

**SPECIAL CITY COUNCIL MEETING  
MINUTES  
NOVEMBER 11, 2009  
KUNA CITY HALL COUNCIL CHAMBER, 763 W. AVALON**

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

Mayor Dowdy called the meeting to order at 6:00 p.m.

**PRESENT:** Mayor Dowdy, Council President Jeffery Lang, Council Members Lisa Bachman, Trina Stroebel and Council Member Cardoza.

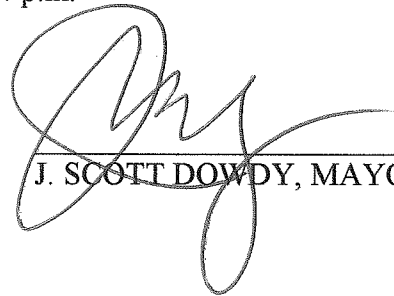
**ALSO PRESENT:** City Attorney Richard Roats; City Engineer Gordon Law; City Clerk Lynda Burgess and Justin Walker, Keller Associates.

**2. PROTEST HEARINGS REGARDING LOCAL IMPROVEMENT DISTRICT 2006-01**

See verbatim minutes transcript attached hereto and made a part hereof.

There being no further testimony offered, M/Dowdy closed the LID Protest Hearings.

**3. ADJOURNMENT:** There being no further business to conduct, it was moved by C/Lang, seconded by C/Stroebel to adjourn the meeting at 6:24 p.m.

  
\_\_\_\_\_  
J. SCOTT DOWDY, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
LYNDA BURGESS, CITY CLERK



**DATE APPROVED: DECEMBER 1, 2009**

0087

1           BEFORE THE KUNA CITY COUNCIL

2

3 In the Matter of:    ) TRANSCRIPT OF PROCEEDINGS

)

4 Kuna LID 2006-1 Protest )    VOLUME 3

Hearing.            )

5                    ) Pages 87 - 105

\_\_\_\_\_)

6

7

8

9

10

Date:   November 11, 2009

11 Time:   6:00 p.m.

Place:   Kuna City Hall

12         763 West Avalon Street

Kuna, Idaho 83634

13

14

15

16

17

Janet French, CSR #946, RPR

18

19

20

21

22

23

24

25

0088

1           A P P E A R A N C E S

2

3

KUNA CITY COUNCIL:    J. Scott Dowdy, Mayor

4

Jeffrey Lang, Council President

5

Lisa Bachman, Council Member

6

Richard Cardoza, Council Member

7

Trina Stroebel, Council Member

8

9

10

Also Present:         Lynda Burgess, City Clerk

11

Randy Grove, City Attorney

12

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
0089

1           PROTESTANT STATEMENTS

2  
3   STATEMENT BY:                   PAGE  
4  
5   DON JOHNSON                   91  
6   JOHN EWING                   98  
7   PATRICK MCMONIGLE           100

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
0090

1   Kuna, Idaho, Wednesday, November 11, 2009, 6:00 p.m.  
2           P R O C E E D I N G S

3  
4   MAYOR DOWDY: I call the meeting of the Kuna City  
5   Council for the LID protest hearings to order. Roll  
6   call.  
7           (Roll call was taken.)  
8   MAYOR DOWDY: All right. This is day number  
9   three of the protest hearings. It is the final day.  
10   We will proceed today, the same as we have on the two

11 previous days.

12 If there is anyone here that has not had an  
13 opportunity to address the Council regarding a  
14 protest, either by themselves or through a third  
15 party, they will be allotted ten minutes to address  
16 the City Council regarding their protest.

17 And did we have a sign up sheet today,  
18 Lynda?

19 CLERK BURGESS: Yes. They were out and about. I  
20 don't know if anybody brought them in.

21 MAYOR DOWDY: Okay. All right. I've got the  
22 sign-up sheet in front of me now. I have one person  
23 signed up to speak regarding the protest. I know,  
24 Mr. Johnson, you were previously represented by  
25 Mr. Kang. And you wanted to make some statements

0091

1 tonight?

2 MR. JOHNSON: I do.

3 MAYOR DOWDY: Okay. Go ahead and come to the  
4 podium. State your name, spell your last, and provide  
5 the parcel numbers for which you are providing the  
6 protest.

