

KUNA CITY COUNCIL MEETING
MINUTES
MARCH 16, 2010
KUNA CITY HALL COUNCIL CHAMBER, 763 W. AVALON

1. CALL TO ORDER AND ROLL CALL:

Mayor Dowdy called the meeting to order at 7:02 p.m.

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

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.

2. INVOCATION:

The Invocation was given by Pastor Scott Piper, First Baptist Church

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 4-0,

A. APPROVED MINUTES OF REGULAR MEETING OF MARCH 2, 2010

B. APPROVED ACCOUNTS PAYABLE DATED MARCH 12, 2010 IN THE AMOUNT OF \$375,375.36.

C. APPROVED BUSINESS LICENSE FOR TRAVIS WALTHALL, "CUSTOM RX, DBA VIC'S FAMILY PHARMACY," 173 W. 4TH ST.

5. OLD BUSINESS:

6. CITIZEN'S REPORTS OR REQUESTS:

LONNIE WHITE AND TINA BROWN, L-N-T ENTERPRISES, REGARDING PROPOSAL TO CONDUCT EMISSION TESTING.

P & Z D/Hasson reported that the request from Lonnie White and Tina Brown is to conduct emission testing as is now required. System Tech has received approval to have a program in Canyon County and Canyon County Cities and Kuna. In Kuna they will have 2 locations. Staff was approached by Mr. White and Ms. Brown as to whether the city would make a city property available for emission testing purposes. The property is located on the SW

corner of Deer Flat and Linder. In receiving the request, staff thought that it was something the council should review. Staff thinks the testing should be done on private property, through private interests, if possible. If L-N-T Enterprises or System Tech isn't able to find a location then the city may have to consider a city location.

Lonnie White, 921 W Avalon, applicant, introduced Tina Brown and provided documentation about the new testing requirements. As of January 1, testing has been changed to every other year for the county. They would like to set up initially as an Ada County station and are in the process of negotiating with System Tech for a contract. They intend to put up a pole and donate lighting from the pole for the basketball court.

P & Z D/Hasson asked council to clarify that if these testing sites cannot find private property, would the city consider city property.

C/Bachman pointed out that there are no codes in place for emission testing and asked staff to create codes prior to approval of any emission testing facilities. Also, she noted that the parking lot at the requested site was completely filled tonight on her way to the Council meeting. It is a residential subdivision and access comes off of Massy which is a residential street. She confirmed with P & Z D/Hasson that it was zoned residential.

P & Z D/Hasson explained that, if council approved the location, it would need to be rezoned.

M/Dowdy stated that, in the past, the city has been approached by other businesses that wanted to place a commercial enterprise on public facilities and the city has discouraged such uses. He shared the concern about using the park.

C/Hoiland indicated that the location is heavily used for organized sports activities during the spring, summer and fall. He was concerned about putting a business there with kids close by and who could come driving in to get their vehicle tested and not care about foot traffic.

C/Cardoza pointed out that the schematic presented shows the entire field as being part of the emission testing area. The drawing needs to be modified.

SP/Behunin responded that the drawing and aerial shows its specific to the blue area. The red outline indicates the parcel area.

C/Bachman asked staff if they have looked into emission testing zoning codes around the Treasure Valley.

P&Z Dir/Hasson responded that staff has not. It would be a commercial type venture and staff would amend the zoning table to reflect it as a commercial zone.

Mr. White stated that he is only asking for temporary use until a more permanent location can be identified.

M/Dowdy confirmed to P & Z D/Hasson if he had enough information to move forward with council's requests.

7. NEW BUSINESS:

A. CONSIDER NON-COMMERCIAL KENNEL LICENSE FOR AMANDA BARNWELL, 493 S. WHITEHORSE AVE.

M/Dowdy indicated later in the agenda that council would be looking at a new ordinance for dogs.

CC/Burgess confirmed that the ordinance is on the agenda for discussion. Adoption could be at the next meeting.

Chris and Amanda Barnwell, 493 S. Whitehorse Ave., applicant, were present.

