

**KUNA CITY COUNCIL MEETING
MINUTES
APRIL 1, 2008
KUNA CITY HALL COUNCIL CHAMBER, 763 W. AVALON**

7:00 p.m. – REGULAR COUNCIL MEETING

1. CALL TO ORDER AND ROLL CALL

M/Dowdy called the meeting to order at 7:02 p.m.

PRESENT: Mayor Dowdy, Council President Lang, Councilwoman Bachman, Councilmember Cardoza and Councilwoman Stroebel.

ALSO PRESENT: City Attorney Randy Grove, P&Z Director Steven Hasson, City Engineer Gordon Law, City Treasurer Robin McKean, Planner Stacey Yarrington, Public Works Director Jim Taylor and City Clerk Lynda Burgess.

2. INVOCATION: The Invocation was given by Pastor Scott Piper, First Baptist Church.

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

Moved by C/Lang, seconded by C/Stroebel to amend the Consent Agenda to add ITEM 4.M.: DUE TO A 37% INCREASE IN COVERAGE RATES BY BLUE CROSS OF IDAHO, THE MAYOR IS REQUESTING APPROVAL TO DISCONTINUE THE CITY'S CONTRACT WITH BLUE CROSS AND BEGIN CONTRACTING WITH REGENCE BLUE SHIELD FOR THEIR INNOVA HEALTH CARE PLAN EFFECTIVE APRIL 1, 2008. Motion carried 4-0.

4. CONSENT AGENDA: Moved by C/Bachman, seconded by C/Lang to remove Agenda Item 4.K. from the Consent Agenda. Motion carried 4-0.

Moved by C/Lang, seconded by C/Stroebel to approve the Consent Agenda with the exception of Item 4.K. Motion carried by the following Roll Call vote:

AYES: Lang, Bachman, Cardoza, Stroebel

NOES: None

ABSENT: None

A. APPROVED MINUTES – March 18, 2008.

B. APPROVED ACCOUNTS PAYABLE DATED MARCH 27, 2008 IN THE AMOUNT OF \$406,164.53.

C. APPROVED BUSINESS LICENSE FOR MARGIE P. WINN, "WINN BOOKKEEPING SERVICES," 211 N. SPARROW HAWK AVE.

-
- D. APPROVED PAY REQUEST NO. 2 FOR ATKINS GENERAL BUILDERS, INC., dba KEPHA CONSTRUCTION FOR THE WASTEWATER TREATMENT PLANT PHASE I SUPPORT BUILDINGS IN THE AMOUNT OF \$5,245.43.
 - E. APPROVED PAY REQUEST NO. 1 FOR H2 EXCAVATION, INC. FOR THE TEN MILE ROAD UTILITY IMPROVEMENTS PROJECT IN THE AMOUNT OF \$37,015.
 - F. APPROVED LICENSE FOR SALE OF OFF PREMISE BEER AND WINE – KUNA CHEVRON, 150 W. DEER FLAT RD.
 - G. APPROVED LICENSE FOR SALE OF OFF PREMISE BEER AND WINE – BIG SMOKE, LLC, 1031 E. KUNA RD., SUITE 150.
 - H. APPROVED LICENSE FOR SALE OF OFF PREMISE BEER AND WINE – JACKSON’S FOOD STORE #26, 330 W. 3RD ST.
 - I. APPROVED LICENSE FOR SALE OF OFF PREMISE BEER AND WINE – KUNA SUPER C, 331 AVENUE D.
 - J. APPROVED LICENSE FOR SALE OF OFF PREMISE BEER AND WINE – PAUL’S MARKET, 700 E. AVALON.
 - L. ADOPTED RESOLUTION NO. R5-2008 AUTHORIZING EXPENDITURE OF AN AMOUNT NOT TO EXCEED \$50,000 FROM THE CONTINGENCY ACCOUNT OF THE FY2008 WATER FUND BUDGET FOR REHABILITATION OF WELL # 4.
 - M. APPROVED MAYOR’S REQUEST TO DISCONTINUE THE CITY’S CONTRACT WITH BLUE CROSS DUE TO A 37% RATE INCREASE AND BEGIN CONTRACTING WITH REGENCE BLUE SHIELD FOR THEIR INNOVA HEALTH CARE PLAN EFFECTIVE APRIL 1, 2008.

