

**KUNA CITY COUNCIL MEETING
MINUTES
AUGUST 18, 2009
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 7:00 p.m.

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

ALSO PRESENT: City Attorney Randy Grove; Planning & Zoning Director Steven Hasson; City Clerk Lynda Burgess; City Treasurer John Marsh, Planner II Troy Behunin and Planner Tech Tracy Rushlow.

2. INVOCATION: None given.

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

4. CONSENT AGENDA:

Moved by C/Lang, seconded by C/Bachman 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

1. SPECIAL MEETING OF JULY 9, 2009.
2. SPECIAL MEETING OF JULY 14, 2009
3. REGULAR MEETING OF JULY 21, 2009
4. SPECIAL MEETING OF JULY 27, 2009
5. SPECIAL MEETING OF JULY 30, 2009

B. APPROVED ACCOUNTS PAYABLE DATED AUGUST 14, 2009 IN THE AMOUNT OF \$631,538.52.

C. APPROVED BUSINESS LICENSE FOR LOREN D. (ZEKE) CORDER, “ZEKE’S GUN REPAIR,” 1397 N. KOLNES AVE.

D. ADOPTED RESOLUTION NO. R19-2009 AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A WARRANTY DEED WITH THE ADA COUNTY HIGHWAY DISTRICT TO PROVIDE RIGHT-OF-WAY FOR SWAN FALLS AND KUNA-MORA ROADS ADJACENT TO THE KUNA SEWER LAGOONS.

5. CITIZEN'S REPORTS OR REQUESTS:

Hoss Grigg, 1788 Buckler, President of Kuna Days reported that the event was successful and the fireworks worked well in spite of the weather, the parade was the largest to date and there were a record number of vendors in the park. The street dance was problem free and he wasn't aware of any Kuna Day's related problems over the weekend. There were fewer people by half in attendance than last year. He suggested that a review of the vendor permit ordinance should take place prior to Kuna Days next year as there is no penalty if a vendor doesn't have a permit. This year, there were people who set up on the street wherever they wanted yet there was no recourse. He suggested a fine for those types of offenses. He requested a \$10,000 donation for next year's fireworks.

M/Dowdy stated that Council should have received a copy of letter from a woman regarding the noise of the street dance and how late it runs. She asked that the City provide a copy to the Kuna Day's Committee.

Because of the bad weather, Parks Supervisor, Bobby Withrow, asked to spend funds to repair the grass in the park destroyed by vehicles.

6. OLD BUSINESS:

A. 09-07-TE – ARROYO INDIO PRELIMINARY PLAT TIME EXTENSION.
(CONTINUE TO 9/1/09)

7. NEW BUSINESS

APPROVE LICENSE FOR SALE OF ON PREMISE BEER AND LIQUOR BY THE DRINK- PSL, INC. FOR COWGIRLS SALOON AND TEQUILARIA, 353 AVENUE E.

C/Stroebel recused herself due to a potential conflict of interest.

In response to C/Bachman, Shirley and Perry Leffler explained minor footprint changes were approved by the ABC for Tannins Wine Bar.

Moved by C/Bachman, seconded by C/Lang to approve the license for sale of on premise beer and liquor by the drink for Cowgirls Saloon and Tequilaria. Motion carried 3-0-1 (C/Stroebel abstained).

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

A. PUBLIC HEARING - 09-03-RZ/09-14-DA/09-03-LS-REZONE AND DEVELOPMENT AGREEMENT AND LOT SPLIT, VITO AND MONICA ROSATI.

PII/Rushlow reported that the applicant requested to rezone the property from A, Agricultural to R4, Medium Residential. Currently, the property is non-conforming because it is less than 5 acres. The current ordinance requires 5 acres or more to be zoned agricultural. There is a 35 year old dwelling that the owners are updating. They would like to do a lot split to sell the bare property to their children who want to build a new home and blend in with the surrounding neighborhood.

Robert Carney, 251 W. Tallulah Dr explained that he was the son-in-law of Vito and Monica Rosati and hoped to build the house.

M/Dowdy opened the Public Hearing.

SUPPORT

None

NEUTRAL

None

OPPOSE

None

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

C/Bachman confirmed with staff that the owners would hook up to City services. She also inquired as to whether it is an original parcel.

C/Stroebel confirmed that the new house would be off Sunbird Ct.

