

KUNA CITY COUNCIL MEETING
MINUTES
MARCH 2, 2010
KUNA CITY HALL COUNCIL CHAMBER, 763 W. AVALON

7:00 p.m. – REGULAR COUNCIL MEETING

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

PRESENT: Mayor Dowdy, Council President Bachman, Councilmember Hoiland and Councilmember Lang. Councilmember Cardoza was excused.

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

1. INVOCATION: The Invocation was given by Pastor Bruce Wheeler, New Beginnings Christian Church

2. 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 3-0-1 (C/Cardoza absent).

A. APPROVED MINUTES:

1. REGULAR MEETING OF FEBRUARY 16, 2010
2. SPECIAL MEETING OF FEBRUARY 18, 2010

B. APPROVED ACCOUNTS PAYABLE DATED FEBRUARY 26, 2010 IN THE AMOUNT OF \$399,329.94.

C. APPROVED BUSINESS LICENSE FOR DR. BRIAN G. HOLD, "SWAN FALLS CHIROPRACTIC," 1619 N. LINDER RD. #A.

D. APPROVED FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR 09-15-ZC RE-ZONE/09-15-DA DEVELOPMENT AGREEMENT, LOUISE BOREN.

E. APPROVED FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR 09-16-ZC RE-ZONE/09-16-DA DEVELOPMENT AGREEMENT/09-03-LLA LOT LINE ADJUSTMENT, DON YOUNG LAND COMPANY, INC.

F. ADOPTED RESOLUTION NO. 08-2010 AUTHORIZING MAYOR AND CITY CLERK TO SIGN ADDENDUM NO. 1 TO AGREEMENT FOR ENGINEERING

SERVICES – POTABLE AND PRESSURE IRRIGATION LINE EXTENSIONS
RELATING TO DESIGN OF PRESSURE IRRIGATION LINE IN BOISE STREET
EXTENDED.

5. OLD BUSINESS:

10-04-TE, SPRINGHILL - PRE PLAT (2ND TE) – TIME EXTENSION FOR
SPRINGHILL SUBDIVISION PRELIMINARY PLAT (continued from Feb. 16, 2010).

SP/Behunin reported that the application was continued from the February 16, 2010 meeting in order for staff to secure affidavits from all involved parties. Since there are 3 land owners, staff has obtained affidavits from each verifying that they are supportive of this subdivision and to have the entitlements that have been granted to it. The project received approval a number of years ago and has successfully acquired a preliminary plat time extension. Between that time and this request, Council approved a text amendment that says that once a preliminary plat comes in for a time extension, there is a limit to the number that can be obtained. With the initial approval of the application, they receive 2 years, then they are eligible for 2, 1 year time extensions. The new ordinance was adopted after the original time extension was granted. The city attorney at that time indicated everyone would be kept where they were at and would go forward from there. This reflects a first time extension request under the new ordinance. The reason for the time extension is because of the economic climate. In addition, it has been discovered that Springhill 1 and 2 owe \$10,300 for engineering fees and other city fees that staff was unaware of until this afternoon. Under the new ordinance, Council can do 1 of 3 things with this application. The time extension can be approved and it can be established how to recover the funds, it can be conditionally approved or it can be denied.

C/Bachman asked what kinds of fees are owed by the developer.

P & Z D/Hasson responded that the fees are engineering fees for staff review of their project. It has been owing to the City since 2008.

C/Bachman moved, seconded by C/Hoiland to approve file 10-04-TE, Springhill Preplat time extension for Springhill Subdivision with staff's recommendation for the developer to keep planning staff apprised of ownership changes. Motion carried 3-0-1 (C/Cardoza absent).

6. CITIZEN'S REPORTS OR REQUESTS:

7. NEW BUSINESS:

- A. CONSIDER NON-COMMERCIAL KENNEL LICENSE FOR KARI CROGHAN, 150
E. KENTER ST.

Kari Croghan, 150 E. Kenter St. currently has 2 dogs of her own and a dog that belongs to her boyfriend. She thought they would have to move out of the house, they were looking for a place to rent in Boise and had moved out except her cousin who was taking

care of the dogs. Animal control was called for a dog that doesn't live there but was put on a leash on a tree while the carpets were shampooed. It was a one time incident and the animal control officer indicated if they were going to have more than 2 dogs, they needed this license. She is aware of a response made to the application but indicated she does not have a vicious dog. The dog was trained by a professional.

M/Dowdy noted there was 1 anonymous letter received. He confirmed with CC/Burgess that the Humane Society didn't have any complaints or problems.

