

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
MINUTES
Tuesday, September 18, 2018**

6:00 P.M. REGULAR CITY COUNCIL

1. *Call to Order and Roll Call*

COUNCIL MEMBERS PRESENT:

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

CITY STAFF PRESENT:

Chris Engels, City Clerk
Bob Bachman, Public Works Director
Bobby Withrow, Parks Director
Wendy Howell, Planning & Zoning Director
Jared Empey, City Treasurer
Lisa Holland, Economic Development Director
Jace Hellman, Planner II

2. *Invocation:* None

3. *Pledge of Allegiance:* Mayor Stear

Consideration to Amend the Agenda

*(Council must move to amend the agenda per IC 74-204(4)(b))
(Timestamp 00:00:42)*

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 request on Tuesday, September, 2018.

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.

Council President Buban-Vonder Haar moved to amend the agenda to 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., and to clarify purposes of the Executive Session so it would read, “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.” Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

4. Consent Agenda: ALL OF THE LISTED CONSENT AGENDA ITEMS ARE ACTION ITEMS
(Timestamp 00:02:25)

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

C. Alcohol License

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

D. Resolutions

I. 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.

**Council President Buban-Vonder Haar moved to approve the Consent Agenda. Seconded by Council Member McPherson. Approved by the following roll call vote:
Voting Aye: Council Members Christensen, Buban-Vonder Haar, and McPherson
Voting No: None
Absent: Council Member Cardoza
Motion carried 3-0-1**

5. Community Reports or Requests:

- A. Kuna Rural Fire District Levy – Bud Beatty, Kuna Rural Fire District
(Timestamp 00:03:03)

Bud Beatty, Kuna Rural Fire District, 2390 N Locust Grove, Kuna, Idaho 83634, presented the levy increase that would be on the November ballot and stood for questions.

Mayor Stear commented only having 1 station and 1 crew that could only handle 1 call at a time had long been an issue for Kuna Fire. Luckily they had mutual aid and automatic aid agreements but it was a delayed response and it would be better to have 2 crews ready to go at any time. He thanked Mr. Beatty.

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
(Timestamp 00:06:45)

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).

Planner II Jace Hellman presented the application and staff report. He stood for questions.

Jane Suggs, WHPacific Inc., 2141 W. Airport Way, Suite 104, Boise, Idaho 83705, represented the applicant and reviewed their request. She thanked Council for looking at the appeal and design review as a separate issue.

Rob TeBeau, The Architects Office, 499 Main Street, Boise, Idaho 83702, discussed the design review aspects of this project and stood for questions.

Ms. Suggs summarized the presentation and requested approval. She stood for questions.

Council Member Christensen asked about the distance between the 29 foot buildings and the single story homes. He was concerned about the single story homes' privacy.

Ms. Suggs did not have the information with her but gave a rough estimate of what she thought it was and explained they had planned for that accordingly. They were

also being very sensitive about lighting and were open to providing whatever landscaping was necessary along that fence as well as changing the plans for windows on the southern side.

Mayor Stear opened the public hearing.

Support:

Marcellus Clark, 396 E Chapparosa Drive, Kuna, Idaho 83634, neighbored the subdivision in question. He noted there were varying opinions on the project in the community. He worked in the design community and had a project that would be going to the design review committee the following month. Based on his experience in the design community and recognizing that someone owned that property and their rights, with them developing within the approved uses and codes, he was not opposed to the project and welcomed residential development there. Others had suggested commercial development on that property. He did not want a liquor or convenience store ending up there and believed this project was one that would bring the best capital gain. He supported the project but recognized the concern regarding the density and the impact of future growth on Linder and Hubbard. He also addressed concerns regarding a drop in home values. Based on his experience and education he felt it might only affect the home values of a couple properties.

