

MINUTES

McCall City Council Regular Meeting September 8, 2005

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ADJOURNMENT

CALL TO ORDER AND ROLL CALL

Mayor Eimers called the regular meeting of the McCall City Council to order at 6:01 p.m. Mayor Eimers, Council Member Bertram, Council Member Robertson, and Council Member Greer answered roll call. Council Member Muller was excused. A quorum was present.

City staff members present were Lindley Kirkpatrick, City Manager; Roger Millar Community Development Director/Deputy City Manager; Bill Keating, Public Works Director; Rick Harvey, Airport Manager; Jerry Summers, Acting Police Chief, William Nichols, City Attorney; Betsy Roberts, City Engineer; and Dan Irwin, City Clerk.

Mayor Eimers led the pledge of allegiance.

PUBLIC COMMENT

Mayor Eimers called for public comment.

As no one came forward to speak, Mayor Eimers closed the public comment at 6:03 p.m.

CONSENT AGENDA

Council Member Robertson provided corrections to the minutes.

Council Member Greer asked if the City had an appraiser working on the condemnation of the East/West Loop right-of-ways.

Mr. Kirkpatrick explained that work was already completed. He said that an appraiser is currently working on the Boydston Street properties.

Council Member Robertson asked about the administrative fees from US Bank shown on page 12 of the warrant register.

Mr. Kirkpatrick explained the fees were related to bond payments. He stated that US Bank charges administrative fees every time the City makes a regular bond payment. Mr. Kirkpatrick stated that the check has been placed on hold as it looks like it is a charge for a bond that has already been paid off by refinancing.

Council Member Robertson asked about the \$2300 expense to Payette Builders for a desk.

Bill Keating explained the desk was for the Utility Billing position that is being moved to the Public Works building. He said that it is a built in desk that was performed by a local contractor.

Council Member Bertram asked if the City was reimbursed by developers for publishing legal notices.

Mr. Kirkpatrick said that the expense is supposed to be covered by the application fee. He explained that the fee schedule would be updated soon to ensure that all costs are accounted for.

Council Member Bertram asked about the expense for a picture.

Mr. Kirkpatrick explained that it was the going away gift for Amanda Kirkpatrick.

Mayor Eimers asked why the compensation time worksheet looked different.

Council Member Robertson explained that it was due to the result of Connelly's retirement. He said that the accumulated time was paid out to the employee.

Council Member Robertson provided a correction to the settlement agreement with the Lutheran Church.

Mr. Kirkpatrick clarified that the total payment for the settlement agreement was \$44,400.

Council Member Robertson asked if a written bid was received from Lake Fork Fence.

Rick Harvey said that a written bid had been received. He explained that the contractor had to revise the initial bid amount by \$1500 after they reviewed the FAA specifications. He stated that Lake Fork Fence is still the lowest bidder for the project.

Council Member Robertson asked if the fence would take care of the concerns that were raised by Mrs. Strode.

Mr. Harvey stated that it would.

Council Member Robertson said that he would like to review the utility billing statements prior to their destruction.

Council Member Robertson moved to approve the Consent Agenda as amended and authorize the Mayor to sign all necessary documents. Council Member Greer seconded the motion. In a roll call vote, Council Member Bertram, Council Member Greer, Council Member Robertson and Mayor Eimers voted aye. The motion carried.

BUSINESS AGENDA

AB 05-170 Addendum to City Prosecutor Agreement

Mr. Kirkpatrick explained that at the end of June, Larry Dunn had requested an amendment to his contract as the City Prosecutor. He explained that the amendment would increase the annual compensation to \$45,000 per year. He said that the City budgeted for the increased amount in the Fiscal Year 2006 budget.

Council Member Robertson moved to approve the Addendum to the City Prosecutor Agreement and authorize the Mayor to sign all necessary documents. Council Member Bertram seconded the motion. In a roll call vote, Council Member Greer, Council Member Robertson, Mayor Eimers, and Council Member Bertram voted aye. The motion carried.

