

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, December 4, 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
Council Member Warren Christensen - Absent
Council Member Greg McPherson

CITY STAFF PRESENT:

Chris Engels, City Clerk
Bobby Withrow, Parks Director
Wendy Howell, Planning & Zoning Director
Jared Empey, City Treasurer
Lisa Holland, Economic Development Director
Paul Stevens, City Engineer
Troy Behunin, Planner III

2. Invocation: Dean Herring, South Valley Baptist Church

3. Pledge of Allegiance: Mayor Stear

4. Consent Agenda: ALL OF THE LISTED CONSENT AGENDA ITEMS ARE ACTION ITEMS
(Timestamp 00:00:41)

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, November 20, 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 Clerk to make appropriate arrangements to ensure accessibility to the meeting.

B. Accounts Payable Dated November 29, 2018 in the Amount of \$228,041.57

C. Resolutions

1. Consideration to approve Resolution No. R91-2018

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO APPROVING A PERFORMANCE BOND BY TOLL BROTHERS, INC., FOR THE WINFIELD SPRINGS PHASE 2 FOR UNCOMPLETED WORK INCLUDING LANDSCAPING, FENCING AND STREET LIGHTS PURSUANT TO THE TERMS OF THIS RESOLUTION.

2. Consideration to approve Resolution No. R92-2018

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO APPROVING THE “*PROFESSIONAL SERVICES AGREEMENT*” WITH JUB ENGINEERING, INC. FOR CITY OF KUNA PARKS DEPARTMENT BUILDING PARKING LOT DESIGN; AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND THE CITY CLERK TO ATTEST TO SAID SIGNATURE.

D. Findings of Fact and Conclusions of Law

1. Consideration to approve the Findings of Fact & Conclusions of Law for Case No. 18-04-AN (Annexation) & 18-03-S (Preliminary Plat) for Lugarno Terra Subdivision

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

5. Executive Session:

A. Adjourn to Executive Session pursuant to:
(Timestamp 00:01:13)

Idaho Code Section 74-206 (1)(f)

(f) To communicate with the City Attorney to discuss the legal ramifications of and legal options for a controversy not yet being litigated but imminently likely to be litigated.

Council President Buban-Vonder Haar moved to convene to Executive Session pursuant to Idaho Code Section 74-206(1)(f) to communicate with the City Attorney to discuss the legal ramifications of and legal options for a controversy

not yet being litigated but imminently likely to be litigated and Counsel will act as clerk. Seconded by Council Member McPherson. Approved by the following roll call vote:

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

Voting No: None

Absent: Council Member Christensen

Motion carried 3-0-1.

Mayor Stear indicated he, Council, and William F. Gigray, III, legal counsel for the City, would remain for the executive session and that Mr. Gigray would serve as special clerk to take the minutes of the Executive Session.

Executive Session City Council Regular Meeting of December 4, 2018 – The City Council, upon a unanimous roll call vote, convened into the Executive Session, pursuant to Idaho Code Section 74-206(1)(f) to communicate with the City Attorney in order to discuss the legal ramifications of and legal options for a controversy not yet being litigated but imminently likely to be litigated. The executive session was convened at 6:03 p.m. In attendance, were Mayor Joe Stear, Council President Briana Buban-Vonder Haar, Council Member Richard Cardoza and Council Member Greg McPherson and Council Member Warren Christensen was absent and City Attorney Wm. F. Gigray, III. Wm. F. Gigray, III was appointed as special clerk to take the minutes of this executive session. Information was then provided by Wm. F. Gigray, III to the Mayor and the attending Members of the Council regarding the subject of the executive session. At 6:33 p.m. Council President Briana Buban-Vonder Haar moved and Council Member Greg McPherson seconded to come out of executive session and to reconvene into open session which motion passed unanimously.



Wm. F. Gigray, Clerk of Executive Sessions.

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 City Council.

6. Community Reports or Requests:

None

7. Public Hearings: (6:00 p.m. or as soon thereafter as matters may be heard.)

- A. Continuation of Public Hearing and consideration of applicant's motion to continue the public hearing for additional evidence and consideration of draft of Findings of Facts and Conclusions of Law for Case No. 18-02-S (Preliminary Plat) Madrone Heights Subdivision ACTION ITEM
(Timestamp 00:03:39)

City Clerk Chris Engels gave a report on the evidence that was filed and included in the Council Packet.

