

# **MINUTES**

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## **McCall City Council Regular Meeting Thursday, July 22, 2004**

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

**Mayor Eimers called the regular meeting of the McCall City Council to order at 7:00 p.m. Mayor Eimers, Council Member Bertram, Council Member Greer, Council Member Muller, and Council Member Robertson answered roll call. A quorum was present.**

**City staff members present were City Attorney Paul Turcke, City Manager/Community Development Director Lindley Kirkpatrick, Treasurer Amanda Townsend, Police Chief Ralph Appa, Parks and Recreation Director Brock Heasley, Golf Course Director Dan Pillard, Airport Manager Kevin Delaney, Network Administrator Dave Simmonds, and Assistant to the City Manager Tina Clark.**

**Mayor Eimers led the Council in the Pledge of Allegiance.**

## **PUBLIC COMMENT**

**Mayor Eimers called for public comment.**

Cathy Malone, 2141 Eastside Drive, read a letter from her son, Matthew Anderson, regarding the last Council meeting (July 8, 2004). The letter stated that Mr. Anderson witnessed an act of police profiling, intimidation, and harassment of bar owners Lauren Malone and Tim Garber at the close of the Council meeting. Mr. Anderson's letter stated that after the presentation made by Tim Garber and Police Chief Appa ended, the majority of the attending crowd left the Legion Hall. He stated that Idaho State Police Officer Davidson approached Mr. Malone as he entered his vehicle and administered a sobriety test which he successfully passed. Mr. Anderson stated that he had personal interaction with Mr. Malone and refutes the officer's claim that he smelled of alcohol. Mr. Anderson said that after allowing Mr. Malone to leave, Officer Davidson subsequently administered a breathalyzer test on Mr. Garber. Mr. Anderson stated that his letter is a formal complaint regarding the conduct and judgment of Idaho State Police Officer Davidson and will be logged and filed with the Idaho State Police for investigation.

Uma Mulnick, 42 Garden Lane, Treasurer of the Board for Heartland Gymnastics, said there is a misunderstanding of how many city residents are in the Heartland program vs. non-city residents. The non-resident participants have the option of buying a city recreation card which allows them to pay city resident fees per program, or they can choose pay the non-resident fees for each program in which they participate. In 2001 – 2002, 85% of the participants in the program were city residents or city recreation card holders; in 2002 -2003 90% of the program participants were city residents or city recreation card holders, and in 2003 - 2004 82% were still within the city limits or were

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city recreation card holders. This is the only program in the area that provides year round recreational classes for infants through teenaged children. In comparing numbers to other recreation programs in the city, there were 75 children involved with softball, baseball, or t-ball, 25 children participate in swimming three times a year, approximately 150 children are involved in the winter cross country skiing program, while more than 160 children participate in the gymnastics program. Ms. Mulnick wanted the Council to know and remember that as they look at the budget for FY 2005, Heartland Gymnastics does have a viable program and provides a tremendous need for a large number of children in the community. Heartland Gymnastics is working towards being a financially independent and fiscally responsible program by incorporating other programs such as a pre-school and day camps. To cut the funding would be disastrous to the program and would negatively affect families in the community.

Alex Hatfield, 14070 Deerfield Road, expressed his support of Chief Appa and the McCall Police Department. Mr. Hatfield commended the Department for their proactive stance in removing drunk drivers from the road and keeping the public safe.

Thad Duel, 131 Mather Road, said things have improved tremendously since Police Chief Appa has been in McCall. He stated that the department is more responsive and that Council should compare the current environment to previous years.

Francis Ford, a member of the Police Advisory Council, said there have always been problems with teens and the police in McCall. Chief Appa's main interests are in the best interests of the town. Ms. Ford asked the Council why they are harassing Chief Appa and his department for doing their jobs.

Police Chief Ralph Appa announced that McCall Police officers and emergency medical service responded to a heart attack victim in town. The individual was treated with a defibrillator and revived from cardiac failure. Mr. Appa commended the work of the responding officers.

Dick Wilkerson, 333 Fourth Street, said McCall should look at consolidating with the Valley County Sheriff's Department for law enforcement responsibility in the City. He stated that he believes there are too many officers.