David M. Burke Senior, 2764 N Matterdale Avenue, Kuna, Idaho 83634, was in favor of moving Kuna forward as a community. He felt Mr. Clark stated the issue very well and had some good points. He thought the proposed plan was a good plan but was a bit over crowded. He reviewed some consequences of overcrowding and asked that council look at the size of the project in conjunction with entry and exit, privacy, and emergency services. They did not want to build animosity or negativity. They wanted to move forward positively but with enough emergency services to do it in a safe manner. He stood for questions.

Against:

Micaele Williams, 193 E Wythburn Street, Kuna, Idaho 83634, stated there was a reason the Planning & Zoning Committee voted 4-1 in favor of the home owners. He discussed the coming high school and the increased traffic that would come with it and the other issues their subdivision was already dealing with. He was not against Kuna expanding but he was against an apartment building being put in. He was fine with houses or a senior center as originally planned. The subsequent changes that came about were never communicated to them. The development did not affect the majority of the subdivision, only those adjacent to the park and Linder so it was their fight. The Planning & Zoning Commission agreed and Ada County Highway District acknowledged this plan was a no go. He expressed safety concerns and felt just because they met the requirements of Kuna's laws didn't make it right. He asked if Council would want that by their house. No matter how many trees they put up it would still be in direct line of sight of his house. He asked that Council consider that.

Kris Wainwright, 244 E Whitbeck, Kuna, Idaho 83634, noted Planning & Zoning denied the application based on density and other issues and concerns, specifically the right turn in and right turn out. The only way ACHD approved this. There are no other ways to get an entrance into that property. He expressed concerns regarding privacy, lack of parking, and current problems with the park. He discussed the many changes to the plans and that none of them really fixed the problems. He suggested making the space a tech park and why that was a good alternative. He stood for questions.

Connie Morrison, 9565 S Linder Road, Meridian, Idaho 83642, expressed concern regarding traffic. She asked that Council consider how bad it already was and what adding these extra vehicles would do. She stood for questions.

Terry Williams, 580 E Sienna Creek, Kuna, Idaho 83634, stated he did not need to reiterate what was said in previous testimony but added he had seen things like this go up in residential neighborhoods and they destroyed those neighborhoods. The place would be in shambles in less than 5 years. He was concerned about the entrance and exit, traffic, and home values as well. He stood for questions.

Tim McKay, 445 E Taper Court, Kuna, Idaho 83634, was a member of the Home Owners Board and was speaking on their behalf. He expressed concern regarding green space. There were a lot of buildings on a parking lot with nowhere else for them to go except the neighborhood park. They were going to de-annex from the neighborhood association but decided against that because then they would have no control over the association or the park. They had asked for help with upgrading the park such as lighting and other things to make it safer and more useable. Those things were ignored. The most consideration the home owners group got was the statement that the developer might build a gazebo at the park if they weren't required to build a gazebo on the property itself. He also reiterated concerns regarding the entrance and exit to the complex and the developer's lack of investment in the community.

David Coker, 205 E Wythburn Street, Kuna, Idaho 83634, liked the small town feel and expressed concerns regarding traffic and felt the location was wrong for this type of development. He reiterated previous statements regarding the number of people this would bring to the area and the decrease in property value. He stood for questions.

Helene Wolfgram, 1901 W Hubbard Road, Kuna, Idaho 83634, had lived on her corner for 25 years. She discussed the growth that had occurred in that time. She invited those that proposed this to spend some time on the intersection to see the traffic that was already there. She shared her concerns regarding parking and traffic. Ms. Wolfgram felt there had to be another type of development that could go in on that corner that would not increase the traffic to the capacity that they were proposing. She was also concerned about the buildings possibly being purchased in the future and having separate owners.

Joan Fractman, 124 E Chapparosa Court, Kuna, Idaho 83634, lived right by the soccer field and most of her property was open. She did not mind the children coming through to play on the field but was worried about people cutting through her yard when the complex went in. Due to the parking issue, people would park on her cul-de-sac and cut through her yard because it was literally one of the closest places to that building. She did not feel safe with that. There would also be so many people parked in the cul-de-sac there would not be enough parking for those who lived there. She reiterated statements made about the entrance and exit and added that Planning & Zoning stated over and over this was a density issue and having 8 units was not in keeping with the flavor of the Kuna community and she agreed with that. She stood for questions and thanked Council for hearing the testimonies.

