

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, July 7, 2020

6:00 P.M. REGULAR CITY COUNCIL

*Due to social distancing protocol,
the **Council Chambers Audience Occupancy Capacity is 15.***

Social Distancing will be required.

***The first 15 persons** who appear, in addition to Mayor, City Council, and staff, will be allowed in Council Chambers. All other persons may access the meeting via Live Streaming.*

Live Streaming Instructions:

*Members of the public may watch the July 7, 2020 Council Meeting via Facebook Live. Live feed will start at **6:00 P.M.** on the City of Kuna Idaho Facebook page linked below:*

<https://www.facebook.com/CityofKunaIdaho/>

For questions please call the Kuna City Clerk's Office at (208) 387-7726.

Public testimony will be received on the cases listed under Public Hearings within this Agenda. The instructions and options available for public testimony are listed below.

APPLICANT/PUBLIC ORAL PUBLIC HEARING TESTIMONY PROCESS:

Written – Up to noon the day of the Public Hearing

1. Submit any below stated option **prior to noon the day of the Public Hearing meeting**. Late submissions will not be included.
2. Submit testimony via our website on the [Public Testimony Form](#).
Kunacity.id.gov > Doing Business > Forms and Applications > Frequently Requested Applications and Forms > ONLINE Public Testimony Form
3. Submit testimony via email to PublicHearingTestimony@KunaID.gov
4. Submit via mail to:
City of Kuna
Attention: City Clerk's Office
PO Box 13
Kuna, ID 83634

Oral – Via electronic call during the Public Hearing

1. Submit request **no later than noon the day of the Public Hearing meeting**.
2. Email PublicHearingTestimony@KunaID.gov
✓ Your name

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 (208) 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.

- ✓ Address
 - ✓ Phone Number you will be calling from to give testimony
 - ✓ Email Address
 - ✓ Date of Public Hearing
 - ✓ Case number or Identification of Public Hearing
3. Watch your email for a reply email with the information to join the meeting electronically. (Check your spam/junk folder as a precaution)
 4. Follow the dial in information.
 5. Call into the virtual lobby a minimum of 5 minutes prior to the meeting.

Oral – In Person Testimony during the Public Hearing.

All persons wishing to testify must, state their name and residential address. No person shall speak until recognized by the Mayor. A three (3) minute time limit will be placed on all testimonies.

*If you have questions regarding public testimony,
please call the Kuna City Clerk’s Office at (208) 387-7726.*

1. Call to Order and Roll Call

COUNCIL MEMBERS PRESENT:

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

CITY STAFF PRESENT:

- Chris Engels, City Clerk
- Jared Empey, City Treasurer
- Bill Gigray, City Attorney
- Wendy Howell, Planning & Zoning Director
- Bobby Withrow, Parks Director

2. Invocation: None

3. Pledge of Allegiance: Mayor Stear

**4. Consent Agenda: ALL OF THE LISTED CONSENT AGENDA ITEMS ARE ACTION ITEMS
(Timestamp 00:00:59)**

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. Regular City Council Meeting Minutes Dated June 16, 2020
- B. Accounts Payable Dated July 1, 2020 in the amount of \$612,195.50
- C. Resolutions:

~~1. Resolution No. R38-2020 Moved to 7 B~~

~~A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO, APPROVING AND ADOPTING AN AMENDMENT TO THE CITY OF KUNA PERSONNEL POLICY MANUAL SECTION 6.19 REGARDING CELL PHONE USE WHILE DRIVING; DIRECTING THE HUMAN RESOURCES DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.~~

- 2. Resolution No. R39-2020

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO DECLARING CERTAIN PERSONAL PROPERTY SURPLUS AND DIRECTING THE REMOVAL OF SAID PROPERTY.

D. Final Plats:

- 1. Case No. 20-09-FP (Final Plat) for Delores Subdivision
- 2. Case No. 20-11-FP (Final Plat) for Ledgestone Subdivision No. 1
- 3. Case No. 20-12-FP (Final Plat) for Journey's End Subdivision No. 3

Council Member Cardoza had a question about the wording of item 4C1. He asked if it should be pulled from consent or if they should just discuss it.

