

KUNA CITY COUNCIL MEETING MINUTES

NOVEMBER 8, 2006

KUNA CITY HALL COUNCIL CHAMBER, 763 W. AVALON

NOTE: These minutes are an unofficial record of this City Council meeting until reviewed; corrected if deemed appropriate and formally approved by the Kuna City Council at a subsequent Council meeting.

7:00 p.m. – REGULAR COUNCIL MEETING

1. CALL TO ORDER AND ROLL CALL

Mayor Dean Obray called the Regular Meeting to order at 7:00 p.m.

Present: Mayor Dean Obray, Council President Jeffery Lang, Councilman Scott Dowdy, Councilwoman Trina Stroebel and Councilman Richard Cardoza.

Also present were: City Attorney Randy Grove; City Clerk Lynda Burgess; City Treasurer Robin McKean; Planning & Zoning Director Diana Sanders; Planner Lisa Bachman; Director of Public Works Jim Taylor and Jim Keller, Keller Associates.

2. INVOCATION: None given.

3. PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Obray.

SUGGESTED CHANGES TO THE AGENDA:

Mayor Obray requested that the following changes be made to the Agenda: Add Item No. 8A Citizens Request, proclaiming the week of November 12-18, 2006 as “Family Reading Week;” add Item No. 8B for a presentation by Stephanie Worsham, Falcon Ridge Charter School regarding a flag ceremony on November 9, 2006 honoring veterans; remove the Accounts Payable from the Consent Agenda and amend it to include a payment to J & M Sanitation in the amount of \$62,790.72 and changing the Accounts Payable total to \$347,788.74; move Item 11B, Public Hearing, 06-03-LLA/Sandstone Plaza/381 Avenue E to New Business 10C and remove Item 4D from the Consent Agenda.

Moved by Council President Lang, seconded by Councilman Dowdy to amend the agenda by adding Item 8A. proclaiming “Family Reading Week;” adding a presentation by Stephanie Worsham regarding the Charter School Flag Ceremony; and moving 11B to 10C under New Business. Motion carried 4-0.

Moved by Councilman Dowdy, seconded by Councilwoman Stroebel to remove Accounts Payable and the Bid from Star Construction from the Consent Agenda. Motion carried 4-0.

4. CONSENT AGENDA: Moved by Councilman Dowdy, seconded by Councilwoman Stroebel to approve the consent agenda as amended. Motion carried 4-0.

- A. APPROVED MINUTES – REGULAR MEETING OF OCTOBER 23, 2006.
- B. APPROVED FINDINGS OF FACT AND CONCLUSIONS OF LAW – SILVERTIP SUBDIVISION.
- C. ACCEPTED THE IRREVOCABLE LETTER OF CREDIT SUBMITTED ON BEHALF OF SADIE CREEK NO. 1 SUBDIVISION.
- D. APPROVED FINAL PLAT FOR SADIE CREEK NO. 1 SUBDIVISION.
- 5. **FIRE DISTRICT REPORT** – Chief Rosen was unable to attend due to a schedule conflict with his Commission meeting tonight.
- 6. **ADA COUNTY HIGHWAY DISTRICT REPORT**

Errol Morgan stated that he had nothing to report this month.

Councilwoman Stroebel asked Mr. Morgan if ACHD could change 1 or 2 slant parking spaces at Avenue D and Main Street next to Edward Jones into Handicapped Parking.

7. **OLD BUSINESS:**

- A. APPROVED TASK ORDER NO. 4 WITH KELLER ASSOCIATES FOR THE SOUTH IRRIGATION PUMP STATION, POND DESIGN AT SADIE CREEK AND CONSTRUCTION MANAGEMENT IN AN AMOUNT NOT TO EXCEED \$134,000.

Moved by Council President Lang, seconded by Councilman Dowdy to approve Task Order No. 4 with Keller Associates for the south irrigation pump station pond design at Sadie Creek in an amount not to exceed \$134,000. Motion carried by the following Roll Call vote:

AYES: Lang, Dowdy, Stroebel, Cardoza
NOES: None
ABSENT: None

- B. APPROVED TASK ORDER NO. 5 WITH KELLER ASSOCIATES FOR THE TEN MILE WATER LINE DESIGN AND CONSTRUCTION MANAGEMENT IN AN AMOUNT NOT TO EXCEED \$47,660.