AB 05-171 Amendment to Performance Agreement with Chad Olsen

Mr. Kirkpatrick stated that the Council approved a performance agreement in March with Chad Olsen the developer of Timbercrest Subdivision, Timbercrest Downtown, and Pine Meadows. He explained that the agreement was for the developer to perform sewer line repairs on Lake Street in exchange for the ability to connect a number of equivalent dwelling units. Mr. Kirkpatrick stated that the addendum would allow Mr. Olsen to use the number of hookups on other projects besides the Timbercrest Downtown project. He explained that the reason for the request stems from the building permit ranking system. He said that Mr. Olsen's Timbercrest Downtown project would score high in the ranking system where his other projects may not. Mr. Kirkpatrick stated that the request is being made so Mr. Olsen would be able to secure building permits for his other projects.

Council Member Robertson said that the wording in the addendum would eliminate several important provisions in section 6 of the existing contract such as not allowing commercial food service industry in the development until the sewer system is upgraded. He asked if staff really thought the downtown project would be completed. He stated that the City wants to promote commercial development but should realize that the project may not be completed.

Bill Nichols, City Attorney, asked if Council Member Robertson would be comfortable replacing the first sentence in the existing performance agreement with the verbiage in the addendum and keeping the remaining provisions. Council Member Robertson agreed that this change would accomplish this.

Mayor Eimers asked when staff thought that the work on the downtown project would begin.

Mr. Kirkpatrick stated that he didn't know but that Mr. Olsen had submitted a bond for the project.

Dan Irwin, City Clerk, clarified that Mr. Olsen had actually submitted an irrevocable letter of credit for the project.

Council Member Bertram said that she would be more comfortable waiting until the project is closer to completion. She asked how many projects Mr. Olsen had completed.

Mr. Kirkpatrick stated that the Pine Meadows project was complete but he wasn't sure about Timbercrest Subdivision.

Betsy Roberts, CH2MHILL, said that they were approached by Brett Walker who said that they feel stuck under the current agreement. She said that CH2MHILL haven't seen the construction drawings for the sewer repair, and recommends that the Council wait on approving the amendment until they are submitted to the City for review.

Council Member Robertson moved to table the amendment to the performance agreement with Chad Olsen until the City Engineer and Public Works Department have reviewed the sewer repair plans and they are able to provide input to the Council. Council Member Bertram seconded the motion.

Mayor Eimers said that he is concerned that work hasn't begun on the sewer repair project. He asked if the only recourse the City had was to call upon the bond. He said that the State is planning on redoing Highway 55 next year and the City had already pushed the project back and rebudgeted the money that was originally earmarked for the improvements.

Council Member Robertson said that the Council should table taking action on the proposed amendment until the City Engineer is able to review the construction plans.

Mayor Eimers said that he doesn't like to rely upon bonds as guarantees. He said that the process takes a long time due to the involvement with the court system.

Mr. Nichols said that there is a difference in collecting upon an irrevocable letter of credit and a bond. He said that the irrevocable letter of credit is preferable for the City's interests as it is easier to collect on and doesn't have to go through the legal process. Mr. Nichols asked if the Council would like to have a revised agreement at the next meeting.

Council Member Robertson said that they would as long as the construction plans are submitted to staff.

In a voice vote, the motion carried 4-0-0.

AB 05-172 Wastewater Planning and Engineering Update

Betsy Roberts provided a handout detailing the current task orders being conducted by CH2MHILL. She explained that the firm has been busy doing development reviews and that they held a chartering session with the City Departments and committees a month ago. Ms. Roberts said that the I&I project that was discussed at the last Council meeting is proceeding. She said that the firm hopes to publish an advertisement for bid in the coming week, with the bid opening scheduled for September 22nd.

Council Member Robertson asked if the firm was able to get an update on the new technology that is being used to make I&I repairs.

Ms. Roberts stated that members of the team held a meeting and were able to get updated on the new technological advances.

