicles. Mr. Cobb stated that not being able to have a “for sale” sign in a person’s vehicle is taking it too far.

Brian O’Morrow – 1195 South Samson Trail – Stated that he had three comments:

1. The last time the City had a new Comprehensive Plan the City waited 6 years before doing a code rewrite and then a year later did a new Comprehensive plan. There may be a need to do a more of a comprehensive review of the code.
2. The mention of the LEED platinum certification on certain civic building may be limiting in the future. He stated it may make more sense for a policy instead of an ordinance for the LEED standard.
3. His biggest concern was with the financial assurances. He stated that he would not tie the development agreement with assurances so that on more complex projects if there are items to work out prior to the final plat, it gives the developer more time to get the document completed. His concern with the amendment is that it could change the character of development in McCall which changes the character of the City. He understands the issue of projects that do not get finished, however understanding that having a bonding agency behind it does not necessarily settle the problem. He stated that it is a very complex issue and encouraged the City to leave things the way they are and

let City policy happen as City policy is. He also recommended the possibility of having a bigger community discussion to think of other ways to solve the issue.

Council Member Delaney asked Mr. O'Morrow what he would suggest, from a - comprehensive standpoint, how would it be accomplished. He stated that possibly through a City Proclamation or City policy.

Hearing no further comments, Mayor Kulesza closed the public hearing at 6:52 p.m.

Mr. Kirkpatrick stated that if there was something specific the Council wanted to see different in the ordinances that would come back to Council the next meeting, to let staff know. The intent would be to put the ordinances on the agenda for adoption at the next Council Meeting. Council Member Bailey questioned the process and stated that the Title amendment ordinances had been adopted by the Planning and Zoning Commission, therefore he stated that prior to the Council making any changes to the proposed amendments, the ordinances need to come before Council as they are and then a motion to adopt and a motion to amend needs to happen. He does not feel that, outside of the public hearing process, the Council can make changes to the ordinances that have already been adopted by the Planning and Zoning Commission. He stated that any changes need to happen during a public meeting and discussed so the public can understand the reasons for the changes.

Council Member Witte stated that it would be helpful to know what was required for the different levels of the LEED certification. She also stated that she would be interested in Ms. Groenevelt's response to Mr. O'Morrow's concerns about the financial guarantees.

Ms. Groenevelt responded to Mr. O'Morrow's concern of the LEED platinum requirement stating that was why they had put in the document the wording "or equivalent standards." She stated that it was not the intent to say that every public building need that certification, it was more intended that they strive for energy efficiency. The City Staff did not want it tied to any particular program, but LEED is a bench mark that is nationally recognized and that was the reasoning behind including it in the document.

Ms. Groenevelt responded to Mr. O'Morrow's concern about financial assurances stating that generally, for most projects, it is more typical for localities to require the final plat approval and the development agreement that ties in the cost estimates and the financial assurances; however the intention with the amendment is to allow some flexibility so there will always be exceptions. The amendment gives the administrator the ability to say that if the developer is going to start with infrastructure work before final plat, they can say what it is that is needed to make the determination.

Mr. Nichols asked why the assurances would need to be obtained with the development agreement as development agreements typically happen right after the findings are adopted. Ms. Groenevelt stated that in the document (referenced below) after development agreement there should be a new paragraph. This amendment is in the final plat section of the code so it is talking about financial guarantees at the final plat process. She stated that if the paragraph is broken up then it separates it out and the developer would not necessarily need a development agreement if they are doing it before final plat. They would just need the points 1-4 (referenced below).

Financial Guarantees. With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the provision of a surety acceptable to the city clerk in the amount of one hundred twenty five percent (125%) of infrastructure improvements (including landscaping and erosion control) filed in the form of a cash deposit, certified check, irrevocable bank letter of credit, or performance bond at the time of recordation of the final plat and required development agreement. Infrastructure construction or site disturbance generally should not begin until the final plat is recorded with the respective development and financial guarantees. If the applicant proposes to perform infrastructure work or site work prior to final plat recordation, then the applicant shall submit a plan for administrative review and approval which includes the following:

- 1. The nature and scope of the proposed work;*
- 2. The estimated cost of the proposed work;*
- 3. The schedule for commencement and completion of the proposed work; and,*
- 4. The means of financing the proposed work.*

Mr. Nichols stated that as he reads it, the recordation of final plat and the required development agreement are conjunctive, so it implies that the final plat and the development agreement get recorded at the same time. He stated that he did not know of any development agreements that get recorded that late. He stated that from Mr. O'Morrow's view point, due to development agreements getting recorded early, it looks like requiring the financial assurances very early as apposed to just at the final plat stage.

