

# MINUTES

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## McCall City Council Special Meeting Monday April 11, 2005

### Table of Contents

#### CALL TO ORDER AND ROLL CALL

#### PUBLIC HEARING

- AB 05-61 PUD-05-1 Whitetail, a Club for All Seasons  
(continued from March 24, 2005)

#### PUBLIC HEARING

- AB 05-77 Moratorium on Zoning, Subdivision, Planned Unit Development and/or Scenic Route applications within the City of McCall / Ordinance No. 809

#### BUSINESS

- AB 05-80 J-Ditch Phase 2 – Authorizing the filing of the notice of appeal

#### EXECUTIVE SESSION

- **Litigation** - Pursuant to Idaho Code §67-2345(1f) to consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

#### ADJOURNMENT

## **CALL TO ORDER AND ROLL CALL**

**Mayor Eimers called the special meeting of the McCall City Council to order at 6:10 p.m. Council Member Bertram, Council Member Greer, Council Member Robertson, Council Member Muller, and Mayor Eimers answered roll call. A quorum was present.**

**City staff members present were Lindley Kirkpatrick, City Manager; Roger Millar Community Development Director/Deputy City Manager; and Dan Irwin, City Clerk.**

## **PUBLIC HEARING**

### **AB 05-61 PUD-05-1 Whitetail, a Club for All Seasons**

Mr. Kirkpatrick stated that he had prepared a memorandum for the Council Members, which presents three alternatives for resolving the issue of public and private streets and gates in the Whitetail Planned Unit Development. He stated that it is his intention to incorporate all of the possible scenarios that the Council could approve in regards to the designation of the streets in the development based upon their prior discussions. Mr. Kirkpatrick stated that the first option is for the Council to establish all public streets throughout the development. He explained that private streets are allowed under the McCall City Code, but the developer is required to demonstrate sufficient cause as to why they are needed. Mr. Kirkpatrick said that the City Council could determine to place public roads throughout the development if they find that the developer has failed to demonstrate sufficient cause for the establishment of private streets in the development. He added that if the Council determines to establish all public streets in the development, gates wouldn't be allowed due to the demand on City services.

Mr. Kirkpatrick stated that the second alternative is to establish a mix of public and private roads in the development. He said that under this scenario, the Council could allow gates to be established around the golf course but restrict their placement in the upper portion of Phase 2. He explained that this arrangement would require the City to maintain the public roads in the upper portion of Phase 2 and the developer would be required to maintain the private roads in Phase 1.

Mr. Kirkpatrick stated that the third alternative would be to allow all private streets in the development with various options for the placement of the gates. He stated that Council could decide to approve the original proposal of all private streets with gated entrances at the access points, conclude to allow all private streets with gates only located around the golf course, or declare all of the streets to be private and not allow any gates in the development. He added that, based upon the comments from the Council at the last

meeting, he also attempted to incorporate some requirements in items 3b and 3c of the memorandum that would allow parking for the public to access the greenbelt within the development. Mr. Kirkpatrick said that it was the intention of the memorandum to incorporate all of the possible alternatives in order for the Council to resolve the issue of private and public streets in the development. He stated that the reference to private streets that was made by the Planning and Zoning Commission had been removed from the Council's draft findings and conclusions, and the Council can incorporate whichever alternative they feel is in the best interest of the City. Mr. Kirkpatrick stated that he also has incorporated a condition of approval in the draft findings and conclusions that would prohibit infrastructure construction access to the development from Club Hill Blvd. during Phase 1. He stated that the proposal would allow for infrastructure construction access from Club Hill Blvd. in Phase 2, subject to any limitations placed on the use of the access by the County or Idaho Transportation Department. He stated that infrastructure construction access would also be prohibited during the winter season.

Council Member Bertram asked if the developer would still be required to conduct a traffic study to analyze the safety of the Club Hill Blvd access to the development.