7 MR. JOHNSON: Mayor, City Council, I'm Don  
8 Johnson, J-O-H-N-S-O-N. We have two parcels:  
9 S1303120807; the second parcel is S1303110115.

10 At the present time, we are the largest --  
11 we have the largest numbers of EDUs in the transfer  
12 pool. We put those in March 19th of 2008.

13 I'm going to refer to the different sections  
14 in the transfer resolution. This is Section 6 of the  
15 Transfer Resolution that was adopted by the City  
16 Council. The effective date on that was March 1,  
17 2008. It stated that the transfer of EDU connections  
18 shall be by one of two methods. My question to you  
19 is: Who determines which one of those methods is  
20 being used?

21 Section 8 of the Transfer Registry requires  
22 a transfer log to be established and kept all the EDU  
23 connections. We have asked about this and have not  
24 seen the document or have not been informed of how  
25 many EDUs have been transferred as of this date.

0092

1 Also, there is a log of the money paid that -- we have  
2 not seen that as well.

3 Section 11, in my opinion, this  
4 resolution -- that section has not been followed, in  
5 fact, any EDUs have been transferred from the  
6 registry.

7 We were the fifth landowner to enter the  
8 EDUs in the LID Transfer Registry.

9 What is the lifetime on the registry? The  
10 City Council has made many changes in the size of the  
11 waste water treatment plant from the original size of  
12 8353 without listening to the request of the members

13 of the LID to terminate or cut back on the size of the  
14 waste water treatment plant. I hope that they don't  
15 make a change in the registry as well.

16 When the City purchased the property for the  
17 new city park north of Lake Hazel Road between Ten  
18 Mile and Linder, where did the money come from and  
19 from what account? I hope it wasn't taken out of that  
20 LID money.

21 I also have a very high concern about the  
22 construction and location of the fuel tanks that's  
23 being used for the city vehicles at the new waste  
24 water treatment site. Is the design and construction  
25 of the area beneath these fuel tanks large enough to

0093

1 hold any run-off in the event of a leak? I don't  
2 think that this was an essential part of the waste  
3 water treatment plant, therefore the costs should not  
4 be assessed to the LID. The maintenance building and  
5 the office building, again, we think it is over built  
6 for the plant.

7 The landowners in the LID should have access  
8 to or have had an itemized construction list, and we  
9 have been -- not seen that, even though we are being  
10 assessed for the total thing.

11 We have a unique situation on our property,  
12 that during the construction of the discharge line,  
13 which is parallel to Lake Hazel -- a part of it is  
14 anyway. It is directly in front of our two houses.  
15 They had to use a lot of jack hammering to get through  
16 the -- I call it the hard pan. You can make your own  
17 interpretation of what it was. During the  
18 construction though, both of our houses received a lot  
19 of vibration. One of the houses that we had was  
20 rented. We had a couple in there. They went to work  
21 one morning, after doing some laundry and showering,  
22 come back, the drain field was completely sealed off.  
23 I can't prove anything, but I know that the vibration  
24 had something to do with that sealing of that drain  
25 field.

0094

1 But we had to work with the City to get a  
2 special letter of permission, that we did not have  
3 access to any of those sewer facilities. The  
4 discharge line goes right by our place, but I don't  
5 think anyone -- inside the other is going out. But we  
6 had to work with Central District Health with the  
7 requirements that they put on us. The total cost of  
8 that project was going to be between 20 and 25,000,  
9 just to replace our septic system. If it wasn't  
10 caused by the construction, then what it was -- it had  
11 to be very coincidental. We did not have anybody in  
12 that house for six months. So we did some things and  
13 finally got it put back together.

14 In that same process, we did have a window

15 broken, in the same house that the sewer had to be  
16 replaced, and I don't think that was because of our  
17 doing. But, again, a lot of coincidental things  
18 happened, and I didn't feel I should be responsible  
19 for it. It has cost me quite a bit to get it back  
20 together.

21 So I would hope that you would take these  
22 things into consideration. We know each one is  
23 unique, and we're asking for some consideration.

