

MINUTES

McCall City Council Regular Meeting August 10, 2006

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CALL TO ORDER AND ROLL CALL

Mayor Robertson called the regular meeting of the McCall City Council to order at 6:03 p.m. Council Member Bailey, Council Member Bertram, Mayor Robertson, and Council Member Scott answered roll call. A quorum was present. Council Member Kraemer was absent.

Bill Nichols, City Attorney, was present.

City staff members present were Lindley Kirkpatrick, City Manager; Roger Millar, Deputy City Manager, Linda Stokes, Acting Finance Director, Brenda Loftis, Human Resource Director, Eric McCormick, Golf Superintendent, Allan Morrison, Golf Pro; Rick Harvey, Airport Manager; Brock Heasley, Parks and Recreation Director; Anne Kantola, Library Director; Jerry Summers, Chief of Police; and Joanne York, City Clerk.

Mayor Robertson led the audience in the Pledge of Allegiance.

REPORTS

Roger Millar, Deputy City Manager, gave a brief overview of the City Manager Report. He also introduced Eric McCormick, the City's new Golf Course Superintendent.

Mr. Millar reported that a Planning Manager and a Wastewater Treatment Operator had both been hired.

Mr. Millar announced that a Public Hearing on sewer and wastewater rates would be held on August 24th.

There was a discussion about the Local Option Tax (LOT) funding, including how many dollars had been received, and if Council would be meeting again to consider allocations. Linda Stokes, Acting Finance Director, gave an update on the amount of tax money received to date. Mr. Kirkpatrick explained that Council would only reconsider the LOT allocations if dollars received exceeded what had been approved for Fiscal Year 2006.

Mayor Robertson asked when Mr. Goldman would be finishing the paving on Spring Mountain Boulevard. Mr. Millar said he would check with Mr. Goldman for a completion date.

Mayor Robertson asked who was responsible for making the decision about the speed limit on Deinhard Lane. Mr. Kirkpatrick explained that it was a joint decision among the City Manager, the Deputy City Manager and the Police Chief. Mr. Kirkpatrick said it is a staff level decision. Council Member Bertram asked that a higher speed limit be considered for summer because drivers had to constantly ride their brakes to stay within the speed limit.

There was discussion about the bike path near the bridge and why it was wider in that area. Mr. Millar explained that the full bike path had been eliminated from the project but that it had been built along the bridge and retaining wall portions of the road.

In response to questions from Council, Mr. Millar reported staff had received only a draft conditional use permit for the expansion of Mile High Marina because the Marina had been busy with other projects. Mayor Robertson asked that an update on the Marina docks be included in Mr. Heasley's report.

Mayor Robertson requested that the order of the Public Hearings be reversed. He asked that the hearing on the Fish Pen Docks be conducted first because so many people were present to testify about it.

PUBLIC HEARING

Council Member Bailey asked Mr. Nichols if he should recuse himself to avoid any conflicting issues since he had been Chairman of Planning and Zoning at the time of the Fish Pen Docks application. Mr. Nichols said he recommended it but that it should be a Council decision. Council agreed with Council Member Bailey and he recused himself.

Mr. Nichols reviewed the process for the public hearing on the fish pen docks and pointed out that Mr. Millar had placed the plot plan signed by a certified surveyor on the wall, as well as all the documents included in the attachments for the public hearing. Mr. Nichols asked the City Clerk if any other written comments for the hearing had been received; the City Clerk responded that there had not been any.

Mr. Nichols asked each Council Member if they were biased and prejudiced or if they could make a fair decision. Council Member Scott said she did not believe she was prejudiced. Council Member Bertram replied she would listen. Mayor Robertson replied his mind was not made up and he would listen.

Mr. Nichols asked that the order of speakers begin with those in favor, then those opposed, then those who were neutral. Mr. Nichols asked that Council consider allowing speakers more than the three-minute time allotment for presenting their views.