Council Member Bertram asked if the City would be able to add additional EDU's in the calculation of the building permit allocations when the fall project is completed.

Ms. Roberts said that the completion of the project would potentially allow the City to issue more building permits. She clarified that the fall I&I project would not add a significant number of additional EDU's but the Olsen project would. She stated that the firm would have to wait until the Spring of 2006 to arrive at an estimate for the additional number of EDU's that would be made available.

Council Member Bertram stated that Resolution 05-15 allows the Council to refine the number of EDU's used in determining the annual building permit allocation.

Ms. Roberts said that the intent of the resolution's language is to make a refinement after more data is collected about the entire sewer system.

Mr. Kirkpatrick stated that staff would make a presentation to the Council as soon as the firm is able to quantify the improvements to the sewer system.

Ms. Roberts said that CH2MHILL would give a report to the Council when the I&I project is complete. She stated that the City would probably gain more EDU's for allocation when the firm refines the numbers that were used in the capacity assumptions than would be added from the I&I repairs.

Rick Bishop, CH2MHILL, explained that he has been working on multiple task orders related to the wastewater treatment system. He explained that the work is progressing and the goal is to finish the review of the capacity assumptions by the end of September. Mr. Bishop said that they hope to be able to update the number of EDU's for allocation after the review of the capacity assumptions is complete.

Council Member Robertson said that he likes the work being performed that is described in the task order report. He said that it would give the City data points to begin solving the issue.

Mr. Bishop reported that the City was successful in draining the J-Ditch pond during the irrigation season.

Ms. Roberts said that the next task order being worked on by the firm is the development of a Parks Master Plan. She said that representatives would be in McCall to meet with the Parks and Recreation Advisory Committee during the next week. She said that the goal is to complete the plan development by the end of September. Ms. Roberts said that the team would be meeting with the public and Urban Renewal Agency all next week for the Urban Renewal Plan update. Ms. Roberts said that work is proceeding on the potential convention center. She said that the team met with representative from the Hotel McCall and are in the process of updating a technical memorandum to the feasibility study that was done in 2002. Ms. Roberts said that task order number ten is the Lick Creek flow-monitoring project. She said that the firm didn't receive any bids for the project, but a contractor had contacted them and expressed interest after the bid closing. She said that the State's new procurement rules may allow them to proceed without re-bidding the project.

Ms. Roberts explained that the firm had completed a field visit to Rio Vista to begin the work for the Rio Vista LID. She said that they had just begun to review Holladay Engineering's data on the project.

Council Member Bertram asked about the structure on the corner of Rio Vista and Boydston Street.

Mr. Keating explained that it was one of the Sewer District's flow meter vaults.

Ms. Roberts said that the next task order is the development of a facility plan. She said that John Larson interviewed staff and had established some draft findings that were forwarded to staff for review. Ms. Roberts said that the CH2MHILL GIS team had met with staff and were moving forward with the GIS development.

Council Member Robertson asked when the new City Planner would begin.

Mr. Kirkpatrick stated that Michelle Groenevelt would begin as the new City Planner on September 12th.

Ms Roberts explained the firm has also been tasked with analyzing Lift Station #7. She said that the firm would begin the fieldwork on the lift station in the coming week and would be exploring all options when they begin analyzing the issue. Ms. Roberts said that the next task order is the zoning code rewrite. She said that their review of the proposed code is complete and the process is moving forward.

Council Member Robertson asked if Mr. Nichols has been involved in the process of rewriting the zoning code.

Mr. Kirkpatrick stated that the initial review was performed by the former City Attorney. He said that Mr. Nichols would review the proposed code at the next step in the process.

Payment Approval List for Warrant Registers dated August 13, 2005

Council Member Robertson stated that he would recuse himself from the vote.

Mayor Eimers moved to approve the payment approval list for warrant registers dated August 13, 2005. Council Member Greer seconded the motion. In a roll call vote, Council Member Bertram voted nay, Council Member Greer and Mayor Eimers voted aye. The motion carried 2-1-1.