Mayor Stear said to move it to item 7B. The Budget Workshop would become item 7A.

Council Member McPherson moved to remove item 4C1 from the consent agenda and approve the rest of the published consent agenda. Seconded by Council Member Christensen. Motion carried 3-0-1. Council President Buban-Vonder Haar was absent.

5. External Reports or Requests:

- A. Ada County Prosecutor's Office Budget Presentation - Robert Bleazard, Deputy Prosecutor
(Timestamp 00:03:21)

Deputy Prosecutor Robert Bleazard, 4493 S. Cruzatt Lane, Boise, Idaho 83716, supervised the magistrate the division of the Ada County Prosecutor's Office. That division was responsible for prosecuting all the misdemeanors, infractions, and code enforcement in Kuna. They had been privileged to have the contract with Kuna for many years and enjoyed working with Kuna as well as the law enforcement partners at the Ada County Sheriff's Office.

Mr. Bleazard shared the Prosecutor's Office was requesting \$54,000, the same amount requested the previous year, for prosecution with the upcoming fiscal budget. The proposed contract had not made it to Council yet but it would shortly. The request was based on cases they prosecuted over the previous fiscal year. Under contract, they continued to handle each misdemeanor case from screening and charging decisions all the way through the entire pendency of the misdemeanor matter. They also handled all the infraction cases. As in many of the past years that they prosecuted cases for the City of Kuna, the services included an entire team of prosecutors. There were approximately 10 attorneys in his division. He said approximately because there were a number of interns and they had the resources of the entire office to help them, which included more than 70 attorneys. It also included legal assistance, victim witness coordinators, restitution coordinators and their in-house investigators. The amount requested did not include infraction or misdemeanor cases resolved without their involvement, cases submitted to their office but declined, probation violation hearings, or contempt proceedings. Although they did handle probation violation and contempt proceedings for the cases even after they went through sentencing and disposition. In the past fiscal year, they prosecuted 249 total cases for the City of Kuna.

Mr. Bleazard stated s specific benefit of their services was their on-call prosecutor available to law enforcement partners, including the City of Kuna, for misdemeanor offenses. He reviewed a recent supreme court decision and case, State V. Clark, which changed that significantly. It required law enforcement officers to obtain arrest warrants to make any arrest on a misdemeanor case that did not occur in the officer's presence. The two main categories affected were driving under the influence cases where the officer didn't see that person drive and the other type was domestic violence cases which typically didn't occur in law enforcement presence. They were reported and the officer had to show up later. Before this decision, officers were allowed by Idaho law to make arrests on those misdemeanor cases. It was an exception to the constitution carved out by statute. The supreme court said that statute was unconstitutional and the officers needed to get warrants. The on-call services were what allowed officers to have a resource to get a warrant even in the absence of the officer having seen the conduct. The officer, day or night, could call the on-call prosecutor who would call the judge and facilitate the interaction for the arrest warrant. They were honored to provide these services to Kuna. He stood for questions.

Mayor Stear shared his appreciation for the service. It had been a good relationship. He also appreciated that the cost did not go up.

B. Kuna Police Budget Update – Chief Jon McDaniel
(Timestamp 00:09:31)

Kuna Police Chief Jon McDaniel started on a positive note. He shared they had been inundated with community support. There was a bit of a challenge across the country with rule of law and support for law officers and prosecutors. It warmed his heart to have people really supporting them. It meant a lot to the troops. They were proud to serve the community.

Chief McDaniel shared there was a live page that was updated monthly. He would be sharing the link to it with Council later that week. He reviewed the portion of it that was included in the packet. Their call response time was down by 11 seconds. They were happy that was going down as Kuna grew. The goal for across all three of their contracts and incorporated Ada County was to be under five minutes. They were far under that and pleased with those numbers for the most serious Code 3 calls. The next number was the crimes per 1,000 residents. That also continued to go down despite the population going up. The next was the persons crimes which were about the same. They went down a touch. Those were the lewd and lascivious, rapes, aggravated assaults, and felonious type crimes against another person. There were only 201 that year versus 211 the previous year. Property crimes were up but that was expected to go up as the population went up. That was more of the burglaries. It seemed construction thefts were happening in waves. They would get the person caught and prosecuted and those would go down again for a while but, definitely, with all the construction, that was a big part of the property crimes. Society crimes were mostly drug crimes, misdemeanor and felony, as well as DUIs. Those crimes were also going down a touch. That lead him to the budget page.