Mr. Kirkpatrick stated that the traffic study was a condition of the preliminary plat approval. He stated that the study would be conducted before the developer's submission of the final plat.

Council Member Robertson provided a correction to item L of the draft findings of conclusions. He clarified that the condition of approval only restricts infrastructure construction traffic and not residential construction traffic.

Mr. Kirkpatrick stated that the condition was proposed in that manner since the developer has the ability to only control the infrastructure construction traffic. He stated that the developer would have a difficult time controlling residential construction traffic because the contractors would be under contract with the individual homeowners.

Steve Millemann, representative of the applicant, expressed his appreciation for the Council agreeing to conduct another public hearing on the matter and for Mr. Kirkpatrick's preparation of the draft findings and conclusions. He stated that the applicant has no objections to the limitation of infrastructure construction traffic in Phase 1 as imposed by the conditions of approval. He explained that the reason the Council isn't adopting the traffic study requirement is because the applicant didn't appeal the Planning and Zoning Commission's condition of approval in the preliminary plat application that requires the traffic study be conducted by Valley County and Idaho Transportation Department. Mr. Millemann stated that the applicant is willing to accept the option that would provide private streets in Phase 1 and public streets in Phase 2, or the conditions of item 3b of the staff memo that calls for private streets in the upper phase of the development with no gate. Mr. Millemann said that the streets in the development should be declared private in order for the applicant to provide a level of service that will equal the demand of the residents in the development. Mr. Millemann

stated that applicant is also willing to provide public parking in the upper phase of the development, which will provide public access to the greenbelt.

Council Member Bertram asked if the applicant is able to respond to the safety concerns expressed by the neighbors about the access on Club Hill Blvd. She asked if the applicant explored the possibility of adding another access point to the development that would allow the City to access Phase 2 of the development without going through the County road.

Mr. Millemann stated that the applicant would have to work in cooperation with the City if the Council declares all the roads in the development to be public and maintained by the City. He stated that it is the goal of the applicant to not place the maintenance burden onto the City. He stated that item 3b of the Staff memo would be an acceptable alternative that wouldn't place any service demands on the City for road maintenance.

Council Member Muller asked if the applicant would be providing construction signs and water for the roads when performing the infrastructure construction of Phase 2 of the development.

Mr. Millemann stated that under the preliminary plat conditions of approval, the applicant is required to perform dust abatement and construction traffic control. He stated that the applicant is also required to submit a construction related traffic plan to the County and ITD to ensure safety. He stated that additional construction related conditions would be incorporated in the submittals to the County and ITD.

#### **Mayor Eimers opened the public hearing at 6:34 p.m.**

Hal Wiking, 1408 Club Hill Blvd., presented a map of King's Pines subdivision to the Council. He stated that the roads of the development would present a dangerous situation if construction traffic were allowed on them. Mr. Wiking stated that the access onto Highway 55 and the four-point connection within the subdivision are dangerous. He stated that it would be a challenge for the engineer to provide a safe access into the development from Club Hill Blvd. Mr. Wiking stated that an access to the Whitetail Development from Adams County needs to be established.

Kathy Bachelor, King's Pines Estates, stated that allowing infrastructure construction traffic through King's Pines would be dangerous. She stated that it would be an inconvenience for the developer and members of Whitetail to allow the infrastructure construction traffic to the upper phase from the other three access points within the development but it would be much safer. Ms. Bachelor stated that allowing construction traffic through King's Pines is "an accident waiting to happen" because of the dangerous roads and access from Highway 55. She stated that Mr. Millemann has previously stated in the press that the road to Tamarack Resort has been greatly damaged because it wasn't designed to handle infrastructure construction traffic. Ms. Bachelor stated that the roads within King's Pines also aren't designed to handle the construction

traffic and the developer should be required to come up with plans that will address the replacement of the roads.

Council Member Robertson asked Mr. Kirkpatrick to clarify the requirements of item L in the draft findings and conclusions.