AB 05-176 Seasonal Allocation of Building Permits

Council Member Bertram stated that she thought that the building permit allocation process should be revised so the building permits that are currently scheduled for allocation in the winter months be allocated in the fall instead. She said that the revision would make sense, as it is difficult to build in the winter months.

Mr. Kirkpatrick explained that the current building permit allocation was developed based upon the City's historic data of issuing building permits. He explained that the current process would issue 4 permits in December, 1 permit in January, and no permits in February. He said that the current allocation process already assumes that the number of issued permits would taper off during the winter.

Council Member Bertram said that she feels that the number of permits designated for issuance in October and November are too high.

Council Member Robertson stated that Council Member Bertram is suggesting that the City release all 49 remaining permits in the next month since there is still a part of the building season left. He said that he read Mr. Millar's report and believes that some of the applicants have learned how to manipulate the system to their advantage. He said that the City needs to be sure to take care of everyone and not just those that have learned how to manipulate the system to their advantage.

Council Member Bertram said that she heard concerns from some people who lost their financing or contractor because of being held up in the building permit allocation process.

Council Member Robertson said that the moratorium would be discussed at the next Council meeting. He stated that he felt the competition for building permits would increase when some or part of the restrictions are lifted.

Mayor Eimers stated that the Council would hear complaints regardless of the allocation. He said that someone who doesn't get a permit in November would have the same problem as those who didn't receive their permit in August.

Council Member Bertram said that she would like to see the number of permits issued in October and November to be reallocated.

Council Member Robertson stated that he would like to see more data before making a change in the allocation process.

Council Member Bertram asked if the City could add a preference on the evaluation ranking form for local workers. She stated that she would like to guarantee a building permit to a local worker in order to help solve the City's housing problem.

Mr. Kirkpatrick stated that a local worker currently has the option to deed restrict their home as community housing in order to increase their points on the evaluation form.

Council Member Bertram stated that she would like to see a nurse or teacher be able to get a building permit without deed restricting their property. She said that the current program is cost prohibitive as a local worker can't afford the expense of paying the in lieu fees. Council Member Bertram stated that the City needs to encourage local workers to build in the community.

Mr. Nichols said that he has a concern about equal protection if such an initiative was proposed. He explained that establishing a residency preference could possibly lead to legal repercussions. He stated that he needs to research the possibility further because of the equal protection clause.

Council Member Bertram stated that the comprehensive plan is geared towards the community worker, which establishes a legal precedence. She said that it is unfair for the City not to issue a building permit to a person who can't afford the additional \$9,000 to pay into the program. Council Member Bertram said that the community has taken a stand and the City needs to protect the community worker.

Council Member Robertson requested that Mr. Nichols further research the issue and advise the Council about his findings.

Mr. Kirkpatrick said that another issue to think about is how a local worker is defined. He explained that there are a lot of occasions where the property owner is also builder and constructs the house as a spec home.

Council Member Bertram stated that she would like to see preference given to professional workers such as nurses and teachers and not speculation builders.

Mr. Kirkpatrick explained that local residents are also building spec homes in the community.

Council Member Robertson stated that the City could establish a time period that would require the builder to pay into the community housing program if the dwelling sold within a certain time period.

Mayor Eimers said that he agrees with Council Member Bertram. He said that the City is trying to develop a community-housing program but should encourage local workers who can build a home in the existing market.

Council Member Robertson said that he also agrees. He said that some individuals may be able to build a home cheaper than buying an existing home in the market.

Mr. Kirkpatrick stated that it is important that the City is careful to not create a problem when fixing another.

Mayor Eimers said that he agreed. He said that the Council should let staff have time to research the implications of establishing a local worker preference.

Mr. Kirkpatrick reported that two of the building permits that were allocated for August haven't been picked up. He explained that if the permits aren't picked up by September 9, 2005, they would be issued to the next highest ranking applications.