Chief McDaniel explained this was the first year of the four he had stood before Council that he did not ask for more. He really appreciated the cooperation from Council through this growing process. They had been able to add six and quarter deputies in the last three years and he could not be more thankful. The crime numbers and response times showed how they were doing. The community support was there as well. They were using discretion in a good way. They really were set up for success and that was because of the support Council had given them over the last three years; especially when he had asked for 2 deputies each year. He could not say enough how appreciative they were that they felt they could do their job safely, not just for the citizens but for themselves as well. He thanked them for that. As for the budget, it went up \$57,000. County Commissioners did approve 2% COLA which was the biggest chunk of it. Insurance went up as well. They were up 20 employees. Rent was raised. It had been several years since they had an adjustment in their rent. They were required by the FEDs to enter the NIBRS crime data and, because the numbers for those went up, that went up a little bit. They did decrease their fuel cost for the next year and the shared services credit increased another \$4,000 up to a total of \$192,000. The Sheriff and BOCC would give a credit back for times when they respond to emergencies outside city limits. The South County Deputies did that for Kuna as well. It was a savings they had built in at 7% for that benefit. He stood for questions.

Council Member Cardoza asked, on shared expenses, was there ever a time that both of Kuna's vehicles were out of the City in a shared experience or did they try to keep one back.

Chief McDaniel replied they tried to keep one back. There might be a time, if they were the closest units, dispatch would automatically send the closest units but they had a system in place for whoever got to Kuna first. They made sure Kuna was covered as soon as possible. Even Meridian helped. They constantly watched where deputies went to make sure they had the right coverage and adjusting.

Council Member Cardoza clarified if Kuna sent two vehicles down to Swan Falls the southern vehicle for the county would stay in Kuna.

Chief McDaniel explained two would stay in the area for the next call and two would be sent down to take care of the follow up investigation, that could sometimes take two or three hours, so the Kuna deputies could get back to town.

Mayor Stear assumed the response times were down because they added investigators so officers weren't having to do investigations.

Chief McDaniel said absolutely. The two additional detectives over the last couple years really made a huge difference. When it came time for prosecution there was a lot more required than ever before and it took a lot to prove a case. For them to be able to dot their "I"s and cross their "T"s, which was the expectation in America and the justice system, they were very appreciative. There was a while there where they were just trying to keep their head above water but now, they felt they could be successful and they appreciated it.

6. Public Hearings:

Due to current health precautions associated with the Coronavirus, the City of Kuna is providing alternative ways for the community to submit comments at public hearings. To learn more about the process for written and oral testimony please follow the directions above or call the City of Kuna Clerk's Office at (208) 387-7726.

*Public Hearing continued from June 16, 2020 for additional public testimony and any comments or suggested changes to the Development Agreement from the City Attorney and Consideration to approve Case No. 19-10-AN (Annexation), 19-01-PUD (Planned Unit Development) & 19-06-S (Pre-Plat) & a DA (Development Agreement) for Spring Rock Subdivision – Troy Behunin, Planner III & Dave Yorgason, Ten Mile Creek, LLC (Applicant) ACTION ITEM
(Timestamp 00:18:20)*

Ten Mile Creek, LLC, requests approval for Annexation, Planned Unit Development (PUD), Preliminary Plat, and a Development Agreement. Applicant requests to annex approximately 761 ac. into Kuna City limits, with a variety of zones throughout the project; including R-6 (Medium Density Residential), R-12 (High Density Residential), R-20 (High Density Residential), C-1 (Neighborhood Commercial) and the C-2 (Area Commercial) zones. This is a multi-phased, Master-Planned Development proposing up to 2,274 dwelling units (Single Family [1,886] and Multi-Family [388]). Applicant requests Preliminary Plat approval in order to subdivide approximately 477 of the 761.44 acres into 757 Single family and 136 Multi-family lots, 34 common lots, 7 commercial lots, one school lot and two public facility lots. The remaining lands (approx. 284 ac.) will be developed in the future with separate applications. The project site is in Sections 14, 15, 23 & 24, all in T2N, R1E, near the northeast corner of Cloverdale and Kuna Roads.