Mr. Kirkpatrick explained that infrastructure construction traffic on Club Hill Blvd. wouldn't be allowed in Phase 1 but would be allowed in Phase 2 with seasonal restrictions. He stated that the County and Idaho Transportation Department would have to give approval before Whitetail is allowed any use of Club Hill Blvd. for infrastructure construction traffic.

Council Member Muller stated that Ms. Bachelor makes an excellent point about Club Hill Blvd. not being designed to withstand infrastructure construction traffic. He said that he would assume that ITD and the County would evaluate the plan based on the design on the road. He asked who would be responsible for making sure that Club Hill Blvd. meets the standards of use for infrastructure construction traffic.

Mr. Kirkpatrick stated that the County would be responsible for ensuring that the road meets the planned use for infrastructure construction traffic. He explained that the draft findings and conclusions require that the County approve the ability for the developer to use Club Hill Blvd. for infrastructure construction traffic in Phase 2.

Council Member Muller stated that it would be the responsibility of the County and State for ensuring that Club Hill Blvd. and the access point from Highway 55 meets the standards of the use being proposed by the developer. He said that he would like to make sure that the City provides input to ITD and the County to address concerns that Club Hill Blvd. and the access point from Highway 55 need to be improved to handle the increased infrastructure construction traffic.

Mr. Millemann stated that a letter from Gordon Cruickshank exists in the record that specifies that the County will negotiate a capital contribution agreement with Whitetail to address any maintenance upgrade issues stemming from the proposed use. He clarified that condition L of the draft findings and conclusions specifically prohibits infrastructure construction use during Phase 1 and any time snow or ice is located on the road during the infrastructure construction of Phase 2.

Ms. Bachelor stated that she would like to be involved in the traffic study process that will be conducted by the County and ITD. She stated that it is important for all parties to work as a team to address the potential safety issues.

Council Member Bertram asked if any recourse exists if the County or ITD fails to adequately review the proposed use of the Club Hill Blvd. and the access point at Highway 55.

Mr. Kirkpatrick stated that he is unaware of any procedure that would allow the City to negate the findings of the County or ITD. He stated that it was the intent of the draft findings and conclusions to place the review of affected roadways with the agency that is responsible.

Mr. Wiking stated that the safety issues on Club Hill Blvd. and Highway 55 could be remedied by requiring the developer to explore an access from Adams County. Mr. Wiking stated that access to the development shouldn't be placed through Club Hill Blvd. and the alternative through Adams County needs to be explored.

Shannon Munson, 219 Cold Creek, asked for clarification about the upper gate that would allow access to the development. She asked what time the upper gate would be closed.

Mr. Kirkpatrick stated that at the last public hearing the developer proposed to erect a gate that would be closed at night. He explained that the applicant has now agreed to the terms of item 3b of the staff memo, which would remove the upper gate completely.

Robert Sweetgall, 1422 Club Hill Blvd., stated that all of Club Hill Blvd. is a safety concern. He stated that the road is 26 feet across, has blind turns, becomes extremely icy in the winter, and presents poor visibility to drivers. Mr. Sweetgall stated that the City should require the developer to take a sincere look at an access from Adams County or other possibilities. He stated that the greenbelt will be a nice amenity but will also bring more traffic through the subdivision, which will present an even greater safety concern. Mr. Sweetgall stated that the developer has given three reasons for the establishment of gates but none are justified. He stated that the community would still be gated even under the revisions of the PUD application.