Mayor Stear noted that the Findings of Fact were prepared for consideration by Council and advised that Council consider the motion to continue.

Council President Buban-Vonder Haar clarified for the record that she was not at the last meeting but she would be participating in the hearing. She had familiarized herself with the prior record and would continue to familiarize herself with the records of proceedings if the motion passed. Given Council Member Christensen's absence that evening and his involvement to that point, she felt it was appropriate to grant the motion to continue.

Council President Buban-Vonder Haar moved to grant the motion to continue and to again open it to the receipt of evidence including but not limited to evidence regarding health and safety issues, sewer capacity and build out of the proposed subdivision, and traffic safety issues and build out of the proposed subdivision with the continued public hearing being held at the Regular City Council Meeting on Tuesday, January 15, 2019 and directing staff to re-notice and republish that public hearing. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Christensen was absent.

- B. *Public Hearing tabled from November 20, 2018 to December 4, 2018 – Applicant has withdrawn their request at this time.*

Case No. 18-01-S (Preliminary Plat) Whisper Meadows Subdivision will be placed on the miscellaneous calendar.

(Timestamp 00:07:06)

Mayor Stear noted the applicant had withdrawn their request, Case No. 18-01-S (Preliminary Plat) for Whisper Meadows Subdivision, and it would be placed on the miscellaneous calendar.

- C. Public Hearing and consideration to approve Case No. 18-03-V (Variance) for Desert Hawk No. 4 Subdivision - Troy Behunin, Planner III ACTION ITEM
(Timestamp 00:07:35)

David Crawford, B & A Engineers, requests to reduce the landscape buffer width requirements for the west side of their property along Ten Mile Road. The request is

to reduce the landscape buffer width from 20 feet down to 8 feet and apply the landscaping with the rights-of-way toward the landscape buffer width requirement. This site is located at southeast corner of Ten Mile Rd. and Sunbeam St, within Section 26, T2N.R1W (R5070501800).

David Crawford, B & A Engineers, 5505 W Franklin Road, Boise, Idaho 837705, explained the applicant's request and stood for questions.

Planner III Troy Behunin noted because this was a variance from City Code staff would rely on Council's decision. He did not have anything else to present other than a recent communication from ACHD. He provided a copy of the email to each Council Member and submitted it to be added to the record as Exhibit B-4. It was something ACHD wanted Council to be aware of before the vote. Mr. Behunin read the communication thread into the record and stood for questions.

Mayor Stear opened the public hearing.

Support: None

Against: None

Neutral:

Cindy Geison, 1363 S. Ash Street, Kuna, Idaho, 83634, did not have an opinion but did have some questions. She did not receive a notice but she was on 2 and half acres and could see the construction going on. She noticed some conflicts in the paperwork regarding reducing things and was a little confused. She was concerned that City Code be followed without exceptions when possible because she had seen that cause a lot of trouble in other communities. Her main concern was they wanted a 5 foot sidewalk with a 4 or 5 to 9 foot buffer to the road and she wondered if the reduction would affect any of that part of the road and parking on the road. She discussed the other subdivisions, school, and properties along the road and the lack of consistency in road width. Consistency would be nice. She asked that Council make sure code was followed and noted the reason for the request so they could build the kind of houses they wanted. She felt they could still do it and preferred they didn't change Kuna ordinance.

Noel Hudon, 847 S. Ash Street, Kuna, Idaho, 83634, lived right behind the subdivision. He did not really have a fight on School Street but he was concerned about setting a precedence for other subdivisions to follow in the future. He didn't know where things were going with all the subdivisions. Kuna had grown a lot and he was dealing with a lot of other issues. The subdivision had been gracious and had opted to help out in areas where those in charge of Ada County had over sight. The subdivision, even though they weren't forced to, double sleeved the pipe that ran down Sunbeam over his well for sewer. He thought that was very nice but this wasn't about how nice the subdivision was; it was about precedence.

Mayor Stear asked Mr. Behunin to address the question about notification.