Mr. Millar clarified that six or seven permits actually need to be picked up by the 9th. He explained that a letter was mailed to all the successful applicants and Carrie Rushby followed up with them in a phone call. Mr. Millar said that he has found that some of the applicants would not be able to complete their buildings within the required time period and probably would not purchase the permit.

Council Member Robertson asked Mr. Millar how he felt the allocation process was going.

Mr. Millar said that the only problem that he has encountered so far has been with the sustainability points. He said that the current ranking process awards 5 points for energy star rated buildings and 10 points for LEED certified buildings. Mr. Millar said that he thinks the process should be changed to award 10 points for both. He explained that energy star certification is geared towards residential while LEED certification is more commercially oriented.

Council Member Bertram asked if the community had an inspector that could certify the rankings.

Mr. Millar said that two people in the City are certified to perform the inspections. He explained the benefits of the program and added that the comprehensive plan promotes sustainability.

Council Member Bertram asked why the year 2000 was chosen for the prior plat bonus points.

Mr. Millar explained that he chose 2000 as the date as it covered most of the infill developments in the City. He explained that in 2000 was when the number of development applications really increased. Mr. Millar clarified that under the current process nobody is being denied a building permit. He explained that some people are simply being delayed in when they get one.

Mayor Eimers said that the Council would be seeing more and more people voicing their concerns over the allocation method. He said that the Council needs to learn how to cope through the transition process.

Council Member Robertson moved to amend the Building Permit Evaluation and Ranking Form to allow 10 points for a residential project with Energy Star certification. Mayor Eimers seconded the motion. In a voice vote, the motion carried 4-0-0.

REPORTS

Mr. Kirkpatrick reported that the Urban Renewal Design would be conducted during the next week. He stated that they would be hosting an open house on Wednesday and Saturday. Mr. Kirkpatrick announced that the public art at the Four Corners would be unveiled on Saturday September 17, 2005. Mr. Kirkpatrick said that the public comment period on the roadless areas had been extended until December 31st. He said that the Council would be presented with the draft comments before they are submitted. Mr. Kirkpatrick said that many position changes occurred in the Public Works Department as a result of a retirement and a resignation. He announced that the Department hired Robert Price to fill the open position. Mr. Kirkpatrick stated that Jim Poole resigned as the maintenance person and the position was filled by Joni Noble. He explained that she would be performing maintenance work at City Hall and with the Parks Department. Mr. Kirkpatrick stated that Michelle Groenevelt would begin her position as the City Planner on September 12th. He said that the golf course is now down to 4 full-time and 1 part-time seasonal employees and the Parks Department is down to 3 full-time seasonal employees. Mr. Kirkpatrick stated that the City received an offer of a public art donation by a new business in the City. He explained that the offer was for a totem pole and said that it would be moving forward for Council approval. Mr. Kirkpatrick stated that the City received 15 applications for the Finance Director's position and he would be beginning the interview process soon. He said that Council Member Robertson would be involved in the process. Mr. Kirkpatrick said that 40 applications have been received for the Police Chief position. He said that he would be meeting with Garden City Police Chief Bensley and Sheriff Bolen to begin making a short list of the applicants. Mr. Kirkpatrick stated that that the interview process would include citizen

participation and background checks would be performed on the finalists. He stated that it might be possible to seek Council confirmation at the October 28th meeting. Mr. Kirkpatrick asked if any of the Council Members would be interested in participating in the selection process.

Council Member Bertram said that she would like to participate in the process.

Mayor Eimers asked when the ICRMP report would be delivered to the City.

Mr. Kirkpatrick stated that the executive session was scheduled in anticipation of receiving the report. He said that ICRMP has now committed to delivering the report for the September 22, 2005 Council meeting.

Mayor Eimers asked if a legal opinion had been issued on if the report could be released.

Mr. Kirkpatrick said that Mr. Bensley has recommended that the City not release the report. He stated that the ultimate recommendation would be made in writing to the Council Members.

Council Member Bertram stated that she has enjoyed the relative calm in the Police Department. She said that the community perceives that the Department is running smoothly.