Moved by C/Bachman, seconded by C/Lang to approve the noncommercial kennel license for Kari Croghan at 150 E. Kenter St. Motion carried 3-0-1 (C/Cardoza absent).

B. CONSIDER NON-COMMERCIAL KENNEL LICENSE FOR JOAN SENITZ, 2619 N. GREENVILLE AVE.

Joan Senitz, 2619 N. Greenville Ave has 3 rescue dogs. The last one is a 13 year old cocker. She was walking all 3 dogs in her community all on leashes and the Humane Society officer stopped her and informed her that she needed a noncommercial kennel license. She was unaware she needed it before being informed.

M/Dowdy noted that a letter was received from the property management company for Greyhawk Subdivision.

Ms. Senitz stated that she was given written permission before she moved into the subdivision that she could have 3 dogs and 1 cat. She indicated that she sent a copy of the permission letter to the Homeowners Assn. and they waived the requirement.

Moved by C/Lang, seconded by C/Bachman to approve the noncommercial kennel license for Joan Senitz at 2619 N. Greenville Ave. Motion carried 3-0-1 (C/Cardoza absent).

C. CONSIDER NON-COMMERCIAL KENNEL LICENSE FOR DENNIS MEURER, 2102 N. RUBINE LN.

Dennis Meurer reported that he moved into Crimson Point about 3 years ago and was told at that time that he could have 3 dogs. The neighbors north of him have had a couple of problems with his dogs; for example, one dog was barking at 3 in the morning and Mr. Meurer failed to get up. Another problem with that neighbor was when the dog was in front playing frisbee started barking at the neighbor's father and got within 10 feet of him. The neighbor started to yell and scream and the dog continued to bark. He has 2 medium sized aussies. One of the people in his subdivision came to talk to him and would work with him on an individual basis on having 3 dogs. People walk their dogs all the time and when he walks his, other dogs bark like crazy. One person wrote a letter and said they had no problem with his dogs but said something about physical attacks to the neighbor on the north side. Mr. Meurer disputed that comment.

John Neil, 2146 N. Rubine said the applicant has 4 dogs, not 3. The CC&R's do not allow more than 2 dogs and are the dogs are not supposed to constitute a nuisance to neighbors. Mr. Meurer's dogs have continually barked whether neighbors are in front or backyard and continually bark during the night. Mr. Meurer doesn't try to silence them. The dogs are often off leash. One of Mr. Meurer's dogs charged at Mr. Neil's father.

Mr. Meurer responded that the dogs are not constantly barking when he's home. They sleep in the garage at night and do not constantly bark. Also, Mr. Neil apologized to him for calling the Humane Society about charging his dad and overreacted.

M/Dowdy stated that the Humane Society had 1 call in July of 2009 for a barking dog and a complaint in January 2010 for too many dogs. He confirmed with CC/Burgess there was no action taken by the Humane Society.

C/Hoiland stated that he has been on the Council for 2 months and there have already been 6 or 7 noncommercial kennel licenses which seem to be mainly because a neighbor complains. The city doesn't have authority to hold subdivisions to their CC&R's. He thinks that neighbors have right to live in a community in which they feel safe and comfortable but doesn't know as a city that a license can be denied because there is an ordinance that says they can apply for one. He has a problem that at every Council meeting dog control is a topic. Thinks it's a sad state of affairs that the city spends all this time on it.

C/Bachman agreed with C/Hoiland. CC/Burgess is working on revising the ordinance.

M/Dowdy confirmed with CC/Burgess that a public hearing has already been published for discussion of the new ordinance.

C/Bachman explained that, sometimes, noncommercial licenses are approved if there are issues that can be handled or to allow the applicant time to take care of the issue.

C/Hoiland stated that, with the way the ordinance is currently written, he didn't see any other option but to approve.

C/Hoiland moved, seconded by C/Lang to approve the noncommercial kennel license for Dennis Meurer at 2102 N. Rubine Ln. Motion carried 3-0-1 (C/Cardoza absent).

D. ADOPT RESOLUTION NO. 07-2010 AUTHORIZING THE CITY ENGINEER TO REVIEW AND SIGN, ON BEHALF OF THE CITY, MISCELLANEOUS RIGHT-OF-WAY PERMITS AND WAIVERS NECESSARY FOR THE CITY TO LOCATE FACILITIES..

CE/Law reported that the proposed resolution is a request for him to be the authorized signer of permits to be in right-of-way. The City receives requests from time to time to sign various permits and permissions that go with locating our facilities in rights-of-way.

C/Bachman asked if this would open a can of worms with Idaho Power issues. If they want to place facilities in corridors, will Council be able to review it?

