

RESOLUTION NUMBER 05-047

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT AGREEMENT BETWEEN THE CITY AND CATHERINE G. FISCHER *ET AL.* RESOLVING ALL ATTORNEY FEES AND COSTS AWARDED IN FISCHER *ET AL.* V. CITY OF KETCHUM, IDAHO SUPREME COURT DOCKET NO. 29469; AND AUTHORIZING A PAYMENT TO CATHERINE G. FISCHER *ET AL.* IN SETTLEMENT OF SUCH AWARDS IN THE AMOUNT OF \$28,000.

WHEREAS, Catherine G. Fischer and other plaintiffs (collectively "Fischer") initiated a judicial review proceeding relative to a City zoning decision and appeal to City Council regarding such decision on or about June 21, 2002 (the "Judicial Review"), by filing a Petition for Judicial Review in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Blaine (Case No. CV-02-08563), naming the City as Respondent; and

WHEREAS, upon Judicial Review, the District Court upheld the City Council's decision; and

WHEREAS, Fischer appealed the matter to the Idaho Supreme Court as Docket No. 29469; and

WHEREAS, the Idaho Supreme Court reversed the decision of the City Council, remanded the matter to the Planning and Zoning Commission for further proceedings and awarded Fischer attorney fees pursuant to I.C. § 12-117; and


WHEREAS, a good faith dispute arose between Fischer and the City regarding the actual amount such award; and

WHEREAS, Fischer and the City have agreed to settle such dispute in full by entering a Settlement Agreement pursuant to which the City shall pay Fischer \$28,000 (TWENTY-EIGHT THOUSAND DOLLARS).

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Ketchum, Idaho, that the City Council hereby authorizes the Mayor to execute a Settlement Agreement between the City and Catherine G. Fischer *et al.* resolving all attorney fees and costs awarded in Fischer *et al.* v. City of Ketchum, Idaho Supreme Court Docket No. 29469; and authorizing a payment to Catherine G. Fischer *et al.* in settlement of such awards in the amount of \$28,000.


PASSED BY THE CITY COUNCIL and approved by the Mayor this 19th day of May, 2005.

CITY OF KETCHUM
An Idaho Municipal Corporation



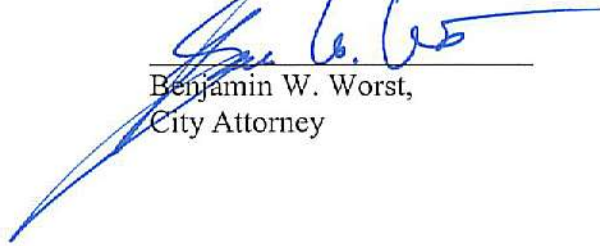
EDWARD SIMON, Mayor

ATTEST:



Sandra E. Cady, CMC
Treasurer/Clerk

APPROVED AS TO FORM
AND CONTENT:



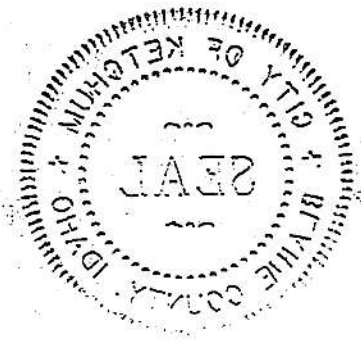
Benjamin W. Worst,
City Attorney



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Attorneys for Petitioners-Appellants Fischer et al.

IN THE SUPREME COURT OF THE STATE OF IDAHO

CATHERINE G. FISCHER, DOROTHY L. and
W. HUNTER SIMPSON, husband and wife,
SALLY BEHNKE, STANLEY C. &
GWENNETH CARLSON, husband and wife,
and PAUL and CAROL S. FREMONT-SMITH,
husband and wife,

Petitioners-Appellants,

and

TIMOTHY and NATALIE REDPATH, husband
and wife; FRANK and JODINE
TONNEMAKER, husband and wife; LIONEL
S. MOSLEY; BRUCE D. ARMSTRONG,
DAVID NIXON, and HAYWARD SAWYER,

Petitioners,

vs.

CITY OF KETCHUM, an Idaho Municipal
Corporation; the KETCHUM CITY COUNCIL;
and the KETCHUM PLANNING AND ZONING
COMMISSION,

Respondents-Respondents,

and

DOUGLAS DELMONTE,

Intervenor-Respondent.

Docket No. 29469

**STIPULATION FOR ENTRY OF
ORDER ON COSTS AND ATTORNEY
FEES, AND TO AMEND PARTY
DESIGNATIONS IN CAPTION**

**STIPULATION FOR ENTRY OF ORDER ON COSTS AND ATTORNEY FEES, AND
TO AMEND PARTY DESIGNATIONS IN CAPTION - 1**

COME NOW the parties in the above captioned appeal and stipulate and agree as follows:

1. That the Idaho Supreme Court enter an order awarding costs and attorney fees in the amount of twenty eight thousand dollars (\$28,000.00) in favor of Appellants and against Respondent City of Ketchum, in full settlement of all issues pertaining to costs and attorney fees between and among the parties in this appeal and the proceedings below.

2. That the Idaho Supreme Court amend the party designations in the caption of this appeal to the caption set forth above in this pleading. Appellants' counsel also will be filing a separate motion and affidavit in support of this requested amendment to the caption.

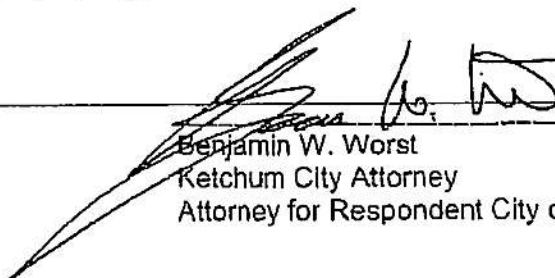
DATED this 6th day of June, 2005.

WERTH LAW OFFICE, PLLC



Douglas A. Werth
Attorneys for Petitioners-Appellants

DATED this 31st day of May, 2005.



Benjamin W. Worst
Ketchum City Attorney
Attorney for Respondent City of Ketchum

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of June, 2005, I caused a true and correct copy of the within and foregoing document to be served by the method(s) indicated below, and addressed to each of the following:

Edward A. Lawson
LAWSON & LASKI
P.O. Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

- U.S. Mail
- Facsimile
- Hand Delivery
- Overnight Delivery

Original + 6 copies to:

Stephen W. Kenyon
Clerk of the Court
P.O. Box 83720
Boise, ID 83720-0101

- U.S. Mail
- Facsimile
- Hand Delivery
- Overnight Delivery



Douglas A. Werth