

# MINUTES

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**McCall City Council  
Regular Meeting  
High School Annex  
401 North Mission Street  
December 15, 2011**

## Agenda

Call to Order and Roll Call  
Work Session  
Approve the Agenda  
Pledge of Allegiance  
Public Comment  
Business Agenda  
Consent Agenda  
Executive Session  
Open Session  
Adjournment

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

**Mayor Bailey called the regular meeting of the McCall City Council to order at 5:30 p.m. Council Member Aymon, Mayor Bailey, Council Member Scott, Council Member Swanson, and Council Member Witte all answered roll call.**

City staff present was Lindley Kirkpatrick, City Manager; Bill Nichols, City Attorney; Jerry Summers, Chief of Police; Michelle Groenevelt, Community Development Director; Dennis Coyle, Parks and Recreation Director; Eric McCormick, Golf Course Superintendent; Peter Borner, Public Works Director; Carol Coyle, Grant Coordinator; and BessieJo Wagner, City Clerk.

## **APPROVE THE AGENDA**

**Mayor Bailey and the Council approved the Agenda, adding an Executive Session for litigation and to consider records that are exempt from disclosure at the end of the meeting.**

## **WORK SESSION**

### **AB 11-225 MCC Title 1 Amendments**

BessieJo Wagner, City Clerk, explained that McCall City Code (MCC) Title 1 was currently out of date with the City's administrative needs and practices. The last update made to MCC Title 1 was in 2004; however, the majority of Title 1 was written in the 1990's. The purpose of the work session was to identify areas in MCC Title 1 that staff and Council felt needed to be updated and correct any grammatical or content issues. Council received a draft proposal and made the following changes:

Paragraph 1.1.3: AMENDMENTS ~ Council Member Witte asked that the specification of Sterling Codifier, Inc. be removed. It should now read "...by ordinance shall be immediately forward to the City's official codifier, and the said..."

A brief discussion occurred regarding Paragraph 1.1.4 and the use of he to mean he or she, man to mean man or woman and singular to mean singular or plural.

Mr. Bill Nichols, City Attorney, stated changing something in MCC Title 1 could require changing it in the entire Code and, therefore, recommended not making changes to general information.

Paragraph 1.1.5 DEFINITIONS ~ Under Neglect, Negligence, Negligent and Negligently, Council Members Aymon and Witte requested use of the word person and his or her. It should now read "...as a prudent person ordinarily bestows in acting in his or her own concern."

Under Streets, Council Member Witte questioned the use of the term public places. Mr. Nichols recommended that term remain.

Paragraph 1.1.6: INTERPRETATIONS, Council Member Witte expressed concern regarding the wording in Paragraph B "...the employer and all other persons concerned with the said person shall be deemed guilty of the offense described." Mr. Nichols recommended reviewing that section with the City Prosecutor. There was a brief discussion between Council Member Witte and Mr. Nichols regarding who would be liable and under what circumstances.

Paragraphs 1.2.1 and 1.2.2, Mayor Bailey questioned the reference to (1964 Code) at the end of each paragraph. BessieJo Wagner, City Clerk, indicated that should have been removed.

Council Member Aymon asked for clarification on the Repeal of General Ordinances covered, and Mr. Nichols provided that information.

Paragraph 1.3.1: GENERAL PENALTY, Council Member Witte stated the paragraph was one long, run-on sentence. Mr. Nichols explained it was State Statute. Council Member Witte requested the she and her be added to the last sentence. Mr. Nichols recommended using that person. It should now read "...that person may be put to work for the benefit of the City for the term of that person's imprisonment."

Paragraph 1.3.2: TO WHAT ACTS PENALTY SHALL ATTACH, Council Member Witte indicated the paragraph is again a run-on sentence. It should now read "...or imposing the obligation. Where any duty is prescribed..."

Council Member Swanson pointed out that there is no 1.4.1.

Paragraph 1.6.1: INITIATIVE AND REFERENDUM ~ Mayor Bailey requested removal of the comma. It should now read "...through the initiative process according to the procedures..."

Council Member Swanson requested the official oath required of the City Manager in Paragraph 1.7.010 be included in this document.

Paragraph 1.7.030: BOND ~ Council Member Witte indicated that was not a complete sentence. It should now read "...through the City's insurance coverage, and be deemed to have coverage..."

Paragraph 1.7.040: ABSENCE ~ Council Member Witte requested and received clarification regarding who would be authorized to perform the City Manager's duties in his absence. Council requested removal of the word administrative. It should now read "...a qualified officer of the City."

