

**KUNA CITY COUNCIL MEETING  
MINUTES  
NOVEMBER 4, 2008  
KUNA CITY HALL COUNCIL CHAMBER, 763 W. AVALON**

**8:00 p.m. – REGULAR COUNCIL MEETING**

**1. CALL TO ORDER AND ROLL CALL**

Council President Lang called the meeting to order at 8:00 p.m.

**PRESENT:** Mayor Dowdy, Council President Lang, Council Members Bachman, Stroebel and Cardoza.

**ALSO PRESENT:** City Attorney Randy Grove, City Engineer Gordon Law, P&Z Director Steven Hasson, City Clerk Lynda Burgess, Planner II Troy Behunin and Planner Tech Maranda Schindel.

**2. INVOCATION:** None given.

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

**ADD TO AGENDA: CONSENT AGENDA ITEM NO. 4.D. APPROVE SERVICE AGREEMENT FOR ANIMAL CONTROL SERVICES BETWEEN CITY OF KUNA AND THE IDAHO HUMANE SOCIETY.**

Moved by C/Lang, seconded by C/Bachman to add Item 4.D. to the agenda. Motion carried 4-0.

**4. CONSENT AGENDA:**

Moved by C/Lang, seconded by C/Stroebel to approve the Consent Agenda. Motion carried by the following Roll Call vote:

**AYES:** Lang, Bachman, Cardoza, Stroebel  
**NOES:** None  
**ABSENT:** None

- A. APPROVED MINUTES OF REGULAR MEETING OF OCTOBER 21, 2008.
- B. APPROVED ACCOUNTS PAYABLE DATED OCTOBER 30, 2008 IN THE AMOUNT OF \$1,732,948.43.
- C. APPROVED BUSINESS LICENSE FOR SHAWNA SHELL, “SMARTY PANTS PRESCHOOL,” 429 SWAN FALLS RD.
- D. APPROVED SERVICE AGREEMENT FOR ANIMAL CONTROL SERVICES BETWEEN CITY OF KUNA AND THE IDAHO HUMANE SOCIETY.

**5. KUNA FIRE DEPARTMENT MONTHLY REPORT -** No report given.

**6. CITIZEN'S REPORTS OR REQUESTS:**

PRESENTATION BY JOE LUPPENS REGARDING THE 2010 CENSUS. Introduced Zerelda "Zee" Quintana from the Idaho Census Bureau. Ms. Quintana gave a review of the Census Bureau. She explained when residents will get their questionnaires and reported on the Mr. Luppens' responsibilities as chairman of the Kuna area.

Mr. Luppens distributed a "to do" list for his activities representing Kuna on the census and requested Council input on the list and approval.

M/Dowdy asked how soon they would like Council input.

Mr. Luppens stated that he would like to activate the committee by the beginning of February 2009.

M/Dowdy indicated that this will be included on a future agenda before the end of the year.

**7. OLD BUSINESS:**

**8. NEW BUSINESS:**

ADOPT RESOLUTION NO. R32-2008 DIRECTING DISPOSAL OF RESERVED FUNDS FOR A SWIMMING POOL; DIRECTING DISPOSAL OF RESERVED FUNDS FOR PARK IMPROVEMENTS; DIRECTING DISPOSAL OF RESERVED FUNDS FOR CONTINGENCY ACCOUNTS AND DIRECTING ESTABLISHMENT OF RESERVED FUNDS FOR LOANS AND BONDS.

C/Cardoza indicated that he thought the funds had been previously exhausted.

CE/Law explained that the funds may have been exhausted but the supporting documents need to go to the auditor and the funds returned to the General Fund. He has asked the City Clerk to research through previous minutes for restrictions on funds. There was no information located. He explained that the funds had come out of water, sewer and pressurized irrigation.

Moved by C/Lang, seconded by C/Bachman to adopt Resolution R32-2008. Motion carried 4-0.

**9. PUBLIC HEARINGS:** 8 p.m. or as soon thereafter as matters may be heard.

PUBLIC HEARING: 08-01-S (PRELIMINARY PLAT)/08-15-DA (DEVELOPMENT AGREEMENT/AMENDMENT) – WILLOW GLENN SUBDIVISION PHASES III AND IV – PRELIMINARY PLAT RESUBMISSION AND DEVELOPMENT AGREEMENT AMENDMENT.

Planner Tech/Schindel reported that the developer asked for resubmission since the original agreement expired without a request for a time extension. All improvements have been installed and the City Engineer will review the development. The application generally complies.

