

**SPECIAL KUNA CITY COUNCIL MEETING  
MINUTES  
SEPTEMBER 29, 2009  
KUNA CITY HALL COUNCIL CHAMBER, 763 W. AVALON**

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

Council President Lang called the meeting to order at 7:08 p.m.

Present: Council President Lang and Council Members Bachman, Cardoza and Stroebel. M/Dowdy was excused.

Also present: City Attorney Randy Grove, City Engineer Gordon Law and City Clerk Lynda Burgess.

**2. DISCUSSION OF TOPICS RELATED TO THE LID**

CA/Grove reported that he had been working with CE/Law to complete the assessment roll. The purpose of the meeting was to clear up misunderstandings about how the LID was formed, address comments about representations made early in the process and to address complaints from LID owners about not being able to address the Council directly. The statute requires the assessment rolls to be published twice before a protest hearing and requires mailed notices. Those notices will be sent out later in the week with proposed assessments. He gave a summary of the date requirements for publications and notices. He asked Council to decide when they wanted to start hearing protestants. He believed there should be approximately 3 dates to allow for all protestants to have the opportunity to be heard. There have been questions as to exactly what the LID members have purchased. He gave a history of the LID.

Ozzie Gripentrog stated that, early in the process, he thought by entering the LID he was prepaying his sewer connections. 3 years ago, the economy was different and he thought that the city didn't want to give preferential treatment to LID members by buying in low on the connection fees. He thought preferential treatment should be offered to the LID members and he didn't understand the comment about a secondary market for LID connections but felt it could be beneficial to the LID members.

Charolett Neddo explained that she had hoped to be retired with a little extra money in the bank. A realtor approached she and her husband several years ago urging them to join the LID to get the most for their money. They understood that the LID members would be the first with access to the plant. There was no back up to protect the members from the unexpected.

John R. Ewing, representing YES, LLC shared the same concerns as the first speaker. He felt that this isn't a level playing field and the LID members are at a disadvantage. They are paying interest on the money. The people who didn't get in the LID have a great advantage; they can walk in as they need connections. The members will keep on paying. He felt at first it was a community deal and he was stepping up and doing the right thing but now (LID members) are being disadvantaged and thought there would be a set fee. He clarified the

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protest process timeline with CA/Grove. He expressed unhappiness with the Idaho Code mandate about prepayment penalties.

Richard Evans, representing Arroyo Subdivision indicated that he spoke to Keller and is having a difficult time putting his hands around what has been purchased. He researched and found a price of \$15 million for the treatment plant and now its \$27 to \$30 million along with variable number of EDU's. He doesn't think things are transparent, everything is unclear. The members of the LID have taken huge risks and many are going to have liens placed that are worth more than their ground. With that type of risk there should be a reward for them, they can't be on a level playing field and should have a huge advantage.

Tim Gordon – *Unintelligible*

Lavar Thornton stated that he's listened to the city attorney and the figures. He indicated the city attorney stated he didn't make promises but there were people representing the city before that that had made promises. He would like the Council to come up with solid numbers so the members know if they need to protest them and know what's being talked about. He attended the plant opening but saw a lot of special things that don't benefit the LID and doesn't think they should have to pay for that. Since they're taking the risk, they should get a deal and not be penalized.

Aaron Raap, representing the Danskin Ridge HOA was unsure if they are in or out of the LID. There was discussion that their sewer pond was part of the annexation for the LID. He asked Council to be left out of it and he has tapes that Council was notified of the dispute over the property. He discussed with CE/Law the details of the agreement with the developer.

Don Johnson explained that his intention in joining the LID was to be a partner with the city and working to the benefit of the community. That has not been reciprocated to them. He attended the opening of the plant and it was impressive but there were holes that aren't functional. He would like to see an accounting of what is being spent in excess. He believed the cost should be shared and not just on the LID members. The assessments are higher than what their property is valued at right now and if the assessment isn't paid within 3 years, the property can be repossessed.