24 Thank you.

25 MAYOR DOWDY: Thank you, Don.

0095

1 Is there any questions for Mr. Johnson?

2 COUNCILWOMAN BACHMAN: Mayor, I have a question:

3 You said that you signed up on the EDU Transfer List.

4 Did you put all of your EDUs forth on the list, or

5 just some?

6 MR. JOHNSON: We put all of our EDUs in the pool,  
7 because I wasn't sure -- I knew I wasn't going to be  
8 able to use them at that point.

9 COUNCILWOMAN BACHMAN: And how many?

10 MR. JOHNSON: 370 -- there's -- one parcel has  
11 233 and the other one has 138. In the initial process  
12 of surveying, when they -- before they even started  
13 construction on the site itself, they told us -- I was  
14 talking to one of your survey guys, and he said that  
15 they were going to have two lines by our place. A  
16 line going into the plant and a line coming out. We  
17 wound up with only the line coming out so that when --  
18 we are a ways from the treatment plant.

19 Some of our property is off of Ten Mile, and  
20 it is just directly across the road from the new  
21 plant, but that is not where our house is. Our house  
22 is on Ten Mile -- or on Lake Hazel. Excuse me.

23 Any more questions?

24 COUNCILMAN CARDOZA: Don, has anybody else up and  
25 down Lake Hazel had any problems with their septic

0096

1 tanks or houses that you are aware of?

2 MR. JOHNSON: No, not that I'm aware of.

3 COUNCILMAN CARDOZA: Thank you.

4 MR. JOHNSON: We are probably some of the older  
5 residences out there too. That house was built in the  
6 latter part of the 1920s, and we -- the septic system  
7 is probably 30 years old.

8 COUNCILMAN CARDOZA: Thank you.

9 MR. JOHNSON: Thank you.

10 MAYOR DOWDY: That is the only person that I have  
11 signed up on the list. Is anyone else here that has  
12 not had an opportunity to address the Council  
13 regarding their protest?

14 MR. EWING: Yes.

15 MAYOR DOWDY: Would you like to speak?

16 MR. EWING: Yes.

17 MAYOR DOWDY: Come forward, sir, and state your  
18 name.

19 MR. EWING: If anybody wants to protest, I would  
20 like them to go first. Nobody? Okay.

21 Mayor, City Council, I'm John Ewing, 1500  
22 Eldorado. This is not a protest. That's why I wanted  
23 to wait until the end. There is some questions that I  
24 would like to ask and see if I can get an answer.

25 I understand that the City Council was going

0097

1 to take all of these protests, review them, go over  
2 them, and come up with -- whatever you come up with.  
3 Is that going to be a public meeting, or is that  
4 behind closed doors, and if it is, after that, when  
5 you vote, will that be a public meeting, when you come  
6 up with a decision what you are going to do with the  
7 protest?

8 MAYOR DOWDY: Well, we are contemplating a  
9 meeting with some of the individuals who are involved  
10 in starting the LIDs, you know, city employees that  
11 are no longer here. That would be -- my anticipation  
12 is that would be a public meeting. I don't see any  
13 reason why it should not be a public meeting for the  
14 Council to ask questions, and then the deliberation,  
15 and actually -- an actual coming forth of the written  
16 findings and conclusions for the assessments will be a  
17 public meeting also.

18 MR. EWING: Okay. And that will be advertised in  
19 the Meridian -- or Kuna News? Excuse me.

20 MAYOR DOWDY: And letters will be sent out to  
21 everybody too. I anticipate it will be probably -- I  
22 would assume three weeks at least before the decision  
23 is forthcoming.

24 MR. EWING: So I'm making an assumption here that  
25 there probably will be -- with the stuff I've heard,

0098

1 maybe some adjustments in our assessment. If that's  
2 the case, that's when you'll vote that that's okay to  
3 send out the new assessments? And I guess that isn't  
4 an important question. I guess where I'm headed to  
5 also is, is we had the 30-day window that we could  
6 prepay. When do you think that 30 days starts?