REMOVED FROM CONSENT AGENDA:

- K. APPROVE LOT LINE ADJUSTMENT, 08-01-LLA, LOT 7, BLOCK 1, MINERAL SPRINGS HOMEOWNERS ASSOCIATION.

Moved by C/Bachman, seconded by C/Lang to approve the Lot Line Adjustment and add the requirement for a 5’ paved pathway under Section F., Conditions of Approval. Motion carried 4-0.

5. FIRE DISTRICT MONTHLY REPORT:

Chief Rosin provided a copy of his report to the Council. There were 81 fire and EMS calls in the month of March. 61 responses were within city limits and 20 were in the district. 65 were medically related and 16 were fire.

6. ADA COUNTY HIGHWAY DISTRICT REPORT:

In response to M/Dowdy, Errol Morgan reported that the ACHD would try to smooth out the roadway approach from the north direction for the traffic light at Deerflat and Linder when the weather warms up.

7. CITIZEN'S REPORTS OR REQUESTS:

A. REQUEST BY J & M SANITATION FOR MATCH OF DONATION FOR ANNUAL CLEAN-UP PROGRAM.

Chad Gordon reported that the 22nd annual clean up is scheduled for Saturday, April 26, 2008 in Bernie Fisher Park. There will be free curbside pickup and the drop site at the park will provide a hazardous waste unit, a tire trailer for collection of old tires, as well as regular trash and scrap metal drop off. Local groups have volunteered to help with the event and prizes are awarded to the volunteer groups after the clean up. J & M Sanitation donates \$300 for the awards. Mr. Gordon requested a matching amount from the City.

Moved by C/Lang, seconded by C/Stroebel to approve a donation match of \$300 to the Annual Clean-up Program operated by J & M Sanitation. Motion carried 4-0.

B. REQUEST BY GORDON HALSTEAD, REPRESENTING THE AMERICAN LEGION, FOR WAIVER OF FEES FOR BERNIE FISHER PARK FOR A FLAG BURNING CEREMONY ON JUNE 14, 2008.

The ceremony will be on Flag Day to destroy unusable flags. There will be a notice in the paper to allow the public to contribute any flags that need to be destroyed.

Moved by C/Lang, seconded by C/Stroebel to approve the fee waiver for the American Legion on June 14, 2008. Motion carried 4-0.

8. OLD BUSINESS:

CONSIDER AMENDED SEPTIC TANK USE POLICY PROPOSED BY P&Z DIRECTOR/HASSON.

P&Z Director/Hasson presented revisions for the proposed septic tank policy as requested at the March 18, 2008 Council Meeting. He outlined the changes in the long version and short version along with relocation in the City's code of other items that need to be moved to a more appropriate location.

Following discussion, P&Z Director Steve Hasson was requested to amend the policy and bring the matter back at a future meeting to include the following suggested changes: 1) amend the ordinance to create a new residential zone classification; 2) revise payment of hookups to either up front or by lien; 3) revise placement of septic tanks on a property to avoid all being in one section.

9. NEW BUSINESS:

- A. ADOPT RESOLUTION NO. R6-2008 AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT FOR HYDROGEOLOGIC OVERSIGHT – WELL #4 WITH HYDRO LOGIC, INC. IN AN AMOUNT NOT TO EXCEED \$25,000.

Moved by C/Lang, seconded by C/Bachman to authorize an agreement with Hydro Logic, Inc. Motion carried by the following Roll Call vote:

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

- B. APPROVE AGREEMENT WITH CRSA TO PROVIDE CERTAIN PLANNING DOCUMENTS TO KUNA FOR THE COMPREHENSIVE PLAN UPDATE, CAPITAL IMPROVEMENT PLANNING, AREA OF IMPACT BOUNDARIES AND OTHER PLANNING SERVICES.