Paragraph 1.7.050: COMPENSATION ~ Council Member Swanson pointed out that the referenced sections need to be updated. Council requested a change in the wording regarding compensation. It should now read "...such compensation as the Council shall from time to time determine and fix by written agreement."

Paragraph 1.8.4: TIME OF MEETING ~ Council Member Witte pointed out that there should be a space or dash in the written five thirty.

Paragraph 1.8.6 EXPENSES ~ Council Member Witte felt there were words missing. It should now read "...under direction of the Council or in the ordinary performance of the duties of the Council;..." and "...has been presented to the full Council and by such approved and allowed."

Paragraph 1.8.3: SPECIAL MEETINGS; CALLING OF SAME: ~ Mayor Bailey the removal of 'by the Mayor.' Ms. Wagner explained that in the Council/Manager form of government, the Mayor is not granted that authority.

Paragraph 1.8.8: PROCEDURES FOR FILLING VACANCIES ON COUNCIL ~ Mayor Bailey requested removal of the small m in the last sentence before Mayor.

Paragraph 1.8.10: MAYOR; AUTHORITY DUTIES AND POWERS ~ Council Members Aymon and Witte requested the paragraph utilize "his or her" and "he or she" throughout the paragraph.

Paragraph 1.8.9: MAYOR ~ Council Member Witte asked for clarification regarding the removal of the Mayor by the Council. Council Member Swanson indicated the wording was confusing regarding the first meeting. Mr. Nichols recommended re-wording the paragraph. Council Member Aymon requested gender neutral verbiage.

Paragraph 1.8.12: EXPENSES ~ Mayor Bailey indicated a word was left out. It should now read "...has been presented to the Council and by such approved..."

Paragraph 1.9.3: APPOINTMENT AND REMOVAL ~ Mayor Bailey felt 'City Prosecutor' should be added to the first sentence. A brief discussion occurred. Council members concurred with Mayor Bailey. The first paragraph should now read "...or remove the City Attorney or City Prosecutor or confirm or fail..."

Council Member Witte requested the addition of department heads to the first sentence of Paragraph C, to keep it consistent throughout the paragraph. Paragraph C should now read "...temporarily remove any officer or department head (other than the City Attorney or City Prosecutor) at any time..."

This Work Session was continued to the work session scheduled for Friday, December 16, 2011.

**Mayor Bailey led the audience in the Pledge of Allegiance at 6:19 p.m.**

## **PUBLIC COMMENT**

**Mayor Bailey called for public comment at 6:20 p.m.**

Patrick Phillips, 344 Conifer Drive, McCall ~ Stated he had requested City Council review City Code 3.8.09 regarding trash containers at a previous Council meeting and asked for an update. Mayor Bailey indicated that City Code 3.8.09 was the subject of the Work Session scheduled for December 16, 2011, and encouraged Mr. Phillips to attend.

**Hearing no further comments, Mayor Bailey closed the public comment period.**

## **BUSINESS AGENDA**

### **AB 11-218 Resolution 11-24 Section 504 Transition Plan Adoption – Public Comment**

BessieJo Wagner, City Clerk, explained to City Council that as a recipient of Federal financial assistance, the City of McCall was required to comply with various nondiscrimination laws and regulations, including Title VI of the Civil Rights Act of 1964 and Title II (State and Local Government Services) of the Americans with Disabilities Act (ADA). Part of the requirement was to develop and implement a 504 Transition Plan for corrective actions to provide access to public programs and facilities. This Transition Plan was originally presented to Council in June. City staff advertised and held a public workshop on November 15, 2011, for citizen participation in the development of the 504 Transition Plan. No members of the public attended that workshop. Staff also published an ad in the November 24, December 1, and December 8, 2011, editions of the Star-News, seeking written comments on the Plan. One comment was received.

**Mayor Bailey called for public comment at 6:24 p.m.**

Roger Gossi, 1200 Aspen Ridge Lane, McCall ~ Introduced himself as the retired 504 Coordinator for Boise State University. He offered his extensive experience to assist the City with this Transition Plan. Council Member Aymon asked Mr. Gossi what, in his opinion, the City's biggest need was. Mr. Gossi believed the City should focus on locations that are utilized the most. He also indicated there were many options for making accommodations with no cost involved. Council Member Aymon requested Mr. Gossi review the current City priority list and provide feedback at his convenience.

**Hearing no further comments, Mayor Bailey closed the public comment period.**

Ms. Wagner requested Council remember that this is a fluid document that will require constant review and possible revision, and indicated currently the City's priority was signage and utilizing any cost-effective solutions that may be available.

A brief discussion occurred regarding utilizing current staff to make necessary corrections.