Mr. Behunin replied, without knowing exactly where the property was, he couldn't tell them. He could find out though. Staff did send out notices in excess of the state requirement which was 300 feet and he believed they went to at least 400 feet, maybe 450 feet.

Council President Buban-Vonder Haar recommended they show Ms. Gieson the map in the packet at some point to determine where her property was and if she was excluded in the notifications.

Mr. Behunin did not recall the inconsistencies in the packet regarding the buffer.

Council President Buban-Vonder Haar pointed it out it was on page 18 of 27 of item 7C or overall packet page 136. It was in a memo from Paul Stevens in the second paragraph, "Requests a variance to reduce the buffer strip on Ten Mile Road from 30' to 22' equating to an 8' buffer strip width reduction." She noticed that was a bit confusing too and asked if it was a 22-foot buffer or an 8-foot buffer.

Mr. Behunin replied it was a 20-foot buffer that was required. It was being reduced by 12 feet down to 8 feet.

Council President Buban-Vonder Haar addressed ACHD's concerns. She asked if they did widen that road would there be no sidewalk.

Mr. Behunin responded it was not indicated what would happen with the sidewalk, whether it would be removed entirely or pushed closer to the backyard fences.

Council President Buban-Vonder Haar noted in the drawing it looked the sidewalk was already hugging very closely to the fences.

Mr. Behunin stated there was a high likelihood that it would just be moved. There would be about 96 feet overall from right-of-way to right-of-way. This applicant was providing 48 feet on the east side and 48 feet had already been provided on the west side. He was unaware of anything ACHD was planning that would be wider than 96 feet.

Council President Buban-Vonder Haar clarified they were talking about from where the road stops and the curb begins to basically where the fence backs up onto the lots was an 8-foot space.

Mr. Behunin believed that was correct.

Council President Buban-Vonder Haar was concerned that when ACHD widened the road there would be no sidewalk.

Mr. Behunin deferred to the ACHD representative present at the meeting.

Council President Buban-Vonder Haar thought that if the ACHD representative could answer their questions that would be awesome. She noted a letter from ITD was included in the packet and asked if it was customary for ACHD to weigh in something like this.

Mr. Behunin explained in the email it was stated ACHD did not typically comment on variance requests for city requirements. He felt ITD was just answering everything that came to them but, where this was a city requirement, ACHD would not normally have commented except for the reasons stated.

Council President Buban-Vonder Haar requested the ACHD representative comment on whether or not ACHD would be widening the road, how wide lanes would be, and if it seemed like they would be without sidewalk.

David Cochran, Senior Transportation Planner with ACHD, stated if they did widen the road, they wouldn't lose the sidewalk on both sides. They defined road as the entire sidewalk to sidewalk corridor. They did not have a plan to widen the road in their capital improvements plan or 5-year work plan but they were preserving the right-of-way because it was certainly possible they would widen it at some point.

Council President Buban-Vonder Haar asked how many feet wide a lane was.

Mr. Cochran responded typically 11 feet.

Council President Buban-Vonder Haar thought it sounded impossible to widen the road and widen the sidewalk.

Mr. Cochran explained with the 96 feet of right-of-way being preserved it would be unlikely the sidewalk would be impacted. However, it was possible the lane could go into the landscape buffer but he did not have enough information to provide them with a sound yes on that one way or the other.

Council President Buban-Vonder Haar was not sure of the dimensions or how to interpret the whole 96/48 feet of right-of-way and what that meant for this project.

Mr. Cochran assumed the email referenced the far edge of the sidewalk as far as where the roadway might go but he would need more information in order to say one way or the other.

Council Member Cardoza thought the developer had an agreement with ACHD allowing them to encroach on ACHD's right-of-way but he wasn't seeing it in the packet.

Mr. Crawford explained they had a landscape plan they had submitted to the City and the Highway District. Prior to requesting the signature, they had applied for an agreement but he did not know if it had been recorded yet, they didn't usually get that information until they went into the Ada County Surveyor for their plat review. It was a common occurrence and he had never had one denied and they actually require it. They anticipated that if it had not been recorded it would be recorded shortly and they had not received any negative response from the Highway District to their application.