Craig Groves spoke to Council more than 18 months ago and at that time asked Council to put this project on slow motion because of market demand. There may not be a need for 13,000 EDU's in the next 35 years. The Council moved forward with the plan, not a downscaled plan. The only change was the membranes and held off on all of them. He disagreed with that decision. He also thought it was inappropriate to have Keller Associates acting as the city engineer at the time and the construction manager of the project. He asked that the LID members be treated as partners and not ask them to pay 100% of the plant that originally should have only been 8300 EDU's. He wanted everyone to get on the same page.

Charlie Connelly stated that, for the record, he and his wife are not members of the LID but he was involved from the beginning from the financing standpoint. He proposed a solution that the city gets judicial confirmation on a bond to fund their proportional share of the sewer plant. He believed there was record as to why the LID members believed their costs would be

fixed. There needs to be a meeting of the middle ground. He could see that the LID members are at a disadvantage.

Tim Clark echoed the first speaker and thought the connections were prepaid. As an LID member, he felt at a disadvantage and that the Mayor and Council have gone out of their way to hold them at arms length. There is no documentation that the city has looked at other avenues for a solution. He thinks 8% to the banks is unreasonable and thinks there should have been an option to partner up with someone.

Roger Michener stated that he wasn't opposed to being in the LID or agreeing to pay what he thought was to be paid. He thought the LID members were getting a discount but now they are being penalized. He went back and looked at the documents he had signed but didn't know what should be reviewed to understand what he'd bought. He read the ordinance and resolution; he quoted "the construction of a wastewater treatment facility and conveyance pipelines, lift stations, and related facilities and improvements for the preservation of wastewater collection and treatment for 8,353 new sewer connections". He wasn't sure where the lift stations or conveyance pipelines are so he can get connections to his property.

Frank Fazio stated for the record that he and his wife own 3 acres upon which their primary residence is located. That parcel is in the LID but they didn't sign up for the LID, they were signed up by a developer. He doesn't want it construed that they joined the LID. He doesn't think Council understands how this will play out. He discussed the litigation possibilities. The terms weren't set in the beginning so no one knew what they were agreeing to. He received the response that this wasn't an agreement but he stated people agreed to join the LID. City employees from the planning and zoning department represented that in return for joining the LID, 3 EDU's per acre would be received paid in full and reserved. Also at the time they indicated there was a cutoff date for joining the LID. He believed that was misrepresentation and coercion. He expressed concern about the interest rates that Key Bank is charging and thought Council should look out for the interests of the LID members. He discussed the EDU connections.

Bill Clark isn't in the LID but thinks some families will be destroyed by this project and the LID properties will be the last properties to develop. He thinks the city will be getting a free sewer plant. Thinks everyone should be in this together.

Jim Jewett thanked Council for having the meeting. He agreed with all the CA/Grove's comments except he didn't see the city as a partner but the responsible party.

Tim Gordon appreciated the Council's help in finding a solution for this. The original conversations had an \$8 million plant that has grown and the LID members didn't have any say. He recalled a conversation that there wouldn't be a prepayment penalty. He questioned the relationship between all parties and wants a solution that works for everyone. Any lawsuits will make the city untouchable as when there weren't enough hook ups.

C/Lang thanked everyone for attending and the input. The city will attempt to answer questions that came up and look into getting some detailed information on where and how the money was spent.

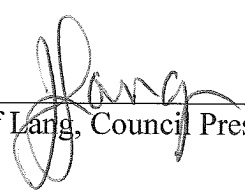
In response to C/Cardoza, CA/Grove reviewed the time lines. It was his understanding the interest rate is set by the underwriter.

In response to C/Bachman, CA/Grove stated that the open pay period carries no interest. They have 30 days to pay in full without any penalties.

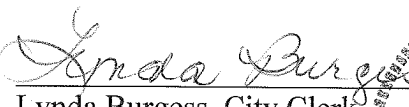
Tim Gordon suggested the city put a lien against the plant to reduce the interest rate.

Protest hearings were set for October 26 and October 27 at 6 p.m.

3. **ADJOURNMENT:** There being no further business to discuss, it was moved by C/Bachman, seconded by C/Stroebel to adjourn the meeting at 9:00 p.m.

  
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Jeff Lang, Council President

ATTEST:

  
Lynda Burgess, City Clerk

DATE APPROVED: October 20, 2009