Mayor Stear shared there was a request to table this item to the Council Meeting on July 21, 2020. The applicant had a family emergency.

Council Member McPherson moved to move the Public Hearing for the Spring Rock Development to the July 21, 2020 Council Meeting. Seconded by Council Member Christensen. Motion carried 3-0-1. Council President Buban-Vonder Haar was absent.

7. Business Items:

A. Budget Workshop – Jared Empey, City Treasurer
(Timestamp 00:19:25)

City Treasurer Jared Empey reviewed page 1 of the budget packet was a basic look at the General Fund Summary of the last three years with actual, projected for the year, and budgeted for Fiscal Year 21. The underlying detail was in the supporting documents. Property Tax Revenue was expected to increase due to annexations and new construction. They did not plan on taking the 3% increase which would cost about \$96,000. Other revenue would stay about the same or potentially decrease slightly. Building permit revenue would stay about the same as what was expected to come in that year. That year it was projected to come in a little below what they had hoped but better than it could have been granted the circumstances. There were some modest increases to Public Safety from Fiscal 20. Capital Expenditures, money transferred over from the General Fund, was decreasing a little; mainly because they were carrying over a lot of projects. Other expenses included salaries, wages, maintenance, and that sort of thing. Fiscal 21 was projected to be positive and Fiscal 20 was projected to come in a little negative for two reasons; carrying over some projects to Fiscal 21 and building permit revenue coming in a little lower than hoped. Fiscal 2021 included the COLA of 1.26%, essentially just inflation based with the CPI, not taking the 3% increase in Property Taxes, and something that could be seen later on in the year was potentially about \$250,000 being transferred back into Capital Expenses. That was a typical occurrence on a yearly basis. That was the first fund.

Mr. Empey moved on to the Grant Fund on page 8 of 24 of the budget workshop packet. The project expected in Fiscal 21 was the purchase of the Greenbelt. He expected quite a bit more activity in the years following since they were looking at more downtown revitalization but Fiscal 21 would essentially just be that one big project.

Mr. Empey reviewed the Late Comers Fund didn't really change that much. It was on page 9 of 24. It was for reimbursement of oversized lines and different project reimbursements that might be approved by Council. It was one of the City's healthiest funds. He expected it to continue that way as long as healthy building activity continued. A lot of those payments would come in Fiscal 20. The City always paid those out in August so Council would be seeing them at the second August Council meeting. They came out to about \$1.4 million. The next year there would be some modest amounts. The year after that there would potentially be significant ones Council might wish to discuss for reimbursements related to Falcon Crest Subdivision. That was definitely one to keep on the radar given the dollar amounts were fairly large and some of the payment timelines maybe shorter. The payment time period on those; they were looking at five-

year repayment periods on some of their project. Normally the City did ten-year repayment timelines.

Mr. Empey went to page 10 of the budget workshop packet. The Water Fund had been very stable over the last several years. Actual Projected and Budgeted for '20 and '19 looked like it would be very healthy. The carryover was very strong in that fund. The negative amount in that fund was due to high amounts of Capital Expenditures. One of those was a \$750,000 piece related to Falcon Crest. Essentially, in the development agreement the City agreed to construct some water capital improvements. The first installment of that was \$750,000 of a \$2 million project. That was one element that really boosted that amount. Another thing that boosted the capital expenditures in the Water Fund was carrying over a lot of projects from prior years. There were a lot of projects that hadn't been completed that needed to be. Revenue was very stable as well as Capital Revenue. Expenses aside from the capital expenditures were also fairly stable. He gave Council the opportunity to go into the Water Fund capital expenditures but there were no questions.