Moved by C/Lang, seconded by C/Bachman to approve the agreement with CRSA. Motion carried by the following Roll Call vote:

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

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

- A. PUBLIC HEARING: 08-02-ZC - O'LEARY'S OLD FIREHOUSE BAR/LOUNGE REZONE FROM P TO CBD.

P/Yarrington reported that a design review has been conducted and a special use permit had processed through the P & Z Commission. The conditions that apply pertain to the special use permit. The property has a historic background as it was the original fire house for Kuna emergency services. When it was sold, the zoning wasn't changed to reflect the new use to Central Business District.

Applicant Vernon K. Smith, representing the O'Leary's, reviewed the steps that have been taken up to this point and what they would like to do in the future.

M/Dowdy opened the Public Hearing.

SUPPORT

None

NEUTRAL

None

OPPOSE

None

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

Moved by C/Lang, seconded by C/Stroebel to approve 08-02-ZC - O'Leary's Old Firehouse Bar/Lounge Rezone from P to CBD and change Condition No. 14 to read: "The conditions of approval for the special use permit are to be completed by the time of the first annual review." Motion carried 4-0.

RECESS: M/Dowdy recessed the meeting at 7:54 p.m.

RECONVENE: M/Dowdy reconvened the meeting at 8:03 p.m.

B. PUBLIC HEARING: 07-10-AN/07-17-DA ANNEXATION AND DEVELOPMENT AGREEMENT FOR OSPREY RIDGE PARTNERS, ORIGIN PROPERTIES, LLC/KUNA 830, LLC.

P/Yarrington reported that this annexation consists of over 3,424 acres with multiple owners. The application contains the conditions of the annexation including a request for Category A zoning. The property is in the South East--Swan Falls Rd. to nearly Five Mile Rd. and everything south of Kuna Mora Rd. and will be a part of the development of Kuna Mora Rd when it comes through. The comprehensive plan would be updated if this annexation is approved. They are working with the school district, police, fire service and the library for future plans and responsibilities and will provide the infrastructure to the development. She stated that the P & Z Commission recommended approval of the annexation.

Gary Allen, 601 W. Bannock St., Boise, representing the Osprey Ridge Partners owning 1,406 acres of the development, introduced Todd Massey, manager of the organization and Wade Massey, president. It is a family run business. He introduced the in-house lawyers for the Osprey Ridge companies. Sid Anderson and family are the owners of the property and will retain an ownership interest and develop 160 acres. He then introduced the representative from Inland Northwest Consultants. Mr. Allen then stated that he only represented Osprey and not the other owners. He introduced the Origin Properties representatives and the Thornton's. After distributing a map of the properties, he gave a description of what the benefits would be to Kuna and complimented the P & Z staff on their work.

SUPPORT

None

NEUTRAL

Bill Clark, 3543 W. Ambrosia Ln. expressed concern about the planned boundary and annexation and the order of the process. He had questions in relation to State Code Title 67 and asked those questions to be addressed.

Cheryl McCord, 3543 W. Ambrosia Ln. referred to a handout that referenced City planning maps of 2007 and 2003. She specifically addressed whether the Comp Plan considered the outcome of this project as required by Title 67. She had questions in relation to the planning maps and their relation to the annexation and asked those questions to be addressed.

Karla Taylor, 1625 Stewart Rd. expressed concern about space for kids to play, such as field sports. She would like to see growth accommodate the children. She felt the developer should commit to children's facilities before they are annexed into Kuna.

OPPOSE

David Dineen, 2988 S. Locust Grove Rd. stated that he was not against growth or property owner's right to sell or annex their property and referred to the information from Bill Clark as well as a packet of information he himself provided. He would like to see things done in their proper order and wanted to see better planning. He gave examples of other cities' developments.

Steve H. Fisher, 2956 Kuna Mora Rd. felt that the community should be heard. He doesn't want Kuna to rush into such a huge development.