Troy Bates, 800 Timber Ridge Court, expressed his support towards the Police Department. He stated that it should be more about a community than making money. As an EMT, Mr. Bates stated that he is no longer dispatched on a weekly basis to respond to bar fights. He stated that the Department is performing their jobs and should be allowed to continue doing so.

Michael Maini, 169 Margo Drive, stated that he has worked with the Police Department as part of his senior project. Mr. Maini stated that Police Advisory Committee had recommended 24/7 protection and better relations with the community youth as the major goals for the Police Department. He stated that both goals have been achieved under the current administration of Chief Appa.

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Dennis Coyle, Ponderosa State Park Manager, stated that the State will be undertaking a redevelopment of Ponderosa State Park during the next three months and will be considering the City's input during the process. Mr. Coyle stated that he appreciates the working relationship with the City and the responsiveness of the Police Department.

**Hearing no further comments, Mayor Eimers closed the public comment at 7:45 p.m.**

## **CONSENT AGENDA**

**Mayor Eimers moved to amend the agenda tabling AB 04-122 Council Vision Statement to another time and adding AB 04-124 Prosecuting Attorney Proposals to the agenda.**

Minutes of June 10, 2004 and June 29, 2004

Payment Approval List for Warrant Registers for input dates between July 2, 2004 and July 15, 2004

AB 04-115 Auction Receipts

AB 04-118 Alcohol Beverage Catering Permits

AB 04-120 Candlewood Condominiums Phase Two Final Plat

AB 04-121 Fairway Pines Town homes Final Plat

**Council Member Robertson stated that amendments to the minutes have been submitted to City Staff.**

**Council Member Robertson moved to approve the Consent Agenda as amended and authorize the Mayor to sign all necessary documents. Council Member Muller seconded the motion. All Council Members voted aye. The motion carried.**

## **BUSINESS**

### **AB 04-124 Prosecuting Attorney Proposals**

Lindley Kirkpatrick stated that the City had received several responses to the request for proposals for Prosecuting Attorney services. Mr. Kirkpatrick stated that City Staff had ranked the respondents according to their answers in the proposal. He stated that City staff recommends either selecting a respondent according to their answers, or to conduct interviews with the highest ranked respondents.

Council Member Muller stated that he would prefer to conduct interviews with the respondents in order to get to know them.

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**Council Member Robertson moved to approve the interview of three respondents, Richard K. Linville, Larry Dunn, and Matthew C. Williams, direct staff to negotiate a contract with the Council's preferred respondent and direct staff to negotiate a contract for temporary prosecuting attorney services with Moore, Smith, Buxton & Turcke, effective August 1, and authorize the Mayor to sign all necessary documents. Council Member Bertram seconded the motion. All Council Members voted aye. The motion carried.**

**AB 04-123 Jared Wolfinger**

Jared Wolfinger stated that when he was arrested on June 26, 2004 he wasn't aware that he was subject to an outstanding Ada County bench warrant. He stated that he is dissatisfied with the lack of information and cooperation afforded to him by the Police Department.

**AB 04-106 Sale of LID #3 parcels to Silvertip, LLC**

Lindley Kirkpatrick stated that Silvertip LLC had requested to meet with the City Council to address four issues regarding the purchase of the LID #3 parcels.

Mayor Eimers stated that the purpose of LID #3 was to provide for the infrastructure in the area, and asked why the issue of the construction of a lift station was being proposed. Mr. Kirkpatrick explained the LID covered a portion of the off-site infrastructure up to the site, but didn't cover the on-site infrastructure needs of the developed area. The regional lift station would serve a portion of the area inside Spring Mountain Ranch in addition to adjoining areas of the City.

Amy Pemberton, 706 North 1<sup>st</sup> Street, gave an overview of the proposed draft MOU regarding the sale of the LID #3 parcels to Silvertip, LLC. Ms. Pemberton stated that the first issue of the sale is to ensure the extension of Spring Mountain Boulevard to Lick Creek Road is completed. She stated that the draft MOU would obligate the City to complete the project and she would like to add a clause for financial penalties if the project isn't completed. Mr. Kirkpatrick stated that because the Aspen Ridge Developers have submitted a bond and the City Council has adopted a tentative budget, the completion of the project can be assured since funds are in place to meet the obligation. Council Member Robertson stated that he is opposed to implementing financial penalty terms in the contract in case something happens outside of the City's control. Council Member Muller stated that the City is committed to the completion of the project but wouldn't commit to financial penalties in the contract.