Sarah Busick, 1755 W. Yukon Dr. stated that her only issue is that 1 of the 3 dogs is a nuisance and barks a lot early in morning. The Border collie rushes at the fence and barks a lot when she is in her back yard. It's very unpleasant and annoying.

C/Bachman asked Ms. Busick if she had talked to her neighbors about the dog situation.

Ms. Busick indicated that she hadn't because there is only a small portion of shared fence.

Patty Ledoux resides next door. There were no problems until the Barnwells got the Border collie. Ms. Ledoux has spoken to the Barnwell's neighbor about the dog barking and rushing the fence for 2-3 hours at a time. It has been an on-going problem.

Mike Borzick, 504 S. Midpine agreed with both of the other testimonies, the Border collie barks and charges the fence. The collie and a white rat terrier come through the fence all the time and the property owners have been asked to fix the fence but haven't. He likes to spend time in his yard and doesn't like a dog barking at him for an hour.

C/Bachman agreed that dog barking is an issue in Kuna.

C/Lang understood the frustration but didn't know how to solve the problem of barking.

C/Bachman asked CC/Burgess if the current code provides for the Humane Society to speak to the property owner if a nuisance complaint is filed.

CC/Burgess explained that the Humane Society will go out if there is a complaint but they haven't received any complaints about this property except that there were too many dogs.

C/Hoiland, on the current dog ordinance, there is information about nuisance dogs. When someone does complain, the Humane Society does respond but if a neighbor

wants to put a stop to it, they should video the evidence of what's happening. The council isn't here to arbitrate between neighbors regardless of personal feelings. He advised them to get the problems solved or the new ordinance should make it difficult for people with nuisance dogs.

Moved by C/Bachman, seconded by C/Lang to approve the noncommercial kennel license for Amanda Barnwell at 493 S. Whitehorse Ave. Motion carried 2-2 (C/Hoiland and C/Cardoza voted no).

M/Dowdy voted to break the tie and approve the license.

B. CONSIDER NON-COMMERCIAL KENNEL LICENSE FOR ROCHELLE KNOLL, 627 BLUE SKY DR.

Rochelle Knoll 627 Blue Sky Dr, applicant, stated the written complaint received by the City actually complained about the wrong house. She brought pictures to show that her dogs are contained.

Moved by C/Lang, seconded by C/Bachman to approve the noncommercial kennel license for Rochelle Knoll, 627 Blue Sky Dr. Motion carried 3-1 (C/Hoiland voted no).

C. PRESSURE AND GRAVITY IRRIGATION – SET SPECIAL COUNCIL MEETING DATE FOR MEETING AS THE BOARD OF CORRECTION.

CE/Law pointed out that this meeting was also held last year. The meeting will be held on Friday, March 19, 2010 at 3 p.m. and will include Ordinance 2010-4 for the LID. C/Cardoza will not be in attendance.

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

A. PUBLIC HEARING: 09-02-CPF, DANSKIN RIDGE SUBDIVISION 6 COMBINED PRELIMINARY PLAT AND FINAL PLAT – SHORT PLAT.

SP/Behunin reported that his application is a combination preliminary plat final plat. Approximately a year ago, staff became aware of an illegal lot split in the Danskin Ridge subdivision. He gave a history of the situation and stated that staff has worked with the applicant to resolve the issue and staff is supportive of the application. It will cure the illegal lot split and provide a lot for the Kuna School District.

P&Z D/Hasson referred to page 5 of the staff report to review the maps and the land use action. The owner of the land was attempting to accommodate the Danskin HOA for a parcel of land that is the sewage lagoon for the Danskin property. Without council's approval, the school district cannot begin construction of the school designated for the parcel. He asked council, as part of the motion, that the development agreement be acknowledged and as part of the application that it needs to be amended.

C/Cardoza noted that Jim Jewett didn't sign the development agreement and is contesting the agreement at this time.

P & Z D/Hasson believed that there may be some doubt or suspicion on Mr. Jewett's part whether he has an obligation to the development agreement or not. The development agreement is important because among its provisions, it directs Mr. Jewett to acquire a certain amount of EDUs and participate in any sewer LIDs that may be crafted. It is important to the city's interest that it is a valid development agreement. In response to C/Cardoza, a development agreement was obtained without a signature because it was overlooked or it was signed but somewhere that page was left off. The document was recorded and then rerecorded a few days later. He asked council to cure it and the code says the development agreement is effective upon amendment of the zoning ordinance. He read "a commitment is binding on the owner of the parcel even if it is not recorded." Staff's view is that the development agreement was required, council approved it and Mr. Jewett crafted a development agreement that reflected a land use transaction and was recorded.

C/Bachman pointed out that the Findings of Facts requires the zoning to be contingent upon meeting all the conditions of approval. The applicant can't develop unless he complies with everything.

Carl Porter, Sawtooth Construction, representing the School District, Piper Investments and Danskin HOA stated that, for the record, Mr. Jewett was a member of Stetson properties who used to own this parcel of land. Mr. Jewett is no longer a member or involved. He reiterated the purpose of the application is to cure an illegal lot split. The reason for vacating the lot line between lots 54 and 3 is to straighten up the line and also make the irrigation friendlier. In reference to a development agreement, he asked if they can have the agreement impact Danskin Ridge number 6 and focus on that and try to get this plat approved and recorded or will it encumber everything that was originally involved in it. He doesn't represent the other people involved.

C/Bachman confirmed with P & Z D/Hasson if that was what the P & Z Commission recommended.

P & Z D/Hasson confirmed that it is staff's intent to take the conditions of approval found in the special use permit that will follow this land use action and those would become the development agreement conditions.

M/Dowdy confirmed with P & Z D/Hasson that page 21 of 21 of the staff report contains a section entitled "Motion" with 4 bullets, which is what staff is hoping to see the council's motion include.

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 stated she doesn't have any problem with it if staff is just cleaning up an illegal lot split.

In response to C/Bachman, CA/Roats stated that he looked at the plat. The ordinance does respond to it and council will be looking at it later in the week.

C/Cardoza asked SP/Behunin about some issues about the land use for the wastewater and the DEQ and permits running out. He asked for SP/Behunin to elaborate.

SP/Behunin clarified it was a discussion with Steve Ogle from DEQ that is in the narrative. Staff felt it was important to talk about it because the permit has run out which is different from expired. In Idaho, a Shield can be applied for to protect it from expiring completely. It's similar to our time extensions. It was made clear to staff that the school district was not willing to have effluent spread on school grounds. They are still seeking a land parcel to complete the re-submittal to DEQ and gain their full permit back.

C/Cardoza asked whether any decision made by council will have repercussions because of the school district and the land use.

SP/Behunin responded no, in fact, they need to find a parcel with or without this application. On page 16 of 21, item 1.33 under miscellaneous, it talks about the wastewater land application permit and the city would like to see that we are included in that application process and are requesting through the application that all the standard permit conditions be complied with at all times pursuant to permit application LA-000187-01 issued by DEQ in 2003. Item 1.33.4 states "the applicant shall prove DEQ, the school district and the city are all amenable to wastewater land application on school parcels". If arrangements are made with the school district, the city can still participate in the decision.

C/Cardoza asked CE/Law about a well the city purchased on Danskin Ridge in that area. We should be aware of any land use that could contaminate that water.

CE/Law stated that that is correct. They are required, as we are, to maintain a certain distance between a water producing facility and land application sites. If the distance is maintained, they won't get their permit.

Tim Eyk, member of Eyk Properties stated that, through a settlement between Stetson and the Danskin Ridge HOA, they have retained the right to relocate the permit on large park city with Danskin Ridge subdivision as it currently exists. He described how it is serviced and the lots have been built out and it doesn't come close to its capacity but the land application will have to be relocated.

Moved by C/Lang, seconded by C/Bachman to approve the Danskin Ridge Subdivision Number 6 file number 09-02-CPF, combined preliminary plat and final plat – short plat and to follow all the recommendations from staff and that the applicant comply with all of the stated conditions in the staff report, approval and conditions of the applicant for future heirs and/or assigns following this application of re-plating of the short plat and requires a full blown subdivision application and this application is dedicated as the applicant modifying the original Danskin 257 master plan and development agreement to include additional development conditions contained in this land use application and that the city is notified of all actions with the land application. Motion carried 4-0.

B. PUBLIC HEARING: TITLE 10, CHAPTER 4, DOGS

CC/Burgess reported that, last year, she started the process of amending the city code regarding dog control. Many areas of the code were weak and outdated. She has worked with the City Attorney and the Kuna Chief of Police on changes. She contacted the Humane Society to include them in the code changes also. They recommended the city follow what the county does. CA/Roats has some concerns about the county wording in certain sections and would like to make some changes. There are two primary changes, the county allows a maximum of 4 dogs per household instead of the 5 we currently allow and the county has no provision for a non commercial kennel license. Most of the other provisions are as they currently are but with more enforcement possibilities and allows the Humane Society to do more on our behalf.

C/Hoiland expressed concern that the city is put between 2 homeowners to make a decision to arbitrate their problems. In reading through the document it gives teeth to the ordinance so that a neighbor who is subjected to nuisance dogs or aggressive dogs has the ability to rectify that problem.

CC/Burgess pointed out that the provisions for vicious dogs are in state code. In response to C/Hoiland, she provided an average dog license fee around the area; Kuna has been one of the least expensive. She doesn't know what Star's code is to designate a vicious dog and how to determine the increased registration fee for them. She reviewed state code on vicious or at large dogs and it provides a penalty for at large dogs. The penalty for a vicious dog could be put in to city code.

C/Hoiland felt that if someone is charged a large fee to own a vicious/dangerous dog, then they are serious about keeping and controlling it. Without an up front cost, they'll stick them in the backyard like he's heard so many times in the last few weeks. A dog charging a fence is startling. He would like to see some teeth in the ordinance so the Humane Society or the police have some authority to do something.

CC/Burgess reported that, in a recent past meeting, there was an applicant for a non commercial kennel license where there were several complaints about a vicious dog. Those people who complained at the council meeting never complained to the Humane Society. If they don't take advantage of the laws to make enforcement possible, then no one can do anything to help.

C/Bachman, in response to C/Hoiland's comments about dangerous/vicious dogs, in the wording, it looks like we won't allow vicious dogs once they have been deemed so and they will be fined and the vicious animal removed. She didn't think a fee should be added.

C/Hoiland felt, after some research, it seemed that it would need to be the Humane Society deciding if a dog was vicious based upon evidence.

Regarding fees, CC/Burgess explained that Ada County's were just raised 3 weeks ago. For example, the fee rose from \$15 to \$43.60 for an unneutered dog. It has been well over 10 years since Kuna's fees have been raised.

C/Hoiland asked if the fees are used indirectly to pay our annual contract with the Humane Society.

CC/Burgess responded that the city treasurer could answer that but most likely.

C/Bachman stated that it helps offset the costs.

In response to C/Cardoza, CA/Roats referred to page 10 under determination of a vicious dog, B1. The city has a contract with the Humane Society, and we are only giving them authority to seize an animal. *Unintelligible*.

C/Cardoza wanted to ensure that the city isn't responsible for anything the Humane Society does.

CA/Roats stated that he would change that wording.

C/Bachman commented that on page 2, nuisance dog, it talks about the molesting passers by or passing vehicles. She asked if a different word could be used.

CA/Roats explained that he was already working on different wording for that.

C/Hoiland asked if we adopted the ordinance in its current or revised form, would current non commercial kennel licenses be null and void.

CC/Burgess responded that it wouldn't matter if they were in effect for the remainder of the year. There isn't anything to enforce. She isn't sure there are any that have 5 dogs but if we adopt this code, it would limit anyone to 4 dogs in the city.

Patty Ledoux, Sutters Mill, explained that she has called the Humane Society to complain about barking but they don't always show up. She didn't know she could tape record the dog and call the Humane Society. There isn't anything in the Kuna phone book about how the city handles the dog problems.

CC/Burgess stated that she received word from the Humane Society that the only complaints they had was the initial call of too many animals. She agreed to talk to the Humane Society about these calls.

Ms. Lague appreciated the city's efforts and stated that she was trying to work it out with the neighbors.

C/Lang asked that council be informed if the agencies the city contracts with are not providing the services required so that they can be resolved and negotiated.

M/Dowdy opened the Public Hearing.

SUPPORT

None

NEUTRAL

None

OPPOSE

None

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

CC/Burgess announced that she had just reviewed her list of non commercial kennel licenses and doesn't believe there is anyone with a license for 5 dogs.

Following discussion, Council directed staff to prepare an Ordinance for the next Council meeting.

9. ORDINANCES:

10. MAYOR / COUNCIL DISCUSSION:

M/Dowdy reported that the Kuna City Police Dept is asking for emergency contact information in case there is an emergency, an issue with the building or something they need to respond to in regard to the city. He would like at least a council member if possible, someone that is able to take action if necessary.

C/Hoiland volunteered to be on the list.

11. ANNOUNCEMENTS:

C/Bachman told council that she attended a Blueprint for Good Growth meeting at COMPASS. Most of the mayors, council members or staff from Ada County cities was in attendance. They have been discussing an area around a development and defining its impact and establish how to charge the developer more for their impacts and contribute to the improvements that may be required in an adjoining jurisdiction. She will be attending a Valley Regional Transit meeting tomorrow and a COMPASS meeting next month.

INFORMATION MEMOS SUBMITTED BY CITY ENGINEER GORDON LAW:**A. BALL FIELD PROJECT STATUS**

M/Dowdy asked CE/Law if Walt Douglas had gotten back to the city with the accounting.

CE/Law confirmed that staff received an email last week and information this morning from someone working with Walt. A complete accounting has not been received as of yet. Staff is also waiting for a list of promises made. There isn't information yet about selling signs. There is one bill outstanding for sod but we don't know what is in the account from sign sales. We have asked for them. The list of tasks completed or in process is listed on the memo. A few people from local baseball are present.

Jason Hotchkiss, President, KYSBA, 2651 W. Cerulean Dr wondered if council had any further updates and stated that he has seen the memo to council. He wanted to express appreciation to the city council for stepping up and making sure there are playable fields for the spring season. The games start April 10. 600 players are registered this year. Most of the fields are on school fields and the KYSBA also appreciates the district's support. They offer support and help to rebuild the fields.

C/Bachman asked if we have funds for the remaining items to be completed.

CE/Law indicated that there is \$3,500 for backstops but he is waiting to hear from Lions Club about their donation. Funds have come from the city's contingency fund and a capital item that was under budget by around \$8,000.

C/Cardoza stated that Bobby Withrow deserves a lot of thanks for all of his efforts in getting the ballfields done before the season starts. Asked council if the city should honor the advertising commitments made by Walt?

M/Dowdy responded that that is why the city is trying to get an accounting from Mr. Douglas.

CE/Law explained that, with the information received today, he was trying to establish what was promised to advertisers when they purchased a sign from Walt. In response to C/Bachman, there has been 1 call and there is information from a person who donated \$5,000 in cash with the expectation of getting a large sign. That was the call that

triggered the call to the Douglas' about what has been promised. We have tried to call, sent letters and email, yet the only response we get is through emails. In response to C/Cardoza, the first order of business is to get the accounting and then establish the promises.

C/Bachman felt the city should have been more involved.

B. SEGO PRAIRIE FISHING POND

M/Dowdy announced that on the previous Saturday, Fish and Game came out and kicked off a free fishing day. They stocked the pond with 1,000 trout the previous Friday. He wanted to publicly thank Mike Borzick for all the hard work he did to get the family friendly fishing to Kuna. We are also looking at getting another pond stocked.

CE/Law reminded that he reported a few weeks ago about Water Rights preservation. He asked if council had objections to him proceeding with the Special Use Permit application.

Council had no objections.

12. EXECUTIVE SESSION

- 13. ADJOURNMENT:** Moved by C/Cardoza, seconded by C/Hoiland to adjourn at 9:14 p.m. Motion carried 4-0.

J. SCOTT DOWDY, MAYOR

ATTEST:

LYNDA BURGESS, CITY CLERK

DATE APPROVED: APRIL 6, 2010