Moved by C/Stroebel, seconded by C/Bachman to approve 09-03-RZ/09-14-DA/09-03-LS-Rezone, Development Agreement and Lot Split. Motion carried 4-0.

B. PUBLIC HEARING – 09-01-VAC (VACATION) – JOHN MESSMER/DAVID CRAWFORD/B&A ENGINEERS.

PII/Rushlow reported that the applicant requested a right-of-way vacation for approximately 1813 sq. ft. of land adjacent to the property located at 270 S. Orchard. The land is an unopened, unimproved portion of S. Orchard Ave with the right-of-way lying south of the proposed Indian Creek St. Indian Creek St. is also an unopened, unimproved street. There are no upcoming improvement plans from the city or ACHD. The City Engineer suggested they leave part of it open for a future pathway. The applicant is agreeable. P & Z wasn't comfortable making a recommendation of approval and felt that the encroachments were the cart before the horse. The applicant has lived there for 25 years and had no prior knowledge that this was in the middle of the right-of- way.

Joe Canning, BA Engineers, 5505 W. Franklin Rd., Boise, representing the applicant requested consent from the city to work with ACHD to allow this to proceed. He described how the land survey was done and what it revealed. All that's left is for the property to be cleaned up but the owner is reluctant if the consent for vacation doesn't go through. There is a fair amount of work. ACHD could still decline but the applicant does have to purchase the property. They are not requesting a variance.

C/Bachman asked how far the pavement extends on Orchard.

John Messmer, 235 S. Orchard, explained that the property being discussed is his. The whole area has been completely cleaned up except the shed needs to be torn down.

M/Dowdy opened the Public Hearing.

SUPPORT

None

NEUTRAL

None

OPPOSE

None

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

C/Bachman didn't see a problem if there is right-of-way and public access on the west side and the applicant is willing to clear additional encroachments.

M/Dowdy confirmed that the City doesn't have authority to give right-of-way.

PII/Rushlow explained that they wanted to be sure the City didn't have any plans to extend any roadways.

C/Cardoza asked CE/Law about conditions on page 4 and 5. He suggested changing recommendation #3 by naming the street Indian Creek St.

CE/Law stated that if the Council doesn't agree, ACHD won't allow it.

Moved by C/Bachman, seconded by C/Stroebel to approve 09-01-VAC (Vacation) with all staff recommendations. Motion carried 4-0.

C. PUBLIC HEARING - ADOPT BUDGET FOR FISCAL YEAR 2009-10

CT/Marsh provided an overview of what was approved at the prior budget workshop. There were some decisions that needed to be made by Council in conjunction with the budget Public Hearing. The property tax increase proposal of \$98,325 is an increase over the prior year. The Idaho Power franchise fee is 2% and amounts to an estimated \$100,000 annually. If the street light fee is repealed in favor of the franchise fee, the month of implementation shows the impact on the city. There was \$16,500 requested by P & Z D/Hasson in expenses approved for inclusion in the budget and \$20,275 from CC/Burgess. The \$15,000 for Council-designated park projects was removed. The inclusion or exclusion of the changes yields a \$159,247.39 preliminary budget surplus of which Council elected to move to the contingency fund which makes a total of \$179,247.39.

M/Dowdy reported that, with respect to the Idaho Power franchise agreement, he met with them last week and they do have some concerns and issues with the city's changes to the agreement. Their attorney contacted CA/Grove about the concerns but didn't know them specifically. The Mayor knew one item of concern is the clause that they don't have the non-compete clause.

CC/Burgess explained that, regarding the request for funds for various items, including document management software, she wanted to revise the statement. The software can be leased at \$400 per month which is \$4,800 per year. The software being replaced currently costs the City \$300 a month for a total of \$3,600 per year. The difference is \$1,200. The current costs should be removed.

C/Bachman- This is in place of what you would normally budget for.

In response to C/Bachman, CC/Burgess confirmed that the city would not retain the current software program and apologized for not having made the adjustment. She further stated that regarding the request for computer upgrades, all items are optional with the exception of anti virus updates.

