

# MINUTES

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**McCall City Council  
Regular Meeting  
Idaho First Bank - Lower Level  
February 26, 2009**

## Agenda

Call to Order and Roll Call  
General Work Session  
Public Comment  
Consent Agenda  
Business Agenda  
Committee Minutes  
Executive Session  
Adjournment

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

**Mayor Kulesza called the regular meeting of the McCall City Council to order at 5:32 p.m. Council Member Bailey, Council Member Delaney, Mayor Kulesza, answered roll call; a quorum was present. Council Member Scott and Council Member Witte were absent.**

In addition to the Council Members, present were Lindley Kirkpatrick, City Manager; Bill Nichols, City Attorney; Pete Rittenger, Police Lieutenant; David Simmonds, Information Systems Manager; Jairus Knudson, IT; John Anderson, Airport Manager; Jerry Summers, Chief of Police; and BessieJo Wagner, City Clerk.

## **GENERAL WORK SESSION**

### ATV Regulations

Lieutenant Pete Rittenger, McCall Police Department, gave a presentation to Council on the ATV Regulations. The issue for McCall is that legislation was passed effective January 1, 2009 that allows ATV's to be driven on roads other than state highways and interstates. There are designated highway crossings established by the Idaho Transportation Department (ITD) but currently there were no designated crossings in McCall. All off road vehicles have to be registered with ITD. The City can request from ITD a designated crossing in McCall.

Lieutenant Rittenger stated that issues may arise if the City should decide to allow ATV's to be used as transportation within the City of McCall. There was some discussion as to safety issues and whether people would be informed enough to know what the rules are. Lieutenant Rittenger stated that the Council had options of restricting the use of ATV's in the City or they could make a recommendation as to where ATV's could cross the highway.

Council Member Delaney asked for the recommendation of the Police Department. Lieutenant Rittenger stated that with the way it was, it would be confusing to people and difficult to enforce. He stated that the City's snowmobile regulations would be good to use as a template. There are not as many laws governing ATV's as there are for motorcycles.

Mayor Kulesza stated that there was value to keeping to the snowmobile rules for ATV's so there would be consistency. The Council will use the information to possibly make a decision at a later date.

Council Member Witte joined the meeting at 6:00 p.m.

**Mayor Kulesza led the audience in the Pledge of Allegiance at 6:01 p.m.**

## **PUBLIC COMMENT**

**Mayor Kulesza called for public comment at 6:04 p.m.**

**Hearing no comments, Mayor Kulesza closed the public comment at 6:04 p.m.**

## **CONSENT AGENDA**

Staff recommended approval of the following items:

- Minutes January 8, 2009
- Warrant Register printed on February 19, 2009
- Payroll Report for Period ending February 6, 2009
- AB 09-32 Alcohol Beverage Catering Permit
- AB 09-33 2009 Alcohol Beverage License Expired
- AB 09-31 Golf Advisory Committee Member Appointment – Men's Association Member
- AB 09-35 Landmark Heritage Trees Update
- AB 09-37 Approval of Summaries for:
  - Ordinance 864 amending Title 3
  - Ordinance 865 amending Title 8
  - Ordinance 866 amending Title 9
  - CA-08-06 & CA-08-07: Omnibus Code Amendments to Title 3, Title 8, and Title 9

Some discussion took place to clarify the warrant register.

**Council Member Delaney moved to approve the Consent Agenda. Council Member Bailey seconded the motion. In a roll call vote, Council Member Delaney, Council Member Bailey, Mayor Kulesza, and Council Member Witte voted aye and the motion passed.**

## **BUSINESS AGENDA**

### **AB 09-34 McCall Memorial Hospital Expansion Plans – Presentation**

Dr. Droge gave a power point presentation on the McCall Memorial Hospital. The presentation included an overview of staff and services of the hospital, the hospital's master planning process, and the needs of the hospital. The presentation also covered plans for the hospital's expansion and the timeline for the expansion.