CE/Law explained that the requests he usually sees are when we are requesting to relocate a facility or public works employees need to work in right-of-ways.

Moved by C/Lang, seconded by C/Bachman to adopt Resolution 07-2010. Motion carried 3-0-1 (C/Cardoza absent).

E. DISCUSSION REGARDING TRANSFER POLICY FOR EDUS.

CA/Roats – As discussed during the protest of the LID ordinance prior to adoption, Council has several issues to decide related to the ordinance; specifically, the allocation or transfer of EDUs and the credit for the sewer treatment plant connection fee.

C/Bachman confirmed that Council would be looking at a few different scenarios in which the EDUs would be transferred and identify the process. She asked what specific direction from Council that CA/Roats was asking for.

CA/Roats – A transfer policy for EDUs or within or outside the LID.

C/Bachman stated that she would like to have a few of the scenarios lined out and the stipulations that would be attached to them.

C/Lang agreed that that would be helpful.

C/Bachman didn't think they can address every situation that will come up but can identify what may be coming soon.

CA/Roats – What are council thoughts related to moving EDUs around on a piece of property creating higher density on a portion of the property to cover density on another portion of the property.

C/Bachman thought Council should look at it.

CA/Roats – He will prepare a resolution for a number of EDUs of LID properties, from one LID property to another or reallocation per a property.

M/Dowdy asked CA/Roats to develop a policy displaying all three scenarios for Council's review.

F. DISCUSSION REGARDING SETTING A CAPPED SEWER CONNECTION FEE CREDIT FOR PREPAID EDUS.

CA/Roats – The next issue is setting a cap on the sewer connection fee and giving a credit for prepaid EDUs.

C/Hoiland said he would be comfortable if they were kept for a certain time period. It wouldn't make sense to leave them open ended for 15 or 20 years.

M/Dowdy confirmed that it was if they paid the assessment portion. Council hasn't decided what the cost of an EDU should be. If members pay the assessment that will cap whatever that fee is at that point in time. We're just talking about the assessment portion.

CA/Roats – If an LID member comes in within 30 days and they want to prepay their EDUs, there may be some benefit they realize that on a prepay but they know what the hook up fee is when they decide to do that. If someone pays their EDU assessment, what amount would they be locked in at for the hook up fee?

M/Dowdy asked CA/Roats if a desirable policy would be that if a person has 100 EDUs and decided to prepay all of them that would be fine. But what if they only wanted to pay 25 of their 100 EDUs, would that lock in that rate for the 25 and the others are subject to whatever change that Council decides is appropriate.

CA/Roats – To be fair to those paying, if they paid for the 25 EDUs, they would lock in for the 25 EDUs, not all 100 EDUs.

M/Dowdy stated that the owner could lock in for the full amount they are entitled to or choose a portion of them.

C/Hoiland asked if it would be a one-time deal or can a member do a portion now and another portion in a year?

CA/Roats responded that it can be whatever Council decides. The idea is that, in the first 30 days, prepayment of the EDU assessment of \$3233.75 locks in the rate.

C/Hoiland confirmed that the penalties wouldn't apply to the hook up fees.

C/Bachman asked how quickly a decision needed to be made so the LID members could know what they are going to do.

CA/Roats indicated that the decision should be made at the next meeting.

C/Bachman said she would like to see a schedule of numbers showing the LID assessment with penalties and interest after the 30-day period expires on March 22, 2010.

A special meeting was scheduled for Monday March 8, 2010 at 6 p.m. to discuss the information provided by CA/Roats for the EDU transfer policy and a capped sewer connection fee.

Layne Saxton, Kuna School District pointed out that the district would fall into both categories. They purchased a piece of property next to an 11 acre donated piece of property. They offered to take 65 EDUs that they would need which leaves a remaining balance. He has had a letter before the City since January 16, asking these questions. They want to pay for their EDUs in the time frame so they can get the best price for the tax payers and also the seller has asked to transfer or own any that the school district does not use. He asked that Council not hold up the district's process.

CA/Roats explained that the bank has been reviewing it and the school district has been reviewing it. They should have resolution by tomorrow.

C/Bachman asked, in this case, is the property taking on extra EDUs entitled to them?

M/Dowdy replied that there was a master plan adopted when it was annexed in March of 2006.

P & Z D/Hasson reported that there was a Danskin Master Plan and there were a certain amount of EDUs allocated. The property the school district is purchasing is a 54 acre lot which is part of Danskin and has a proportional share of the total amount that was allocated.

M/Dowdy recalled that the master plan that was originally presented anticipated different densities in different portions of it.

P & Z D/Hasson confirmed that the Mayor was correct and explained that the plan is in the midst of being updated and will be coming before Council.