Moved by Councilman Dowdy, seconded by Council President Lang to approve Task Order No. 5 with Keller Associates for the Ten Mile water line design and construction management in the amount not to exceed \$47,660. Motion carried by the following Roll Call vote:

AYES: Lang, Dowdy, Stroebel, Cardoza
NOES: None
ABSENT: None

C. ADOPTED RESOLUTION NO. R2B-2006 SETTING DOMESTIC WATER RATES AND SEWER USER FEES.

Moved by Councilman Dowdy, seconded by Council President Lang to adopt Resolution No. R2B-2006 setting domestic water rates and sewer user fees. Motion carried 4-0.

D. CONSIDERED ENGINEERING FEE PROPOSAL FROM KELLER ASSOCIATES FOR DESIGN OF THE WASTEWATER TREATMENT PLANT.

Jim Keller stated that the items proposed for the design engineering fee for the new wastewater treatment plant, which will have the capacity of about 10,000 connections, will be funded by the LID. In addition, there are pressure lines that need to be installed to make the system operable. Keller Associates has not requested any consideration at this time for another alternative for disposal. An EPA permit has been obtained and negotiations for phosphorous limits are in progress. If the limits are allowed, the City will be able to build a discharge line into Indian Creek which would shave approximately \$2,700,000,000 off the \$30,000,000 budget. Keller Associates could be ready to move dirt on the project April of 2007, but will be delayed by the 60-90 day approval process from DEQ.

Moved by Councilman Dowdy, seconded by Council President Lang to consider the engineering fee proposal from Keller Associates for design of the wastewater treatment plant. Motion carried by the following Roll Call vote:

AYES: Lang, Dowdy, Stroebel, Cardoza
NOES: None
ABSENT: None

8. CITIZEN'S REPORTS OR REQUESTS:

A. PROCLAIMED NOVEMBER 12-18, 2006 AS "FAMILY READING WEEK."

Moved by Council President Lang, seconded by Councilwoman Stroebel to proclaim the week of November 12-18, 2006 as "Family Reading Week in the City of Kuna." Motion carried 4-0.

B. KUNA CHARTER SCHOOL – "FLAG CEREMONY, NOVEMBER 9, 2006."
Presentation by Stephanie Worsham, of Falcon Ridge Charter School invited all Council members and citizens in the Kuna region to a flag ceremony November 9th at 2:00 p.m.

The students raised money for the flag and its dedication tomorrow will also honor veterans.

9. LICENSES AND PERMITS:

- A. APPROVED BUSINESS LICENSE FOR JAMIE PEYMAN, "PEYMAN LAWN CARE & MAINTENANCE, LLC," 1379 N. CATERPILLAR.

Moved by Council President Lang, seconded by Councilwoman Stroebel to approve the business license for Jamie Peyman, doing business as "Peyman Lawn Care & Maintenance, LLC," at 1379 N. Caterpillar. Motion carried 4-0.

- B. APPROVED BUSINESS LICENSE FOR JACK AND PENNI JENSEN, "A BETTER CARE HOME HEALTH, INC.," 190 W. MAIN ST.

Moved by Councilwoman Stroebel, seconded by Councilman Dowdy to approve the business license for Jack and Penni Jensen, doing business as "A Better Care Home Health, Inc.," at 190 W. Main Street. Motion carried 4-0.

- C. APPROVED BUSINESS LICENSE FOR KATIE ANDERSON, "MISS KATIE'S ABC'S," 1876 W. MULHULAND CT.

In response to Council President Lang, Ms. Anderson stated that there will be no more than 6 children per class with one class at 9:00 to 11:30 a.m. and one class from 12:30 to 3:00 p.m.

Moved by Council President Lang, seconded by Councilwoman Stroebel to approve the business license for Katie Anderson, doing business as "Miss Katie's ABC's," at 1876 W. Mulhuland Ct. Motion carried 4-0.

RECESS: Mayor Obray recessed the meeting at 8:08 p.m.

RECONVENE: Mayor Obray reconvened the meeting at 8:18 p.m.

10. NEW BUSINESS:

- A. APPROVED ACCOUNTS PAYABLE – Dated November 2, 2006 in the amount of \$284,998.02 plus \$62,790.72 for J & M Sanitation, minus \$1,000 for the Boise Valley Economic Partnership, minus \$25,000 Boys and Girls Club of Ada County for a new Accounts Payable total of \$321,788.74.

Moved by Council President Lang, seconded by Councilman Dowdy to approve the amended Accounts Payable. Motion carried 4-0.

- B. ACCEPTED BID FROM STAR CONSTRUCTION FOR THE PROSPECTOR LIFT STATION IN THE AMOUNT OF \$44,748.79 (Pursuant to Idaho Code 67-2808).

Moved by Councilman Dowdy, seconded by Council President Lang to declare that the Prospector Lift Station presents a hazardous situation to the community and declare a state of emergency. Motion carried 4-0.