At 6:35 p.m. Mayor Kulesza called for a ten minute recess.  
The meeting reconvened at 6:45

### **AB 09-36 Airport Through-The-Fence Proposal**

Mayor Kulesza thanked the public for their participation in the issue of the Airport Through-the-Fence proposal. He stated that there were in excess of 100 comments received. He asked if anyone has a comment on the proposal that has not already presented their comments either verbally or written that those comments would be heard at this time.

### **Public Comment**

**John Rygh** – resident of McCall – He stated that the neither the public nor the Council had been given details of the proposal and yet are being asked to make an irrevocable decision to sign an access agreement. He pointed out that the investor, John McEwen, did not appear to think it important to make an appearance and speak on the behalf of the proposal. He stated that in his opinion it is not the kind of development is supported in the comprehensive plan. He stated that he did not see how it would benefit the community as a whole and strongly recommends against the proposal.

**Brian O'Morrow**, Developer with Brown's Industries responded to comments with the following points:

1. The discussion of the relationship with John McEwen, the investor, for the Through-the-Fence Proposal and Brown Industries. Mr. O'Morrow stated that Mr. McEwen has a genuine interest in what is happening in McCall, he has met with past Council and City staff on this proposal and is willing to come and meet with Council and or staff and the Planning and Zoning Commission.
2. Mr. O'Morrow stated the he was disappointed with the responses that they received about the DeBoer family and Brown Industries. He stated that he is available to answer any questions that people have for the family or Brown Industries.
3. On the issue that it is a land deal in which no one but the developer and the investor would stand to benefit, he stated that they are planning community minded projects.
4. He addressed the problems happening in Sandpoint. All the property on the west side of the airport is privately owned that had easements onto the airport. New residential use caused the problem with the FAA. The issue was that there was a new Through-the-Fence agreement that had been signed within the last two years that does not prohibit residential use. The issue the FAA had was that Mr. McEwen built infrastructure and has unlimited access to the airport. He stated that legally the FAA could not take the access away due to the rules of land acquisition process.

5. He clarified that there was not an actual project plan on the table, they are asking for approval of the Through-the-Fence agreement. Access to the airport would not be granted. The agreement gives a plan for the next step of the process.
6. On the issue of air traffic the question of will the proposal increase jet traffic? Mr. O'Morrow talked about imminent growth and what kind of planes that would be likely to fly in to the airport.
7. Moving the airport – Mr. O'Morrow stated this proposal would not prevent moving the airport.
8. FAA comment – He stated that the FAA does have enough information for this agreement; they want the FAA to be part of the development. He stated that the agreement gives the City the right to terminate the agreement at any time
9. FAA – there may be some linkage or alleged linkage to grant agreements to this proposal, but he did not think the FAA could or would withhold funding.
10. The City should not allow the FAA to affect City planning or control development in McCall.
11. In response to the comment “Isn't McCall great just the way it is?” Mr. O'Morrow stated that unfortunately if steps to move forward do not happen, McCall cannot stay the same.

Mayor Kulesza stated that the issue before the Council is the Through-the-Fence proposal – and he recognizes that some would be for it and some against. He stated that it should not be a “litmus test” as to whether the Council supports a business plan, or whether or not the Council supports development, or whether or not the Council appreciates the contributions of the DeBoer family or Brown Industries.

Council Member Bailey responded to accusations that he wrote the agreement stating that he did not write it. He stated that over the past three weeks he had been involved in the editing of the document to ensure the protection of the City and the community. Mr. Bailey gave a history of the Through-the-Fence agreement stating that it has been a long process and the process was not being rushed as some think. He stated that the agreement did not give the developer any right to build anything on the airport property. He clarified that there is a lengthy process the applicants would have to go through to be able to build anything and there would be no residential building allowed. He pointed out that currently the City had a Through-the-Fence agreement with the USFS. Having this agreement with a private party versus a governmental agency could result in \$100,000 additional property taxes for the county and the City.

Mayor Kulesza commented that there would be a difference between a government agency and a private party. Mayor Kulesza also recognized how much time and effort that Council Member Bailey had put into the issue to protect the City. He stated that he had spoken with the FAA and they stated that the FAA had a 20 year policy of discouraging Through-the-Fence proposals and recognized that there are exceptions. The FAA can help communities acquire land. He stated that the \$150,000 a year from FAA, as well as grant funding – could affect the ability to compete well for the discretionary dollars.