Rebuttal:

Mr. Crawford review the discussion on the right-of-way and the buffer width. He explained the plans for the buffer and plans with ACHD. They presumed with any expansion the sidewalk would remain where it was. He also noted traffic concerns coming out onto Ash Street and that they were not improving Sunbeam all the way to Ash Street. They were doing water, sewer, and pressurized irrigation extensions about 1,800 lineal feet north and east of their development which would go through an Ash Street corridor. They were improving about 600 and change feet along the north boundary so Ash Street and Sunbeam would not connect. It would remain open. He hoped that helped out with traffic accessibility to Ash Street.

Mr. Crawford further explained the reduction was about 900 square feet and it would have an impact on the home values. Having a diversity of home styles increased the value of the development and the taxes collected by the City. Lastly, in regards to setting new precedence, the precedence was set many years prior by Sutter's Mill. He reviewed the Sutter's Mill variance and the lay out of the buffer strip and the roadway area for this project, Desert Hawk Subdivision. He noted between the buffer strip and the curb line there was 23 feet of dirt that they were landscaping. There was more than adequate room there for widening without removing or moving the sidewalk.

Mayor Stear refereed to a 3-page letter from B&A Engineers to the City of Kuna. The back page was a picture of a road with landscape. He asked if that was what this would look like or if it was the area at full width.

Mr. Crawford explained it was a picture of Sutter's Mill to show what was out there. He reviewed the difference between Sutter's Mill and their project.

Council President Buban-Vonder Haar asked for clarification on where the 20 feet of dirt was.

Mr. Crawford replied their landscape buffer was 8 feet from the back of the lots, the curb line for the street that would be built was another 22 feet to the west.

Council President Buban-Vonder Haar asked for more clarification because the only illustration made it look like Ten Mile Road was right there and then there was 8 feet and then the back of the lots.

Mr. Crawford went over the details of the map.

Council President Buban-Vonder Haar asked why they needed a variance if there was that much space.

Mr. Crawford stated the variance was requested because the technicality was the buffer strip dedicated in its own lot had to be provided according to Kuna City Code. They were required to dedicate 96 feet of right-of-way and with the plan presented to them that night left them with 8 feet of a landscaped buffer that would be a common lot maintained by the HOA and 22 feet of blank space from that point to the curb line or edge of the road. Through their landscape plan they showed what would be placed in that area.

Mayor Stear clarified the sidewalk would be behind the landscaping.

Mr. Crawford said it would be road, landscaping, sidewalk, and more landscaping.

Council President Buban-Vonder Haar still felt the sidewalk seemed pretty hugged up to the back-fence line.

Mr. Crawford replied that was the case. It was consistent with what was across the street which the intent of that, as he interpreted it, was to keep it out of the way of any future right-of-way.

Mayor Stear clarified the Sutter's Mill image showed what they were asking for in terms of width but not landscaping.

Mr. Crawford said that was correct.

Council Member Cardoza had no objection to the variance but wanted to make sure they had a copy of the license agreement with ACHD for the City's protection.

Mr. Crawford replied they would provide that when it was completed.

Planning & Zoning Director Wendy Howell added the license agreement generally came in with the construction plan so they weren't worried about.

Council Member Cardoza wished it had been included with the variance request.

Ms. Howell explained it couldn't be provided because it wasn't done yet but it could be listed as a condition of approval.

Mr. Crawford went over the process with the license agreement and the timeline for getting it.

Council Member Cardoza stated they were asking Council to make a variance with the assumption they would get the agreement. He wanted to see the agreement to make sure the variance was proper.

Mr. Behunin stated if they made it a condition of approval the City would not issue a signature on the final plat and neither would ACHD. In fact, the final plat would have to go back before Council for approval so they could check that the condition was met then before approving the final plat.

Council reviewed the image and what the proposed lay out was.

Council President Buban-Vonder Haar was satisfied they would not have an issue with the sidewalk or landscaping being disturb if the road was widened. The request appeared to comply with the comp plan and city code.

Council President Buban-Vonder Haar moved to conclude the receipt of evidence. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Christensen was absent.

Council President Buban-Vonder Haar moved to approve Case No. 18-03-V (Variance) for Desert Hawk No. 4 Subdivision with the conditions of approval as listed and the condition that they get an ACHD License agreement. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Christensen was absent.

