

**CITY OF KUNA
CITY COUNCIL MEETING
MINUTES
FEBRUARY 6, 2007**

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 Obray called the regular meeting to order at 7:05 p.m.

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

Also present were: City Attorney Randy Grove; Planner Lisa Bachman; City Clerk Lynda Burgess; City Treasurer Robin McKean and Jim Keller, Keller Associates.

2. INVOCATION: The Invocation was given by Pastor Bruce Wheeler, New Beginnings Christian Church

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

Mayor Obray requested that the following changes be made to the Agenda: Add Item 10.B – Confirm Appointment of David Case to the P & Z Commission; add to Item 7.B. – Approval of Letter from the Mayor to United Water re: Butterfield Subdivision Domestic Water.

4. CONSENT AGENDA: Moved by Council President Lang, seconded by Councilman Dowdy to approve the Consent Calendar. Motion carried 4-0.

A. APPROVED MINUTES:

1. SPECIAL MEETING OF JANUARY 12, 2007.
2. REGULAR MEETING OF JANUARY 16, 2007.

B. APPROVED ACCOUNTS PAYABLE DATED FEBRUARY 1, 2007 IN THE TOTAL AMOUNT OF \$166,276.19.

C. APPROVED PAY REQUEST NO. 3 FOR DON YOUNG CONSTRUCTION & SUPPLY, INC. IN THE AMOUNT OF \$38,204.63 FOR CONSTRUCTION OF THE BERNIE FISHER BATHROOM FACILITIES.

-
- D. APPROVED LOT LINE ADJUSTMENT/06-04-LLA/PATTERSON/8430 S. LINDER ROAD.
 - E. AWARDED CONTRACT TO BDPA, INC., FOR PREPARATION OF AN EMPLOYEE CLASSIFICATION AND COMPENSATION SYSTEM AND UPDATE OF THE PERSONNEL POLICY HANDBOOK IN AN AMOUNT NOT TO EXCEED \$11,492.
 - F. SUPPORTED RECOMMENDATION OF THE TRANSPORTATION TASK FORCE TO MODIFY THE INTERSECTIONS OF PORTER/KAY AND PORTER/LINDER AS MULTI-WAY STOPS.

5. FIRE DISTRICT REPORT

Chief Doug Rosin reported that there were 75 fire and EMS calls for January; of which 51 responses were within the City with 24 within the District. 55 calls were EMS related while 20 were fire related.

6. ADA COUNTY HIGHWAY DISTRICT REPORT

No report.

7. OLD BUSINESS:

- A. CONSIDER ONE-YEAR TIME EXTENSION FOR THE FOSSIL CREEK SUBDIVISION PRELIMINARY PLAT AS REQUESTED BY DYVER DEVELOPMENT, LLC AND LANDPRO DEVELOPMENT, LLC (Continued from January 16, 2007).

Kent Brown, Bailey Engineers, 1500 E. Iron Eagle in Eagle, explained that the time extension for the project was requested because his firm only became involved in the engineering aspects in April 2006. Construction plans were submitted to Shreeve & Associates and the City subsequently changed City Engineering services from Shreeve and Associates to Keller Associates. The last review of the plans was completed by Keller in January and staff is currently looking at the comments.

In response to Councilwoman Stroebel, Mr. Brown stated that if the extension is approved and the review of the project is timely, construction would start this year.

Moved by Councilman Dowdy, seconded by Councilwoman Stroebel to approve the one-year time extension for the Fossil Creek Subdivision Preliminary Plat. Motion carried 4-0.

- B. APPROVE AGREEMENT FOR PURCHASE AND SALE WITH UNITED WATER IDAHO, INC. FOR THE DANSKIN WELL (Continued to February 20, 2006)

City Attorney Grove stated that the draft agreement was prepared by United Water. United Water has been collecting payments from the connections ever since the Danskin well was constructed by Jim Jewett and his partner and there is an agreement with United Water to that effect. When Mr. Grove and the Mayor were negotiating with United Water to purchase the well, Mr. Jewett indicated that he would consent to an agreement that the City would pay off or come to some resolution in conjunction with the purchase. The City agreed on a price with United Water with the understanding that the City would take over the obligation to re-pay Mr. Jewett and his partner per connection. Mr. Jewett has since indicated that he would like to protest the sale when it comes before the Public Utilities Commission because the contract with United Water is an assumable contract only if he gives permission. That issue did not come up in the negotiations with United Water. Mr. Grove stated that the next step would be to schedule a meeting with Mr. Jewett and his attorney, United Water and the Mayor before the matter comes before the Public Utilities Commission.

APPROVAL OF LETTER FROM THE MAYOR TO UNITED WATER RE BUTTERFIELD SUBDIVISION DOMESTIC WATER.