7 MAYOR DOWDY: It will start at the time that the  
8 assessments are actually -- I can tell you this. This  
9 Council has never done this before, so I don't know --

10 MR. EWING: Well, I haven't either, and that's  
11 why I am asking.

12 MAYOR DOWDY: -- and I don't know what the answer  
13 to that question is. I would assume it is going to be  
14 no sooner than mid December before the assessments  
15 will actually be finalized and sent out. So the  
16 30-day window will start probably the December or  
17 January time frame.

18 Do you have any disagreement with that,

19 Gordon?

20 MR. LAW: Mr. Mayor, I think it is probably an  
21 item that we need to research and report back --

22 MAYOR DOWDY: Right. I don't know.

23 MR. LAW: -- when the conclusions are reached at  
24 that final meeting. Because I can't say specifically  
25 at this point when it is going to start, but it is set

0099

1 by statute.

2 MR. EWING: So is that something that will come  
3 out in the next meeting, or is that something that I  
4 can check back with you?

5 MR. LAW: What there is, John, there is one more  
6 notice that needs to go out and that's -- when the  
7 assessment roll is confirmed, then there needs to be a  
8 notice go out with the final assessments on it, and  
9 we'll include on that notice instructions concerning  
10 the open pay period.

11 MR. EWING: Along with all these protests that  
12 I've heard and everything -- I guess the last question  
13 is -- the City Council was kind enough to have an  
14 evening of hearing concerns, and there was a lot of  
15 testimony on that, and it was kind of left, I felt  
16 like, that everybody got up to speak, and there were a  
17 lot of -- there were a lot of issues brought up, a lot  
18 of questions asked, and I had not -- I do not know of  
19 anybody that got any of those questions answered. It  
20 was kind of acknowledged and then just went on.

21 If those questions that came up in that  
22 neighborhood get together with -- are they being  
23 considered as part of the protest too, or is it just  
24 what was said tonight -- or the last three nights, I  
25 guess, tonight and last night and the night before?

0100

1 MAYOR DOWDY: As far as what the Council is going  
2 to consider in making a decision regarding the  
3 protests, we'll be considering the information that  
4 has been put forward the last three evenings.

5 MR. EWING: Okay. All right. Well, that's all I  
6 have. Thank you for answering my questions.

7 MR. LAW: Mayor, can I expand on that?

8 MAYOR DOWDY: You can.

9 MR. LAW: Those items that were brought up on  
10 that list, as near as I can tell, were identical to  
11 the items that were raised by one or more of the  
12 participants in this protest. So right now, the  
13 attorneys and the staff are working on those issues  
14 specifically. So the answers to those, should answer  
15 the previous questions brought up in that neighborhood  
16 meeting.

17 MR. EWING: Okay. Thank you.

18 MAYOR DOWDY: Yes, sir. Come forward and state  
19 your name.

20 MR. MCMONIGLE: Patrick McMonigle, 2701 Tablerock

21 Road.

22 CLERK BURGESS: Sir, can you repeat it into the  
23 microphone so we can hear you?

24 MR. MCMONIGLE: Patrick McMonigle, 2701 Tablerock  
25 Road.

0101

1 THE COURT REPORTER: Can you spell your name,  
2 please?

3 MR. MCMONIGLE: M-C-M-O-N-I-G-L-E.

4 I apologize for maybe not being up to speed.  
5 I'm assuming this is in regards to the sewer LID, the  
6 protests?

7 MAYOR DOWDY: Correct.

8 MR. MCMONIGLE: A couple of questions. How come  
9 an LID versus just increasing the impact fees to pay  
10 for it? Because, you know, being an existing property  
11 owner in here, we aren't really getting any benefit  
12 for the additional costs that we are going to be  
13 assessed, because the sewer is already in. And the  
14 previous -- when I've been involved in LIDs before, we  
15 usually got something for our assessment. It was like  
16 we were on a septic system, they came in and put in  
17 sewers, and you got assessed for it. And so I'm  
18 curious why not handle this through impact fees,  
19 increasing sewer hookup fees? Can you educate me on  
20 that?

21 MAYOR DOWDY: Well, the purpose of this meeting  
22 isn't to go back and rehash why we decided to do what  
23 we did. It is to perform a protest regarding the  
24 amount of the assessment on your property.