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

8. Business Items:

- A. Appeal Hearing for Enrique's Mexican Restaurant EDU Calculations continued from August 21, 2018 ACTION ITEM
(Timestamp 00:59:16)

Mayor Stear reviewed the issue.

Council president Buban-Vonder Haar moved to open the Appeal Hearing. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Christensen was absent.

Mayor Stear asked if Council approved the procedure and process for the appeal hearing as set forth in the packet.

Council Member McPherson moved to approve the Appeal Hearing Procedure and Process. Seconded by Council President Buban-Vonder Haar. Motion carried 3-0-1. Council Member Christensen was absent.

Mayor Stear requested identification of who would be appearing for staff and who would be appearing for the appellant.

Paul Stevens, City Engineer, and Chris Engels, City Clerk would be appearing for staff and Ana Paz and Enrique Contreras would be appearing for Enrique's Mexican Restaurant.

Mayor Stear asked if everyone agreed with the exhibits.

The appellant and staff had nothing to add.

Mayor Stear advised the appellant and staff that this Appeal Hearing would be conducted under a rule of evidence, that is not formal, centered upon what is relevant to this Appeal: Relevant Evidence is defined by the Idaho Courts Rules of Evidence at Rule 401 as follows: "Relevant Evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. He gave direction to each person offering testimony to state their name and address and provide evidence if there was anything further. He asked that staff give their presentation regarding the evidence provided.

City Engineer Paul Stevens stated there had been quite a bit of discussion regarding EDUs. Public Works Director Bob Bachman asked him to take over reviewing this since Mr. Stevens was not familiar with the history behind this and would provide an unbiased look. He asked questions of various people to derive answers. He also received a 340-page packet from City Clerk Chris Engels. All that information culminated in his memo that was included in Council's packet which he then reviewed for Council. He stated there were about 2 to 2.2 EDUs left to be taken care of. He noted the memo of the previous City Engineer, Gordon Law, and presented Council with 3 options. Solution 1 was to honor Gordon Law's commitment and charge 2 EDUs or they could charge Enrique's for the whole difference or they could monitor Enrique's water use for one year and compare to an average EDU and work out a fee from that. He stood for questions.

Council President Buban-Vonder Haar noted on the first page he mentioned 3 of the 5 sold EDUs they could account for were credited to Cowgirls but when they were doing the chart, they were only assigning 1.5.

Mr. Stevens explained one was for Cowgirls as it was then and one was for Cowgirls Event Center which was no more as that space had been taken over by Enrique's.

Council President Buban-Vonder Haar concluded that was how they accounted for the slight difference between the appellants calculation of 1.7 and Mr. Stevens calculation of 2.2 which he suggested rounding down to 2.

Mr. Stevens agreed.

Ana Paz, Enrique's Mexican Restaurant, stated they had no information to add to what they presented in August. They only asked that they be treated equally and they felt it was fair that they owe something. She asked that they go with solution 1 as provided by Mr. Stevens.

Mayor Stear briefly reviewed the discrepancies in the records and the difficulties those created. It would not be fair to charge someone else for fees that other people should have paid so that took that argument off the table and brought them down to doing the best they could to figure out what EDUs would have been required for all of the uses that were there. That was how they got to where they were at.

Council Member Cardoza asked what the difference was between solution 1 and solution 2.

Mr. Stevens explained solution 2 would charge Enrique's about 9 EDUs and solution 1 would charge them 2 EDUs.

Council President Buban-Vonder Haar moved to close presentation of evidence and proceed to deliberation. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Christensen was absent.

Council President Buban-Vonder Haar felt solution 1 seemed imminently fair and it would be unfair of the City to change the rules mid game. Based on the fact that the appellants received assurances from the previous City Engineer at the beginning of their project and relied on those assurances, perhaps to their detriment, in undertaking their project and redeveloping that great site, it would be unfair to pull the rug out from under them and charge them many times more than what they were told. It made sense to her, with the calculations they provided and the calculations provided by the City Engineer, to charge 2 EDUs for the difference in use.

