

# MINUTES

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## McCall City Council Special Meeting November 30, 2006

### AGENDA

Call to Order and Roll Call  
Public Comment  
Consent Agenda  
Business Agenda  
Other Business  
Adjournment

### CALL TO ORDER AND ROLL CALL

Mayor Robertson called the special meeting of the McCall City Council to order at 6:00 p.m. Council Member Bailey, Council Member Bertram, Council Member Kraemer, Mayor Robertson, and Council Member Scott answered roll call. A quorum was present.

Chris Gabbert, City Attorney, was present.

City staff members present were Jerry Summers, Chief of Police; Anne Kantola, Library Director; Brock Heasley, Parks and Recreation Director, Rick Harvey, Airport Director; Dave Simmonds, Information Systems Manager; Steven Hasson, Planning Manager; and Joanne York, City Clerk.

Mayor Robertson led the audience in the Pledge of Allegiance.

### PUBLIC COMMENT

Mayor Robertson called for public comment at 6:02 p.m.

Don Parker, President of the Chamber of Commerce, announced that the Christmas Tree would be lit at 6:00 p.m. Friday, December 1<sup>st</sup>. He asked if Mayor Robertson would light the Tree and the Mayor said he would.

Hearing no further comments, Mayor Robertson closed the public comments at 6:04 p.m.

## CONSENT AGENDA

Staff recommended approval of the following items:

- ❖ Minutes – November 3 and November 9, 2006
- ❖ Payment Approval List for Warrant Register printed on November 22, 2006
- ❖ Payroll Reports for Pay Period Ending November 17, 2006
- ❖ AB 06-228 2007 Alcohol Beverage License (Renewals)
- ❖ AB 06-229 Alcohol Beverage Catering Permits
- ❖ AB 06-222 Library Board of Trustees Appointment – Jill Meyer
- ❖ AB 06-223 Parks & Recreation Advisory Committee Member Appointment – Ray Dupree
- ❖ AB 06-225 Agreement with White Peterson for City Attorney services
- ❖ AB 06-226 Assignment & Assumption of Hangar Lease #106G from May Rental, LLC, to Lori MacNichol
- ❖ AB 06-232 Agreement with Torf Environmental Management, Inc. for Firing Range Remodeling & Lead Hazard Consulting

Mayor Robertson expressed concern that the Golf Course would be competing against local businesses if they provided beer and wine at special events. Mayor Robertson also asked that the City Manager continue to provide Council with a regular report on the status of on-going projects.

There was some discussion about the Warrant Register. Council Member Bertram questioned the payment to Neighborhood Housing Services (NHS) for stump removal. Council Member Bailey said it was a lot of money for tree stump removal. Council Member Bertram asked if NHS had done the work themselves. Council Member Scott said she thought they had contracted it out. Council asked that the check to NHS be pulled until more information could be provided. There was also a discussion with Dave Simmonds, Information Systems Manager, concerning the agreement with Torf Environmental Management for the firing range remodeling and lead hazard consulting.

**Council Member Bertram moved to approve the Consent Agenda as modified and authorize the Mayor to sign all necessary documents. Council Member Scott seconded the motion. In a roll call vote, all members voted aye and the motion carried**

## BUSINESS AGENDA

**AB 06-224 Fields & Hopkins Realtors, LLC, Bike Pathway SR-06-17**

Steven Hasson, Community Planner, introduced the Scenic Route application and explained that the McCall Planning and Zoning Commission required Hopkins and Fields to pave a bike pathway along the front of their business enterprise located at 401 South 3<sup>rd</sup> Street as part of the scenic route and design review application process. He said that the land use actions were prompted by the applicants changing of the exterior siding and the installation of a commercial sign on the premises. He distributed maps to Council to clarify the locations of the property and the bicycle route. He explained that the design review was required because the property was zoned commercial. He said the scenic route and the design review were approved separately and with separate conditions. He said one of the conditions was to require the applicant to pave (with asphalt) the bicycle route in front of the property. Mr. Hasson explained that Greg Pittenger, attorney for Fields & Hopkins, had filed a timely appeal. Mr. Hasson detailed the City's response to the appeal, including the basis for nexus and the basis of rough proportionality.

There was a lengthy discussion about the need to address the long-term storm water drainage plan for that end of town.

Mr. Hasson said the condition was to pave the bike path when the applicant paved the parking lot, and at that time, the applicant would need to deal with storm water drainage issues.

Council Member Bailey said that if the urban renewal district was created, work would first begin on projects near the northern border of the district and then progress towards the southern end. He said that Planning and Zoning (P&Z) had conditioned all the property owners on that side of the street to put in the bike pathways, and that this was not the only property required to do so. Mayor Robertson said the question was whether or not the applicant should have to pay to have the pathway paved.