Neutral: None

Rebuttal: None

Jane Suggs reviewed the distances from the units, fencing, and houses. She addressed the concerns regarding the entrance and exit. The driveway was a full driveway with left and right turns and ACHD had no concerns regarding this.

Ms. Suggs explained the measures taken to resolve the concerns regarding the dumpster, trash, and odors. She also addressed concerns regarding parking and traffic.

As for the upkeep of the property, Ms. Suggs stated the complex was part of the Chapparosa HOA and would pay fees to the HOA. However, they would also have a sub HOA due to the extra items that would need to be maintained. The sub HOA would ensure the property was kept up even if it had multiple owners. Ms. Suggs also reviewed the discussion they had with the Chapparosa HOA and what they would be contributing to the HOA.

In response to the statement that this was the wrong type of development for the location, she explained why they felt it was exactly the right kind of development. She also explained traffic was not an issue with the experts and they were providing more parking than was required. She shared the CCNRs of the Chapparosa subdivision and pointed out it stated the HOA, Architectural Control Committee, and any homeowners in Chapparosa had no authority over Lot 8 Block 1 and reviewed the specifics of that limitation. She felt the project met the design review requirements in Kuna City Code and felt they provided enough information to show that. In the next hearing they would show how the preliminary final plat met all the zoning codes and comprehensive plans and why it was the best project for the location. She stood for questions.

Council Member Christensen asked about the modification recommended by ACHD to their policy. He knew ACHD loved what they saw and had no traffic concerns but was asking her to speak to the modification.

Ms. Suggs explained the need for the modification to provide access to the property.

Council President Buban-Vonder Haar moved to close the public hearing. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

(Timestamp 01:13:11)

Council President Buban-Vonder Haar reviewed the specifications of the request before Council and what should be considered in approving a design. She stated the Planning & Zoning Commission erred because they did not comply with City Code in providing specific reasons for denying the application and it did appear the application did comply with City Code as it related to design review. She asked for discussion.

Council Member Christensen wanted to look at landscaping and brought up the concerns regarding the building height of 29 feet.

Council President Buban-Vonder Haar stated her house was 29 feet and that was normal for a two-story home. In City Code the height restriction for a two-story residence was 30 feet.

Planning & Zoning Director Wendy Howell confirmed the height restriction.

Council Member Christensen reviewed the concerns regarding parking and traffic including the policy modification made by ACHD staff for the development. The policy was in place for a reason and he was concerned about how this would impact traffic and safe parking for that location.

Council President Buban-Vonder Haar responded ACHD would have to grant a variance regardless of what was put in that location. She felt the variance would be an inappropriate reason to deny the application because then nothing could be built there. Also, City Code required 1.5 parking spots per dwelling. She struggled with what kind of authority they would have to require more parking if they were already meeting the code.

Council Member Christensen replied that was a fair assumption but it was no secret that when there were 32 separate families living there, there would be more than 1.5 cars per family at some point in time and there was nowhere for them to go.

Council President Buban-Vonder Haar asked if there was anyone from Planning & Zoning or ACHD that could speak to the reasoning behind the 1.5 parking spaces.

Ms. Howell believed that was a national standard and as far as she was aware all municipalities used that.

Council Member McPherson stated, in regards to traffic, something had to be done to allow access to whatever was going to be built there. The traffic generated by a business in that location would be way greater than this apartment complex. He was torn by the 1.5 parking spaces per unit and explained his hesitation. He also commented this would provide affordable housing for someone who did not have the ability to have a house but he did not like anything going there because nothing was a good fit for traffic.

Council President Buban-Vonder Haar asked if the vote would have to be unanimous that evening to approve the appeal and design review.

Ms. Howell explained Council would need to vote to either uphold the Planning & Zoning Commission's denial, conditionally uphold their denial, or overrule their decision to deny the project and if they overruled their decision that would be approving the design review.