Council Member McPherson agreed. He felt solution 1 was the only answer. Ms. Paz and Mr. Contreras had taken an OK building and made it into a very great thing and to charge them for the short falls of whoever was in charge of such things in the past was criminal. Their process to move there probably took a little longer than they wanted but they had the word of City Engineer Gordon Law and he felt that should be honored.

Council President Buban-Vonder Haar pointed out they would potentially be setting a dangerous precedence if they did not consider prior uses. As Economic Development Director Lisa Holland noted in her comments, if they treated existing

commercial the same as brand new construction it offered no incentive for folks to fix up and use the buildings downtown. It made sense on a more global scale of making sure they treated those properties appropriately considering the uses that had been in there and not penalizing folks for insufficient record keeping the City may have engaged in over the years.

Council Member Cardoza thought something they needed to address, and Council President Buban-Vonder Haar and Ms. Holland hit on it, they don't seem to have consistency on older buildings. That needed to be worked on ASAP. He felt Gordon Law did a good job and he was comfortable with 2 EDUs as being assessed as outstanding.

Council discussed how to move forward.

Council Member Cardoza asked if the Sewer Service Fee Payment Agreement needed to be addressed in a motion stating any fees paid be applied to the 2 EDUs so there was not a forfeiture of any of that money.

City Attorney William Gigray explained, given Council's decision that evening, he would discuss with Public Works and the City Engineer about that particular fact. Since it was an agreement issue, they could come back with how that needed to be handled separately unless the Mr. Stevens believed it should be part of the motion.

Mayor Stear's recommendation was to treat that separately.

Council President Buban-Vonder Haar moved to grant in part the appeal setting an assessment of 2 EDUs and instruct staff to prepare Findings of Fact and Order of Decision in accordance with the discussion they had which would be on the December 18, 2018 Regular City Council Meeting Agenda and to continue the public hearing until December 18, 2018 at which time they would make a decision. Seconded by Council Member McPherson. Motion carried 3-0-1. Council Member Christensen was absent.

Ms. Paz asked for clarification on what was happening with the agreement.

Mayor Stear explained it would be treated separately so this could be handled and they could look through the agreement to figure it out.

Council President Buban-Vonder Haar stated the intent as she understood it was, they would not try to affect that contract because they were not charging the 10 or 11 EDUs and any payments they made would be credited toward the 2 EDUs they would be assessing.

Mayor Stear stated there was a request for a quick break so they recessed for 5 minutes.

9. Ordinances:

- A. Third reading and consideration to approve Ordinance No. 2018-37 ACTION ITEM
(Timestamp 01:29:00)

AN ORDINANCE OF THE CITY COUNCIL OF KUNA, IDAHO AMENDING TITLE 7, CHAPTER 3 SECTION 6 TITLED EXCLUSIVE RESERVATIONS TO ALLOW FOR EXCLUSIVE RESERVATION OF CERTAIN AMENITIES, AND AMENDING TITLE 7, CHAPTER 3 SECTION 7 TITLED APPLICATION FOR RESERVATION ADDING A RESERVATION TIMEFRAME, AND AMENDING TITLE 7, CHAPTER 3 SECTION 8 TITLED VACATION OF PARKS UPON REQUEST OF CITY TO INCLUDE ADDITIONAL AMENITIES, AND PROVIDING AN EFFECTIVE DATE.

Council President Buban-Vonder Haar thanked staff for entertaining her preference for the use of the word “titled” instead of “entitled”.

Consideration to approve Ordinance

Consideration to approve Summary Publication of Ordinance

Council President Buban-Vonder Haar moved to approve Ordinance No. 2018-37. Seconded by Council Member McPherson. Approved by the following roll call vote:

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

Voting No: None

Absent: Council Member Christensen

Motion carried 3-0-1.

Council President Buban-Vonder Haar moved to approve Summary Publication of Ordinance 2018-37. Seconded by Council Member McPherson.

Motion carried 3-0-1. Council Member Christensen was absent.

10. Mayor/Council Announcements:

(Timestamp 01:30:48)

Council President Buban-Vonder Haar liked the Gobble til you Wobble on the sign. She encouraged more bad puns and jokes and stuff like that and offered to supply some if needed.

Mayor Stear said they could use a list.