**Mayor Eimers closed the public hearing to public testimony at 7:15 p.m.**

Council Member Robertson stated that he lives in Spring Mountain Ranch and most of the construction traffic for Aspen Ridge goes by his property. He stated that the roads aren't being torn up despite the increase in the amount of heavy equipment using the roadway. He said that the ability of Club Hill Blvd. to adequately handle the increased amount of construction traffic needs to be evaluated by County since they have the appropriate jurisdiction. Council Member Robertson stated that construction in the development would take place over a period time and will not result in hundreds of vehicles on Club Hill Blvd. per day. He stated that he supports item 3b of the staff memo that will declare the roads in the development to be private but prohibit the establishment of a physical gate at the upper entrance. Council Member Robertson stated that the golf course is currently gated and the adoption of item 3b of the staff memo wouldn't result in a significant change.

Council Member Bertram stated that she is comfortable with the Council approving the two gates on Gun Hill Blvd. and Boydston.

Mr. Kirkpatrick clarified that under item 3b of the staff memo a new gate would be established between Phase 1 and Phase 2 of the development.

Council Member Bertram stated that she thought the proposal was to add two new gates in the development.

Mr. Millemann explained that an additional internal gate would need to be installed between Phase 1 and Phase 2 of the development to protect the golf course from traffic entering the development from the upper Phase. He stated that the entire upper phase of the development would be open to public including the cul-de-sacs.

Mayor Eimers stated that he is concerned about the safety on Club Hill Blvd. and the entrance from Highway 55, but it is up to the State and County to make the final decision because it is their jurisdictional responsibility. He asked if the traffic study review was an open process for the public.

Mr. Kirkpatrick stated that there is typically some degree of public involvement in the traffic study process. He stated that some residents of Club Hill Blvd have already contacted the County and indicated they are interested in participating in the process.

Council Member Bertram asked if any other access points from the industrial area on Boydstun Street could be used to access Phase 2 of the development as an alternative to going through a residential subdivision.

Mr. Millemann stated that there isn't a direct access from Boydstun Street to Phase 2 of the development. He stated that an access would be created through the industrial area to access Phase 1 of the development.

Council Member Muller stated that he understands the public is concerned about the traffic and safety on Club Hill Blvd. and from Highway 55. He stated that the State is responsible to control access and safety on Highway 55 and the County is responsible for Club Hill Blvd. Council Member Muller stated that he doesn't believe Club Hill Blvd. is capable of handling the added infrastructure construction traffic and hopes the public provides input to the County and State in the design review process. He said that he supports incorporating item 3b of the staff memo, which provides private streets with no additional gates in Phase 2 of the development. Council Member Muller stated that he is concerned about the timeliness of the completion of the greenbelt and would like the developer to be required to follow a schedule of completion so it isn't lost in the phasing of the construction.

Mr. Kirkpatrick stated that as a condition of approval of the preliminary plat the developer is required to complete the greenbelt prior to the approval of the final plat application for Phase 2, and to improve the surface of the greenbelt within 12 months of the final plat approval of Phase 1.

Council Member Greer stated that he has been presented with an equal amount of testimony on both sides of the issue. He believes item 3b of the staff memo presents a compromise that provides a solution to the issue. He stated that ITD and the County have the responsibility to ensure the safe design and use of the Club Hill Blvd. and Highway 55 but would like the City to send an official notice of the concerns about the safety of the roads.

Council Member Bertram stated that she feels it is important to allow the ability for the developer to protect the golf course. She said that she struggles with the issue of private roads but believes the developer has demonstrated cause for their establishment, as it would be difficult for the City to access the roads and provide adequate maintenance.

**Mayor Eimers moved to adopt the findings and conclusion for PUD-05-1 as corrected, incorporating item 3b of the staff memo, and to direct staff to write the Idaho Transportation Department and the County Road Department expressing the City's expectations that they resolve the potential safety concerns on Highway 55 and at Club Hill Blvd. and to allow public participation in the process. Council Member Muller seconded the motion. In a roll call vote, Council Member Bertram, Council Member Greer, Council Member Robertson, Council Member Muller, and Mayor Eimers voted aye. The motion carried.**

## **BUSINESS AGENDA**

### **AB 05-77 Moratorium on Zoning, Subdivision, Planned Unit Development and/or Scenic Route applications within the City of McCall / Ordinance No. 809**

Mayor Eimers stated that a moratorium on development applications is being proposed for the City based upon the restraint of capacity in the sewer system and because of incapability's between the City's present ordinances and comprehensive plan. He stated that Mr. Millar has prepared a chart that shows 950 new housing units are being discussed in the Planning and Zoning process.