Mr. Empey reviewed the Sewer Summary on page 13 of 24. He thanked Council for helping staff out with the rate increase on the Sewer Fund. It was something he had looked at since his first week coming on the job. He had seen there was a significant need for a revenue increase in that fund. He thought it would help make that fund healthier and more stable in the future. He thanked Council again. Revenue was projected to increase significantly due to that sewer rate increase. Budgeted '21 was about \$1.2 million higher than 2019. A lot of that was due to the rate study staff presented and ultimately was approved by Council. He thought that would help fill the gap that was created over an eight to ten-year period. Capital Revenues would essentially stay flat. Labor and Benefits – essentially flat. Maintenance and Operations, as the system aged, they were expecting Maintenance and Operations would increase due to some components reaching the end of their life. Capital Expenditures – some of those projects led to the increase in the Sewer Fund. There were a lot of capacity issues they were working with. Public Works did a presentation in which City Engineer Paul Stevens and his staff discussed different capacity issues Kuna could have in the future due to lift stations being over burdened or different segments of town being at capacity. Many of the projects they were proposing were to alleviate some of those problems. Different studies they were proposing to get to the bottom of how to fix a lot of those capacity issues because without them building might have to stop in certain areas or, if it got bad enough, potentially a moratorium on building until the capacity issues could be alleviated. Some of those projects included rehabilitation of the Danskin Lift Station as well as Ten Mile Lift Station for \$500,000 were budgeted items. Others were Hubbard Lift Station, \$35,000, lagoons, redoing liners, basically adding capacity out at lagoons, and the facility out at Swan Falls. A lot of the capital expenditures in that fund were so the City wouldn't have to tell builders they couldn't build. It was important to get ahead of a lot of the issues that could become big problems in the future.

Mr. Empey stated the Irrigation Fund on page 16 was the last of the major funds. It was very stable and he expected it to be stable the next year. An item with the Capital Expenditures was a substantial increase, \$116,000 to \$652,000. There were several

ponds, such as Ashton Pump and Pond for \$400,000. He believed there was also \$100,000 as part of Downtown Revitalization. There were a few big projects that would go into the Irrigation Fund that would make sure different ponds were staying up to par as well as potentially converting old gravity systems that were sometimes a problem in the downtown area to pressurized irrigation. Those were some of the large projects happening in the Irrigation Fund, however, he did not expect as much activity in this fund as the Sewer Fund and Water Fund. He stood for questions.

Council Member McPherson asked how the 1.26% COLA increase was figured. He noticed the police COLA was at 2% but the City's was at 1.26%.

Mr. Empey could not speak for Ada County and how they developed their figures, however, the City's was purely inflation based. Essentially, someone could go out and look at figures of inflation data and averages compiled by the government. One of those was called a CPI, Consumer Product Index, that was compared from May of the previous year to May of that year. That increase was 1.26%. He couldn't remember what the City's COLA was the previous year but that was how he figured it the last couple years and it was how John Marsh had done it. Any questions about how Ada County figured their COLA would have to be directed to Ada County.

Mr. Empey moved on to the Solid Waste Fund on page 19. They had covered the main funds. This was a minor fund. Basically, the City served as a middle man for J&M so the City received about a 10% royalty fee for billing for them. The City kept the 10% and paid J&M their portion on a weekly basis. This fund was a break-even fund and not expected to make significant money. The City's portion could be seen in the General Fund. This fund was not significant as a revenue generator.

Mr. Empey explained the Capital Projects Fund on page 20 was monies transferred over from the General Fund to fund government related projects such as parks related or vehicles for General Fund related activities. In the list of projects there were things like a sinking fund for park restrooms, building out of certain parks not covered by Park Impact Fees, questions about why they may or may not be covered would need to be directed to Parks Director Bobby Withrow, some of those funds were also grant funds. In purchasing the Greenbelt, the City had to pay half the money and the grant paid the other half. The City portion was \$183,000 and the grant portion was \$183,000. A lot of it was parks related and some were like the retail incubator, an economic development project, and some other minor projects. Essentially, looking through anything in Capital Projects, most of it was parks. The largest project, aside from the Greenbelt, was a refresh of Bernie Fisher Park playground equipment. It was \$450,000 to refresh the playground equipment at Bernie Fisher. If Council had any specific questions about that project they should be directed to Mr. Withrow. He stood for questions about the Capital Projects Fund. Something they tried to do was make every fund break even. Sometimes the reason was they had projects that carried over.