City Clerk Chris Engels asked the legal representation in the front row to chime in on any direction for the vote; whether they need the full Council of 4 or if it could be 3 with 2 plus 2 and then 1.

Bill Gigray III, P.A., 5700 E Franklin Road, Nampa, Idaho 83687, was there for an item later on in the agenda and represented other cities in similar matters. When an ordinance or statute referenced a vote of the full Council they believed that meant all Council, not just those who were present. His recommendation was to take a vote with all of them there.

Council discussed whether or not to make a favorable or non-favorable motion and how to go about making the motion. They decided they wanted to hear from ACHD who was present.

Mr. Gigray stepped up to recommend reopening the public hearing if they were going to take more testimony on certain issues and that they had the license to continue this if they needed more time to review or more information.

Mayor Stear added that Council could also table the issue to a date certain if they wanted more information.

Council President Buban-Vonder Haar moved to reopen the public hearing. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

(Timestamp 01:37:26)

David Cochran, ACHD, 3775 N Adams Street, Garden City, Idaho 83714, stood for questions.

Council Member Christensen asked what the standard was for driveway access from a major intersection.

Mr. Cochran explained the policy would typically call for a 330 foot offset on a road like Hubbard however their policy did allow for staff to provide for a variance in a situation like this where if they did not allow for the 12% offset the property would not functionally have any access.

Council Member Christensen asked about the right in, right out access restriction.

Mr. Cochran replied ACHD was maintaining the right to restrict access to right in, right out if and when a round-about or other intersection improvement took place at Linder and Hubbard.

Mayor Stear added that was actually kind of common.

Council Member Christensen asked if they had denied all Linder access.

Mr. Cochran would have to look into the background on Linder but either way it did not meet the ideal offset.

Mayor Stear invited the applicant to make a rebuttal.

Jane Suggs, the applicant's representative, did not have a rebuttal but added that the next hearing would help clear up some of the issues with the design review. She asked that they go through to the next hearing before tabling or deferring to another date.

Council discussed tabling the decision or ruling on everything together.

Mr. Gigray recommended Council table to a date certain if they were going to continue it. He also recommended they be very clear as to whether or not they would be taking more testimony. They could also recess this public hearing and reconvene it after the next public hearing.

Council President Buban-Vonder motioned to recess the public hearing for Cases No.s 18-01-A and 18-12-DR until after the next public hearing. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

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

(Timestamp 01:44:20)

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).

Planner II Jace Hellman presented the application and staff report. He stood for questions.

Council President Buban-Vonder Haar asked about the average density for multi-family within Kuna.

Mr. Hellman did not have an average density but density was determined by zone.

Jane Suggs, WHPacific Inc., 2141 W. Airport Way, Suite 104, Boise, Idaho 83705, represented the applicant and thanked Council for allowing this hearing to go on in the hopes of clarifying some of the issues that were still concerning to the them. She reviewed the history of the project and their request for subdivision approval with the condition added to move the trash enclosure from the south east corner to the south west corner. She noted they agreed to meet all the conditions of approval and stood for questions.

Mayor Stear opened the public hearing.

Support:

David M. Burke Senior, 2764 N Matterdale Avenue, Kuna, Idaho 83634, thanked Council for listening to them. He was not opposed to the project but was asking for the plans to improve by reducing the number of units. He also explained why he felt they should pay 32 HOA fees instead of 8. He stood for questions.

Against:

Micaele Williams, 193 E Wythburn Street, Kuna, Idaho 83634, provided pictures of the ongoing issues at the park for Council to look at. He was concerned that they were still unsure where the developers stood with the park and what problems the additional use would bring. He was adamant that an apartment complex should not go in.

Kris Wainwright, 244 E Whitbeck, Kuna, Idaho 83634, lived 1 house over from the park. He was speaking as a proxy for an additional 6 other homeowners and they were all against this plan in its entirety. They also submitted an additional list of 55 names to Planning & Zoning that did not want this at all. That was a little over a quarter of the neighborhood. He talked about traffic impact concerns regarding the high school as well as the large number of homes in the area. He was also concerned about crime rates going up.

Council President Buban-Vonder Haar explained in order for them to say no they had to have grounds to do so. She asked what they were saying was wrong with their application that was non-compliant or what they were saying should go in there.

Mr. Wainwright understood they met the legal requirements and was not arguing that. He was looking at it from a safety point of view and this was not safe. He was concerned about crime and car accidents.

Council President Buban-Vonder Haar stated they were not allowed to consider crime because it was a discriminatory reason.

Mr. Wainwright elaborated on the traffic safety concerns. He was looking at this from a density point of view.

Council President Buban-Vonder Haar wanted to know what they were specifically asking for.

Mr. Wainwright wanted to see something done with that property but it needed to be a lower density.

Council Member McPherson agreed with Mr. Wainwright about traffic concerns but Council was not the authority on traffic; ACHD was and they approved this plan. He explained why their hands were tied even though personally he would like to see a lower density. He further explained no matter what went in to that lot, unfortunately, the traffic would probably be the same and they did not have a say with the traffic aspect of this.

Mr. Wainwright asked what recourse they as homeowners had when they had people parking in their neighborhood.

Mr. Wainwright and Council discussed the technicalities of parking spaces and standards being met.

Terry Williams, 580 E Sienna Circle, Kuna, Idaho 83634, listened to everything that had been said so far and the fact that they can't legally say no when they have met all this criteria. He referred to an earlier comment regarding the loss of approximately 14% in home values. In his calculations that added up to about

\$28,000.00 per house. He also discussed the parking issues and reiterated that just because they met the requirements did not make it right.

Joan Fractman, 124 E Chapparosa Court, Kuna, Idaho 83634, stated that when the application was denied by the Planning & Zoning Commission they talked about common area. She talked about keeping the flavor of the neighborhood and not having animosity between groups. This project was leading away from that because the groups had not met enough and come to a meeting of the minds. It was not a legal factor but it was a human factor. She felt things needed to be resolved between both groups before moving forward with the project for the sake of everyone. That had to be taken into consideration. She suggested if they went down in density it would really make things different for traffic patterns and upkeep. She also wanted the HOA and the developer to get back together to see what they could hammer out. Everyone had to be reasonable. She stood for questions.

Connie Morrison, 9565 S Linder Road, Meridian, Idaho 83642, lived right across from the project. She reiterated concerns regarding traffic and safety. She asked that council consider those issues.

Helene Wolfgram, 1901 W Hubbard Road, Kuna, Idaho 83634, stated they had participated over the last 25 years in testifying when these developments had gone in and were proposed. She felt the developers knew just how to dot their i's and cross their t's to be within the legal ramifications of approval and understood that Council's hands were tied as to how they denied an application. This put the citizens of Kuna in a real tough position because they were tired of testifying and expressing their concerns because they were the ones being slapped in the face when everything was approved on a continual basis. She was glad she was not in Council's position to have to make the decision but she thought it was very important that Council take into consideration the opinions and concerns that the citizens of Kuna had. They were losing their small country feel. Development would continue and Kuna would run into Meridian eventually. She spoke to the growth she had seen in the Boise area and reiterated her desire for Council to take into consideration the concerns of the citizens.

Tim McKay, 445 E Taper Court, Kuna, Idaho 83634, expressed concern regarding the 5 bus stops on Linder and Hubbard within 1 mile of this project with kids on the side of road that were barely visible and it was multiple buses picking these kids up. He did not think that was a consideration when this project was originally presented. He also thought the growth that had occurred since the project was originally presented should be considered as well. He felt the separate HOAs was a messy situation. He also thought the question of the typical approved density was an important question to have answered before moving forward.

Council President Buban-Vonder Haar reiterated Planner II Jace Hellman's response regarding that question in the last public hearing.

Mr. McKay suggested looking at and revising some ordinances as a City.

Council President Buban-Vonder Haar noted they were working on rewriting the Comprehensive Plan because of feedback from citizens. She wanted them to know that regardless of the outcome of the evening they were heard and the City was trying to make changes to allow them to be more responsive to what folks were asking for.

Mayor Stear thanked her for mentioning that.

Wendy Chapman, Northern Star Management, 5660 E Franklin Road, Nampa, Idaho 83687, currently managed the Chapparosa Ridge HOA along with 25 other HOAs in the Treasure Valley. She was in opposition to the Kelleher Subdivision No. 2 Plat as it was being presented. The lot was currently platted as part of the Chapparosa Ridge Homeowners Association. She argued that the intention of the original Kelleher No. 1 and Chapparosa Ridge development was for single family dwellings and subdividing Lot 8, Block 1 was not the intention when the subdivision was originally developed. This was evident by the fact that the current CCNRs of Chapparosa Ridge HOA did not address multi-units or dwelling in any fashion. If the Council did approve the preliminary and final plats of Kelleher No. 2 Chapparosa Ridge would be required to amend their CCNRs to address the challenges of multi-units. She discussed the challenges of multi-family dwellings and their dealings with the developer. They were fully aware of the need to develop successful projects but also were keenly aware of what happened to a project or community when not developed in the right way. She stated putting 8 multi-unit buildings next to single family residential subdivision was not the best for community growth. Approving this development was not in the best interest of the homeowners of the Chapparosa Ridge HOA and she respectfully asked that the approval of this application be tabled until further needed preparation or negotiations could be achieved by the Chapparosa Ridge HOA or perhaps even an informal mediation would be appropriate.

Council Member Christensen asked if there were talks going on between the HOA and Kelleher.

Ms. Chapman replied yes and reviewed their last meeting with Jane Suggs. She added that she was not at the Planning & Zoning meeting but from her understanding this was not the plan that was presented and denied at that meeting.

Council President Buban-Vonder Haar stated it was what was in the packet.

Someone in the audience stated it had changed multiple times.

Ms. Chapman noted the items that had changed.

Neutral: None

Rebuttal:

Jane Suggs addressed the comments made and the concerns of the citizens. She stated there was a lot of discussion on what could happen but they needed to get back to the requirements being met. She thanked Council and stood for questions.

Council President Buban-Vonder Haar asked how appropriate it would be for Council to get involved with the HOA issue.

Bill Gigray III, P.A., explained HOAs were specific jurisdictions; agreements by property owners to abide by certain terms and conditions. However, if the HOA was a requirement of City approval by a prior action it may have some relevance in regards to the playout of the HOA and its jurisdiction over future development within that area that was previously approved. Without reviewing the HOA specific revisions and the history of the City's actions there was no way of really knowing how relevant that really was. They did have the authority in a subdivision process to continue a hearing and ask for additional information on matters and bring it back for further study. If they wanted to encourage some kind of dialogue between the developer and property owners, based on his years of experience, they would need very specific issues that dialogue was tied to or else it could become a free for all and a waste of time. Well defined issues addressed by people of good conscience could get results but broad brush strokes were difficult for anyone to deal with. He suggested if Council wanted to go that route they table the matter to a date certain.

Council discussed whether they were ready to vote or if they needed to table the matter.

Council Member Christensen requested to table the matter. He did not feel it was necessary to take more testimony.

Council President Buban-Vonder Haar moved to recess the public hearing for Case No. 18-01-CPF until the October 2, 2018 Council Meeting at 6:00 PM at which time deliberation would continue but and no additional testimony would be received. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

Council President Buban-Vonder Haar moved to recess the public hearing for Cases No.s 18-01-A and 18-12-DR until the October 2, 2018 Council Meeting at 6:00 PM at which time deliberation would continue but and no additional testimony would be received. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

Council President Buban-Vonder Haar thanked everyone for showing up and being involved.

Terry Williams, 580 E Sienna Circle, Kuna, Idaho 83634, asked for clarification on the rules regarding Council's ability to approve or deny an application.

Council President Buban-Vonder Haar explained the process.

Kris Wainwright asked what recourse the Homeowners would have if the application was approved.

Council President Buban-Vonder Haar replied they would go back to the City.

Mr. Wainwright asked who would they as homeowners petition to get a reduction in their taxable value.

A member of the audience stated they would go through the accessor's office and the County Commissioners.

Mayor Stear added there were also contradicting studies about the effect of multi-family units on home values.

Mr. Gigray recommended that Council put on the record that the last 2 speakers that asked questions of the Council would not be considered by this Council in anyway with regards to the merits of the pending matter that was just before them with a public hearing. He believed the questions were generic and not about the specific item but it should still be noted.

All of Council agreed not to use the questions in consideration of the pending matters.

- 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
(Timestamp 03:11:55)

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).

Planning & Zoning Director Wendy Howell presented the request and stood for questions.

Mayor Stear opened the public hearing.

Support: None

Against: None

Neutral: None

Rebuttal: None

Council President Buban-Vonder Haar moved to close the public hearing. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

Council President Buban-Vonder Haar moved to approve a modification of the Development Agreement (DA) for Springhill (06-11-DA). Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

Council took a 5 minute break.
(Timestamp 03:14:35)

7. Business Items:

- A.** Domestic Violence Awareness Month Proclamation – Mayor Stear
(Timestamp 03:14:36)

Mayor Stear read the proclamation and commented the Women & Children's Alliance was a really good program that helped a lot of people.

- B.** Approval to expend up to \$6,000.00 of Park Impact Fee Funds – Bobby Withrow, Parks Director ACTION ITEM
(Timestamp 03:16:31)

Parks Director Bobby Withrow presented the request and stood for questions.

Council Member Christensen asked where the properties were located.

Mr. Withrow did not want to disclose that information at that time.

Council President Buban-Vonder Haar moved to approve the expenditure of up to \$6,000.00 of Park Impact Fee Funds for the purpose of getting potential properties appraised so the City could expand its park system to keep up with the current growth. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

- C. Consideration to approve Resolution No. R75-2018 – Wendy Howell, Planning & Zoning Director ACTION ITEM
(Timestamp 03:17:55)

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.

Planning & Zoning Director Wendy Howell stood for questions.

Mayor Stear reviewed a previous discussion they had with Council regarding this matter.

Council President Buban-Vonder Haar asked if they were overdue for another meeting.

Ms. Howell responded they were getting close and updated Council on the status of the project.

Council President Buban-Vonder Haar moved to approve Resolution No. R75-2018. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

- D. Consideration to approve Resolution No. R76-2018 – Mayor Stear ACTION ITEM
(Timestamp 03:19:27)

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.

Mayor Stear explained the purpose of the agreement.

Council President Buban-Vonder Haar thanked Bill Gigray III for his council that night.

Bill Gigray III introduced Bill Punkoney to Council. Mr. Gigray and Mr. Punkoney would run point for the City's legal services. He reviewed the agreement.

Council President Buban-Vonder Haar moved to approve Resolution No. R76-2018. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

8. Ordinances:

- A. Consideration to approve Ordinance No. 2018-34 ACTION ITEM
(Timestamp 03:22:52)

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

Council President Buban-Vonder Haar moved to waive three readings of Ordinance No. 2018-34. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

Council President Buban-Vonder Haar moved to approve Ordinance No. 2018-34. Seconded by Council Member McPherson. Approved by the following roll call vote:

Voting Aye: Council Members Christensen, Buban-Vonder Haar, and McPherson

Voting No: None

Absent: Council Member Cardoza

Motion carried: 3-1-0

9. Mayor/Council Announcements:

(Timestamp 03:24:17)

Mayor thanked Council President Buban-Vonder Haar and her husband for hosting the Mayor's Table when he was unable to.

Mayor Stear mentioned he did not have to worry too much because he had an amazing staff that would step up and take care of anything.