Alan Christy, Treasure Valley Engineers, 1204 6<sup>th</sup> St. North, Nampa, applicant, asked for approval and submitted a copy of a letter from the developer's attorney (Exhibit 19) which he read into the record:

“Julie Schelhorn  
Circle Z Development Group LLC  
2930 Garrity Blvd.  
Nampa, ID 83687

Re: Willow Glenn Subdivision

Dear Julie:

Pursuant to your request, Perkins Cole LLP reviewed the Articles of Incorporation, Bylaws and Declarations of Covenants, Conditions and Restrictions, as amended (the “CC&Rs”), for Willow Glenn Subdivision Phases I and II.

The CC&Rs for Phase I provide that the Declarant's (Circle Z Development Group LLC, as successor in interest to HZSR L.L.C.) membership in the Homeowners Association (“HOA”) ceases when the Declarant does not own any Lots that are a part of Phase I. As you know, Phase I has sold out, and the Declarant does not own any Lots within Phase I. As a result, Circle Z is not a member of the Phase I HOA, and has no authority at this time to control the affairs of the Phase I HOA.

With respect to Phase II, the CC&Rs provide that Circle Z, as the Grantor, is entitled to 6 votes for each Building Lot of which it is the owner. At this time, Circle Z owns 12 or 13 of the 30 total Building Lots within Phase II. Circle Z therefore has a controlling interest in the Phase II HOA.

The Phase II CC&Rs permit Circle Z to annex adjacent properties into the Property covered by the CC&Rs. In effect, this would allow Circle Z to annex Phases III and IV into the Property covered by the Phase II CC&Rs. As a result, one HOA and one set of CC&Rs could govern Phases II, III and IV of the Willow Glenn Subdivision.

In order to bring Phase I under the HOA and CC&Rs covering the other Phases, a majority of the Homeowners within Phase I would have to approve annexation into the umbrella HOA.

As noted previously, Circle Z has no control over the Phase I HOA. Therefore, the annexation of Phase I into the umbrella HOA would depend entirely upon the consent of the Phase I homeowners.

Please let me know if you have any questions

Very truly yours,  
Eric R. Bjorkman “

Mr. Christy stated that his understanding was that there are plans to establish one HOA for the development. He requested that the paving for the phase I condition be dropped but had had no concerns with the other requirements. He reiterated that phase I and II conditions had been met. He stated that the project engineer and one of the developers were present.

Lance Warnick, 1204 6<sup>th</sup> St. North., Nampa, stated that he is the project engineer and would like to see the next phase through. He clarified that the ten requirements on the conditions list are not items that the developer has defaulted on and are additions. They have tried to work with the City. They are ready to pave and asking for it to be approved.

M/Dowdy opened the Public Hearing.

#### SUPPORT

Julie Schelhorn, 2930 Garrity Blvd., Nampa. In regard to the pathway in Phase I, she clarified that it was their understanding that when they installed the pathway, it was what the City had asked them to do. She reviewed the completed landscaping and added that the irrigation company asked for gravel. She also reiterated that the intent is that all the phases will be one HOA.

#### NEUTRAL

Mike Rampelberg, 759 W. Tallulah, President, Phase I HOA, explained that the pathway was installed but not maintained by the developer or the HOA. The water was never even turned on. He indicated the need to either merge the HOAs or contractually share costs for maintenance of the pathway.

#### OPPOSED

None

There being no further testimony offered, M/Dowdy closed the Public Hearing.

Lance Warnick, 1204 6<sup>th</sup> St. North, Nampa stated that the developer's intention is to share costs for the pathway.

M/Dowdy asked when Phase I was completed and when the HOA was turned over to the Subdivision.

Mr. Warnick indicated that Phase I plat recorded in August of 2004 and the HOA was turned over in the spring of 2006, according to the developer.

C/Bachman asked for clarification of the developer's agreement with the conditions on page 2 of the staff report.

Mr. Warnick indicated that the pathway was constructed as part of the Phase I conditions. The landscaping was installed during plat development. He also asked that the new agreement be reviewed.

C/Bachman asked if Melodie St. would be converted to a cul-de-sac.

Mr. Warnick stated that ACHD approved the request and it is now zoned industrial. The City has asked that the street not go through. He disagreed with requirement 6 to provide a second functional park within Phase 4 IV and wasn't sure if there was a current City standard for pocket parks.

In response to M/Dowdy, CA/Grove stated that the two conditions requested by the P&Z Commission may be enforceable only if the applicant agrees with them.

C/Cardoza asked staff if bullet point #1 conforms with the request by the Boise Kuna Irrigation District to not improve the drainage ditch.

P & Z Director/Hasson responded that it is unsure. There is a difference in language.

C/Cardoza expressed concern over the disharmony between the developer and the HOA for Phase I. Issues between them should have been worked out prior to requesting Council approval for Phases III and IV. Further, regarding the 8<sup>th</sup> bullet, he wondered what land use conditions had changed since approval of Phases I and II.

P & Z Director/Hasson reported that the pathway had only been partially paved as per the irrigation district's request but staff believes the path should be paved to make it ADA compliant.