Dana Hess, 3505 Locust Grove Rd. stated that he here a couple of years ago because of the rural environment. He would like to see smart development and expressed concern about services and the impact on the city.

Margo Whale, 3333 Ambrosia Ln. provided exhibits to the Mayor, Council and City Attorney and asked that they review them before making a decision. She was concerned about the Comprehensive Plan and asked questions relating to the County and the Kuna Plan.

Heather Shaul, 5182 E. Deer Flat Rd. expressed concern about annexation protocols relating to State and County guidelines. She felt that more public input is needed. Further, she stated that had concerns about what information the developers provide the Council.

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

Gary Allen rebutted the statements made by members of the public by addressing the concerns of change expressed. He talked about the inevitable growth that will occur and the impact and asked that the developers be treated fairly in establishing the service guidelines in developments.

P/Yarrington listed the exhibits distributed by speakers: Exhibit 19-Gary Allen, Exhibit 20-Bill Clark, Exhibit 21-Cheryl McCord, Exhibit 22-Margo Whale. She reported that government notices (including the County) were sent out on December 7, 2007, a full 30 days prior to any public hearing.

CA/Grove addressed issues of legality brought up by members of the public. The public hearing tonight is only talking about annexation, not development itself and not what should be done to resolve open space issues. Requirements of the Local Land Use Planning Act must be looked at in the Annexation Statute. The statute says if you have identified land that's appropriate for annexation, you can begin the comprehensive planning process. The Local Planning Use Act allows for adoption of a comprehensive plan concurrently or immediately following an annexation or an ordinance for annexation. There did seem to be some contradiction in I.C 67 65 25 about whether it should be prior or not. CA/Grove referred to a State Supreme Court decision, Coeur D'Alene Park Property Owners Association vs. the City of Coeur d'Alene. The case says the Local Planning Act contains no substantive limitations upon the power of annexation. It simply provides that annexation must be preceded by notice and hearing on the proposed land and zoning changes for the unincorporated area. That means that the proceeding before the P & Z Commission is sufficient. Before the land is re-zoned and a development placed upon it, the City's new comp plan consultant will be involved in development of a plan that incorporates this area and other areas.

M/Dowdy stated that he was contacted by Ada County Commissioner Tilman in response to a communication he had received from Dave Dineen. Commissioner Tilman indicated that all annexations the City has accomplished to date and all the annexations that are being considered at this time fall within the statutory authority the City has for annexations and the County is not interested in interjecting itself into the process. The Mayor addressed the questions about Title 67 65 08. In addition, the new comprehensive plan should be completed before any construction begins in the Osprey Ridge development.

C/Cardoza – Asked about section 3.6 in the Development Agreement regarding residential residual water rights. He indicated that he preferred that it include a statement that the city would have first right to it.

CE/Law explained that residual water rights are any water rights left over after taking care of the necessary residential and site irrigation needs of the property. These necessary needs are claimed by the city.

Gary Allen indicated that Osprey Ridge would be willing to amend Sec. 3.6. to include the words "first right of refusal" for the City on the residual rights as long as there is fairness and fair market paid.

In response to C/Bachman, CA/Grove stated that he would hesitate before adding a requirement to the City's Development Agreement that the developer make off site improvements requested by another governmental agency. Requiring the developer to work with another agency is as far as the City should legally go.

C/Cardoza stated that he would like to review State Statutes 67.65.08, 67.65.25 and one other before making a decision.

Moved by C/Cardoza, seconded by C/Stroebel to continue the matter to the April 15th Council meeting so that Council may review State Statues as suggested by members of the public. Motion failed by a tie vote (C/Cardoza and C/Stroebel voted yes; C/Lang and C/Bachman voted no.) M/Dowdy declared that the motion failed.