CT/Marsh further stated that he was hoping the appropriations ordinance can be adopted at the next council meeting on September 1, 2009. The certification of the budget is due September 10, 2009. He would prefer to not wait until the last minute. In response to C/Cardoza, he talked to the Humane Society and he gave a comparison of what the City of Eagle has vs. the City of Kuna has. Eagle now is set up that if a citizen captures a dog, they are responsible for the \$30 fee and the Humane Society doesn't respond to calls in the city anymore. If city staff captures a dog at large, the city is responsible. The Humane Society will only respond for a vicious dog, dog bite or a dog that needs quarantined. If the owner doesn't claim the animal, it will be euthanized and those fees are charged to the City of Eagle. It is very bare bones. There is no out of pocket contract; it depends on the number of animals that get turned over. He thought Kuna citizens could have an issue with that. It would come down to a city employee taking care of dogs at large and taking them to the Humane Society. It would save \$46,000 but unsure of the trade off in terms of the city paying for dogs at large.

CT/Marsh, in response to C/Cardoza, explained that the difference between revenue and expenditures of \$3000 in the LID is a timing difference between the draw requests. These are still unaudited numbers. Bailey and Co are doing the audit.

CT/Marsh, in response to C/Bachman, stated that the contingency amount was set preliminarily at \$20,000 and then after the changes, it was set at \$179,000 which includes any left over funds for decisions to be made. That took into account the full property tax levy, a franchise fee of 2% and the street light fee. We could have \$100,000 less if we don't do the franchise agreement with Idaho Power. \$98,325 is the maximum amount on the levy increase. If those are removed, it would eat up the contingency fund. There is \$100,000 that may not be able to be used.

C/Bachman asked if the carry over had been accounted for.

In response to C/Bachman, CT/Marsh explained that the carry over has been accounted for through the first quarter until revenue sharing comes in.

C/Cardoza asked why there is a \$4,000 difference is the cost for the Humane Society contract over last year when the services are the same.

CT/Marsh didn't know why it was budgeted that way in the previous year.

CC/Burgess reported that, in the last month, there were 48 dog calls to the Humane Society, 2 were aggressive, 1 was an attack dog, 7 barking, 6 injured or sick or dead, 6 dogs at large, 5 misc, 2 cats, 13 pickups and 6 were for animal cruelty. In response to M/Dowdy, she wasn't quite sure how many were taken out of the city. The previous month there were 44 total: 3 were aggressive, 3 were attack, 5 barking, 1 was a bite, 2 injured, sick or dead, 10 dogs at large, 2 cruelty or neglect, 2 misc, 2 cats, picked up 10 dogs and 4 for animal cruelty. The month before there were 41 total: 9 aggressive, 2 barking, 2 injured, 10 at large, 1 large animal cruelty, 5 misc, 9 picked up, 3 small animal cruelty. In May there were 44 incidents, 9 aggressive, 1 attack, 2 barking, 2 injured, 7 at large, 2 large animal cruelty, 3 misc, 13 dogs picked up, 5 small animal cruelty. The month before there was 48.

M/Dowdy observed that it seems to average 40 to 45 calls a month with 27 animals picked up and taken in--that would be around \$10,000 a year at a \$30 fee. If the contract was cancelled, that is what would be paid with the Sheriff's Dept. potentially dealing with barking dog tickets.

M/Dowdy reviewed the cost previously associated with having it done by city staff and agreed with CC/Burgess that there was an additional \$25 impound fee.

M/Dowdy opened Public Hearing.

SUPPORT

Hoss Grigg spoke in support of a donation for Kuna Days.

NEUTRAL

None

OPPOSE

Doug Hoiland, 1780 N. Calaveras, cited the current economy and has never seen a government agency live within its means. He opposed the tax increase and suggested cutting back on personnel via layoffs and further increasing medical deductibles.

Aubrey Schoonover, a new resident, objected to all the increases the city has imposed on the citizens. The tax increases cut into disposable income and can't be spent at other local establishments. He wondered why the city doesn't have a rainy day fund. Would like the Council to reconsider the property tax increase and wants the city to cut spending.

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

M/Dowdy stated that two persons contacted him to object to the adoption of an Idaho Power Franchise Fee and the property tax increase.

In response to C/Bachman, CT/Marsh explained that the \$98,325 represents 6 elements: 3% represents \$39,483, \$48,573 represents the new construction rolls at the prior year levy rate, \$9,687 represents the new annexations from the county during 2008, \$208 is the variance from the maximum property tax levy for last year if it was taken, \$225 is the annual agricultural replacement money, which was a legislative change made several years ago and \$149 represents the way the 3% increase is calculated, portion of which is based on taking the 3 prior years of levies and taking the highest of those three and multiplying by 3% and the \$149 is the difference in the calculations.

C/Bachman asked if CT/Marsh had checked if the city historically takes the increase every year.

