

**SPECIAL CITY COUNCIL MEETING
MINUTES
NOVEMBER 4, 2009
KUNA CITY HALL COUNCIL CHAMBER, 763 W. AVALON**

6:30 p.m. – EXECUTIVE SESSION – Pursuant to Idaho Code Section 67-2345(a) consideration of hiring a City Attorney.

Mayor Dowdy called the meeting to order at 6:32 p.m.

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

ALSO PRESENT: City Attorney Randy Grove; Planning & Zoning Director Steven Hasson; City Clerk Lynda Burgess and City Treasurer John Marsh.

Moved by C/Lang, seconded by C/Stroebel to adjourn to Executive Session at 6:34 p.m. Motion carried by the following Roll Call vote:

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

Moved by C/Stroebel, seconded by C/Lang to adjourn Executive Session at 6:46 p.m. Motion carried 3-0-1 (Cardoza absent).

7:00 p.m. – REGULAR COUNCIL MEETING

1. CALL TO ORDER AND ROLL CALL

Mayor Dowdy called the regular meeting to order at 7:00 p.m.

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

ALSO PRESENT: City Attorney Randy Grove; City Engineer Gordon Law; Planning & Zoning Director Steven Hasson; City Clerk Lynda Burgess; City Treasurer John Marsh and Planner II Troy Behunin.

2. INVOCATION: The Invocation was given by Pastor Morrie Lewis, Bible Missionary Church

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

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, Stroebel
NOES: None
ABSENT: Cardoza

- A. APPROVED ACCOUNTS PAYABLE DATED OCTOBER 29, 2009, IN THE AMOUNT OF \$240,980.15.
- B. APPROVED BUSINESS LICENSE FOR JARED M. AND JENNIFER M. HATCH, "HATCH UPTOWN COFFEE, LLC," 762 E. WYTHE CREEK CT. #103.
- C. APPROVED BUSINESS LICENSE FOR PERRY AND SHIRLEY LEFFLER, "TANNIN'S," 347 AVENUE E.

5. CITIZEN'S REPORTS OR REQUESTS:

6. OLD BUSINESS:

7. NEW BUSINESS

- A. APPROVE NON-COMMERCIAL KENNEL LICENSE FOR SHERRY M. JOHNSON, 158 W. 4TH ST. (Continued from October 20, 2009)

In response to C/Stroebel, Don Johnson, 158 W 4th St. stated that they have a Border Collie, 2 Schnauzers, a Poodle and a Chihuahua. They are all licensed and all stay indoors except for the Border Collie.

C/Bachman commented to CC/Burgess that there is notice from the Humane Society indicating that there haven't been any complaints. There is a letter from the Stoddard family that there are several dogs barking but the letter doesn't indicate it's the neighbor's dogs. She asked the limit for dogs.

CC/Burgess stated that the limit for the number of dogs is five.

In response to C/Lang regarding sterilization of the dogs, Mr. Johnson indicated that the one schnauzer and the poodle have been sterilized.

Moved by C/Bachman, seconded by C/Stroebel to approve. Motion carried 3-0-1 (Cardoza absent).

B. APPROVE NON-COMMERCIAL KENNEL LICENSE FOR ROBERT BRASWELL, 710 W. AVALON.

Applicant wasn't present.

C/Bachman – Asked the City Clerk if there were any complaints from the Humane Society. She requested the City Clerk to call the Humane Society about any possible complaints.

Moved by C/Bachman, seconded by C/Lang to continue the application to November 17 and direct City Clerk to contact Humane Society. Motion carried 3-0-1 (Cardoza absent). Motion withdrawn upon arrival of the applicant.

Moved by C/Lang, seconded by C/Stroebel to approve the license contingent upon staff confirming reported complaints with the Humane Society. Motion carried 3-0-1 (Cardoza absent).

C. CANVASS ELECTION RETURNS AND APPROVE RESULTS – NOVEMBER 3, 2009 GENERAL MUNICIPAL ELECTION

CC/Burgess reported that there are two issues that have come up in the result counting. The first is a discrepancy in the number of ballots that have been reported being issued. She gave an explanation of the poll book counting method of ballots. The poll books are going to be audited. The second issue, the number of voters that were reported by the county differed from what Kuna had. She gave the details of the county voter registration list and what was received by the city. She expects to have the final canvass results on November 9, 2009.