Mr. Nichols informed the Council that they had three options for this application, to approve, to approve with conditions, or to deny.

Mayor Robertson announced that the signup sheets for the Public Hearing would be left out until after the Deputy City Manager's presentation.

AB 06-138 Fish Pen Docks at Brown Park

Mr. Millar presented the staff findings, stating that the application had been submitted under the old Code and had to be considered under the old Code.

Mayor Robertson opened the public hearing at 6:45 p.m.

Joe Baugh, 415 S. Samson Trail, stated he was in favor of the fish pens, primarily because he believed there was a decreasing amount of activities along the lakeshore. He said that this would be a unique activity offered in McCall. He also mentioned how the docks would benefit the fisheries by putting more fish in the lake.

Greg Brown, 1506 N. McCall Avenue, stated he was opposed to the fish pen docks, due to increased activity at night and that people had been abusing use of the dock. He suggested moving the fish pen docks to Ponderosa Park where they would have more protection from vandalism.

Judy Dinwiddie, 120 W. Lake Street, stated she was speaking on behalf of the Mill Park condo owners, and that she was not in favor of the fish pens. She recounted past communications between the condominium owners and the City, stating that their concerns had not adequately been addressed. She said the condominium owners believed that the boat docks would be a nuisance. She asked who would be responsible for the security at the park.

Kevin Briem spoke in favor of the fish pen docks, stating they were a great asset for children. He suggested there might be options for controlling late night use of the docks that could be explored.

Dorrell Larsen, 630 Ruby, stated he was not opposed to the fish pens docks but was opposed to the location, emphasizing that Brown Park was not an appropriate location for the fish pens. He also stated that security at the park was a problem and that people were spending the night at the park.

Mark Larsen, resident of Mill Park Condos, stated he was opposed to the fish pen docks being located at Brown Park. He said the fish hatchery was an appropriate location for the fish pens. He also cited security problems at the park.

Ray Dupree, 45 Silver Fox Trail, spoke in favor of the fish pen docks, citing various uses that would involve students, visitors and families. He emphasized that Brown Park was a public park.

George Nichol, N. McCall Avenue property owner, spoke in opposition of the fish pen docks being located at Brown Park, citing safety and security issues.

Tuck Miller, 657 Koski, stated he was in favor of the fish pens because of the positive draw it would become for children and young people. He suggested the homeowner association form a Neighborhood Watch program in conjunction with the police department. He stated it was a great place for a kids program and that McCall needed a place where children were welcome and could be involved in activities.

Deborah Nelson, attorney, 601 W. Bannock Street, stated she was representing the Mill Park Homeowners Association. She stated the Mill Park Homeowners Association was not opposed to having fish pen docks but was opposed to locating the fish pen docks in this type of park. She addressed the issue of bias, explaining that the concern was not directed towards personal bias of the Council members, but since the dock had not been removed when the permit was revoked, its very presence imposed a bias. She also stated that the Planning and Zoning Commission was the proper body to conduct this hearing.

Ms. Nelson discussed other issues such as parking and the character of a neighborhood park.

Ms. Nelson emphasized that the homeowners association was asking that the application be denied.

Pat Riffle, 1516 McCall Avenue North, stated she was not against the fish pen docks, but was concerned about the lack of security in the area. She stated that she had had teenagers on her property who had gained access from the park. She said she wanted to see the City's plan for maintaining security and protecting her private property.

Debra Huber, 1508 McCall Avenue, stated she agreed with the issues that had already been brought up by the Mill Park Homeowners Association and other neighboring homeowners. She said she had checked with the police department about the number of calls they had received concerning problems at night at the dock, and there had been several. She explained that late-night trespassing from teenagers at the docks had become a serious problem. She also said that there were increased safety issues due to the water level going down, exposing debris. She said she wanted to have the fish pen docks installed at another location.

David Huber, 1508 McCall Avenue, stated he was opposed to the fish pens and the docks at the current location. He also cited safety concerns because of the debris along the beach and security issues because of illegal activity of young people at night.