Mr. Irwin announced that a special Council Meeting would be held on September 14, 2005 at the Hunt Lodge. He said that the City's benefits' meeting is scheduled for September 11, 2005 and open enrollment would be conducted on September 12, 2005. Mr. Irwin stated that the Mountain Meadows final plat hearing would be conducted at the October 13, 2005 meeting instead of at a special meeting.

Mr. Millar stated that the building permit allocation system is going well. He announced that the UPREC meeting is scheduled for September 14th in the afternoon to discuss the County's housing initiative and would be attended by Carol Coyle. Mr. Millar said that the concepts of the adopt-a-sewer program are still progressing. He said that the City may want to consider contributing financially in order to gain EDU's that could be used for Community Housing. Mr. Millar stated that a public hearing would be held on September 22, 2005 for the Village at Deer Forest Planned Unit Development. He said that the appeal on the Spruce Street Vacation has been delayed until October as the applicant wanted to see what came out of the Urban Renewal Plan Update. Mr. Millar stated that the moratorium ordinance would be discussed at the next meeting. He said that the zoning code is still on target for completion in November. He explained that the draft ordinance proposes to extend the moratorium for 365 days or until the Council decides to lift it.

Council Member Bertram said that she would like to see the Ordinance drafted for a six-month extension instead of twelve months.

Council Member Robertson asked if the recommendation would be to extend the moratorium to all development applications including Scenic Route applications.

Mr. Millar explained that it would. He stated that the EPA development assistance team would be at the City during the week of October 24, 2005 to look at the Lardo area and West Mountain Industrial Area.

Acting Police Chief Summers stated that the Department researched the boat trailer parking issue that was voiced to the council at a prior meeting. He said that Officer Rittenger only found three trailers that were left in the parking area for more than 72 hours. He said that they had contacted the owners to get the problem remedied. Acting Chief Summers said that Larry Stokes had begun his employment as an officer and reported that another conditional offer had been made for the additional officer open position. He stated that the Department was contacted by two officers in Louisiana and would be meeting with them on September 28th. Mr. Summers said that documentation had been submitted to the County Prosecutor's office for the Smith retribution case. He said that the Antonucci case is coming to trial and said that their may be a possible plea arrangement. Mr. Summers said that the Mission Street nuisance violations are being investigated and several citations may be issued.

Council Member Bertram asked if the Planning and Zoning Commission are requiring developers to install sidewalks.

Mr. Millar said that in the current code sidewalks could only be required in the CB zone. He said that they could only be requested in the other zoning areas.

Council Member Robertson asked what construction activity was occurring that had closed down Wooley Avenue.

Mr. Millar said that the street was closed to complete the utilities for Denali Park Subdivision and an upgrade of the sewer line.

Council Member Bertram asked if the four-way stop at Pine-Wooley would be permanent.

Mr. Summers said that he would be meeting Mr. Keating to discuss the intersection.

Mayor Eimers said that he received an email from somebody in Portugal requesting honorary citizenship status from the City of McCall. He asked if anyone objected to granting the request.

Council Member Robertson said that he wouldn't oppose the request as long as it was a legitimate email.

Council Member Bertram stated that the City should recognize the efforts of the two girls who donated money to the Library.

EXECUTIVE SESSION

At 8:45 p.m., Mayor Eimers moved to go into executive session per Idaho Code 67-2345(1f) to consider litigation. Council Member Robertson seconded the motion. In a roll call vote, Mayor Eimers, Council Member Bertram, Council Member Greer, and Council Member Robertson voted aye. The motion carried.

The discussion pertained to pending litigation.

The Council reconvened to open session at 9:44 p.m.

ADJOURNMENT

Without further business, Mayor Eimers moved to adjourn. Council Member Greer seconded the motion. All Council Members voted aye. The motion carried. The Council adjourned at 9:45 p.m.

Kirk L. Eimers, Mayor

ATTEST:

Dan Irwin, City Clerk