Mr. Empey reviewed the Park Impact Fee Fund. It was a fairly healthy fund for constructing parks that needed to be built out due to additional building activity. At the end of the year there would be about \$1.6 million carryover. They should be able to put

together some nice products. He believed the Zamzow Park could be at least partly funded by that so it would be one item they would see come through.

City Attorney Bill Gigray understood the only reason the Park Impact Fee Fund would be in the budget was to be shown as an income item for expenditure for a park project. It was not part of the City's money. It was a trust fund. He assumed that was what they were doing. In regards to what it funded, that was driven by the Capital Improvements Plan for the Park Impact Fee. It identified what facilities were eligible for expenditures out of that fund. The Police Impact Fee would work the same way when that built up and the Chief recommended some expenditures for Capital Improvement in that.

Mr. Empey reviewed the Police Impact Fee Fund on page 23. The estimated accumulation for the end of the year was about \$70,000. It continued to accumulate. Hopefully it continued to do so, so they could put the money to use but, at only \$90 per building permit it would take a while.

Mr. Empey state the last one was the Kuna Urban Renewal District. It was information only so the Council would be aware. Essentially, this fund would be about \$96,000 that would be used for formation costs of the Urban Renewal District. They estimated at the end of the year there would be about \$60,000 remaining of funds that had been approved from prior years. They anticipated they would need an additional \$30,000. The maximum they would permit under that would be \$96,000. It would be on a reimbursement basis only. This would only be sent over to the Urban Renewal District on a reimbursement. For example, if they paid JUB \$20,000 for helping with the formation of the district, they would transfer \$20,000 over later as a grant. That way the costs were covered and they were able to create the district. He stood for questions.

Mr. Gigray asked if the Council intended to reserve the right to take a foregone amount if they did not take their 3% increase in property tax. They would have to draft a resolution reserving that right to take it in a future year. It did not commit them to taking it but, if they didn't, they would forego that right completely. He thought they would want that opportunity or at least to consider it. He would anticipate he would prepare one for Mr. Empey to look at when they got into the budget approval process. It was a new statute that year.

Mayor Stear commented on the Property Tax Relief program. It affected the 3% for emergency services. Kuna contracted with the Sheriff's Department. Ada County was eligible to take that and the Fire District took care of Fire and Medical. Kuna didn't really qualify for that but, Kuna could still provide that same property tax relief by not taking the 3%. He thought it was a good option. He and Mr. Empey had talked about it at length and he thought Kuna was in good shape that year to be able to do that and not impact the tax payers that year. That was how they came to leaving the 3% out. If the community asked about property tax relief from the Governor's Office, technically, Kuna did not qualify for that but was providing the same relief by not taking the 3%.

Council Member Cardoza asked, if Kuna did not qualify for the grants but the Sheriff's Office did, would those grants be included in Kuna's budget that year; prorated to the City of Kuna.

Police Chief Jon McDaniel explained they were still looking into that on their side. They were looking at how it would play out. They were looking for a way they could grab what the Governor put in place for cities like Kuna. He hoped to have an answer soon.

Council Member Cardoza said it seemed unfair they were qualifying because Kuna didn't take it but then the Sheriff would keep it.

Mayor Stear responded they had some discussion on that. There were still some parameters that needed to be worked out. They didn't know exactly how it worked. That was why it wasn't in the budget yet. Some federal dollars cost more than they were worth before taking them. He wasn't sure how it would all play out.