Mark Anderson, 1130 38th Street, Sacramento, California, stated he was a frequent visitor to McCall. He told the Council that there was a lot of activity and noise along the docks late at night which had become a serious nuisance. He said he was opposed to the application.

Laura Grafts, 1647 E. Hayes Court, Boise, explained that she was concerned about the lack of parking and that safe pedestrian areas around town were becoming scarce. She stated she was opposed to the application because it would take up space that she used for walking and bicycling.

Lance Saunders, 1510 McCall Avenue, stated he was opposed to the location of the docks, but was not opposed to the docks or the fish pens themselves.

Cynthia Anderson stated she was opposed to the docks because of the location, citing lack of parking and lack of space in the park to handle the number of people who would be visiting.

Julie Slee, owner of a Mill Park Condominium, stated she was in favor of the fish pens and docks, but was concerned about all the issues already raised, but mainly the lack of parking and the late night activity.

Hearing no further comments, Mayor Robertson closed the Public Hearing at 7:41 p.m.

A brief recess was taken until 7:51 p.m.

Mayor Robertson re-opened the Public Hearing at 7:51 p.m.

Paul Janssen, Idaho Fish and Game Department, gave an explanation for the purpose of the fish pen docks, stating the primary reason was to put fish back in the lake close to the city. He also explained that the location in front of Brown Park was suitable for the fish pen docks because of the depth of water that was required for the pens. He stated that the hatchery did not work with trout and was not an accessible location for public

participation. He stated there was no other alternative for a site and that Ponderosa Park would neither meet the requirements nor the objectives of the Fish and Game Department.

Mr. Nichols informed Council that if Council wanted to ask questions of someone who had testified, they had to do it before the Public Hearing was closed.

Council Member Bertram asked Mr. Janssen if he had ever dealt with the debris at the location of the fish pen docks, such as metal and other material that would be dangerous to children. Mr. Janssen said he had not been aware of such debris. Council Member Bertram asked who would have jurisdiction over removing the debris; Mr. Janssen said he did not know but that the Fish and Game Department was not responsible.

Mayor Robertson asked Mr. Janssen if there was a problem from the waste from the fish pens; Mr. Janssen said that they had not had problems with waste from the old fish pens, partly due to the fact that the water was very deep in that area.

Council Member Scott asked if there were any other alternatives for the location of the fish pens; Mr. Janssen replied that the only alternatives were the current location at Brown Park and the old location south of the park, which would be cost prohibitive.

Dorrell Larsen asked why it would be cost prohibitive to have the fish pen docks at the old location. Mr. Janssen stated that the old location would require a much longer dock – at least 200 feet long – to place the nets in deep enough water and that would incur quite a bit more cost.

Mayor Robertson asked if the anticipated proposal from Mile High Marina for new docks would provide an appropriate location for the pens. Mr. Janssen said that suggestion had not been considered.

There was a question from a member of the public about whether or not the water quality would be safe, if the wind would blow the fish waste onto the private beach and boat docks, considering that 10,000 fish would be placed in the pens.

Mr. Millar said that the issue of waste had been brought up before the Planning and Zoning Commission and they decided the fish waste would not be a problem in that area.

Mayor Robertson closed the Public Hearing at 8:08 p.m.

Mr. Millar asked Mr. Nichols some procedural questions. In reference to public comments, Mr. Nichols stated that public participation was over once the Public Hearing was closed. In response to Ms. Nelson's comment that the Planning and Zoning Commission would be the appropriate body to conduct this Public Hearing, Mr. Nichols explained that the Planning and Zoning Commission only made a recommendation to

the Council and the Council was the deciding body, therefore, a remand to the Planning and Zoning Commission was not necessary. He further explained that the judge's decision had not been to remand the application to Planning and Zoning; the decision had been to remand it to Council.

Mr. Millar pointed out the location of the old fish pen docks, just north of Mile High Marina.