25 CLERK BURGESS: Are you included in the LID?

0102

1 MR. MCMONIGLE: Yeah. We have three properties  
2 included in it.

3 MR. LAW: Could you tell us what properties those  
4 are?

5 MR. MCMONIGLE: Yeah. We were asked to write a  
6 letter, so I didn't know where we could submit the  
7 letter.

8 2966 West Ginger Gold, 3058 West Ginger  
9 Gold, and 9126 South Galen. Maybe we got a letter  
10 inappropriately?

11 MR. LAW: Could I see that?

12 MR. MCMONIGLE: This was our reply. This was not  
13 the letter we got.

14 MR. LAW: Could you point them out here on this  
15 map?

16 MR. MCMONIGLE: Can you show me where Applewood  
17 is? We are in the Applewood Subdivision right here.

18 MR. LAW: I think this individual may be in a  
19 special situation. If you wouldn't mind, I'd like to  
20 talk to him afterwards to see if I can identify what  
21 is going on?

22 MAYOR DOWDY: That's fine.

23 All right. Is there anyone else here who  
24 would like to address the Council regarding the  
25 protest of the assessment for the LID? Seeing none,  
0103

1 we will then close this hearing.

2 As indicated we will -- there are  
3 probably -- I am assuming -- there have been a number  
4 of questions and issues raised during the past three  
5 nights. I'm assuming that Council is going to have a  
6 lot of questions of staff members who were involved in  
7 putting this thing together who no longer work for the  
8 City. We anticipate, as I indicated before, we will  
9 probably schedule another public meeting and invite  
10 those individuals to come to answer any questions that  
11 the Council may have before rendering a decision.

12 Our City attorneys are going to want to take  
13 some time to look over the issues that have been  
14 raised to determine -- and provide legal counsel to  
15 the City Council regarding those issues that have been  
16 raised. That particular portion will be held in  
17 executive session, as it is legal advice to the City.  
18 But when the decision is rendered, that will be a  
19 public meeting. The City Council will issue a written  
20 decision regarding each of the protests, and we will  
21 notice that hearing up and invite all of you back.  
22 And like I said, I'm assuming that is going to be a  
23 minimum of three weeks before a decision is finalized  
24 and ready to be put forth.

25 And so with that having been said, we will  
0104

1 now go ahead and terminate and close the protest  
2 hearings. I just want to admonish the City Council  
3 and remind those of you in the LID, this is a  
4 quasi-judicial matter. It would be inappropriate for  
5 any of the LID participants to contact any of the City  
6 Council separately or outside of these public meetings  
7 while they are deliberating over this matter. So we'd  
8 ask you to please adhere to that. If there is any  
9 contact then that would need to be disclosed by  
10 Council members at a later date.

11 So, again, we thank you for your time and  
12 your participation. We are taking these matters  
13 seriously and are going to spend quite some time to  
14 try and work through this and figure out an  
15 appropriate way to proceed. So thank you very much,  
16 ladies and gentlemen.

17 All we need then is an adjournment.

18 COUNCILMAN LANG: Mayor, I move that we adjourn  
19 at 6:24 p.m.

20 COUNCILWOMAN BACHMAN: I second it.

21 MAYOR DOWDY. A motion had been made that we  
22 adjourn at 6:24 p.m. All those in favor?

23 (Councilmembers all indicating "Aye".)  
24

25 (The meeting concluded at 6:24 p.m.)

0105

1 REPORTER'S CERTIFICATE

2 STATE OF IDAHO )

) ss.

3 COUNTY OF ADA )

4

5 I, JANET FRENCH, Certified Shorthand Reporter and

6 Notary Public in and for the State of Idaho, do hereby

7 certify:

8 That said hearing was taken down by me in

9 shorthand at the time and place therein named and

10 thereafter reduced to typewriting under my direction,

11 and that the foregoing transcript contains a full,

12 true and verbatim record of said hearing.

13 I further certify that I have no interest in the

14 event of this action.

15

16

17

18 WITNESS my hand and seal this \_\_\_\_\_ day of

19 \_\_\_\_\_, 2009.

20

21

\_\_\_\_\_  
JANET FRENCH,

22 CSR, RPR and Notary

Public in and for the

23 State of Idaho.

24 My Commission Expires: 10-28-2010

25