City Attorney Grove explained that the draft letter to United Water regarding the Butterfield Subdivision was requested by the developer to obtain assurance that they will be able to get water service. Currently, the only water service in the area is provided by United Water and they have been unwilling to extend service to the subdivision because of the pending sale of the well. The City cannot agree to provide the service because the subdivision is outside of the City and because the City does not yet own the well. The letter is intended to advise United Water that if they were to extend service, they would continue to provide service after the well purchase is completed.

Mayor Obray explained that United Water requested the letter so that it can be submitted to the Public Utilities Commission.

Moved by Councilman Dowdy, seconded by Council President Lang to permit the Mayor to sign a letter to Mr. Wyatt, representing United Water. Motion carried 4-0.

C. CITY ATTORNEY RANDY GROVE WILL DISCUSS STATUS OF NEGOTIATIONS WITH BEST BATH SYSTEMS.

City Attorney Grove reported that during the town hall meetings several months ago regarding Best Bath, there were several complaints about operations including potential health and safety, order and noise impacts on Kuna. After researching the matter, Mr. Grove recommended to the City Council that they could require a Special Use Permit of Best Bath to expand its operation in Kuna and Council approved. Best Bath applied for a Building Permit in December and was told that they had to get a Special Use Permit first. To date, an application has not been submitted to the City. Following denial of the Building Permit, Mr. Grove was contacted by Gene Thurston from Best Bath and Larry Van Hess, developer of the subdivision who asked if it were necessary for them to apply for a Special Use Permit. Mr. Grove explained that there are two

reasons a Special Use Permit is necessary or desirable for cities to require: 1) when a particular use is going to place an unusual demand on public utilities or services or if it's going to have a potential for an unusual or adverse impact on surrounding land uses or the community as a whole and 2) without such a permit, the City would only be relying on approvals and permits from other agencies, then the City would be delegating enforcement to those other agencies. If a problem arose, the City would be powerless to do anything. The City Council would be a lot more comfortable regarding enforcement issues if they were to require a Special Use Permit.

City Attorney Grove continued by saying that he discussed the City's desire for a Special Use Permit with Mr. Van Hess, Mr. Multanen and Mr. Thurston at their facility in Boise approximately 4 weeks prior. He further stated that further research of the Zoning Code revealed that the City's purposes may also be accomplished without a Special Use Permit by stipulating negotiated conditions on an Occupancy Permit. The terms of the Occupancy Permit must be agreed to by both parties; if not, the only other option would be the Special Use Permit.

Regarding letters received threatening litigation against the City for whatever the Council decides to do regarding Best Bath, he felt that of the potential claims, the entity in the strongest position is Best Bath. He stated that he recommended that the City pursue the conditions of an Occupancy Permit to reach the best conclusions for all and was given authorization to do so. A letter to Best Bath concerning the possible conditions of an Occupancy Permit was sent to Mr. Thurston on February 9th along with copies to the City Council. The conditions were:

1. Comply with all regulations and conditions in any emissions permit applicable to the production facility;
2. Comply with all conditions and procedures in the odor management plan;
3. Comply with all regulations and conditions placed upon the operation by the local fire district and all applicable fire codes;
4. Limit the styrene emissions during the first full year of operation to fifty (50) tons (100,000 pounds);
5. Limit the use of acetone during the first full year of operation to thirty seven and a half (37.5) tons (75,000 pounds);
6. The limitations on styrene emission and acetone use shall be adjusted upward ten percent (10%) annually to accommodate growth of the business, but these limitations shall not exceed one hundred twenty five percent (125%) of the actual emission or use of the year just ended.

City Attorney Grove announced that a letter had been received earlier that day from legal counsel of Best Bath pointing out that the City has no ability to limit its emissions beyond those set by DEQ. He pointed out that the City's efforts to negotiate with Best Bath appear to have failed and that the only option remaining to the City is to insist that Best Bath apply for a Special Use Permit.

RECESS: Mayor Obray recessed the meeting at 7:35 p.m.

RECONVENE: Mayor Obray reconvened the meeting at 7:50 p.m.

8. CITIZEN'S REPORTS OR REQUESTS:

9. LICENSES AND PERMITS:

- A. APPROVE BUSINESS LICENSE FOR STEVE SATTERLEE AND KAMI SATTERLEE, "TIP TAP TOES DANCE," 1532 W. RYEGRASS CT.

Moved by Councilman Dowdy, seconded by Councilwoman Stroebel to approve the Business License for "Tip Tap Toes Dance," 1532 W. Ryegrass Ct. Motion carried 4-0.

- B. APPROVE BUSINESS LICENSE FOR DON NORDQUIST, "DON'S PC-KUNA," 1837 W. POTOSI WAY.

Moved by Councilman Dowdy, seconded by Councilwoman Stroebel to approve the Business License for "Don's PC-Kuna," 1837 W. Potosi Way. Motion carried 4-0.

- C. APPROVE BUSINESS LICENSE FOR DEE DEE EMERY, "THE MOP BUCKET," 289 E. WOOD OWL DR.

Moved by Councilwoman Stroebel, seconded by Council President Lang to approve the Business License for "The Mop Bucket," 289 E. Wood Owl Dr. Motion carried 4-0.

10. NEW BUSINESS:

- A. DISCUSS RENTAL OF ADDITIONAL OFFICE SPACE IN THE AVALON SUITES AT A COST OF \$1,000 PER MONTH FOR THE REMAINDER OF THE FISCALYEAR (Continued to February 20, 2007).

- B. CONFIRM APPOINTMENT OF DAVID CASE TO THE PLANNING AND ZONING COMMISSION.

Moved by Councilman Dowdy, seconded by Council President Lang to confirm the appointment of David Case to the Planning and Zoning Commission for a 3-year term. Motion carried 4-0.

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

- A. 06-12-S/06-10-ZC/06-11-DA/SPRINGHILL/LINDER-LAKE HAZEL-COLUMBIA

Planner Lisa Bachman reported that this is an application for a rezone from agricultural to R-6 and R-20 and a preliminary plat on the southeast corner of Lake Hazel and Linder. Proposed are 702 single family lots in the R-6 area and a maximum of 78 dwelling units in the multi-family area to be zoned R-20.

Kent Brown, Bailey Engineers, described the boundaries for the R-6 zone as being ½ mile frontage on Lake Hazel, ½ mile on Linder to Mason Creek, then following Mason Creek to Kay St. and Columbia and then a mile of proposed Kay St. along the easterly boundary. The R-20 zone would be south of Mason Creek. He stated that the Idaho Power corridor is proposed to be a greenbelt area with connecting micro paths. The mid-mile collector through the site is proposed to encompass two roundabouts to slow through traffic aligning with Pear Blossom's street. A pool and changing room will be added along the greenbelt at Mason Creek and another pool will be located north of the collector street.

Greg Johnson, applicant, 1280 E. Pienza, Meridian, pointed out that his company owns fee title to the center of Mason Creek. The Board of Control has an easement and he felt that he would be able to negotiate with them to provide a license agreement to be able to provide a bike/walking path along Mason Creek. It may need to be fenced along the Board of Control's side of the water but negotiations are meant to propose that the area be used jointly. He stated that this application, along with two others to be proposed in the future, would propose that the greenbelt area, a total of 2 ½ miles, be deeded to the City for a park. He displayed a slide presentation of the landscape and architecture to be used in the subdivision. He further stated that he wanted to reduce the proposed size of the Executive Homes in the subdivision from 2,600 to 4,000 sq. ft. as presented to the Planning & Zoning Commission to 2,200 to 4,000 sq. ft. In the Traditional Home series, 2,000 to 3,200 sq. ft., he suggested reducing the smallest sq. footage to 1,800. The Village homes would fit on 50-60 ft. lots starting at 1,430 sq. ft. to about 1,900 sq. ft.

Mayor Obray opened the Public Hearing.

Speakers Opposed

Brian Pogue, 6755 Cochrane, strongly opposed to additional traffic as the result of extension of Kay St. and on Lake Hazel Rd.

Mike Schuctor, 950 W. Lake Hazel, also was concerned about additional traffic and high density.

Neutral Speakers

None

Speakers in Support

Swede Godfrey – no longer in attendance.

There being no further testimony offered, Mayor Obray closed the Public Hearing.

Moved by Councilman Dowdy, seconded by Councilwoman Stroebel to approve 06-12-S/06-10-ZC/06-11-DA/Springhill/Linder-Lake Hazel-Columbia subject to the

developer following all recommendations from staff, the Planning & Zoning Commission, the Ada County Highway District, with the following changes: that the size of the Executive Homes be a minimum of 2,200 sq. ft., no maximum; that the Traditional Homes be a minimum of 1,800 sq. ft., no maximum; the Village Homes be a minimum of 1,400 sq. ft., no maximum; that the fencing along the common areas within the subdivision be wrought iron fence and that the developer work with the land owners along Kay St. regarding fence lines and any problems that may occur in relocating fences or putting in the supports.

RECESS: Mayor Obray recessed the meeting at 9:30 p.m.

RECONVENE: Mayor Obray reconvened the meeting at 9:35 p.m.