Mr. Millar addressed the security issue. He said that Chief Summers had checked with Valley County Dispatch who reported they had only received three calls and that there were only nine incidents on record since April 1999. Mr. Millar said that Chief Summers said the area was regularly patrolled, and that the incidents reported at the park were consistent with incidents reported at the other City parks. Mr. Millar told Council that if they chose to approve the application, they could do so with conditions and include a condition requiring that some type of monitoring system be put in place.

Mr. Millar further explained that Brown Park was in the Central Business District and that more areas of public parking were being considered. He said the City was working on alleviating the parking situation.

Mr. Millar told Council that 65% of Payette Lake beach front was private and 35% was public. Most of the public lake front is in Ponderosa Park. He said that Brown Park was part of the small amount of beach front available in the City.

Mr. Millar discussed other issues raised concerning the location of the fish pen docks at Brown Park. He said that the safety issues raised tonight had not been heard before.

Mayor Robertson asked when the park was closed at night; Mr. Millar said City code required closure at 11 p.m. He said that the noise ordinance related only to construction activity. He said there was no enforceable ordinance for noise from other activities at this time.

Mayor Robertson asked Chief Summers for comments. Chief Summers said that he was addressing the issue of a noise ordinance with Larry Dunn, City Prosecutor. He said there was a State issue concerning disturbing the peace that might apply to this situation.

Mr. Nichols read a copy of the McCall City Code on noise, Section 8-14-5, handed to him by Ms. Nelson, that addressed noise levels over 62 decibels. Mr. Nichols said the Code noted some exceptions, but those did not include teenagers having parties late at night at the park.

Mayor Robertson asked Mr. Millar if the City was allowed to use fencing in areas to prevent people going from one property to another. Mr. Millar said the City Code did not allow it.

Mr. Millar stated that he believed the only way to do away with unwanted activities was to replace bad behavior with good behavior and encourage the right kinds of activities. He said that enforcement was an issue all over town.

Council Member Scott asked about the projected number of visitors to the fish pen docks, which had been estimated at fifty to ninety per day. Mr. Millar explained that the number was the result of an anecdotal projection by the former Parks and Recreation Director.

Mayor Robertson discussed the issue of whether or not the fish pen docks could be located at Mile High Marina and that he would like to consider that as an alternative in the future, but he stated the decision concerning the fish pen docks should not be postponed. He said Council should either consider putting a dock further out or go ahead with the location at Brown Park.

Council Member Bertram said she was struggling with the definition of a neighborhood park and that the definition should be considered when the Parks and Recreation Master Plan is addressed. She also discussed the definition of community parks and that those belong to all the people in the town. She said that homeowners who build next to parks should consider the activities and noise from the park before they build. She said she was also concerned about any precedence that would be set by their decision. She said she did not want to cut off access to the park for the community, and that the location requirements for the fish pens limited the option to Brown Park. She said the City had responded to the parking issue by approving \$1.5 Million in next fiscal year's budget for parking, and that they had responded to the security issue by hiring a code enforcement officer this year.

Mayor Robertson summarized a few issues, concerning late night security issues. In response to a question from Judy Dinwiddie, he said that the City was responsible for the security. He discussed the problem of areas that were evolving into private neighborhoods and the issues that had to be addressed. He said he believed the fish pen docks would not only be a unique attraction in McCall but would also be useful. He said he was taking the issue very seriously but believed Council should go forward with the Brown Park location. He also stated that in the future, the City should consider alternate locations.

Council Member Scott said that homeowners who build next to a public park should expect additional activities to take place there. She also believed that the addition of the fish pen docks was a good amenity to the City. She noted that private homeowners were entitled to protection, but questioned whether the problems were due to the docks being there or because of the growth of the town. She also suggested working towards a solution for the southerly location at Mile High Marina which would involve funding from the private homeowners.