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

(Timestamp 03:25:27)

(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.

Council President Buban-Vonder Haar moved to adjourn to Executive Session Pursuant to Idaho Code 74-206(1)(b) and (f). Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Cardoza absent.

Executive Session Kuna City Council Meeting of September 18, 2018 – The Executive Session, pursuant to Idaho Code Section 74-206 (1) (b) and (f) to consider the evaluation, of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent of the City of Kuna and to communicate with legal counsel for the City to discuss the legal ramifications of and legal options for pending litigation, and controversies not yet being litigated but imminently likely to be litigated commenced at 9:36 p.m. with the Mayor and members of the City Council and Wm. F. Gigray, III legal counsel for the City. Council President Buban-Vonder Haar was appointed as secretary to take the minutes of this executive session. Information was then exchanged among the Mayor, members of the City Council and Wm. F. Gigray, III legal counsel on the subjects of the executive session. No action was taken. A motion was then made by Council President Buban-Vonder Haar and seconded by Council Member McPherson to come out of executive session which motion passed unanimously at 10:00 p.m.

Open session resumed and Mayor Stear reported that information was received in relation to the announced purposes for going into executive session and no action was taken by the Council Members.

Signed By: 

Briana Buban-Vonder Haar, *Council President*, Secretary of Executive Sessions.

11. Adjournment: 10:02 P.M.



Joe L. Stear, Mayor

ATTEST:


Chris Engels, City Clerk

Minutes prepared by Ariana Welker, Deputy City Clerk
Date Approved: CCM 10.02.2018

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✓ Helene Woffgram
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CITY OF KUNA

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SIGN-UP SHEET

September 18, 2018 – City Council Public Hearing

Case Name: **18-01-A (Appeal) – Kelleher Sub No. 2**

Case Type: 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).

Please print your name below if you would like to present oral testimony or written exhibits about this item to the Commission or City Council.

IN FAVOR	NEUTRAL	IN OPPOSITION
<input checked="" type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> <u>MARCELLUS CLARK</u> Print Name <u>396 E. CHAPPAROSA DR.</u> Print Address <u>KUNA ID 83634</u> City State, Zip	<input type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> _____ Print Name _____ Print Address _____ City State, Zip	<input checked="" type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> <u>MICAELE WILLIAMS</u> Print Name <u>193 E WYTHBURN ST</u> Print Address <u>KUNA ID 83634</u> City State, Zip
<input checked="" type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> <u>David M Burke</u> Print Name <u>2704 N Wmthorpe</u> Print Address <u>Kuna ID 83634</u> City State, Zip	<input type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> _____ Print Name _____ Print Address _____ City State, Zip	<input checked="" type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> <u>Wendy Chapman</u> Print Name <u>Northern Star Motel</u> Print Address _____ City State, Zip
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<input checked="" type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> <u>TERRY WILLIAMS</u> Print Name <u>580 ESTIENNA CREEK</u> Print Address <u>KUNA ID</u> City State, Zip	<input type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> _____ Print Name _____ Print Address _____ City State, Zip	<input checked="" type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> <u>Connie Morrison</u> Print Name <u>9565 S Linder</u> Print Address <u>Meridian ID</u> City State, Zip

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David Cohen
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Exh. by Mr. Williams - shown to Council during pub-hearing

























CITY OF KUNA

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SIGN-UP SHEET

Case Name: Springhill Subdivision

Case Type: Release the Development Agreement

Please print your name below if you would like to present oral testimony or written exhibits about this item to the City Council.

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_____ Print Address	_____ Print Address	_____ Print Address
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_____ Print Name	<u>Alicia Cotterell</u> Print Name	_____ Print Name
_____ Print Address	<u>2838 N. RockCliffs</u> Print Address	_____ Print Address
_____ City State, Zip	<u>Kuna ID 83634</u> City State, Zip	_____ City State, Zip
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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:
 - 1. 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

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

D. Resolutions

- I. 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