

**CITY OF KUNA  
SPECIAL CITY COUNCIL MEETING  
MINUTES**

**DECEMBER 12, 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.**

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Mayor Dean Obray called the Special City Council Meeting to order at 1:17 p.m.

**Present:** Mayor Dean Obray, Council President Jeff Lang, Councilman Dowdy, and Councilman Cardoza. (Councilwoman Stroebel absent.)

Also present: City Attorney Randy Grove; City Clerk Lynda Burgess; Floyd Ayers, Financial Consultant; Rick Skinner, Skinner Fawcett, Bond Counsel; Terry Fesler, Manager, Tracey Silver and Jeff Fuller, Kuna Farmers & Merchants Bank; and Phil Bailey, Key Bank.

1. ADOPT RESOLUTION R9-2006 PROVIDING FOR THE ISSUANCE AND SALE OF AN INTERIM WARRANT PURSUANT TO SECTION 50-1722, IDAHO CODE, IN ANTICIPATION OF THE ISSUANCE OF LOCAL IMPROVEMENT DISTRICT BONDS FOR LOCAL IMPROVEMENT DISTRICT NO. 2006-1, FOR THE PURPOSE OF PAYING THE COSTS OF THE IMPROVEMENT DISTRICT; PROVIDING FOR THE MANNER OF ISSUANCE AND THE FORM OF WARRANT; PROVIDING FOR THE REGISTRATION AND PAYMENT OF THE PRINCIPAL THEREOF AND THE INTEREST ON THE WARRANT; PROVIDING FOR THE SALE OF THE WARRANT TO KEYBANK NATIONAL ASSOCIATION; PROVIDING COVENANTS; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

Mr. Rick Skinner reported that the City has created a local improvement district, the assessments of which will be the basis for repaying the financing to come in the future when bonds would be issued. Those assessments will be levied once the terms are reached and other factors occur. The decision was made prior to those bonds being issued that there needed to be funds available to commence the construction. An interim warrant has been prepared which is being purchased by Key Bank to provide those funds. The security for the repayment of these funds is the agreement that bonds will be issued at the time of the assessment and that the assessments will be levied. The proceeds of the bonds and/or the assessments are what the City will pay back to Key Bank. The warrant will be outstanding as long as it takes to complete the project and issue the bonds or two years, whichever comes first. The proposed resolution does several things: 1) authorizes the issuance of the warrant; 2) incorporates basic terms of the transaction; 3) approves the warrant purchase and payment. The warrant purchase containment agreement is something the bank has provided (has a number of banking provisions in it) with respect to the prepayment timing and other provisions. We have been careful in that agreement and these documents to make it clear that the City itself has not pledged any of its assets or become obligated in anyway other than to go through with the Local Improvement District process. The City is obligated to proceed with the LID. In respect to any provisions for expenses or liabilities,

they all must come out of the assessments. If you adopt the resolution, you will approve that agreement. The interest on the warrant will be exempt from both state and federal income tax.

Councilman Dowdy stated that the last paragraph of Section 7 says that it does not constitute an indebtedness of the City; that the registered owner of the warrant has no claim against the City's funds or property; however, under Exhibit A, it states that "the City of Kuna acknowledges itself to owe and promises to pay to Key Bank \$30,000,000."

Mr. Skinner responded: What it really says is "the City of Kuna, Idaho for and on behalf of the LID (not the City)."

Councilman Dowdy stated that his question was if the City goes through with the LID and some of the property owners that have their property in this LID cannot make their assessed assessments or repayments to the City, what is the remedy?

Mr. Skinner explained that the remedy would be for the City to foreclose on the property.

Councilman Cardoza felt that the second paragraph of Section 7 seemed ambiguous.

Mr. Skinner clarified that the City is agreeing that, as hook-up fees come in from the LID properties, those fees would be used to pay for the construction. The City has the option but isn't required to use those to pay back the loan.

Mayor Obray asked what triggers the start of the 24-month construction period.

Mr. Bailey responded that trigger will be the closing date on the loan, which will be Wednesday, December 27, 2006.

Mr. Grove addressed the warrant agreement which is a contractual agreement with Key Bank. He stated that Council must authorize the Mayor to sign the document.