Mr. Kirkpatrick stated that the Mayor has accurately identified the reasons for the proposed moratorium. He stated that the sheet prepared by Mr. Millar shows that 956 lots are currently under review in the Planning and Zoning process. He said that an additional 55 units were submitted to the City before the Council meeting. He stated that the County has 1450 lots under review at this time. Mr. Kirkpatrick stated that Ordinance No. 809 proposes a moratorium on all zoning, subdivision, planned unit development and/or scenic route applications within the City. He stated that the moratorium doesn't apply to records of survey, maintenance and repair of existing buildings, building permits for new construction on existing lots within the City, conditional use permits, variances, or complete applications for Preliminary Plat and/or PUD General Plan approval which were filed prior to the effective date of the Ordinance,

or applications for Final Plat Approval of property included in the said Preliminary Plats and/or PUD General Plans, as approved. Mr. Kirkpatrick explained that the moratorium would affect any applications submitted after the adoption of the ordinance but wouldn't affect any of the projects identified on the sheet prepared by Mr. Millar. He explained that the moratorium would terminate at the behest of the City Council or in 182 days. Mr. Kirkpatrick stated that it is evident that the volume of development applications being received by the City is overwhelming. He added that the community is struggling with how the recommendations of the comprehensive plan are being implemented. He stated that the City is also facing an infrastructure problem with the sewer system based upon recent growth. Mr. Kirkpatrick stated that he encourages the Council to adopt Ordinance 809 and to direct staff to prepare a letter to the County requesting that the County pass a similar measure for the Impact Area.

Council Member Bertram stated that she is concerned that the City will declare applications to be subject to the moratorium if they aren't complete.

Mr. Kirkpatrick stated that the City Code explains the specific items that are required to be submitted with a development application. He stated that the City Staff's workload is increased when incomplete applications aren't submitted. He added that public participation in the process becomes limited when all of the required elements aren't submitted. He stated that he doesn't see it as "nit picking" the application, just ensuring that the requirements of the Code are met.

Council Member Bertram stated that she doesn't want to see a project become subject to the moratorium if it is only missing a small piece of the application. She stated that it is difficult to prepare a development application without being informed of all of the requirements. Council Member Bertram stated that if it has been the practice to work with incomplete applications in the past, the City should be lenient in their determination to void the application.

### **Mayor Eimers opened the public hearing to public testimony at 8:08 p.m.**

John Lund, 482 Boydston Street, stated that the first requirement for a preliminary plat under the City Code requires the developer to meet informally with City Staff as part of the application process. He asked if the meeting would constitute the ability for a developer to proceed in the approval process.

Mr. Kirkpatrick stated that the informal meeting is laid out in the Planned Unit Development process and not the Subdivision requirements.

Steve Millemann stated that he had submitted a letter on behalf of six clients in regards to how the ordinance was drafted. He stated that the change in the language of the ordinance addresses the concerns of his clients. Mr. Millemann stated that he believes the change in the language makes the ordinance less susceptible to legal attack. He asked for clarification if a building permit could still be issued if the dwelling is located in the scenic overlay district.

Mr. Kirkpatrick stated that all scenic route applications are subject to the moratorium. He stated that building permits for dwellings located in the scenic overlay district would be subject to the moratorium.

Mr. Millemann requested that the Council consider whether the inclusion of scenic route applications was necessary in the moratorium. He stated that people would be unfairly penalized when seeking a building permit for a dwelling located on an existing lot in the scenic overlay district.