Moved by Councilman Dowdy, seconded by Council President Lang to accept the bid from Star Construction in an amount not to exceed \$44,748.79. Motion carried by the following Roll Call vote:

AYES: Lang, Dowdy, Stroebel, Cardoza

NOES: None

ABSENT: None

C. DISCUSS SEWER SERVICE FOR DANSKIN SUBDIVISION

Jim Jewett, 1560 Carroll St., Meridian, stated that, in the process of blueprinting the Danskin Applewood Master Plan and preliminary plat, he had discussed the possibility of servicing the existing Danskin Subdivision with City sewer. Danskin Phases II, III and IV all are provided sewer through SPR. Sewer goes through subsurface tanks and processes through a filter into a storage pond just outside the subdivision for land application during the summer crop growing months. Currently, the pond and land application permit sits on the site approved as the Danskin master plan and annexed into City limits. The existing subdivision Phases I, II, III and V are not in the City limits. This spring, the land application permit for Danskin SPR will be up for renewal with DEQ. One of the requirements for the permit was when municipal sewer becomes available, the subdivision will be hooked up to that treatment system. He would like to determine what the availability of municipal hook-ups would be for Danskin. Danskin's land application site is part of the Danskin Applewood Master Plan approval. Until the application site is removed, the development of the subdivision cannot fully take place. Mr. Jewett presented an agreement from the Danskin Homeowner's Association agreeing to annex into the City in a specific time frame. Mr. Jewett would agree to pay the sewer hook-up fees and make the connection from the Danskin Lift Station up to the subdivision. There will be no cost to the subdivision or the City. The connections would come out of the 200 guaranteed connections that were granted to him as part of the approval for Danskin. The agreement guarantees the path for that annexation to the City no sooner than seven years. Representatives of the association will speak to the Council at a future meeting and present to Council why they are requesting the seven year timeline. He asked Council to consider the proposal as the best plan for the community as a whole and not just for one individual or one subdivision.

Mr. Grove asked Mr. Jewett if the permit from DEQ states that when municipal services become available, if the City Council were to deny the request to serve properties outside its municipal boundaries, would that mean that those services are still unavailable even though the pipes may run within yards of the property.

Councilman Dowdy stated he had a number of reservations with this particular agreement. 1) The consent to annexation notification and the agreement to hook-up outside the City limits as drafted is only to be signed by Danskin Homeowner's Association President Aaron Rapp. The homeowner's association has no rights or ability to legally bind the property owners of the Danskin Subdivision to an agreement of this type. Every property owner in the subdivision would have to sign this

agreement; 2) as we have seen with neighboring cities entering into agreements to provide services outside of their city limits with the consent for annexation at which time it is available has done nothing but create litigation and I do not think it is a good policy for the Council to get into an agreement in which future litigation is not only possible but probable; 3) the seven-year lag time between providing for these benefits, even though the properties are contiguous to the City and available to annex into the City, the properties could change hands. When the annexation comes due, the new homeowners could protest the agreement and annexation; 4) by providing a seven-year time frame before annexation would be possible, none of the members on this City Council would still be in office and we would be binding a new Council to this agreement; a definite bad policy move; 5) the short-term benefits for the City doesn't seem like a great benefit to the City to enter into this agreement and provide services outside City limits. If the owners of Danskin Subdivision would like to have City services, the proper procedure would be to agree to be annexed into the City when they want the services; that way the City has the benefit of a tax base.

Mr. Jewett responded that the agreement is a proposed draft and Council has the option to counter with their conditions for City services. He pointed out that the procedure is being used successfully by other jurisdictions and stated that he has negotiated sewer outside the City limits of Boise in the last year without issue. The document is recorded against the property and attached to the deed when a property changes hands. He stated that he was offering a tool to facilitate the annexation.

Mayor Obray stated that if the City is going to supply Danskin Subdivision sewer, he felt that the City must own and operate the whole system including the collection system.

Aaron Rapp, President of Danskin Homeowners Association, 8191 S. Slide Creek Lane, Meridian, ID., clarified that the reason the Association requested a seven-year timeline was for homeowners to be able to sell their homes if they did not want to be annexed into the City of Kuna. Anything less than a five-year timeline for annexation probably will not be acceptable to the homeowners.

Moved by Councilman Cardoza, seconded by Councilman Dowdy to deny the consent of annexation notification as presented as Item C with the seven-year clause. Motion carried 4-0.

D. APPROVED THE BOND REQUIRED BY THE PLANNING AND ZONING DEPARTMENT FOR THE DENALI HEIGHTS SUBDIVISION.

Diana Sanders, Planning & Zoning Director, explained that there are two issues: 1) Planning and Zoning has negotiated with the developer of Denali Heights to bond for items required by his conditions of approval on the original development agreement which include a swimming pool, restrooms, landscaping, fencing and arbors. The developer must bond for the items that are not completed so that if he does not complete the items, the City can cash in the bond and finish the work; 2) the developer has not completed many of the items even though P & Z has been working with him

for several months to complete the items. Building permits will not be issued until all the items have been completed by the developer. Furthermore, the Danskin Lift Station is not on-line and there is nowhere for the sewage to go at present.

Mr. Jewett, developer of the Danskin Subdivision, explained that the lift station mechanical building was designed in the 20-foot setback encroachment to the cul-de-sac and the area had to be redesigned. The electrician needs six weeks to finish the electrical work. Also, the City engineering staff has not finished the latecomer fee agreement.

Mayor Obray asked Mr. Jewett if he could guarantee that all development items will be finished by December 25, 2006 except the electrical. Mr. Jewett stated that he could guarantee that date.

Moved by Council President Lang, seconded by Councilman Dowdy to approve the bond required by Planning and Zoning for Denali Heights Subdivision and that landscaping be completed as weather permits. Motion carried 4-0.

Councilman Cardoza asked Jim Keller of Keller Associates if there is a penalty and non-completion clause by a certain date in City contracts.

Mr. Keller explained that such clauses could be inserted into City contracts at the direction of the City Attorney.

Mr. Grove indicated that he would look into the matter of adding penalty and/or non-completion clauses to City contracts.

D. 06-03-LLA/SANDSTONE PLAZA/381 AVENUE E

Lisa Bachman, Planner, explained that this application is for a lot line adjustment for a parcel located on the southwest corner of Avenue E and 4th Street. It is one lot currently and was originally four lots. The applicant is asking to create two lots and adjust the lot lines. It meets all the requirements of City Codes and Planning and Zoning is recommending approval.

Moved by Councilman Dowdy, seconded by Councilwoman Stroebel to approve the lot line adjustment 06-03-LLA. Motion carried 4-0.

11. PUBLIC HEARINGS: 7 p.m. or as soon thereafter as matters may be heard.

PUBLIC HEARING – 06-0ZC REZONE/06-06-S PRELIMINARY/GRAYHAWK

Lisa Bachman explained that the application is for approximately 317 single family lots on 80 acres with 3.95 dwelling units per acre and a request for R-6 zoning. The P & Z Commission recommended preliminary plat and rezone approval with R-4 zoning for the property. Further recommendations were to relocate the park amenities from the north side to the south side of the common area lot d to provide parking for that common area, a 16”.

roof overhang on all the structures, provision of a written agreement for adjacent neighbors on the west side of Kay to provide driveway access to Kay Street and relocation of the existing fence.

Applicant Steve Kunzweiler, Hubble Homes, 701 S. Allen St., Suite 104, Meridian, ID reported that three issues exist for Grayhawk: 1) a preliminary plat proposing to subdivide 80 acres into 317 build able lots and 18 common lots, 2) rezone of the property from Agricultural to R-6 zoning and 3) a development agreement to accompany the preliminary plat. There will be a 20 ft. landscape buffer along Kay and Ardell and a 30 ft. landscape buffer along Hubbard, a proposed 3.68 acre park with 2 half-court basketball courts, a gazebo, a tot lot play structure and an open play lawn connected to the community via a trail system and sidewalks. R-6 zoning is requested with its dimensional standards to achieve a variety of lot sizes while developing a density below 4 units per acre.

Mayor Obray opened the Public Hearing.

Speakers in support of application:

None.

Speakers opposed to application:

Kristi Morino expressed concern that there are only two single-level plans so most of subdivision will be two-story. In the past, the P & Z Commission and City Council have asked Hubble Homes for R-4 zoning but they have always come back with R-6. She felt that there should be some compromise.

Tim Zamporini objected to Hubble Homes' styles of homes and lot sizes. He felt that the subdivision would lower the City's standards by building square boxes on small lots that will be at the entrance to the City. He asked that the developer build something nice like other developers in the City. In addition, he felt that the school district could not handle this size of a project at this time and requested that the old oak tree on the subdivision site not be removed.

Joe Luppens stated that since January 31, 2006, the City has approved 8 subdivisions amounting to 1171 homes and 8 subdivisions that have not been approved with 1597 homes. He was concerned that there are not enough schools in Kuna for the added student load. He suggested that, instead of a 3.68 acre park, the subdivision needs to donate 13 acres for another school site. Do we have the infrastructure to support this growth?

Stephen Magstadt, 578 E. Blackhawk Ct., asked that Council address the lack of park space and public school space for all the new families before approving more subdivisions.

Neutral Speakers:

None.

Rebuttal:

Mr. Kunzweiler stated that developers are dictated by the market and single-level homes are not being requested. The City's Comprehensive Plan calls out for medium density for the

property which is 1 to 6 units to the acre but the development is proposed at 3.9 units per acre. The school district has reported that its plans include growth in the community.

Councilman Dowdy and Councilwoman Stroebel stated that they would like more diversity in home styles than are being offered by the developer in their subdivisions in the City.

Councilman Dowdy requested guidance from Attorney Grove on what kind of architectural controls the City can exercise with developers. The City has some of the ugliest subdivisions and adding 317 more of these boxes is a real concern. He stated that he would like to see houses built that are not detracting from the community but actually adding to it and making the City a nicer place to live.

Mr. Grove responded that the only tool the City has for controlling building is through a development agreement which can include restrictions, such as architectural features.

Mayor Obray closed the public hearing.

Moved by Councilman Dowdy, seconded by Councilwoman Stroebel to table approval of the preliminary plat for Grayhawk Subdivision to the November 21, 2006 City Council meeting.

12. REPORTS:

P & Z DIRECTOR/DIANA SANDERS – Ms. Sanders reported that Mr. Pieroni asked for a six-month extension of his pre-paid sewer charges on the Schoolhouse Subdivision. Jim Keller asked that they add a sunset clause to this extension.

Moved by Council President Lang, seconded by Councilwoman Stroebel to approve the six-month extension for prepaid sewer charges. Motion carried 4-0.

Mrs. Sanders announced that the City received a request by a resident to have a gun repair shop in his residence. Council was not supportive of this request.

Moved by Councilman Dowdy, seconded by Council President Lang to require a special use process for the business licensing of Suzie's Skin Care with a waiver of the Special Use Permit fee but charging the owner for public hearing publication. Motion carried 4-0.

CODE ENFORCEMENT REPORT/ DIANA SANDERS – No report given.

CITY ENGINEER/KELLER ASSOCIATES – Jim Keller gave a pre-design report for the WWTP.

CITY ATTORNEY / RANDY GROVE – Mr. Grove reported that he received a proposed sales agreement from United Water and asked if the City was going to pay the dues for the Blueprint for Good Growth.

CITY CLERK / LYNDA BURGESS – City Bond Election Day problems. 1) Could not get precinct map boundaries from the County to give to the polling places; 2) did not receive a current voter list nor did the City receive current registration numbers from the County until yesterday; 3) The county did not want to deal with the tarps at the 4th Street Gym so they permanently moved their polling place to the Seventh Day Adventist Church which is right across the street from the Fire Station polling place; 4) City voters were not told by anyone in the County that a Kuna election was being held and that they needed a separate absentee application at early voting. At the polling places yesterday, voters visited the County areas first and were not told to vote at the Kuna tables. Throughout the day, City staff asked County polling officials to direct voters to the Kuna tables, but this was not done; 5) at the Fire Station, City voters did not know that there was another room where they could vote the City ballot; 6) when the County trained their workers, they did not tell them that the City was having an election in conjunction with them; 7) voters in five subdivisions were not listed in the poll books.

Ms. Burgess explained that she will pull records from the County's Election Office and compare them with City records. Specifically, the voters list created by the County prior to the election, a list of all newly-registered voters that registered with the County yesterday, a list of all voters in their poll books who live within Kuna City Limits so that we can compare the number of voters that showed up and only voted for the County election. People were sent away from our polling places because they were not in the books and because they were not told they could vote for the City's Bond issue. We will examine the records and then send correspondence to the County to let them know where their deficiencies lie.

13. ORDINANCES:

14. MAYOR / COUNCIL DISCUSSION:

15. ANNOUNCEMENTS:

ACHD QUARTERLY MEETING – NOVEMBER 14, 2006 – SUBMIT TOPICS FOR DISCUSSION TO CITY CLERK.

Council reminded the City Clerk that they have a trip to Seattle that day.

16. EXECUTIVE SESSION:

17. ADJOURNMENT:

There being no further business to conduct, Councilman Dowdy moved, seconded by Council President Lang to adjourn the meeting at 11:55 p.m. Motion carried 4-0.

ATTEST:

O. Dean Obray, Mayor

Lynda Burgess, City Clerk

DATE APPROVED: NOVEMBER 21, 2006