Greg Pittenger introduced himself and said he was the attorney for the applicants, Julie Fields and John Hopkins. He said the appeal was from the scenic route application in process to remove that condition from the approval from P&Z requiring paving of the bike pathway. He said the applicants acquired the property from Alpine Science and that the property frontage was about 81 feet. He said the applicant had only wanted to replace the metal siding with wood siding and change the sign. He said at the pre-application meeting City staff indicated they would like the applicant to provide an easement for the bike path, but nothing was said about paving it. As part of the actual application the applicants said they would provide the easement. The P&Z commission asked that they also pave it and the applicants declined. Mr. Pittenger said the applicants were ready to give the City the easement but believed that P&Z went too far in requiring the paving. He distributed copies of the City's Ordinance to Council. He said that the impact did not warrant paving the pathway.

Council Member Bailey asked if the parking lot was currently paved, and Mr. Pittenger said no.

Council Member Bertram asked if there would be a separation between the parking lot and the bike path. Mr. Pittenger said the location of the bike path would depend on what the Idaho Transportation Department (ITD) decided to do when they make improvements at that corner.

Mayor Robertson explained that the applicant was forced to move forward with the appeal due to time requirements but because ITD had not made plans for their improvements, it was not possible to come up with a definite design. He said the applicant had no control over the design and did not want to walk into a situation blindly and agree to what they did not know. Mr. Gabbert said there was a definite time zone for filing the appeal and the determination of the exact location of the path could be negotiated at a later date, perhaps when ITD was done with their plan.

Council agreed that there were too many unknown factors to make a decision at this time.

Mr. Gabbert said it might be appropriate to remand the issue back to P&Z for further findings and determine if the paving requirement was roughly proportional. Mr. Pittenger said that at this point P&Z would not have any further information than what they already had when making the determination.

Council Member Bailey asked if there was a drawing showing where the easement might be placed. Mr. Pittenger said he assumed it would line up with the bike path to the north. Council Member Bailey said it seemed the design would be fairly straightforward, to match the path way to the north. Mr. Pittenger said the issue was with the ITD plan and whether ITD would dramatically change the turn on to Jacob Street.

Council Member Bertram said the basic issue was whether adding siding necessitated paving a bike path. She said there was value in the easement that Fields & Hopkins was giving to the City, and asked if that might be proportional in and of itself.

Council Member Bailey asked if it would be reasonable to prepare the surface so that it could be used as a pathway without paving it. Mr. Pittenger said he would have to consult with his clients.

Council Member Bertram asked who would permit the bike path. Mr. Pittenger said it was between the City and the property owner and that ITD would have nothing to do with it.

Council Member Bailey said it would be reasonable that when the easement was defined and the applicants prepared the parking lot for paving, that they lay the

subsurface for the bike path. Mr. Pittenger said he did not believe it would be unreasonable if that would be the extent of the requirement.

Mr. Pittenger said they were willing to give the City the easement whenever ITD decided where it would be.

Council Member Scott said she believed that would be reasonable.

Council Member Bertram said she was willing to accept the easement with the location to be determined in the future. Council Member Bailey said it was important to not lose sight of the need of a bike path there and that they should require that the surface be prepared to some extent.

Mr. Hasson said that when the P&Z entertained this application they referred to McCall guidelines for the scenic route and for the design review. He explained that Guideline 45 stated that as part of the design review process to implement provisions of the McCall bike Path and specified the material, asphalt, 6, 8, or 10 feet wide, and physically separate. He also noted that there was discussion with P&Z about deferring this work until after ITD was done, but P&Z decided that the bike path was already planned and would be a good substitute for requiring a sidewalk. Mr. Hasson said there was nothing in the guidelines to preclude requiring a sidewalk.

Council Member Bertram asked that property owners be required to also maintain the landscaping on the easements.

**Council Member Bertram moved that the McCall City Council affirm that the bicycle easement advanced a legitimate public purpose and demonstrated an essential nexus to that purpose, and that the paving condition be waived. Council Member Scott seconded the motion.**

**Council Member Bailey asked that the motion be amended to read, "...the bicycle easement, the exact location to be determined at a future date..."**

**Council Member Bertram's amended motion was that the McCall City Council affirm that the bicycle easement, the exact location to be determined at a future date, advanced a legitimate public purpose and demonstrated an essential nexus to that purpose, and that the paving condition be waived. In a roll call vote, Council Member Bertram, Council Member Scott, Council Member Kraemer, Council Member Bailey, and Mayor Robertson all voted aye and the motion carried.**

### **AB 06-230 Concessionaire Use at Legacy Beach**

Brock Heasley, Director of Parks and Recreation, introduced Kevin Briem, Chairman of the Parks and Recreation Advisory Committee. Mr. Briem gave the background information on concessionaire use at Legacy Beach, and explained why the Parks and

Recreation Advisory Committee recommended the continuation of concessionaire use at Legacy Beach for the summer of 2007.