Ms. Groenevelt responded that the City brings the final plat application and the development agreement to Council at the same time. Then they are both generally approved at the same time and both are recorded at the same time. Mr. Nichols stated that he thought that the development agreements were typically at the front end of the process. Ms. Groenevelt clarified that in the case of a re-zone it is different.

Council Member Bailey stated that he thinks that the developer should not be allowed to start the infrastructure prior to final plat. He asked if it was typical to what other cities do. Mr. Kirkpatrick stated that it has been his experience that other cities do the same. Ms. Groenevelt stated that in smaller communities sometime allow construction after preliminary plat; other more advanced communities with more projects do not allow it.

There was some discussion on wording for the ordinance to define when the assurances would be required. Mr. Nichols suggested that the wording be changed from:

*Infrastructure construction or site disturbance generally should not begin until the final plat is **recorded** with the respective development and financial guarantees.*

To:

*Infrastructure construction or site disturbance generally should not begin until the final plat is **approved** with the respective development and financial guarantees.*

Mayor Kulesza stated that the information from the meeting be assembled, and then amend and incorporate the suggestions at the next meeting.

PUBLIC COMMENT

Mayor Kulesza called for public comment at 7:18 p.m.

Hearing no comments, Mayor Kulesza closed the public comment at 7:19 p.m.

CONSENT AGENDA

Staff recommended approval of the following items:

- Minutes from December 4, and December 18, 2008
- Warrant Register printed on December 31, 2008
- Payroll Report for Period ending December 12, 2008
- AB 09-06 Alcohol Beverage Catering Permits
- AB 09-02 Application to hang a Highway Banner – McCall Home Show
- AB 09-03 Application to hang a Highway Banner – McCall Outdoor Recreation Show
- AB 09-07 Winter Carnival 2009 – Suspend Noise Ordinance and approve fireworks Display

Some discussion took place to clarify the warrant register.

Council Member Delaney moved to approve the Consent Agenda as amended. Council Member Witte seconded the motion. In a roll call vote, all members voted aye and the motion passed.

BUSINESS AGENDA

AB 09-05 Idaho Power Company - Adopt Ordinance 862 to Increase Franchise Fees

Mr. Kirkpatrick stated that Ordinance 862 has been read twice and is now ready for the third reading and adoption. The City has not received any public comment related to the increase in franchise fees. There were two issues that have risen, one is whether the fee has been collected from all the correct Idaho Power users, and the second issue is how the increased franchise fee is distributed across the various classes of users. It was discovered that some people that should have been paying the fee have not been billed for it. It had not been determined who was being billed and who wasn't. The City was in the process of comparing every address that Idaho Power was charging the franchise fee from in the 83638 zip code, to the City's water account address list.

Council Member Delaney was concerned with the amount of City staff time being spent on the comparison when it had not been determined if the list being compared was accurate. Mr. Kirkpatrick stated that the process had just begun. Staff had been working on communicating with the correct person at Idaho Power. Council Member Delaney was concerned with the billing error as well as the possible revenue shortage created by the error. There was some discussion as to whether Idaho Power would owe the City for uncollected fees.

Council Member Witte had a concern with how the fee would impact not only the residential accounts but the commercial accounts would be impacted significantly. She felt that it should be posted in the paper in a location other than just the ordinance section. Mayor Kulesza stated that it had been in the paper and identified that the fee would increase from 1% to 3%. Council Member Witte also wanted to know what the urgency for implementing the increase was. Mayor Kulesza stated that the fees are used to bury power lines within the City limits which ultimately, improves the aesthetics of the City, decreases the amount of power outages, and increases safety.

Council Member Witte was concerned with the lack of public comment. Mayor Kulesza commented that with having three public meetings, posting it in the paper and the Community Development news letter and still not receiving any public comment, he felt that the City should move forward with the increase. Mr. Kirkpatrick stated that the effective date would be May 1, 2009.

Council Member Delaney moved to read Ordinance 862 by title only, third reading. Council Member Bailey seconded the motion. In a roll call vote, all members voted aye and the motion passed.

Ordinance 862 was read by title only, third reading by Mrs. Wagner.