C/Stroebel asked P & Z Director Hasson to define "functional park".

P & Z Director/Hasson explained that a functional park is a grassy area of a minimum of a 1/4 to 1/3 acre with perhaps a BBQ pit, a swing set, landscape requirements, irrigation system. Otherwise known as a "pocket park."

C/Cardoza asked CE/Law if phases III and IV are the same as subdivisions.

CE/Law explained the technical definition of subdivision. He stated that the original staff report already approved would continue to be approved but phase IV needed to be submitted to the City Engineer.

M/Dowdy stated that there is some ambiguity that Phase I conditions have not been complied with.

CA/Grove reviewed the process of the final check off and stated the presumption would be made that the requirements of previous phases would have been considered complete.

Moved by C/Bachman, seconded by C/Lang to approve 08-01-S (Preliminary Plat)/08-15-DA (Development Agreement/Amendment) – Willow Glenn Subdivision Phases III and IV - Preliminary Plat resubmission and Development Agreement Amendment subject to conditions on page 2 of the staff report, strike bullet items 1, 2 and 8 and amend Development Agreement 5.1 and 5.2 to R-6 zone rather than RT. Motion carried 3-1 (C/Cardoza voted no.)

## 10. REPORTS:

CODE ENFORCEMENT REPORT / STEVE HASSON – In response to C/Cardoza, Mr. Hasson gave an update on the house at 820 Boise St. and stated that the building would need to be closed at night. A letter was sent to the owner, Mr. Loper and posted on the property requesting Mr. Loper meet his responsibilities. Mr. Loper is complying at this point.

P & Z DIRECTOR / STEVE HASSON

CITY ENGINEER / GORDON LAW - reported on Well #4 arsenic that was shut off per DEQ, he stated that a test hole was drilled and a water formation was found containing a low amount of arsenic. Before drilling, a water right was obtained and a transfer requested. One protest was filed, which is being evaluated by/the City Attorney. Some issues with Wells #3 and #5 need to be addressed. Well#3 has a hydrogen sulfide problem and #5 has good water, but it's cloudy. Regarding bids for pressure irrigation crossings, the contractor for the North WWTP outfall submitted another bid and asked that a change order to his contract be approved. It is possible to just include the irrigation crossings into the contract for the outfall via a change order. Regarding existing pressurized irrigation dry lines to the downtown area, he asked how Council would want new connections to be assessed so every pays his/her fair share.

C/Cardoza asked CE/Law to work up an estimate to provide a spigot to each house in the areas where the dry lines exist.

CITY ATTORNEY / RANDY GROVE – No report.

CITY TREASURER / VACANT

CITY CLERK / LYNDA BURGESS – No report.

## 11. ORDINANCES:

A. DISPENSE WITH FULL READING AND THREE CONSECUTIVE READINGS –  
ORDINANCE NO. 2008-29: AN ORDINANCE OF THE CITY OF KUNA, IDAHO,  
ANNEXING A PORTION FROM BOISE KUNA IRRIGATION DISTRICT INTO THE  
MUNICIPAL IRRIGATION SYSTEM AND CHANGING THE BOUNDARIES  
THEREOF; DIRECTING THAT COPIES OF THIS ORDINANCE BE RECORDED AS  
PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

C. DISPENSE WITH FULL READING AND THREE CONSECUTIVE READINGS –  
ORDINANCE NO. 2008-30: AN ORDINANCE OF THE CITY OF KUNA, IDAHO,

ANNEXING A PORTION {*park & irrigation pond*}FROM BOISE KUNA IRRIGATION DISTRICT INTO THE MUNICIPAL IRRIGATION SYSTEM AND CHANGING THE BOUNDARIES THEREOF; DIRECTING THAT COPIES OF THIS ORDINANCE BE RECORDED AS PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

Moved by C/Lang seconded by C/Bachman to dispense with full reading and three consecutive readings of Ordinance Nos. 2008-29 and 2008-30. Motion carried 4-0.

Moved by C/Lang, seconded by C/Bachman to adopt Ordinance No. 2008-29 and 2008-30. Motion carried by the following Roll Call vote:

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

**12. MAYOR /COUNCIL DISCUSSION:**

**13. ANNOUNCEMENTS:**

**14. EXECUTIVE SESSION:**

Moved by C/Lang, seconded by C/Stroebel to adjourn to Executive Session at 9:50 p.m. pursuant to Idaho Code Section 67-2345(a). Motion carried by the following Roll Call vote:

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

Adjourned Executive Session at 10:37 p.m.

**15. ADJOURNMENT:** There being no further business to conduct, it was moved by C/Lang, seconded by C/Bachman to adjourn the meeting at 10:37 p.m.

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J. SCOTT DOWDY, MAYOR

ATTEST:

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LYNDA BURGESS, CITY CLERK

DATE APPROVED: NOVEMBER 18, 2008