Mr. Gigray had a hunch they were talking about two separate government entities, the county and cities, which were eligible. He clarified Mayor Stear was saying the way that grant worked was if you provided that service, police, fire, and it was your department, you were eligible but, you had to agree not to take a foregone amount. His hunch was the county was eligible because it had police. The Fire District was not a city or county so it wasn't going to benefit. At least that was what it looked like. The County would offset that 3% increase by taking that grant but, the only way this city would benefit from that would be the negotiated contract with the County for the service that was provided by the County since it wasn't Kuna's department. Now, if they could argue, based on the contract for service, that Kuna really did have a department and that it somehow qualified, even though it was a service agreement and they weren't Kuna's employees, Kuna might be able to access part of that. He just didn't know what the regulations were in that regard. It sounded like Mayor Stear had looked into that thus far.

Mayor Stear explained the issue was Kuna contracted with the County. This was for payroll for emergency services. Although Kuna provided the funding for that, Kuna did not actually do the payroll. That was what left Kuna out. They were still having discussions to figure out if they could partner or not and how it was going to play out. There were still things they didn't know but, they knew Kuna did not qualify for it alone.

Chief McDaniel stated the Sheriff was dealing with the BOCC on that exact question. The new relief put them in a new situation they hadn't been in before.

Mayor Stear added it was another one of those benefits that got really complicated. They tried to have districts added because it was cities and counties but he didn't think they had gotten that done.

Mr. Gigray also thought that hadn't been accomplished. Something problematic about it was that it was a quick proposal and it was national. The way fire and police protection were provided through out the country was not all the same. There was some play out and he thought Mr. Empey was doing the right thing, to plan on not having it since that was

the only knowledge they had. The budget could always be adjusted later in the year but the amount of property tax they would take would be declared when they approved the budget.

B. Resolution No. R38-2020

(Timestamp 00:54:35)

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO, APPROVING AND ADOPTING AN AMENDMENT TO THE CITY OF KUNA PERSONNEL POLICY MANUAL SECTION 6.19 REGARDING CELL PHONE USE WHILE DRIVING; DIRECTING THE HUMAN RESOURCES DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

Council Member Cardoza asked about 6.19.2 on page 1 of 3 of 4C1. It said “Any cell phone use while driving is a violation of the law and is strictly prohibited.” Then 6.19.4 said you could use hands free. That seemed to contradict prohibiting any cell phone use while driving.

Mayor Stear was not sure on this. There were discussions on the cell phone ordinance over the past couple of years and the need to have something in there in case of an emergency.

City Clerk Chris Engels could see what he was saying. She suggested 6.19.2 read “any non-hands free”. When they worked on this, the intent was that not to use any hands-on cell phone use. That was what 6.19.2 said but it could be clearer by amending it to say “any hands-on cell phone use while driving”. That was where 6.19.4 would then explain, if it was an emergency and unavoidable and pulling over was not an option, then a hands free option would be an option.

Council Member Cardoza saw a problem in 6.19.5 where employees would have to pay for any liability or fine. They would go back and say it was unavoidable. He asked who decided what was unavoidable. It was very explicit in 6.19.2 that any cell phone use was a violation of the law.

City Attorney Bill Gigray clarified this was not an ordinance; it was a resolution and just the personnel policy. It did not impose an ordinance on the public in general within the boundaries of the city. Also, if there was anything in there about a violation of this policy and personnel would suddenly buy the liability that would result of any kind of an accident as a result of that, it went a little beyond the tort claim law and made him worry a little about the City’s insurance coverage with regards to the fact that if someone was conducting business on behalf of the City and ended up in an accident with some kind of liability, they would want to tender the defense to the insurance carrier and would not want to provide some kind of claim on behalf of the injured party claiming it was somehow outside the scope of their employment. He thought there were some issues associated with that he wanted to be careful with. It ought to be looked at for clarification. Certainly, the idea of a policy of not texting and driving was great but it should be kept as a personnel policy and its applications really applied to someone,

whether suspension or employment related sanctions associated with a violation of the policy, but didn't get beyond the cocoon into liability with other people and organizations.

Mayor Stear asked if it needed to be more simply stated; that employees needed to follow the state implied hands-free ordinance.

Mr. Gigray said that would be a simple way to do it.