CT/Marsh reported that, last year the full amount was taken except \$208. Based on various calculations of the last 3 years, it was most likely that the maximum was taken one of those years. Previous budget forecasts yielded around \$68,000 surplus however if the tax levy is removed and the franchise fee isn't taken, that would put the city at a deficit of \$30,000 to \$40,000. There were also items from parks and a service vehicle to cut; those two amounted to the deficit which could balance the budget.

There was a discussion about the current service vehicle that needs to be replaced and the franchise fee agreement between council, CE/Law and CA/Grove.

In response to C/Stroebel, CT/Marsh explained that if the 3% of the tax levy is removed, there is a \$39,483 reduction. In response to M/Dowdy, the reduction can consist of any of the options. It's up to Council as to what they deem necessary to balance the budget. In response to C/Cardoza, the budget includes the Idaho Power Franchise fee agreement at

\$100,000 and includes the CableOne and Intermountain Gas franchises. If the street light fee is eliminated, there would be a reduction in the contingency fund.

C/Lang didn't think the public understands that with the Idaho Power agreement, the public will be paying more than the .75 cents street light fee.

C/Bachman pointed out that Kuna has never had a franchise fee agreement with Idaho Power and the other surrounding cities have.

Council discussed the franchise fee and levy scenarios and contingency fund.

C/Cardoza asked if donations could be paid out of the contingency fund without them being a line item.

CT/Marsh responded that that can be done; however, the contingency fund is for emergency line items.

C/Bachman was reluctant to agree to donation expenses. She suggested waiting to see how the economy goes over the next 6 months and look into making donations later.

C/Cardoza reminded council that he opposed the light fee but understands it can't be removed at this point. He suggested bringing the contingency fund down to \$39,000 and if Idaho Power comes through, he would like to see the street light fee reconsidered for removal.

C/Lang pointed out that that is the intention of considering the franchise fee with Idaho Power.

Council discussed where the contingency fund would drop to and the potential for the donation requests to be filled if the economy turns around.

C/Bachman thanked the public for sharing their thoughts.

CT/Marsh reviewed the final conclusion: The street light fee would stay until the potential Idaho Power franchise fee is adopted and leave \$100,000 to account for the potential franchise fee. In response to C/Stroebel, if the franchise fee is brought forth, we don't know if we get it but if we lose the street light fee now and we don't get the franchise fee, the street light fee is then lost. In the absence of the franchise fee, the street light fee continues. If the franchise fee comes through, then the street light fee drops.

CT/Marsh, in response to C/Cardoza, the street light fee can be removed. By removing the 3% for the levy for revenue stream, it brings the contingency fund to \$139,764.39. That's assuming the franchise arrangement stays.

C/Cardoza asked if the \$139,764.39 includes the franchise fee agreement and should it be diminished by \$100,000.

CT/Marsh explained that that is revenue and it's being spent in the contingency fund so it balances to zero. The new budget excluding the 3% is \$2,789,773.95. The grand total for all funds is –

CC/Burgess reminded everyone that an audit of Idaho Power users needs to take place before a franchise fee can be made available which could take a couple of months.

M/Dowdy stated that there could be a \$9,000 reduction.

CT/Marsh confirmed the budget numbers he had: General fund \$2,779,773.95 with the new contingency balance at \$129,764.39 and the overall budget \$12,967,266.55.

C/Lang moved, seconded by C/Cardoza to adopt the FY 2009-2010 budget in the following amounts: General fund \$2,779,773.95, contingency fund \$129,764.39 and overall total budget of \$12,967,266.55.

Motion carried by the following Roll Call vote:

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

9. ORDINANCES:

10. MAYOR /COUNCIL DISCUSSION:

C/Cardoza received complaints again this year about the Boy Scouts roping off parking lot and charging for parking during Kuna Days. People feel it is city property and there shouldn't be a charge to use it. He asked that Boy Scouts get City permission before doing so next year.

M/Dowdy – Kuna Days has authorized that so maybe it needs to be looked at.

Skip Hoseley agreed to share that request with Hoss Grigg.

11. ANNOUNCEMENTS:

12. EXECUTIVE SESSION:

13. ADJOURNMENT: There being no further business to discuss, the meeting was adjourned at 9:08 p.m.

ATTEST:

LYNDA BURGESS, CITY CLERK

DATE APPROVED: SEPTEMBER 15, 2009