CA/Roats stated that the master plan has been filed with the City the deals with Danskin, Applewood and the school property.

C/Bachman wanted to make sure the school district was involved as well so when Council reviews it on the 8th, the school district can help identify any issues Council may not have foreseen.

G. ADOPT RESOLUTION 09-2010 REPEALING RESOLUTION R3-2008 ADOPTING A POLICY FOR TRANSFER OF EDU CONNECTIONS FOR MEMBERS OF LOCAL IMPROVEMENT DISTRICT 2006-1 AND OTHER HOLDERS OF EDU CONNECTIONS.

CA/Roats stated that 09-2010 repeals the transfer ordinance due to the fact that the sewer protestants raised the issue that the resolution took away any benefit of the LID.

C/Bachman asked what happens to properties already on the transfer registry. Should it be identified in the resolution what happens to those?

CE/Law pointed out that one of the recitals indicates that no transfers have been made as yet. Everything is presumed that if this goes away, there are no transfers to be made; therefore, nothing needs to be accounted for.

An unidentified person asked to speak.

M/Dowdy stated that this portion of the meeting isn't open for public comment.

Moved by C/Lang, seconded by C/Hoiland to adopt Resolution 09-2010. Motion carried 3-0-1 (C/Cardoza absent).

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

9. ORDINANCES:

10. MAYOR / COUNCIL DISCUSSION:

WATER RIGHTS CONCERNS

CE/Law distributed a map to Council and reported that the map shows a layout of various water right applications that are taking place in the City of Kuna's planning area. He reviewed the water right applications on the map and described a grouping located by Cole Rd. south of Kuna Mora Rd that concerns him. They are centered on the Vista planned community. He described it as water grab. A large diameter delivery line is planned for the area and it could be a strategic plan to dominate the water rights in the area and make that line more viable but he doesn't know if that's the case for sure. He stated he hadn't seen a water right application like this before. One issue could be that it would affect the city's ability to get water rights for ourselves. The second issue is that the City applied for an 18 cfs allocation water right of which we have used 2.7 cfs for the well recently completed. In 2008, the City was allowed to drill and develop the full 18 cfs, but after 10 years from that 2008 date, that permission will disappear and there won't be anything that can be done to extend it except to reapply. Both items are of concern and there was budgeting for a test well. Before doing so, he wanted to make sure he understood what Council wanted for water rights.

C/Hoiland asked who the granting authority on water rights is. Do we have any recourse if we disagree?

CE/Law responded that the Department of Water Resources is the controlling authority. Most important is to not lose the 18 cfs we already have ahead of them.

C/Bachman asked if the Dept. of Water Resources track the rights and take it into consideration when they get a new request.

CE/Law stated that he wasn't sure what Water Resources will do with this type of application. There will be notice and an invitation to comment.

In reply to C/Bachman, CE/Law indicated that the City should send a letter to Water Resources. He recommended proceeding with an additional well and sequentially drill before the 10 years expires.

M/Dowdy stated that the City does have the option of filing protests.

In response to CA/Roats, CE/Law explained that the maximum that can be diverted out of a well is 5 cfs. That is a statutory limit.

C/Lang asked CE/Law if a site had been selected for a test well.

CE/Law reported that there were 4 approved sites with the application: Chapparosa, Arbor Ridge Park, Crimson Point, where the irrigation pump station is and Napa Vineyards. The City owns 3 of the sites and he thought it should start with Chapparosa.

11. ANNOUNCEMENTS:

C/Lang suggested that Council wear their Census t-shirts at next Council meeting.

C/Bachman reported that recently attended a Valley Regional Transit and they briefed her about the Board. There will be a meeting with Matt Stoll from COMPASS on Friday about the City's role on the Board. She referred to a letter received about emissions testing and confirmed that other Council members had received it also. She stated she thought they were talking about contracting with someone else in Ada County.

C/Lang pointed out that current emission testing stations are independently owned and it's been an issue for years.

M/Dowdy explained that Mayors from major cities sit on the COMPASS Executive Board, while cities under 25,000 populations only have 1 representative. Currently, Mayor Bandy from Eagle represented the smaller cities but because of his recent resignation as Eagle's Mayor, Mayor Dave Mitchell from Star has offered to fill in the seat.

12. EXECUTIVE SESSION

13. ADJOURNMENT: There being no further business to conduct, moved by C/Lang, seconded by C/Bachman to adjourn at 8:23 p.m.

J SCOTT DOWDY, MAYOR

ATTEST:

LYNDA BURGESS, CITY CLERK

DATE APPROVED: MARCH 16, 2010