Council President Buban-Vonder Haar suggested accepting submissions from the public and giving them a small prize if theirs was picked.

Mayor Stear asked who came up with it.

City Clerk Chris Engels said it was Jessica Reid. She had a creative mind and was lots of fun.

Mayor Stear added Ms. Reid supplied him with a list and he picked Gobble til you Wobble.

Ms. Engels reminded Council of the events that would be happening that Saturday.

Council President Buban-Vonder Haar like the lights in the park.

Mayor Stear reminded everyone of Candy Canes with the Mayor.

11. Executive Session:

B. Adjourn to Executive Session pursuant to:
(Timestamp 01:32:46)

Idaho Code Section 74-206 (1)(e)

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.

Council President Buban-Vonder Haar moved to adjourn to Executive Session pursuant to Idaho Code Section 74-206 (1)(e) to consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations. Seconded by Council Member McPherson. Approved by the following roll call vote:

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

Voting No: None

Absent: Council Member Christensen

Motion carried 3-0-1.

Mayor Stear indicated he, Council, legal counsel, Lisa Holland, Economic Development Director, and City Treasurer Jared Empey, would remain for the executive session and there would be no decision in or after the Executive Session.

Executive Session City Council Regular Meeting of December 4, 2018 – The City Council, upon a unanimous roll call vote, convened into the Executive Session, pursuant to Idaho Code Section 74-206 (1)(e) to consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations. The executive session was convened at 8:10 p.m. In attendance, were Mayor Joe Stear, Council President Briana Buban-Vonder Haar, Council Member Richard Cardoza and Council Member Greg McPherson and Council Member Warren Christensen was absent, City Attorney Wm. F. Gigray, III, Economic Development Director Lisa Holland, and City Treasurer Jared Empey. Information was then provided regarding the subject of the executive session and no action was taken. At 8:30 p.m. Council President Briana Buban-Vonder Haar moved and

Council Member Greg McPherson seconded to come out of executive session and to reconvene into open session which motion passed unanimously.

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

12. Adjournment: 8:32 P.M.



Joe L. Stear, Mayor

ATTEST:



Chris Engels, City Clerk



Minutes prepared by Ariana Welker, Deputy City Clerk
Date Approved: CCM 12.18.2018



CITY OF KUNA

751 W. 4th Street • Kuna, Idaho • 83634 • Phone (208) 922-5274
Fax: (208) 922-5989 • www.Kunacity.Id.gov

SIGN-UP SHEET

December 4, 2018 – Council, Continued Meeting

Case Name: Pre Plat – Madrone Heights Sub; Request by Kevin McCarthy, KM Eng.

Case Type: Applicant requests approval to subdivide approximately 39.50 acres (previously zoned R-6) into 206 single home lots, an additional 27 common lots, and one shared driveway. A Design Review application for the landscaping for the 27 common lots accompanies this application. The address is 2030 W. Kuna Road, Kuna Idaho, and is located near the NWC of Ten Mile and Kuna Roads, in Section 22, T 2N, R 1W, APN #: S1322438400.

Case No.: 18-02-S – Preliminary Plat for 206 new Home lots in an R-6 zone.

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

IN FAVOR		NEUTRAL		IN OPPOSITION	
<input type="checkbox"/> <u>Testify</u>	<input type="checkbox"/> <u>Not Testify</u>	<input type="checkbox"/> <u>Testify</u>	<input type="checkbox"/> <u>Not Testify</u>	<input type="checkbox"/> <u>Testify</u>	<input type="checkbox"/> <u>Not Testify</u>
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SIGN-UP SHEET

December 4, 2018 – Commission, Public Hearing

Case Name: Desert Hawk No. 4 – Variance; David Crawford, with B & A Engineers

Case Type: Applicant requests approval of this Variance request, in order to reduce the landscape buffer width requirements for the west side of their property along Ten Mile Road. Applicant requests to reduce the landscape buffer width from 20 feet down to 8 feet and apply the landscaping with the rights-of-way toward the landscape buffer width requirement. This site is located at southeast corner of Ten Mile Rd. and Sunbeam Street.