Mr. Nichols said that if Council were to approve the Conditional Use Permit, they would need to agree with the proposed findings listed on page three of the McCall City Council

Findings and Conclusions. He reviewed each of the conditions for the Council, reiterating that the Council must agree with each condition in order to approve the Conditional Use Permit.

The Council discussed each of the conditions individually.

Mayor Robertson suggested having staff revisit the issue of hours of use at the public parks, and perhaps limiting electronic music, an issue which he noted would not affect Council's decision tonight.

During discussion of security at the park, Chief Summers said he had placed a call to Lieutenant Rittenger during the council meeting, telling him that the park was to be patrolled after 11 p.m. each night and that a foot patrol would also be required to check the park each night.

Debra Huber asked to speak and Mayor Robertson gave her permission. She noted that in response to Council Member Scott's question about involving the homeowners association with plans to locate the fish pen docks at another location, the homeowners had made that offer in their written communications with the City.

There was a lengthy discussion about postponing a decision and asking staff to prepare an estimate of costs and procedures to relocate the fish pens at the southerly location.

Council Member Scott said she would like to have time to find out the cost of building a dock at a southerly location and also find out what participation they would get from the homeowners association.

Mr. Nichols recommended that since Council Member Kraemer had not been able to attend tonight's public hearing, he should not vote on the application at a future meeting.

Mr. Nichols suggested that staff come back to Council after studying alternate locations that had been discussed before, with an estimate of how much it would cost to move the existing dock and build an additional length to it if necessary. He suggested that this be communicated to Ms. Nelson so that she could discuss with her group what their participation would be. He suggested that staff report back to Council with a plan, how it would be accomplished and how much it would cost.

Mr. Nichols recommended that the Council make this decision by motion.

Mayor Robertson moved to re-open the public hearing at the next Council meeting on August 24th, for the specific purpose of having staff report back to Council with the cost of building fish pen docks or piers in the old location north of Mile High Marina, as compared to using the current docks, and to share that information with Ms. Nelson to see if participation by the Mill Park Homeowners Association would be viable. Council Member Scott seconded the motion.

In a roll call vote, Mayor Robertson voted aye, Council Member Scott voted aye, and Council Member Bertram voted nay. The motion carried 2 to 1.

Mr. Nichols emphasized that the Council was not to discuss the application with any staff or public. He said any questions they had could be submitted to Mr. Millar in writing.

At this time Council Member Bailey rejoined the Council.

AB 06-148 Fiscal Year 2007 Budget

Mr. Kirkpatrick introduced this agenda item, explaining that the tentative budget was based on receiving an anticipated \$600,000 from Growth and Annexation dollars, but the actual amount received was only \$424,000. Mr. Kirkpatrick said the staff had revised the budget, making cuts to balance to the new amount.

There was a discussion about specific items in the budget.

Council Member Bertram discussed the City's contribution to MCPAWS. She suggested increasing the budget amount for MCPAWS from \$10,000 and moving an additional \$5,000 from the Council Contingency Fund. Council Member Bailey pointed out that MCPAWS would be receiving a 50% higher amount from the City than they had received last year. Council also recommended moving \$15,000 from Marketing to Mapping.

Mayor Robertson opened the Public Hearing at 10:35 p.m.

Hearing no comments, he closed the Public Hearing.

Staff provided explanation to some questions from the Council concerning the budget. Council Member Bailey asked that before preparing next year's budget, staff consider raising franchise fees for Idaho Power and for Charter Communications, noting that the budgeted revenue had decreased this year.

Mayor Robertson moved to re-open the Public Hearing and leave it open until August 16, 2006 for written comments. Council Member Scott seconded the motion. In a roll call vote, all members voted aye, and the motion carried.

PUBLIC COMMENT

Mayor Robertson called for public comment at 10:55 p.m.

Hearing no comments, Mayor Robertson closed the public comment.