C/Bachman asked for clarification of the first issue.

CC/Burgess explained that the poll books were completed at the polling sites which came to 1,065. Adding the votes counted, 2,240, the maximum number of votes that could be counted was 2,130. Given that each voter was allowed two votes, the number of ballots issued should be well above 2,130. That is why the poll books are going to be audited.

Moved by C/Lang, seconded by C/Stroebel to continue the canvass to November 9, 2009. Motion carried 3-0-1 (Cardoza absent).

D. 09-10-TE – GREYHAWK TIME EXTENSION

PII/Behunin reported that the Greyhawk subdivision is seeking its second time extension for the number 2 preliminary plat. This originally received approval in December of 2006. Since that time, Greyhawk number 1 has moved along and has been issued single family building permits at a regular pace. The applicant, the Bank of the Cascades, are seeking the time extension to keep the preliminary plat status alive. In June 2008, CE/Law gave construction plan approval for this part of the project. Staff is supportive of the request.

Moved by C/Bachman, seconded by C/Lang to approve 09-10-TE Time Extension for Greyhawk Subdivision number 2 as proposed. Motion carried 3-0-1 (Cardoza absent).

E. 09-04-LS – JERRY FREDERICK LOT SPLIT.

PII/Behunin explained that this application is a request for a parcel that is approximately 64.94 acres. Mr. Frederick, in 2006, annexed into the city and also there was an assignment on the east portion for some LID obligations. Those obligations do not carry across the site. There is a lot split available for his parcel and his goal is to exercise the lot split to distinguish by separate parcel numbers which is the LID obligation and which is not. There are no further development plans for this parcel. Staff is supportive.

Jerry Frederick 8968 S. Blackcat Rd. stated that his only concern was how it would affect the resolution and all the articles in the LID for both for property value. It has been established for the 35 EDU's that are applied.

C/Bachman asked the City Attorney if the change in parcel numbers will affect the LID.

CE/Law responded that the parcel numbers will indeed be changed but that will not affect the LID.

Moved by C/Lang, seconded by C/Stroebel to approve the Lot Split 09-04-LS for Jerry Frederick. Motion carried 3-0-1 (Cardoza absent).

F. CONFIRM MAYOR'S APPOINTMENT OF A CITY ATTORNEY.

M/Dowdy nominated Richard Roats and Richard Johnson for a combined appointment as City Attorney by contract through the end of the fiscal year.

C/Bachman asked if the contract would be ready within the next week or so.

M/Dowdy answered that that is correct. He stated that he asked the attorneys to draw up a proposed contract amount that states the amount to be presented. The contract would be for one year.

C/Stroebel asked if the contract would run through the end of the current fiscal year.

M/Dowdy responded that that had not been discussed yet. It could be fiscal year for which would be easier for budget purposes.

Moved by C/Lang, seconded by C/Stroebel to appoint Richard Johnson and Richard Roats as City Attorney via contract in the amount of \$100,000 per annum through the end of the 2009/10 fiscal year. Motion carried by the following Roll Call vote:

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

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

PUBLIC HEARING: 09-03-ZOA – OVERLAY DISTRICT TEXT AMENDMENT
(Continued from October 20, 2009).

P&Z D/Hasson reported that this matter had been continued several times as there was a conflict associated with it but that has now been resolved. In 2006, the Council decided to create an overlay district that ran along SH 69. It was intended to make that a presentation roadway and to address traffic issues. More recently, it is important to look at other roadways and consider overlays. Kuna Mora Rd is one that should be considered. In the near future, McDermott Rd. and Ten Mile Rd. will also be considered. He explained the text language included from the P&Z Commission and what has been removed.

P&Z D/Hasson explained that Idaho Power found the following verbiage objectionable and believed it was an infringement on their utility abilities: “The placement of new above ground utility power poles shall not occur in the overlay district to a distance of 600 feet back from the center line of these roadways from the date of this text amendment approval. Additionally all existing power poles will be restricted to their present height in the overlay district to a distance of 660 feet back from the centerline of SH 69 and Kuna Mora Rd.” This verbiage has been removed in order to move forward with a good relationship with Idaho Power. There will be dialogue about utility pole placement and other matters.