Ms. Pemberton stated that the draft MOU also includes an exclusion of any latecomer costs. Council Member Robertson stated that the terms should only address City owned utilities since the City has no control over electric and phone utility services.

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Ms. Pemberton stated that Silvertip LLC is proposing to construct the regional lift station and have the City reimburse the company for the expense over time. Paul Turcke, City Attorney, stated that he has proposed that the City enter into a lease purchase contract with Silvertip LLC for the construction of the lift station, but allow language in the contract that would deem the expense to be ordinary and necessary if a legal opinion determines it to be an installment purchase. Ms. Pemberton stated the first payment date will be in the next fiscal year to allow the City to budget accordingly.

Ms. Pemberton stated that the MOU will allow Silvertip a total of 95 sewer connections. Mr. Kirkpatrick stated that the Planning and Zoning Commission had initially approved a lesser number of hookups but recently approved an amendment that increases the density and total number of approved hookups to 95.

Ms. Pemberton stated that the last issue is the expiration of the due diligence period on July 25, 2004. Ms. Pemberton stated that her client would like for the Council to extend the due diligence period to July 27, 2004.

Council Member Robertson moved to extend the due diligence period of the LID #3 parcels to July 27, 2004. Council Member Greer seconded the motion. All Council Members voted aye. The motion carried.

#### **AB 04-117 Nordic Skiing program at the Golf Course**

Lindley Kirkpatrick said he had a meeting with Dan Pillard, Dennis Coyle, Allan Morrison, and Brock Heasley to discuss a proposal to develop a Nordic Ski program at the McCall Golf Course. Mr. Kirkpatrick stated that the concept would require the City to fund \$3000 for its operation.

Mayor Eimers asked what benefits the City would receive if the project is approved. Council Member Robertson stated that the City would get 10% of the increased revenue from the clubhouse. Council Member Bertram stated that the City would also benefit from increased marketing of the area.

Tracey Smith, McCall Chamber of Commerce Executive Director, stated that the World Masters Cross Country Ski Championship will be held in McCall in 2008, and is gaining attention as a renowned cross country ski center.

Dennis Coyle stated that the World Masters Cross Country Ski Championship will bring 800 to 1200 skiers to McCall. Mr. Coyle stated that the City will also be hosting the US National Masters in 2007 and the Alpine Collegiate Championship in 2005.

Tuck Miller, 657 Koski Avenue, stated that McCall has hosted a number of cross country skiing events in the past 50 years but have failed to capitalize on the possible financial benefits. Mr. Miller stated that the total trail pass revenue in the State of Idaho is approximately \$50,000. He stated that the McCall Nordic Ski Team intends to establish a cross country skiing master plan that will put the infrastructure in place which

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will lead to the development of programs that can sustain the local industry. He stated that one of the major goals of the master plan is to place a cross country ski resort at the McCall Golf Course. The goal is to provide 20,000 skier days at the Golf Course by 2008. To be successful in creating a cross country ski resort destination, the group wants the operation to be run and operated by cross country skiers, funded by cross country skiers, and be supported by the local business community.

Allan Morrison, McCall Golf Professional, 904 Evergreen, stated that he has agreed to allow the project at the Golf Course and would like to see the City support the concept of the project for the initial two years by contributing \$3000 towards lighting and signage. Mr. Morrison stated that the Nordic Skiing was initially a City project but would like to see it evolve to a private project.

Dennis Coyle, Ponderosa State Park Manager, stated that the idea was looked at 5-6 years ago. At that time, they didn't have the information to answer the questions on Golf Course damage. Mr. Coyle stated that in 1991-1992, Ponderosa State Park had 9,000 skier visits. He stated that it has since varied between 40,000 to 50,000 skiers depending on what events are being held. Mr. Coyle stated that it would be important to determine how individual ski pass revenue would be divided and what the liability to his employees when grooming city property would be. He stated that last year revenue generated from ski and vehicle passes was about \$26,000.