CONSENT AGENDA

Staff recommended approval of the following items, including an additional Warrant Register printed on August 10 and distributed to Council at tonight's meeting:

- ❖ Payment Approval List for Warrant Register printed on August 3, 2006
- ❖ Payroll Reports for Pay Period Ending July 28, 2006
- ❖ AB 06-146 Alcohol Beverage Catering Permits
- ❖ AB 06-153 Appointment of Comprehensive Plan Steering Committee
- ❖ AB 06-151 Old Jail Grant Revenue/Expense

There were some questions concerning the Warrant Registers and other items on the Consent Agenda.

Mayor Robertson moved to approve the Consent Agenda. Council Member Bailey seconded the motion. All members voted aye and the motion carried.

BUSINESS AGENDA

AB 06-150 Water User and Supply Agreement with J. R. Simplot Company

Mr. Millar introduced this agenda bill, explaining that as of January 31, 1997 the City and J.R. Simplot entered into a Water User and Supply Agreement in which the City supplied treated effluent and J.R. Simplot applied the effluent (diluted 2:1 with water from the Lake Irrigation District) to a total of 117.7 acres of land. Mr. Millar further explained that the new agreement would add approximately 500 acres to the acreage being irrigated with treated and diluted effluent, subject to the terms of the Second Amended Consent Order between the City and the Idaho Department of Environmental Quality.

There was a short discussion concerning the agreement.

Council Member Bailey moved to approve the Water User and Supply Agreement with J. R. Simplot Company and Council Member Scott seconded the motion. In a roll call vote, all members voted aye and the motion carried.

AB 06-149 2006 Cece Way Paving Project

Mr. Millar introduced this agenda item, stating he was available for questions.

Council Member Bailey emphasized the need to complete paving projects and the benefit of having a bond election to fund them. Mr. Millar said that these projects would be addressed and prioritized in the Comprehensive Plan, which would also provide the information necessary to make a decision about having a bond election.

Mayor Robertson moved to award the paving bid to Granite Excavation, Inc., 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.

REPORTS, CONTINUED

Mr. Kirkpatrick reported that approximately twenty-five properties had been identified that should possibly be hooked up to City water but were not. He said the Water Department was investigating those cases, and that there was a requirement that a house located less than 300 feet from the City water line must be connected to the City line. Mr. Millar said there were verbal agreements from years ago that allowed the homeowners to use a well until their property sold or the well failed. Mr. Millar said he had directed his staff to put the verbal agreements in writing.

Mr. Kirkpatrick told Council that the City had received several qualified applications for the Administrative Services Director/Deputy City Manager position, and that he would arrange for a multi-tier interview process for them. He asked if any Council members would like to participate. Council Member Bailey and Mayor Robertson both responded that they wanted to be a part of that process.

Council Member Scott asked Mr. Millar about who was responsible for choosing builders for the community housing, and Mr. Millar replied that Neighborhood Housing Services was. He said they were looking at modular housing. Ms. Scott suggested inviting the builder to the Community Housing Open House. Mr. Millar explained that the City would retain ownership of the land and would grant leases for the properties. He said the leases might be for fifty years.

Mayor Robertson said the Civilian Conservation Corp statue dedication was a wonderful event and that Carol Coyle had done a great job organizing it.

Mayor Robertson discussed Proposition Two, stating the need for staff input and communication to educate the public about this proposition. Mr. Nichols said that the issue that the City would be allowed to research was what would be the impact of the proposition if it passed. He stated that the City was not allowed to spend any City resources to advocate a position, including sending emails and making copies of information to mail out.

Mr. Nichols announced to the Council that he had been the City's attorney for one year. Council expressed appreciation to him for his work.

EXECUTIVE SESSION

At 11:45 p.m., Mayor Robertson moved to go into Executive Session pursuant to Idaho Code §67-2345(1f) for litigation issues. Council Member Bailey seconded the motion. In a roll call vote all members voted aye, and the motion carried.

The Council discussed litigation issues.

ADJOURNMENT

Without further business, the meeting was adjourned at 11:56 p.m.

William A. Robertson, Mayor

ATTEST:

Joanne E. York, City Clerk