P&Z D/Hasson stated that there has also been clarification of language to make a clearer document. The width of the overlay district has been reduced along with roadway access.

M/Dowdy opened the Public Hearing.

SUPPORT

None

NEUTRAL

None

OPPOSED

None

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

At the recommendation of C/Bachman, P&Z D/Hasson agreed to remove. 5-2A-5B.

C/Bachman stated that section 5-2A-7A, regarding alignments, talks about requiring permit from ITD. Is there a provision that also requires special use approval?

P&Z D/Hasson indicated there is and explained the details.

C/Stroebel commended that section 5-2A-5N was being stricken but she would like to leave open the possibility of language to discuss the power poles with Idaho Power.

P&Z D/Hasson indicated that language in another section of the amendment requires private utilities are to obtain a special use permit.

CA/Grove pointed out that the current Franchise Agreement with Idaho Power contains language regarding the City's oversight control.

Moved by C/Bachman, seconded by C/Lang to approve 09-03-ZOA Text Amendment, striking section 5-2A-5B and following P&Z Commission recommendations. Motion carried 3-0-1 (Cardoza absent).

9. ORDINANCES:

DISPENSE WITH FULL READING AND THREE CONSECUTIVE READINGS –
ORDINANCE NO. 2009-30A: AN ORDINANCE AMENDING ORDINANCE NO. 2009-30 TO CORRECT THE LEGAL DESCRIPTIONS TO ANNEX CERTAIN REAL PROPERTY, NOW KNOWN AS PARCELS R5070500245 & R5070500215; 1150 W. KING RD., KUNA, IDAHO, SITUATED IN THE UNINCORPORATED AREA OF ADA COUNTY, IDAHO, AND CONTIGUOUS TO THE CORPORATE LIMITS OF THE CITY OF KUNA, TO THE CITY OF KUNA, IDAHO; ESTABLISHING THE ZONING CLASSIFICATION OF SAID REAL PROPERTY; DIRECTING THAT COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

Moved by C/Lang, seconded by C/Stroebel to dispense with full reading and three consecutive readings for Ordinance 2009-30A. Motion carried 3-0-1 (C/Cardoza absent).

Moved by C/Lang, seconded by C/Stroebel to adopt Ordinance 2009-30A. Motion carried by the following Roll Call vote:

AYES: Lang, Bachman, Stroebel

NOES: None

ABSENT: Cardoza

10. MAYOR /COUNCIL DISCUSSION:

11. ANNOUNCEMENTS:

P&Z D/Hasson announced that there will be a meeting on November 9, 2009 at 9 a.m. with County Commissioners to start negotiations on the area of city impact. Information has been sent to the Commissioners. Councilmembers Bachman and Lang plan to attend.

CE/Law reported that, on northeast side of the Senior Center in the flower bed area, the building is lower than the surrounding area and someone was recently injured. He asked

Bobby, Parks Supervisor, to obtain a cost estimate on repair which is approximately \$310 for installation of a railing.

Moved by C/Stroebel, seconded by C/Lang to direct the City Engineer to expend the funds to install a railing in the flowerbed area of the northeast side of the senior center. Motion carried 3-0-1 (Cardoza absent).

M/Dowdy announced that the ACHD has filed a claim against the City for repair work done to Ten Mile Rd. to deal with substandard repair by the city's contractor. It has been sent to ICRMP for their evaluation.

CA/Grove added that the contractor also had a Surety and that will likely be pursued.

CE/Law pointed out that the County has already pursued a claim against the bond but the Surety indicated the city would have to pursue. He has objected to the claim.

12. EXECUTIVE SESSION:

- 3. ADJOURNMENT:** There being no further business to conduct, it was moved by C/Lang, seconded by C/Stroebel to adjourn the meeting at 8:02 p.m. Motion carried 3-0-1 (Cardoza absent).

J Scott Dowdy, Mayor

ATTEST:

Lynda Burgess, City Clerk

DATE APPROVED: November 17, 2009