Moved by C/Lang, seconded by C/Bachman to approve 07-10-AN/07-17-DA ANNEXATION AND DEVELOPMENT AGREEMENT FOR OSPREY RIDGE PARTNERS, ORIGIN PROPERTIES, LLC/KUNA 830, LLC WITH A CHANGE TO THE DEVELOPMENT AGREEMENT TO 3.6 TO ADD THAT THE CITY HAVE THE FIRST RIGHT OF REFUSAL ON EXCESS WATER AND APPROVE ZONING AS AGRICULTURE. Motion carried by the following Roll Call vote:

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

RECESS: M/Dowdy recessed the meeting at 9:40 p.m.

RECONVENE: M/Dowdy reconvened the meeting at 9:44 p.m.

11. REPORTS:

CODE ENFORCEMENT REPORT / STEVE HASSON – There are no outstanding code enforcement issues. Council asked that a couple of situations to be reviewed.

P & Z DIRECTOR / STEVE HASSON – Stated that March building statistics shows 46 building permit including 30 single family homes with the average size of over 2,100 sq and average cost over \$215,000. This shows an increase over last year. The Mayor has requested that staff bring back a proposal to update the P & Z Ordinance that relates to parking. Commercial businesses are not allowing enough parking for patrons.

CITY ENGINEER / GORDON LAW – Reported that the Sadie Creek Pump Station pond fencing can be constructed for \$8,250 if the City re-used current fencing with the concrete removed from the post. The contractor's bid for new fencing with privacy slats would be \$20,579 and without the privacy slats would be \$16,405.

C/Bachman looked at the site and felt it would be awkward to be fenced. In addition, the signage needs to be clear. C/Stroebel agreed.

CITY ATTORNEY / RANDY GROVE – Explained why the proposed Ordinance changes were needed.

CITY TREASURER / ROBIN McKEAN – No report.

CITY CLERK / LYNDA BURGESS – No report.

12. ORDINANCES:

- A. DISPENSE WITH FULL READING AND THREE CONSECUTIVE READINGS - ORDINANCE NO. 2008-02: AN ORDINANCE OF THE CITY OF KUNA, IDAHO AMENDING SECTIONS 1-4-1 AND 1-4-2 OF THE KUNA CITY CODE UPDATING THE MISDEMEANOR PENALTIES CONSISTENT WITH THE IDAHO CODE, PROVIDING FOR INFRACTION OFFENSES, AND PROVIDING AN EFFECTIVE DATE.

Moved by C/Lang, seconded by C/Stroebel to dispense with full reading and three consecutive readings. Motion carried 4-0.

Moved by C/Lang, seconded by C/Stroebel to adopt Ordinance 2008-02. Motion carried by the following Roll Call vote:

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

- B. DISPENSE WITH FULL READING AND THREE CONSECUTIVE READINGS – ORDINANCE NO. 2008-03: AN ORDINANCE OF THE CITY OF KUNA, IDAHO ADOPTING A NEW SECTION 10-1-5 PROHIBITING PUBLIC URINATION AND DEFECATION WITHIN THE CITY LIMITS, PROVIDING FOR A PENALTY, AND PROVIDING AN EFFECTIVE DATE.

Moved by C/Lang, seconded by C/Stroebel to dispense with full reading and three consecutive readings. Motion carried 4-0.

Moved by C/Lang, seconded by C/Stroebel to adopt Ordinance 2008-03. Motion carried by the following Roll Call vote:

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

13. MAYOR /COUNCIL DISCUSSION:

M/Dowdy announced that Council had been invited to the Boys and Girls Club annual auction on Saturday, April 5th.

Council confirmed that they would begin holding information-only workshops on the second Wednesday of each month at noon beginning April 9, 2008. The workshops will be open to the public.

14. ANNOUNCEMENTS:

15. EXECUTIVE SESSION:

- 16. ADJOURNMENT:** There being no further business to conduct, it was moved by C/Bachman, seconded by C/Stroebel to adjourn the meeting at 10:07 p.m.

J. SCOTT DOWDY, MAYOR

ATTEST:

LYNDA BURGESS, CITY CLERK

DATE APPROVED: