

OFFICIALS

Joe Stear, Mayor
Briana Buban-Vonder Haar, Council President
Richard Cardoza, Council Member
Warren Christensen, Council Member
Greg McPherson, Council Member



CITY OF KUNA

Kuna City Hall Council Chamber, 751 W 4th Street, Kuna, Idaho 83634

City Council Meeting
AMENDED AGENDA
Tuesday, September 18, 2018

6:00 P.M. REGULAR CITY COUNCIL

1. Call to Order and Roll Call

2. Invocation: Justin Sturgeon, New Beginnings Christian Church

3. Pledge of Allegiance: Mayor Stear

Consideration to Amend the Agenda

(Council must move to amend the agenda per IC 74-204(4)(b))

Add item 7D under Business – Consideration to Approve Resolution No. R76-2018 Authorizing the “Agreement for Interim Civil Legal Services” with White, Peterson, Gigray, & Nichols, P.A.

Amend Executive Session to clarify session purposes.

The City Clerk was notified of the requests on Tuesday, September 18, 2018.

4. Consent Agenda: ALL OF THE LISTED CONSENT AGENDA ITEMS ARE ACTION ITEMS

All items listed under the Consent Agenda are considered to be routine and are acted on with one motion by the City Council. There will be no separate discussion on these items unless the Mayor, Council Member, or City Staff requests an item to be removed from the Consent Agenda for discussion. Items removed from the Consent Agenda will be placed on the Regular Agenda under Business or as instructed by the City Council.

A. City Council Meeting Minutes:

I. Regular City Council Minutes, September 4, 2018

B. Accounts Payable Dated September 13, 2018 in the Amount of \$846,100.84

NOTICE: Copies of all agenda materials are available for public review in the Office of the City Clerk. Persons who have questions concerning any agenda item may call the City Clerk's Office at 922-5546. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at 922-5546 at least forty-eight (48) hours prior to the meeting to allow the City to make reasonable arrangements to ensure accessibility to this meeting.

C. Alcohol License

- 1. Smoky Mountain Pizzeria Grill 1011 N Meridian Road - Liquor-By-The-Drink, Off Premise Beer, Off Premise Wine, & On Premise Beer**

D. Resolutions

- 1. Consideration to approve Resolution No. R69-2018**

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO APPOINTING CERTAIN CITY OF KUNA, IDAHO OFFICIALS AS PERSONS AUTHORIZED TO SIGN FOR BANKING SERVICES ON BEHALF OF THE CITY OF KUNA, IDAHO AND PROVIDING THAT THE SIGNATURES ARE VALID FOR THE 2018 YEAR OR UNTIL REVOKED BY ACTION OF THE MAYOR, AS PROVIDED FOR IN RESOLUTION NO. R33-2018.

- 2. Consideration to approve Resolution No. R70-2018**

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO DESIGNATING THE AGENCY CONTACT FOR THE CITY OF KUNA, IDAHO FOR THE LOCAL GOVERNMENT INVESTMENT POOL AND AUTHORIZING THE MAYOR TO EXECUTE THE DIGNATION, AND PROVIDING AN EFFECTIVE DATE.

- 3. Consideration to approve Resolution No. R71-2018**

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT WITH THE ADA COUNTY PROSECUTING ATTORNEY TO PROVIDE PROSECUTORIAL SERVICES FOR CITY MISDEMEANORS FOR THE FISCAL YEAR 2018-2019.

- 4. Consideration to approve Resolution No. R72-2018**

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT WITH THE ADA COUNTY SHERIFF FOR LAW ENFORCEMENT SERVICES FOR THE FISCAL YEAR 2018-2019 FOR THE CITY OF KUNA, IDAHO.

- 5. Consideration to approve Resolution No. R73-2018**

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO APPROVING THE COST OF LIVING INCREASE OF THREE AND 48/100 PERCENT (3.48%) FOR ALL FULL-TIME CITY EMPLOYEES; ADOPTING THE 2018-2019 STEP AND GRADE CHART FOR ALL FULL-TIME NON-

DIRECTOR EMPLOYEES AS ATTACHED HERETO AS EXHIBIT A; AND DECLARING THE EFFECTIVE DATE.

6. Consideration to approve Resolution No. R74-2018

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO FOR THE PURPOSE OF THE CITY OF KUNA'S ENDORSEMENT OF ADA COUNTY HIGHWAY DISTRICT'S VEHICLE REGISTRATION FEE REAUTHORIZATION.

5. Community Reports or Requests:

A. Kuna Rural Fire District Levy – Bud Beatty, Kuna Rural Fire District

6. Public Hearings: (6:00 p.m. or as soon thereafter as matters may be heard.) *None*

A. Public Hearing and consideration to approve 18-01-A (Appeal) and 18-12-DR (Design Review) for Kelleher Subdivision No. 2 – Jace Hellman, Planner II **ACTION ITEM**

On behalf of Open Door Rentals, Inc. the applicant, Trilogy Development, Inc. requests to appeal the Planning and Zoning Commissions' decision to deny Case No. 18-12-DR (Design Review) for eight four-plex buildings, parking, lighting and accompanying landscaping for Kelleher Subdivision No. 2. The subject site is located on the southeast corner of West Hubbard Road and Linder Road, Kuna, ID 83634, within Section 13, Township 2 North, Range 1 West; (APN# R4865420080).

B. Public Hearing and Consideration to approve 18-01-CPF (Combination Preliminary and Final Plat) for Kelleher Subdivision No. 2 – Jace Hellman, Planner II **ACTION ITEM**

On behalf of Open Door Rentals, Inc. the applicant, Trilogy Development, Inc. requests approval to subdivide approximately 1.96 acres through the combination preliminary plat & final plat process into nine lots, consisting of eight multi-family lots and one common lot and have reserved the name Kelleher Subdivision No. 2. The subject site is located on the south east corner of West Hubbard Road and Linder Road, Kuna, ID 83634, within Section 13, Township 2 North, Range 1 West; (APN# R4865420080).

C. Public Hearing and Consideration to approve a modification of the Development Agreement (DA) for Springhill (06-11-DA) – Wendy Howell, Planning & Zoning Director **ACTION ITEM**

A modification of the Development Agreement (DA) for Springhill (06-11-DA) by releasing the property from all provisions of the Development Agreement. The site is

located at the southeast corner of Linder Road and Lake Hazel Road, Kuna, Idaho, within Section 1, 2N1W, (APN #'s S1301212425, S1301325480 and S1301233950).

7. Business Items:

- A. Domestic Violence Awareness Month Proclamation – Mayor Stear
- B. Approval to expend up to \$6,000.00 of Park Impact Fee Funds – Bobby Withrow, Parks Director ACTION ITEM
- C. Consideration to approve Resolution No. R75-2018 – Wendy Howell, Planning & Zoning Director ACTION ITEM

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO APPROVING THE AGREEMENT WITH AGNEW::BECK FOR ADDITIONAL SERVICES FOR THE CITY OF KUNA, IDAHO’S COMPREHENSIVE PLAN.

- D. *Consideration to approve Resolution No. R76-2018 – Mayor Stear* ACTION ITEM

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO SETTING FORTH CERTAIN PURPOSES, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ON BEHALF OF THE CITY COUNCIL THAT CERTAIN AGREEMENT ENTITLED THE “AGREEMENT FOR INTERIM CIVIL LEGAL SERVICES”, DIRECTING THE CITY CLERK, AND SETTING AN EFFECTIVE DATE.

8. Ordinances:

- A. Consideration to approve Ordinance No. 2018-34 ACTION ITEM

AN ORDINANCE OF THE CITY OF KUNA, IDAHO, ANNEXING THE NORTH 300’ OF PARCEL S1314120890, AND REFERRED TO AS PISTEM ACADEMY WHICH IS OWNED BY PISA LAND HOLDINGS LLC, INTO THE KUNA MUNICIPAL IRRIGATION DISTRICT FROM THE BOISE~KUNA IRRIGATION DISTRICT; THUS, CHANGING THE BOUNDARY OF THE KUNA MUNICIPAL IRRIGATION DISTRICT; DECLARING WATER RIGHTS APPURTENANT THERETO ARE POOLED FOR DELIVERY PURPOSES; DIRECTING THAT COPIES OF THIS ORDINANCE BE RECORDED AS PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

Consideration to waive three readings of ordinance
Consideration to approve ordinance

9. Mayor/Council Announcements:

10. Executive Session:

Action Item

- A. Consider motion to conduct an executive session pursuant to Idaho Code Section 74-206 (1) (b) and (f) for the following purposes:

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, and

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated.

11. Adjournment:

**RESOLUTION NO. R76-2018
CITY OF KUNA, IDAHO**

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO SETTING FORTH CERTAIN PURPOSES, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ON BEHALF OF THE CITY COUNCIL THAT CERTAIN AGREEMENT ENTITLED THE “AGREEMENT FOR INTERIM CIVIL LEGAL SERVICES”, DIRECTING THE CITY CLERK, AND SETTING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kuna, Idaho as follows:

Section 1: Findings

It is hereby found by the City Council that:

1.1 The City Council of the City of Kuna finds that it is in the best interests of the City of Kuna to enter into that certain Agreement entitled “*Agreement for Interim Civil Legal Services*” for the reasons stated therein.

Section 2: Action authorization of Mayor and City Clerk to execute the “*Agreement for Interim Civil Legal Services*”.

2.1 The Mayor and City Clerk of this City, are hereby authorized, as the agents of this City, to execute the “*Agreement for Interim Civil Legal Services*”, a true and correct copy of which is attached hereto marked “**Exhibit A,**” and by this reference incorporated herein and thereby fully bind this City to its terms and conditions upon the same being approved and executed by White, Peterson, Gigray, & Nichols, P.A.

Section 3: Directing the City Clerk

3.1 The Clerk is hereby directed to retain this Resolution in the official records of the City; and to provide a certified copy of this resolution to White, Peterson, Gigray, & Nichols, P.A.

Section 4. Effective Date

4.1 This resolution shall be in full force and effect after its passage, approval.

PASSED BY THE COUNCIL of Kuna, Idaho this 18th day of September, 2018.

APPROVED BY THE MAYOR of Kuna, Idaho this 18th day of September, 2018.

Joe L. Stear, Mayor

ATTEST:

Chris Engels, City Clerk

AGREEMENT FOR INTERIM CIVIL LEGAL SERVICES

Parties:

City of Kuna	City	City Hall 751 W. 4 th Street Kuna, Idaho 83634
White Peterson Gigray & Nichols, P.A.	White Peterson	5700 E Franklin Rd, Suite 200 Nampa ID 83687

THIS AGREEMENT FOR INTERIM CIVIL LEGAL SERVICES (“Agreement”) is made by and between the CITY OF KUNA, a municipal corporation organized and existing by virtue of the laws of the state of Idaho, and WHITE PETERSON GIGRAY & NICHOLS, P.A., an Idaho professional association.

RECITALS

- A. The City is in need of civil legal services on an interim basis and has requested White Peterson to provide those services which White Peterson is agreeable to provide all in consideration of and in accordance with the terms and conditions of this Agreement.
- B. The City finds that is in the best interest of the City to enter into this Agreement with White Peterson for the provision of interim civil legal services.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound thereby, City and White Peterson covenant and agree as follows:

SECTION 1 INCORPORATION OF RECITALS

- 1.1** The parties agree that the foregoing Recitals are contractual and binding and are incorporated herein as if set forth in full.

SECTION 2 DEFINITIONS

In additional to any other definitions set forth in this Agreement, for all purposes of this Agreement the following terms are defined and interpreted as herein provided for, unless the clear context of the presentation of the same requires otherwise:

- 2.1 Interim Civil Legal Services:** Means and refers to legal services, as requested by the Mayor, involving and including:
- Civil matters; and
 - Authority to act as and in the capacity of the City Attorney if required by statute; and
 - Representation of the City in court actions.
- 2.2 Senior Municipal Attorneys:** means and refers to the following shareholder attorneys of White Peterson to wit:
- Wm. (Bill) F. Gigray, III
 - William (Bill) L. Punkoney
 - Matthew A. Johnson
 - William (Bill) Nichols
 - Jay Kiiha
- 2.3 Shareholder Attorneys:** means and refers to the following shareholder attorneys of White Peterson to wit:
- Philip A. Peterson
 - Brian O’Bannon
- 2.4 Of Counsel Attorneys:** means and refers to the following shareholder attorneys of White Peterson to wit:
- Terrence R. White
 - William F. “Bud” Yost
- 2.5 Associate Attorneys:** means and refers to the following attorneys of White Peterson to wit:
- Lourdes A. Matsumoto
- 2.6 Municipal Legal Assistants:** means and refers to the following legal assistants of White Peterson to wit:
- Joan L. Howell
 - LeAnn Hembree

**SECTION 3
SERVICES PROVIDED BY
WHITE PETERSON**

- 3.1** Pursuant to the terms of this Agreement, White Peterson as an independent contractor is hereby authorized by the City to perform Interim Civil Legal Services as requested by the Mayor.

**SECTION 4
PAYMENT FOR SERVICES**

City agrees to pay White Peterson for Interim Civil Legal Services rendered pursuant to the terms of this Agreement as follows:

- 4.1** Compensation for Interim Civil Legal Services performed by White Peterson at the request of the Mayor shall be paid at the discounted hourly rates attached as **Schedule A**.
- 4.2.1** City shall also reimburse White Peterson for actual out-of-pocket expenses (such as travel, filing fees, postage, etc.) incurred by White Peterson in the performance of the Additional Legal Services, as authorized by City.
- 4.2.2** White Peterson will provide the City with a monthly itemized invoice of all Additional Legal Services performed (including all out-of-pocket expenses). Provided the invoice is received by the tenth (10th) day of the month, the City shall remit payment to White Peterson by the fifteenth (15th) business day of the following month.

**SECTION 5
TERM**

- 5.1** The term of this Agreement shall be effective September 19, 2018, and shall continue until either Party provides 14 days advance written notice terminating this Agreement.

**SECTION 6
REPRESENTATIONS AND WARRANTIES
OF WHITE PETERSON**

- 6.1 Authority:** White Peterson has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement.
- 6.2 No Prohibition to Performance:** There are no judgments, liens, actions, or proceedings existing or pending against White Peterson which would materially affect White Peterson's ability to enter into or perform under this Agreement.

- 6.3 **Corporate Status:** White Peterson is a professional service corporation duly organized, validly existing, in good standing under the laws of the State of Idaho and has all necessary corporate powers to enter into this Agreement.
- 6.4 **Designated Primary Attorney:** White Peterson acknowledges that Wm. F. Gigray, III with the assistance of the Senior Municipal Attorneys are designated as the attorneys who will be primarily providing the Interim Civil Legal Services to the City pursuant to this Agreement.
- 6.5 **Performance of Services:** White Peterson agrees to perform all of the services and work set forth in this Agreement in a timely, efficient, and professional manner in accordance with the terms of this Agreement and in compliance with existing laws, ordinances, rules, and/or regulations of any applicable regulatory authority or governmental body.
- 6.6 **Non-Exclusive Agreement:** White Peterson acknowledges that this Agreement shall not be interpreted to limit the City's authority to retain the services of outside legal counsel to perform any legal services, whether as a result of the City's need for special expertise or otherwise.
- 6.7 **Insurance:** For purposes of this Agreement, White Peterson will carry professional liability insurance with coverage limits over \$1,000,000.00 per occurrence. Certificate of proof of insurance will be provided to the City.

**SECTION 7
GENERAL PROVISIONS**

- 7.2 **Binding Effect:** This Agreement shall be binding upon the heirs, estates, personal representatives, successors, and assigns of the parties.
- 7.3 **Choice of Law:** This Agreement will be interpreted in accordance with the laws and statutes of the State of Idaho. Venue for any legal action will be in Blaine County, Idaho.
- 7.4 **Notices:** Any notice under this Agreement shall be in writing and shall be treated as duly delivered if the same is personally delivered or deposited in the United States mail, certified, return receipt requested, postage prepaid, and properly addressed as follows:

<p>City: Mayor City of Kuna City Hall 751 W. 4th Street Kuna, Idaho 83634</p>	<p>White Peterson: Wm. F. Gigray, III White, Peterson, Gigray, & Nichols, P.A. 5700 East Franklin Road, Suite 200 Nampa, ID 83687</p>
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- 7.5 Paragraph Headings:** The paragraph headings of this Agreement are for clarity in reading and not intended to limit or expand the contents of the respective paragraphs.
- 7.6 Partial Invalidity:** Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law. If a provision of this Agreement is prohibited by or invalid under applicable law, it shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.
- 7.7 Waiver:** The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referenced in this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege.
- 7.8 No Assignment by White Peterson:** White Peterson shall not sell, assign, or transfer all or any portion of its interest in this Agreement at any time.
- 7.9 Handwritten Provisions:** Handwritten provisions inserted in this Agreement, and initialed by the parties in ink, shall control all typewritten provisions in conflict therewith.
- 7.10 Entire Agreement:** This Agreement supersedes all prior agreements between the parties with respect to its subject matter, and constitutes (along with the other documents referred to in this Agreement) a complete and exclusive statement of the terms of the Agreement between the parties with respect to its subject matter.
- 7.11 Execution and Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original Agreement, but all of which shall be considered one instrument.
- 7.12 Amendments:** This Agreement may not be amended, modified, altered or changed in any respect whatsoever, except by further agreement in writing duly executed by the parties.

CITY OF KUNA

By: _____
Joe Stear, Mayor

ATTEST:

Chris Engels, City Clerk

**WHITE, PETERSON, GIGRAY, &
NICHOLS, P.A.**

By: _____
William F. Nichols, Managing Director

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SCHEDULE A
HOURLY RATES

	<i>\$ Per Hour Rate</i>
Senior Municipal Attorneys	\$180.00
Shareholder Attorneys	\$175.00
Of Counsel Attorneys	\$175.00
Associate Attorneys	\$150.00
Municipal Legal Assistants	\$90.00