Mayor Kulesza spoke with Sandpoint city staff and their relationship with Mr. McEwen and his partner. They reported that they found Mr. McEwen to be a shrewd businessman and honest in his dealings in Sandpoint. Mr. Kulesza also contacted other communities about Through-the-Fence proposals and found some to be violations of grant assurances. He received a letter from ITD which expressed and advised the City to exercise great caution when considering a

Through-the-Fence proposal. Mayor Kulesza stated that a Through-the-Fence agreement is not necessary for a business park and there is no obligation of the City to accept such a proposal. His frustration was such that the City was dealing with Brown Industries instead of Mr. McEwen, whose project it is, on this issue. He stated that this Council has not heard from Mr. McEwen or his partner, Mr. Maleski. He could not understand why they would not be interested in attending to this project. He stated that he is aware of the fact that Mr. McEwen had met with the previous Council and that there were some mitigating circumstances that he was unable to be present, however, he felt that he should have given more time to the project so that either he or his partner could have come to McCall and attended a meeting.

Mr. O'Morrow spoke to this issue and stated that his job for Brown's Industries is as a land planner and developer. His company was hired to present this project and Mr. Maleski is an investor, and Mr. McEwen is the managing partner of McCall Aviation Partners. Mr. Maleski's interest is as an investor in the project and is investing in Mr. McEwen's Project. He offered to come but was not able to come.

Council Member Delaney stated that if he did want to come that he could have waited for the decision to be made. She reiterated that it was Brown's Industries that had pushed for the decision to be made at this Council meeting. Mr. O'Morrow stated that Mr. McEwen was represented through him and stated again that the Council has the right to cancel the agreement at any time.

Mayor Kulesza posed the question of whether the Through-the-Fence agreement is in the best interest of the community.

Council Member Delaney stated that the business park would be very powerful for the community. She stated that she supported the business park but does not feel that the Through-the-Fence agreement has anything to do with the business park. Mr. O'Morrow explained that the annexation would be the start of the business park and that there were conditions in the agreement that had to be met or the agreement was voided. These conditions act as protection to ensure that the business park does get done.

Mr. DeBoer's connection to the project is that Brown's Industries does not have the funds to do a business park on their own, and Mr. McEwen knows about the hangars and has the funding.

Council Member Bailey stated that in response to the letter from the FAA, that responded to the Through-the-Fence agreement and had recommendations to change in the agreement, that all the recommended changes had been made. He stated that the agreement addresses each of the concerns that the FAA had.

Council Member Delaney asked if Council Member Bailey was concerned with the fact that the FAA is still saying that they do not like the Through-the-Fence agreements. Council Member Bailey stated that his impression was that it depends on the local FAA office.

Council Member Bailey was also concerned that Mr. McEwen had not appeared before this Council.

Mr. Anderson stated that the agreement with the Forest Service was to maintain a taxi way and was not a Through-the-Fence agreement.

Council Member Witte's perspective was that her responsibility was to the City and did not think that the benefits of the Through-the-Fence proposal outweighed the potential risks. Council Member Bailey addressed her concerns by stating that there are provisions in the agreement to protect the City. He also stated that the Council could not rule out the possibility of someone trying to sue the City of McCall.

**Council Member Bailey moved to approve the Through-the-Fence access agreement. Mayor Kulesza called for a second, hearing no second, and the motion died.**

## COUNCIL DISCUSSION

Executive session needs to be rescheduled to a future meeting.

The Council identified that the Impact fees issue needs to be resolved, and that the Council needs to look at the potential of establishing a new Urban Renewal District.

## COMMITTEE MINUTES

The Council received copies of the following minutes:

- McCall Public Library Board of Trustees – January 21, 2009

## ADJOURNMENT

**Council Member Delaney moved to adjourn the meeting. Council Member Witte seconded the motion, and in a voice vote all members voted aye and the motion carried.**

**Without further business, the meeting was adjourned at 8:34 p.m.**



ATTEST:

  
BessieJo Wagner, City Clerk

  
Bert Kulesza, Mayor