**Council Member Swanson moved to approve Resolution 11-24 adopting the Section 504 Transition Plan for the City of McCall and authorize the Mayor to sign all necessary documents. Council Member Aymon seconded the motion. In a roll call vote Council Member Swanson, Council Member Aymon, Mayor Bailey, Council Member Scott and Council Member Witte all voted aye and the motion carried.**

**AB 11-219 City of McCall Environmental Advisory Committee Annual Report**

Claire Remsberg, Environmental Advisory Committee Chair, presented the Environmental Advisory Committee's annual report. Ms. Remsberg described the activities of the EAC over the past year and provided information on upcoming projects. The Council was supportive and appreciative of the Committee's efforts.

**AB 11-222 Snow Storage Agreement between Timberlost V Homeowner's Association, Inc., and the City of McCall**

Eric McCormick, Golf Superintendent, indicated that The Timberlost V Homeowner's Association needed additional snow storage in the winter. The McCall Golf Course would like the use of a private street belonging to Timberlost V, Fairway Drive, to move machinery more efficiently around the McCall Golf Course. The Timberlost V Homeowner's Association was willing to permit the McCall Golf Course to use the private street in exchange for a storage area for snow in the winter. The area requested by Timberlost for snow storage was used for employee parking in the summer and snow storage by the McCall Golf Course in the winter. There was ample room for additional snow storage on the lot. The Homeowners were storing snow on a private lot which drains onto the McCall Golf Course late into spring. The McCall Golf Course snow storage area provided a better drainage option for the Golf Course as well. Mr. McCormick provided Council with a copy of the proposed Agreement and a map of the area.

Mayor Bailey felt the City currently had legal access to all private roads. Mayor Bailey also stated that in the near future the City should consider selling the lot in question for revenue to build a new golf course shop.

A brief discussion occurred regarding alternate storage areas and the moving of equipment and snow. Mr. McCormick also confirmed that the agreement can be terminated by either party at any time.

**Council Member Aymon moved to approve the agreement with The Timberlost V Homeowner's Association and authorize the Mayor to sign all necessary documents. Council Member Scott seconded the motion. In a roll call vote Council Member Aymon, Council Member Scott, Mayor Bailey, Council Member Swanson and Council Member Witte all voted aye and the motion carried.**

**AB 11-221 Adoption of Guidelines for permitting commercial activity in McCall City Parks Resolution 11-25**

Dennis Coyle, Parks and Recreation Director, stated that the purpose of permitting concession privileges in parks was to provide the public with access to products and services while generating revenue to support ongoing park and recreation programs. The Parks and Recreation Advisory Board and staff had developed guidelines that would be used to determine the specific parks where concessions would be permitted and the types of concessions allowed. Concession privileges would be granted only when the McCall City Council determined that the products or services offered would provide an enhancement to the park, park users and the community of McCall. Public input was gathered on the following dates:

- October 19, 2011, at the Parks and Recreation Advisory Board meeting when the first draft of Guidelines for Commercial Activity and Concession Sales within McCall City Parks was presented;
- November 2, 2011, when the Parks and Recreation Advisory Board meeting conducted a public meeting with stakeholders including current concessionaires, business owners, interest groups and concerned citizens;
- November 3, 2011, the Council was briefed on the current status;
- November 16, 2011, the second draft was reviewed by the P&R Advisory Board during its regularly scheduled meeting; and
- December 1, 2011, the draft recommendation was presented to City Council.

Mr. Coyle presented Council with a final draft.

A brief discussion occurred regarding awning sizes, locations and quantities, traffic and pedestrian considerations, what the prohibition of begging and soliciting covered and how to prevent any type of monopoly from occurring.

Council Member Witte requested the sentence about the timeline being adjusted with City Council approval under Small Concession Application Calendar, also be added to the Large Concession Application Calendar.

Council Member Witte questioned requiring the concession to be in character with the park. Mr. Coyle explained that review of the application, with a required photo, would address that issue.

Council Member Witte requested that Item 4 verbiage be changed with "The City Council meets the first and third Thursday of each month." Being removed and "...the Council or the Advisory Board must be submitted one week prior to the scheduled meeting..."

Council Member Witte requested that Item 6 verbiage be changed to "Parks and Recreation Director will create an agenda item for the McCall City Council for consideration." Council Member Witte also requested removal of the word "to" in the last sentence of the same paragraph.