B. 06-1-ZC REZONE/06-08-DA/06-13-S PRELIMINARY PLAT/ROCKAWAY/SWAN FALLS ROAD – Continued from January 16, 2007.

Planner Lisa Bachman reported that a revised Preliminary Plat had been submitted by the applicant to incorporate the modifications requested. The dwelling units have been reduced to 3.9, not including the large lot, from 4.93. Four lots have been removed from the subdivision and the flag lots were widened.

Craig Wallace, applicant, P.O. Box 6277, Boise, stated, in response to Councilman Cardoza, that Mr. Krack had not contacted him with regard to a stub road to his property. He stated that he would be happy to discuss the matter with Mr. Krack.

Mayor Obray opened the Public Hearing.

Speakers in Support

None.

Neutral

Scott and Donna Flood, 368 W. King, supported the re-zone to R-4 as well as the 8 additional requirements requested by the Planning & Zoning Commission. Regarding the 6 ft. vinyl fencing around the perimeter and in the common areas, Mr. Flood felt that the fencing enhanced the project and had the effect of making the project look larger than it is. Further, he recommended single-story residences in Block 1, which is on the western property line

Speakers Opposed

Don Krack, 1250 S. Crane Ln., stated that his property is the 5 acres to the west of Rockaway Cove. He felt that as a result of this development and the Ryan Meadows development, his property will not have access and egress and he will be unable to develop it in the future. He asked that a stub road be included from western part of the Rockaway Subdivision into his property.

Sam Johnston, 3j92 N. Blackcat Rd., supported the request by Mr. Krack and pointed out that the property will be landlocked in the future.

Councilman Cardoza stated that the developer of Rockaway Subdivision would be required to remove two lots in order to accommodate Mr. Krack's request and asked if Mr. Krack realized that his property was landlocked when he purchased it. He suggested that Mr. Krack offer to pay the developer the cost of the two lots since the stub road would make Mr. Krack's property more valuable.

Councilman Dowdy pointed out that Mr. Krack's property is not landlocked since it has access and ingress via a private road.

Mr. Krack stated that Planning & Zoning Minutes mentioned a stub street to the west.

Mr. Wallace indicated that he would be willing to discuss the matter with Mr. Krack. He further indicated that there is a stub street between Ryan Meadows and Schoolhouse Subdivision adjacent to Mr. Krack.

There being no further testimony offered, Mayor Obray closed the Public Hearing.

Moved by Councilman Cardoza, seconded by Councilman Dowdy to approve the revised Preliminary Plat for 06-1-ZC Rezone/06-08-DA/06-13-S for the Rockaway Subdivision with 3.9 dwellings per acre, rezone from Agricultural to R-6 medium density residential for a total of 8.71 acres, the revised Development Agreement and following the recommendations of the City Council and staff.

12. REPORTS:

P & Z DIRECTOR/DIANA SANDERS – No report.

CODE ENFORCEMENT REPORT/ DIANA SANDERS – No report.

CITY ENGINEER/KELLER ASSOCIATES – (unintelligible due to excessive background noise).

CITY ATTORNEY / RANDY GROVE – No report.

CITY TREASURER/ROBIN McKEAN – Mayor Obray reported that the annual audit would not be conducted until May this year.

CITY CLERK / LYNDA BURGESS – Thanked Council for approving the contract for the Classification and Compensation Study.

13. ORDINANCES:

DISPENSE WITH FULL READING AND 3 CONSECUTIVE READINGS –
ORDINANCE 2007-01 ANNEXING A PORTION FROM THE BOISE KUNA
IRRIGATION DISTRICT INTO THE MUNICIPAL IRRIGATION SYSTEM –
TOMORROW SUBDIVISION NO. 3.

Moved by Council President Lang, seconded by Councilman Dowdy to dispense with full reading and 3 consecutive readings of Ordinance 2006-01. Motion carried 4-0.

Moved by Councilman Dowdy, seconded by Council President Lang to adopt Ordinance No. 2007-01. Motion carried by the following Roll Call vote:

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

14. MAYOR / COUNCIL DISCUSSION:

15. ANNOUNCEMENTS:

Mayor's State of the City Address – Friday, March 30, Kuna High School

16. EXECUTIVE SESSION:

Moved by Councilman Dowdy, seconded by Council President Lang to adjourn to Executive Session for discussion of litigation at 10:17 p.m. Motion carried 4-0.

Adjourned from Executive Session at 10:34 p.m.

17. ADJOURNMENT: There being no further business to conduct, the meeting was adjourned at 10:34 p.m.

O. Dean Obray, Mayor

ATTEST:

Lynda Burgess, City Clerk

DATE APPROVED: FEBRUARY 20, 2007