Moved by Councilman Dowdy, seconded by Council President Lang to adopt Resolution R9-2006. Motion carried by the following Roll Call vote:

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

2. APPROVE GROUND LEASE FOR PROPERTY ON SOUTHWEST CORNER OF LINDER AND DEER FLAT TO THE BOYS AND GIRLS CLUB OF ADA COUNTY, INC. FOR NOT LESS THAN 50 YEARS AT \$1 PER YEAR.

Mr. Grove stated that Council has before them a proposed site lease agreement for the Boys and Girls Club. Right now, it is in a preliminary draft form to give you an idea of what this lease is going to look like. He reported that he has not run it by the Boys and Girls Club and have their Counsel look it over; however, he added into the lease a condition that any

construction on that lot has to be approved by ACHD to make sure it does not interfere with the drainage easement on the property. Not only is it a condition of the lease but it is a term of default. If they construct facilities on that lot that interfere with drainage without the expressed written consent of the ACHD, they will be in default of the lease.

Councilman Dowdy expressed the following concerns: 1) this is one of the busiest intersections in Kuna and wondered how much additional traffic will be created by the Club's existence at this location; 2) the City put a trunk line diagonally through that park and wondered how a structure could be placed without interfering with the line.

Mr. Grove stated that when this location for the Club was presented to ACHD, they had concerns about traffic at the proposed site. ACHD is not going to allow any additional access to Linder or Deer Flat so all of the traffic into the Club would have to come from the street that comes off of Deer Flat to the west of the intersection.

Mayor Obray stated that there might be funds from the Boys and Girls Club to help put a stop light at the intersection of Linder and Deer Flat to be completed within five years.

Moved by Councilman Dowdy, seconded by Council President Lang to table discussion of the ground lease for the Boys and Girls Club until the December 19, 2006 Council meeting. Motion carried 3-0-1 (Councilwoman Stroebel absent).

### 3. DISCUSSION REGARDING GENERAL OBLIGATION BOND MEASURE.

Mayor Obray asked for direction from Council on whether they would like to pursue another bond election.

Mr. Grove advised Council that the question they need to decide for the ballot is if the dollar amount will remain the same at \$7,000,000 or some other amount. The City has a 2% cap which limits us to \$8,000,000.

Councilman Dowdy asked whether Keller has supplied an estimated dollar amount for the overpass.

Mayor Obray replied that Keller's estimate is \$9,400,000.

Councilman Dowdy stated that if the City holds another election, the purpose of the bond needs to be publicized. Clubs and organizations that would have a vested interest in seeing some recreational facilities made available, such as soccer and baseball leagues, should be involved in promoting the bond to try to get it passed.

Council was in favor of another bond election. Mr. Grove stated he would get an election ordinance drafted and place it on the Council's December 19, 2006 agenda.

Ms. Burgess suggested that the ballot language explanation of the bond needs to be more understandable for the voter.

4. APPROVE AMENDMENT TO ENGAGEMENT LETTER WITH SKINNER FAWCETT.

Mr. Grove explained that this amendment was sent with a request from Skinner Fawcett for additional services. When they were originally retained for their services, it was to draft documents, ensure that the LID was created properly and to give an opinion as to the tax exempt status of the bonds. Their services did not include drafting documents for interim construction with which they have been involved and their counsel has been invaluable for the bank to be comfortable that the process will result in tax exempt status for the financing. They are requesting an additional \$8,500 in services rendered for the construction document and advice. This will be an expense that is part of the LID obligation.

Moved by Council President Lang, seconded by Councilmember Dowdy to approve an amendment to the engagement letter with Skinner Fawcett in an amount not to exceed \$8,500. Motion carried 3-0-1 (Councilwoman Stroebel absent.)

ACTION ITEMS AND ASSIGNMENTS:

Place Bond Ordinance on December 19, 2006 Agenda.

City Treasurer and City Clerk appointment with Bond Counsel Skinner & Fawcett office at 2:00 p.m. December 19, 2006, bring City Seal.

Councilman Cardoza reported that he attended the ambulance hearing in front of the Ada County Commissioners earlier today. Every city fire department in Ada County was represented and very negative toward the proposed ordinance.

There being no further business to conduct, it was moved by Council President Lang, seconded by Councilman Dowdy to adjourn the Special Council Meeting at 2:25 p.m. Motion carried 3-0-1 (Councilwoman Stroebel absent).

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O. Dean Obrey, Mayor

ATTEST:

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Lynda Burgess, City Clerk

DATE APPROVED: JANUARY 16, 2007