Case No's: 18-03-V (Variance)

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

IN FAVOR	NEUTRAL	IN OPPOSITION
<input type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> Noel Audon Print Name 847 S. Ash Ave Kuna Print Address Kuna ID 83634 City State, Zip	<input checked="" type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> Cindy Giesen Print Name 1363 S. Ash Ave Print Address Kuna ID 83634 City State, Zip	<input type="checkbox"/> <u>Testify</u> <input type="checkbox"/> <u>Not Testify</u> _____ Print Name _____ Print Address _____ City State, Zip
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Troy Behunin

From: Christy Little <Clittle@achdidaho.org>
Sent: Monday, December 03, 2018 4:24 PM
To: Troy Behunin
Subject: RE: Deserthawk No. 4 Sub Landscape Variance Request

Troy,

I apologize, I did not get to this as intended. I was concerned when I read the applicant's material that there was some finger pointing toward ACHD requirements about the amount of right-of-way required on Ten Mile. This engineer has worked on multiple plats on Ten Mile Road, and is familiar with ACHD policy. The plat submitted with the initial application showed ROW dedication of 48-feet, as was noted in the ACHD report. Some time later the engineer changed the drawings to reflect something less, which was addressed during the review of the civil drawings for the first final plat.

If the City allows the applicant to landscape the right-of-way, and for that to count toward landscaping requirements, please note that when ACHD widens the road, the landscaping will be removed, and that may make for a difficult situation with homeowners.

Thanks,
Christy

From: Troy Behunin <tbehunin@kunaaid.gov>
Sent: Thursday, November 29, 2018 4:34 PM
To: Christy Little <Clittle@achdidaho.org>
Subject: Deserthawk No. 4 Sub Landscape Variance Request

Christy,
Sorry that I didn't ask earlier... did you have a response you would like me to include?
Troy

From: Christy Little [mailto:Clittle@achdidaho.org]
Sent: Wednesday, October 31, 2018 4:00 PM
To: Troy Behunin <tbehunin@kunaaid.gov>
Subject: RE: Deserthawk No. 4 Sub Landscape Variance Request

Troy,
ACHD does not typically comment on variance requests for City requirements; however, information provided by the applicant's engineer seemed to have factual errors pertaining to ACHD. I'm putting together a response to provide to you.
Christy

From: Troy Behunin <tbehunin@kunaaid.gov>
Sent: Tuesday, October 30, 2018 5:20 PM
To: Christy Little <Clittle@achdidaho.org>; Bob Bachman <bbachman@kunaaid.gov>; Paul Stevens <PStevens@kunaaid.gov>; Cable One Business <Adam.ingram@cableone.biz>; Cable One t.v. <cheryl.goettsche@cableone.biz>; Central District Health Dept. CDHD <lbadigia@cdhd.idaho.gov>; COMPASS <cmiller@compassidaho.org>; DEQ <Alicia.martin@deq.idaho.gov>; Eric Adolfson <eadolfson@compassidaho.org>; MAlandt@idahopower.com; Idaho Power <ahawkins@idahopower.com>; Intermountain Gas <robert.miller@mdu.com>; Intermountain Gas <bryce.ostler@intgas.com>; Ken Couch: Idaho Transportation

12/4/18
Read into
Reconciled
By T. Behunin

Department <ken.couch@itd.idaho.gov>; Kuna Police Chief <so4217@adaweb.net>; Kuna Postmaster - Marc C. Boyer <marc.c.boyer@usps.gov>; Mike Borzick <mborzick@kunaid.gov>; Terry Gammel <tgammel@kunafire.com>; TRitthaler@boiseproject.org

Subject: Deserthawk No. 4 Sub Landscape Variance Request

Evening Greetings Everyone,

Please review the packet included with this email and return relevant comments about the services your agency provides to Kuna's Planning and Zoning office, to be used in the public hearing scheduled for this project. Please submit comments to our office on or before COB on November 28, 2018.

This project is scheduled for **Tuesday, December 4, 2018** to go to our Council. If you need additional time to provide comments, please let our office know ASAP.

Thanks,

Troy

Troy Behunin
Planner III
City of Kuna
751 W. 4th Street
Kuna, ID 83634
TBehunin@Kunald.Gov

CONFIDENTIALITY NOTICE

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