Mr. Kirkpatrick stated that scenic route applications are specifically identified as a problem that demonstrates a disconnect between the comprehensive plan and City Code. He stated that the current comprehensive plan requires design guidelines for Scenic Route applications but they haven't been developed. He stated that staff time and the time of volunteer committee members has been overwhelmed with the review of applications and haven't been able to finalize the design guidelines. Mr. Kirkpatrick stated that the adoption of the ordinance would allow staff the ability to concentrate on issues such as preparing those design guidelines.

Council Member Bertram asked what types of projects would be required to go through the scenic route review.

Mr. Kirkpatrick stated that all projects located in the scenic overlay district, which proposes an exterior change would be subject the moratorium.

Roger Millar, Community Development Director, stated that the Council has the ability to amend and change the moratorium before the 182 days are up. He stated that he is concerned that no design guidelines currently exist for development located along the main street of the community. He said that design guidelines would ensure that the quality of the development meets the standards of the community. Mr. Millar stated that the Council could amend the moratorium to eliminate the inclusion of Scenic Route applications once the guidelines are developed.

Scott Findlay, 277 Par Lane, stated that scenic overlay includes Lick Creek Road and Warren Wagon Road. He stated that anyone wanting to build a residence within this area would be subject to the moratorium. Mr. Findlay stated that since there are no design guidelines it becomes the discretion of the Planning and Zoning Commission to establish the acceptable standards. He stated that it would be unfortunate to deny the opportunity for a person to build or remodel their house simply because they were located within the scenic overlay district.

Mr. Kirkpatrick added that the boundary of the scenic overlay district exists on 150 feet on each side of the identified roads.

Council Member Robertson stated that the McCall Improvement Committee submitted draft design review guidelines to the Planning and Zoning Commission two years ago but the Commission hasn't had time to discuss them.

Jim Olson, 14029 Comfort Rd., asked if affordable housing developments would be included in the moratorium.

Mr. Kirkpatrick stated that the ordinance doesn't differentiate between subdivisions intended for affordable housing or market housing. He stated that the City can't make a distinction between subdivisions for affordable housing and market housing as there isn't a defined distinction in the City Code.

Council Member Bertram stated that the Council has attended several meetings and discussed the need to establish affordable housing. She stated that the City is working on an ordinance that will require new developers to provide for affordable housing. Council Member Bertram stated that the moratorium is needed to address the shortcomings of the City ordinances as well as the capacity of the sewer system.

Steve Riley, 112 N. 3<sup>rd</sup> St., asked if the moratorium includes applications for signage along Highway 55 and if there was a possibility that the moratorium could be extended.

Mr. Kirkpatrick stated that a sign only requires a building permit and wouldn't be subject to the moratorium. He stated that the Idaho Code provides different mechanisms that could possibly allow the Council to extend the moratorium.

Pat Hill, 227 Rio Vista, stated that he owns several of downtown projects that are zoned General Commercial. He stated that because of the costs to hire the engineers for design work, it is difficult for developers to meet all of the development requirements unless they have a large budget. He stated that he has been working on his project for more than a year and has gone through the preliminary review process. Mr. Hill stated that he is approximately one week away from submitting a preliminary application and would like the Council to provide a grace period for those developers who have been working through the process for more than a year.

**Mayor Eimers closed the public hearing to public testimony at 8:38 p.m.**

Council Member Robertson stated that Mr. Hill brings up a good point. He stated that the proposed moratorium was announced Thursday night and three new subdivision applications have been proposed. Council Member Robertson stated that he feels sympathetic to the concerns voiced by Mr. Hill but is afraid that a large wave of development applications will be submitted if a decision on the ordinance is extended. He asked if there was any legal basis to allow applications to be submitted from developers who have been working on projects.

Mr. Kirkpatrick stated that a decision needs to be made. He said that the only objective standard that is available to base what projects are subject to the moratorium is the submission date of the complete application.