Council Member Delaney moved to Adopt Ordinance 862 to Increase Idaho Power Franchise Fees from 1%-3%, insert date May 1, 2009 on the last page. Council Member Bailey seconded the motion. In a roll call vote, all members voted aye and the motion passed.

AB 09-08 Adopt Ordinance 863 Rezoning Crystal Beach Condominium property from the Community Commercial Zone to the R-8 Medium Density Residential Zone

Mr. Nichols stated the complete legal description was not included in the packet. Members of the Council stated that it had been in a previous packet and had been reviewed by Council.

Council Member Bailey moved to suspend the rules, read by title only, one time only Ordinance No. 863. Council Member Delaney seconded the motion. In a roll call vote, all members voted aye and the motion passed.

Ordinance 863 was read by title only, third reading by Mrs. Wagner.

Council Member Bailey moved to adopt Ordinance No. 863, Rezoning Crystal Beach Condominium property from the Community Commercial Zone to the R-8 Medium Density Residential Zone, inserting the complete legal description and authorize the Mayor to sign all necessary documents. Council Member Delaney seconded the motion. In a roll call vote, all members voted aye and the motion passed.

AB 09-04 Appointment to the McCall Historic Preservation Commission

Council Member Delaney moved to appoint Brian Corcoran to the McCall Historic Preservation Commission to a 3 year term to expire in Dec. 2011. Council Member Witte seconded the motion. In a voice vote, all members voted aye and the motion passed.

AB 09-10 Letter of Interest for Drinking Water Planning Grant through the Idaho Department of Environmental Quality

AB 09-11 Letter of Interest for Wastewater Planning Grant through the Idaho Department of Environmental Quality

AB 09-12 Letter of Interest for Wastewater Revolving Loan fund through the Idaho Department of Environmental Quality for improvements to Lift Station 7 & 8

AB 09-13 Letter of Interest for Drinking Water Revolving Loan fund through the Idaho Department of Environmental Quality for improvements to Knowles Road pump station

Carol Coyle, Grant Coordinator, gave a brief explanation of Agenda Items AB 09-10, AB 09-11, AB 09-12, and AB 09-13. She stated that they are not for grant or loan applications, they are letters of intent. Every year the Idaho Department of Environmental Quality (DEQ) offers to communities the opportunity to tell DEQ what their issues are and what are some of the issues they would like to seek funding for. Sending in a letter of intent informs DEQ staff of the issues that are out there. It does not commit the community to actually apply. It allows DEQ to rank each concern or issue and create a state wide priority list from the various funding programs based on the need that they see in the community, and in some cases how important the issue may be. Mrs. Coyle has worked with the City's Engineers, CH2MHill, to identify several areas that the City could benefit from by applying for grants, planning exercises, or loans for actual construction.

The first letter of intent is for a grant to look at the water treatment facility, and what kinds of projects that needs to be done, such as the filter expansion. Overall they need to look at what the environmental impact would be through an environmental information document created as part of the planning process.

The second letter of interest is for a grant, similar to the first, to look at the wastewater facility's plan. DEQ would like the City to look at the environmental information documentation for the various infrastructure projects that are recommended for in the future.

The third letter of interest is for a revolving loan fund for improvements to lift stations 7 and 8. The City submitted a letter of intent last year and was ranked too low on the priority list to apply for funding.

The fourth letter of interest is to the drinking water State Revolving Loan Fund for improvements to the Knowles Road pump station. The improvements are anticipating future growth and capacity issues.

Council Member Delaney moved to authorize the submission of Letters of Interest and authorize the Mayor to sign all necessary documents for agenda items AB 09-10, AB 09-11, AB 09-12, and AB 09-13. Council Member Witte seconded the motion. In a roll call vote, all members voted aye and the motion passed.

COMMITTEE MINUTES

The Council received copies of the following minutes:

- McCall Public Library Board of Trustees – November 19, 2008
- McCall Improvement Committee – November 13, 2008

EXECUTIVE SESSION

At 8:07 p.m. Council Member Delaney moved to go into Executive Session for litigation pursuant to Idaho Code §67-2345(1)(f). Council Member Bailey seconded the motion and in a roll call vote, all members voted aye and the motion passed.

ADJOURNMENT

At 8:55 p.m. Council returned to open session and Mayor Kulesza adjourned the meeting.


Bert Kulesza, Mayor

ATTEST:


BessieJo Wagner, City Clerk