Dan Pillard, Director of Golf Operations, stated that the Golf Course had approximately 3,500 square feet of damage in the past, but believes the amount of damage could be minimized if the low lying areas were avoided when the trails were developed. He stated that he and Allan Morrison would be responsible for marking the course.

**Council Member Greer moved to approve Allan Morrison's proposal to develop a Nordic Ski Program at the City of McCall Golf Course. Council Member Robertson seconded the motion. All Council Members voted aye. The motion carried.**

**AB 04-119 Lease Agreement between the Airport and Parks & Recreation Department**

Kevin Delaney, Airport Manager, stated that the Airport Advisory Committee has reviewed and approved the lease agreement between the two departments.

**Council Member Muller moved to approve the lease agreement between the Airport and Parks & Recreation and authorize both departments to sign the lease. Council Member Robertson 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.**

**AB 04-107 Local Option Tax**

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Lindley Kirkpatrick said Ordinance #796 would establish the ability to place a 3% local option lodging tax proposition on the ballot. Mr. Kirkpatrick stated that the cost to administer the tax can be absorbed within the existing staff structure. Mr. Kirkpatrick stated that the Ordinance does not specifically exclude lodging in camps since charitable organizations are already exempt under Idaho state law.

Council Member Robertson asked if state law required the creation of a property tax relief fund if the money doesn't get spent in a year. Mr. Kirkpatrick confirmed that state law requires the creation of the fund if the collected revenue isn't expended in the same fiscal year.

Council Member Muller asked when the tax would become effective if it is approved by voters. Mr. Kirkpatrick stated that the City would begin collecting revenue in January and a budget amendment would have to be passed to ensure the revenue is spent within the same fiscal year.

Dick Wilkerson, 336 Fourth Street, said the City should pave the existing roads prior to undertaking any other projects.

**Council Member Robertson moved to read Ordinance 796 by title only, first reading. Council Member Bertram 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.**

Lindley Kirkpatrick read Ordinance 796 by title only.

## REPORTS

City Attorney – Paul Turcke stated that a property owner has requested a reconsideration hearing in regards to the Idaho Department of State Lands encroachment permit for the fish pen project. Mr. Turcke stated the hearing is scheduled for July 27, 2004. He also stated that they are working cooperatively with the protesting party to see if there is mutual compromise that could be worked out.

Council Member Muller asked if any progress had been made regarding the perceived illegal business operating on Lick Creek Road. Chief Appa stated that no violations have been seen when his officers have driven by the residence.

Council Member Bertram stated that trash is being piled up on the City sidewalk in front of Moxie Java since there is no space for trash storage at the business. Mr. Kirkpatrick stated that the owner has an arrangement with Lakeshore Disposal where their trash is put outside after 6:00 a.m. and the first available truck picks up the garbage. Council Member Bertram stated that the City should implement a zero tolerance policy regarding trash piled up on the sidewalk outside of a business.

## EXECUTIVE SESSION

At 10:30 p.m. Mayor Eimers moved to go into executive session per Idaho Code 67-2345(1f) to consider pending litigation. Council Member Muller seconded the motion. In a roll call vote, Mayor Eimers, Council Member Bertram, Council Member Greer, Council Member Muller, and Council Member Robertson voted aye. The motion carried.

The discussion concerned pending litigation.

At 11:30 p.m., Mayor Eimers moved to go into executive session per Idaho Code 67-2345(1b) to consider personnel matters. Council Member Bertram seconded the motion. In a roll call vote, Mayor Eimers, Council Member Bertram, Council Member Greer, Council Member Muller, and Council Member Robertson voted aye. The motion carried.

The discussion concerned personnel matters.

At 12:40 a.m., Mayor Eimers moved to come out of executive session. Council Member Greer seconded the motion. In a roll call vote, Mayor Eimers, Council Member Bertram, Council Member Greer, Council Member Muller, and Council Member Robertson voted aye. The motion carried.

## ADJOURNMENT

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**Without further business, Mayor Eimers moved to adjourn. Council Member Muller seconded the motion. All Council Members voted aye. The motion carried. The Council adjourned at 12:40 a.m.**

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Kirk L. Eimers, Mayor

**ATTEST:**

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Dan Irwin, City Clerk