**Council Member Scott moved to approve Resolution 11-25, as amended, adopting the guidelines for permitting commercial activity in McCall City Parks and authorize the Mayor to sign all necessary documents. Council Member Swanson seconded the motion. In a roll call vote Council Member Scott, Council Member Swanson, Mayor Bailey, Council Member Aymon, and Council Member Witte all voted aye and the motion carried.**

**Discussion of correspondence to J-ditch Partners (ADDED 12/13/2011)**

Mayor Bailey stated this was intended to get letters to each of the current farmers and the Irrigation District that utilized City waste water regarding new contracts, as well as a letter to Simplot requesting the future irrigation of their property and asking Simplot to consider a mixing station on their property.

A brief discussion occurred regarding contract length, how and where the contract discussions will occur and how City Council will participate in the contracting process. Mayor Bailey requested Council members' feedback within the next week.

**Mayor Bailey moved to authorize the Mayor to sign a letter to the J-Ditch Partners. Council Member Aymon seconded the motion. In a voice vote, all members voted aye and the motion carried.**

**Discussion of the Pancake House Parking Lot Agreement (ADDED 12/13/2011)**

Lindley Kirkpatrick, City Manager, indicated that Council members had received a memorandum that was confidential and could be discussed in Executive Session. He gave a brief recap of the development agreement with the Pancake House and the history resolution attempts. Mr. Kirkpatrick indicated no new agreement had been reached to present to Council at this meeting.

**CONSENT AGENDA**

Staff recommended approval of the following items:

1. Council Minutes – December 1, 2011
2. Warrant Registers Dated December 8, 2011
3. Payroll Report for Period Ending November 25, 2011
4. License Report to Council
5. AB 11-224 Winter Carnival 2012 - Event Summary, Request for Suspension of the Noise Ordinance and Request for Approval of the Fireworks Display
6. AB 11-223 Technical Advisory Group Independent Advisor Agreement Extension
7. AB 11-220 National Scenic Byways Grant Application for Improvements to Rotary Park

Mayor Bailey requested and received additional information from Mr. Kirkpatrick regarding Representative Roberts' comments at the recent Associated Tax Payers of Idaho Conference.

A brief discussion took place regarding the Warrant Register and corrections to the minutes.

**Council Member Scott moved to approve the Consent Agenda, with the changes to the minutes. Council Member Swanson seconded the motion. In a roll call vote Council Member Scott, Council Member Swanson, Mayor Bailey, Council Member Aymon and Council Member Witte all voted aye and the motion carried.**

**Executive Session**

**At 7:26 p.m. Mayor Bailey moved to go into Executive Session for:**

- **Records Exempt from Public Disclosure – Pursuant to Idaho Code §67-2345(1)(d) To consider records that are exempt from disclosure as provided in Chapter 3, Title 9 of Idaho Code; and**
- **Litigation – Pursuant to Idaho Code §67-2345(1)(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation or controversies not yet being litigated but imminently likely to be litigated.**

**Council Member Swanson seconded the motion. In a roll call vote, Mayor Bailey, Council Member Swanson, Council Member Aymon, Council Member Scott and Council Member Witte all voted aye and the motion carried.**

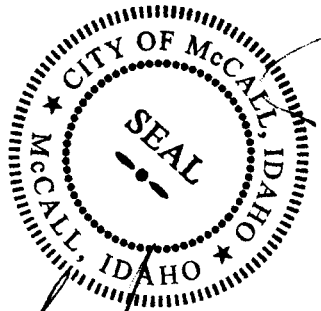
Council discussed records that are exempt based on Idaho Code §67-2345(1)(d) and the Rice Notice of Tort Claim.

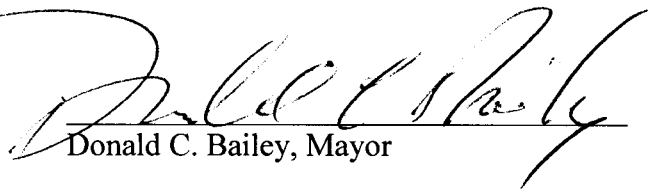
**OPEN SESSION**

At 8:26 p.m. Mayor Bailey moved to return to open session. Council Member Scott seconded the motion. In a roll call vote, Mayor Bailey, Council Member Scott, Council Member Aymon, and Council Member Swanson all voted aye and the motion carried.

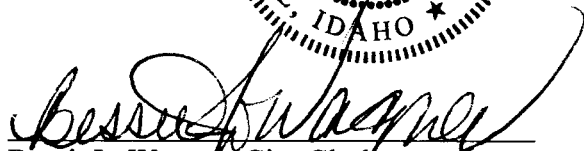
**ADJOURNMENT**

Without further business, the Mayor adjourned the meeting at 8:30 p.m.



  
Donald C. Bailey, Mayor

ATTEST:

  
BessieJo Wagner, City Clerk