Jim "Shorty" Clark stated that the Parks and Recreation Committee recommended they entertain all concessionaire proposals from parties interested in using the beach. He said they were not asking a blanket approval for anyone wanting a concessionaire permit, and would consider the following question when making decisions: 1) Is this a good or service needed for the community? 2) Is this the proper venue for that service? 3) What amount of money will be generated from this?

Ray Dupree, member of the Parks and Recreation Committee, commented that when Council considered concessionaire agreements, to keep in mind that business people need more than a year to make plans.

**Mayor Robertson moved to approve the concessionaires use at Legacy Beach for the summer of 2007, noting that this action did not approve specific agreements with specific operators, but approved the concept of continued concession agreements in Legacy Park and authorized staff to solicit, select and negotiate agreements with concessionaires for future Council action. Council Member Bertram seconded the motion. In a roll call vote, Mayor Robertson, Council Member Bertram, Council Member Bailey, Council Member Kraemer, and Council Member Scott all voted aye, and the motion carried.**

## **COMMITTEE MINUTES**

Committee Minutes included in the Council packets for review:

- ❖ Golf Advisory – November 8, 2006
- ❖ Library Advisory – October 19, 2006
- ❖ Planning & Zoning Commission – September 12, 26, and October 3, 2006
- ❖ Transportation Advisory – June 21, 2006
- ❖ Tree Committee – October 25, 2006
- ❖ Urban Renewal Agency – August 15, 18, and September 19, 2006

## **OTHER BUSINESS**

Council Member Bertram thanked Mr. Heasley for allowing the Parks and Recreation staff to help put up downtown decorations.

Mr. Heasley informed Council that the Parks and Recreation Department was now plowing snow at Brown Park and that the Chamber of Commerce was considering having the fireworks display there during the Winter Carnival. He also briefly reported

on the current recreational activities, noting that Youth Basketball would be starting the next week.

Chief Summers reported that the Police Department had hired its eleventh officer. He said they had an application for a lateral transfer from Alaska and had made a conditional offer today. He said they also have a conditional offer out for the code enforcement officer and they were waiting for the results of the polygraph test.

Council Member Scott mentioned there had been complaints about the overnight parking at the airport. Chief Summers said the complaints had been received today and would be looked into.

Council Member Bailey noted items in the September 12<sup>th</sup> P&Z Minutes, mention was made that the Aspen Ridge Subdivision berms would be four to six feet. He said that City Code 9.6.02S only permitted berms up to three feet maximum and requested that Aspen Ridge be notified.

Mayor Robertson reported that the paving on Spring Mountain Boulevard had not started and was scheduled to be done in the spring, but that it did not include the bike path. Council Member Bailey said that Aspen Ridge and Scott Findlay were required to do a bike path.

Council Member Bailey also noted in the P&Z Minutes that the AmericInn Hotel was planning to berm up to four feet high, referring again to the three foot maximum. He asked that the Building Department be advised.

Council Member Bailey noted in the September 26 P&Z Minutes, on page 3, the reference to 1170 Aspen Ridge Road, concerning the pre-application for variance to reduce side yard setback, that this applicant had already built the foundation and the house was being built before the meeting even took place.

Council Member Bertram asked that the spelling of Mr. Pippenger's name be corrected in the Minutes. Mr. Pippenger owns the land on which the Health and Welfare building is located.

Council Member Bertram requested to have a meeting between Urban Renewal and the Council. Council Member Bailey said he had requested that staff meet with the taxing districts to explain and quantify the purpose of a new Urban Renewal District and asked for a report on that from Mr. Millar, Deputy City Manager. He requested that the Council have a work session with representatives from each of those districts. Mayor Robertson said he wanted to have those meetings over the next few months. Council Member Bertram said there was a need for a work session to provide Council an opportunity to learn more about the taxing districts.

Mayor Robertson said that Council had authorized Mr. Trout and partners to find a mediator relating to the Sewer District and that one had been found. He said that although the Sewer District wanted to meet without a mediator, the City had been told by the judge to have a mediator. He said that Mr. Trout or Mr. Krueck must make that clear to the Sewer District's attorney. Mayor Robertson also emphasized the need to set the meeting in December because the recall election would be the focus in January.

Council Member Scott said the meeting with the Board of Realtors was amicable and there was a desire expressed to look at other solutions without the inclusionary zoning. She said the next meeting was set for Thursday morning, December 7. Council Member Bertram asked how productive the meetings would be in face of the law suit and wanted to know from the judge what the City could legally do. Council Member Scott said the meeting focused more on getting a dialogue started, and that the City attorneys were present. She said the next meeting would be without attorneys. Mr. Gabbert said he had also been at the meeting and it was agreed at the beginning of the meeting to not get into legal issues, and that the realtors said they had other ideas that should be considered.

## **ADJOURNMENT**

**Mayor Robertson moved to adjourn. Council Member Scott seconded the motion. All members voted aye, and the motion carried. The meeting was adjourned at 8:54 p.m.**

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William A. Robertson, Mayor

### **ATTEST:**

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Joanne E. York, City Clerk