Council Member Bertram stated that she feels bad for some developers working on projects but the overwhelming voice of the community has indicated that they want development to slow down. She stated that the City must begin working on an affordable housing solution.

Robert Lyons asked for clarification if development applications can still be received for projects in the Impact Area until the County Commissioners act upon the request.

Mr. Millar confirmed that applications for development in the Impact Area could still be received until the County Commissioners decide to act upon a similar measure.

Council Member Greer stated that the City needs to pause to rebuild the foundation of the community. He stated that a clean set of standards needs to be developed in order to adequately oversee the growth of the community. He stated that it is important for the City to define the standards of the community instead of allowing developers to do it.

Mr. Kirkpatrick announced that he had given an incomplete response to Mr. Lund's previous question. He stated that legal staff would like to address Mr. Lund's question.

Tammy Zokan stated that the informal review meeting with staff wouldn't exempt the project from the moratorium. She explained that a complete formal application needs to be filed in order to exempt the development from the moratorium.

Council Member Bertram asked if an exemption could be made for those who have had pre-application meetings with City Staff.

Ms. Zokan stated that the only fair standard is to limit development based upon completed applications.

**Council Member Robertson moved to suspend the rules and read Ordinance No. 809 by title only, one time only. Council Member Muller seconded the motion. In a roll call vote, Council Member Bertram, Council Member Greer, Council Member Robertson, Council Member Muller, and Mayor Eimers voted aye. The motion carried.**

Mr. Kirkpatrick read Ordinance No. 809 by title.

**Council Member Robertson moved to adopt Ordinance No. 809. Council Member Muller seconded the motion. In a roll call vote, Mayor Eimers, Council Member Muller, Council Member Robertson, Council Member Greer, and Council Member Bertram voted aye. The motion carried.**

**Council Member Robertson moved to direct staff to send a letter to the Valley County Commissioners requesting that the Valley County Board of County Commissioners approve a similar ordinance for the City of McCall Impact Area. Council Member Muller seconded the motion. All Council Members voted aye. The motion carried.**

Mayor Eimers stated that the City is facing real problems with the capacity of the sewer system. He stated that the Council is working with the Department of Environmental Quality to find a solution.

A break was taken from 8:50 p.m. to 9:00 p.m.

### **AB 05-80 J-Ditch Phase 2 – Authorizing the filing of the notice of appeal**

Mr. Kirkpatrick stated that a ruling on the post trial motions in the J-Ditch Phase-2 litigation had been issued. He stated that the finalization of the ruling begins the 30-day period in which the City is able to file a notice of appeal. Mr. Kirkpatrick stated that the request of the agenda bill is to authorize the City Manager to authorize the filing of the notice of appeal when the legal analysis is complete.

**Council Member Greer moved to authorize the City Manager to authorize the filing of the notice of appeal in the J-Ditch Phase 2 Litigation. Mayor Eimers seconded the motion. All Council Members voted aye. The motion carried.**

## **EXECUTIVE SESSION**

**At 9:12 p.m., Council Member Muller moved to go into executive session per Idaho Code 67-2345(1f) to consider pending litigation. Mayor Eimers seconded the motion. In a roll call vote, Mayor Eimers, Council Member Bertram, Council Member Greer, Council Member Robertson and Council Member Muller voted aye. The motion carried.**

The discussion pertained to the J-Ditch Phase 2 litigation.

**At 10:17 p.m., Mayor Eimers moved to come out of executive session. Council Member Muller seconded the motion. Mayor Eimers, Council Member Bertram, Council Member Greer, Council Member Muller, and Council Member Robertson voted aye. The motion carried.**

## **ADJOURNMENT**

**Without further business, Council Member Greer moved to adjourn. Council Member Robertson seconded the motion. All Council Members voted aye. The motion carried. The Council adjourned at 10:17 p.m.**

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Kirk L. Eimers, Mayor

**ATTEST:**

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Dan Irwin, City Clerk