Mayor Stear thought the intent was to make it clear to personnel what that law was. He suggested pulling it to do some more thinking on it.

Ms. Engels asked if Human Resources Director Nancy Stauffer was okay with that.

Ms. Stauffer said yes.

Mayor Stear added there was actually a state law in place now.

Mr. Gigray explained, based on his experience in personal injury work, how the personnel policy could be used as a segue or foot in the door for potential liability that might not otherwise be there. The other stuff could be worked out and clarified but the liability part bothered him.

Council Member Cardoza clarified Mr. Gigray wanted 6.19.5 "while driving will be solely responsible for all liabilities" taken out.

Mr. Gigray said absolutely.

Ms. Engels said they would rework it and have Mr. Gigray take a quick look before bringing it back.

Ms. Stauffer explained the intent was to add the law that had been changed without removing what had been in there before. She asked if it should be left at safe driving was an absolute priority and any cell phone use was against the law; leave in 6.19.1 and 6.19.2 and remove the rest.

Council Member Christensen thought it was important to ensure hands free was mentioned in there because cell phone use was not against the law, hands on cell phones was against the law. He thought leaving 6.19.2 in there as it would be taking it a step further than what the state law said.

Ms. Stauffer clarified just rewrite 6.19.2 and refer to non-hands free.

Ms. Engels said just refer to the state.

Mayor Stear said to look at it and be sure to run it by Mr. Gigray. The terminology could really throw people off. While the legislators were talking about this, and they would talk

about it with Association of Idaho Cities, they would talk about hands free driving and there really isn't hands free driving. Terminology really made a difference. He told Ms. Stauffer to put together what she thought would work and run it by Mr. Gigray and maybe Ms. Engels could help.

Mr. Gigray thought that was a good plan. He thanked Council Member Cardoza for calling this into question.

Council Member Cardoza asked Police Chief McDaniel if they had a standard for cell phone use in a police car. He wondered if Ms. Stauffer could speak to him about their procedures.

Chief McDaniel explained as of July 1, 2020 it was changed in the state law to where they were accepted as law enforcement because they had mobile data terminals and, sometimes, they had to make calls to victims to get more information as they were responding. A lot of work went into that state law to where people were allowed to touch it to activate it and turn it on. It was very specific in state law. You could also do a one push on it to activate the voice. A lot of cars could do it on the dash. People were allowed to pick up their phones for that but couldn't dial a number. It got really hard for them to enforce.

8. *Ordinances:*

Consideration to approve Ordinance No. 2020-22 ACTION ITEM
(Timestamp 01:06:44)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KUNA:

- MAKING CERTAIN FINDINGS; AND
- ENLARGING THE BOUNDARIES OF THE KUNA MUNICIPAL IRRIGATION SYSTEM BY THE INCLUSION OF ADA COUNTY ASSESSOR'S ENDURANCE HOLDINGS LLC. AND FRANK J FAZZIO JR.; AND
- DECLARING WATER RIGHTS APPURTENANT THERETO ARE POOLED FOR DELIVERY PURPOSES; AND
- DIRECTING THE CITY CLERK TO RECORD THIS ORDINANCE AS PROVIDED BY LAW; AND
- DIRECTING THE CITY ENGINEER TO PROVIDE NOTICE OF THIS ORDINANCE TO THE BOISE~KUNA IRRIGATION DISTRICT, THE OWNERS AND UPDATE THE IRRIGATION SYSTEM MAP; AND
- PROVIDING AN EFFECTIVE DATE.

Consideration to Waive Three Readings of Ordinance
Consideration to Approve Ordinance

Council Member McPherson moved to waive three readings of Ordinance No. 2020-22. Seconded by Council Member Christensen. Motion carried 3-0-1. Council President Buban-Vonder Haar was absent.

**Council Member McPherson moved to approve Ordinance No. 2020-22. Seconded by Council Member Christensen. Approved by the following roll call vote:
Voting Aye: Council Members Cardoza, Christensen, and McPherson
Voting No: None
Absent: Council President Buban-Vonder Haar
Motion carried 3-0-1.**

9. Executive Session: None

10. Mayor/Council Announcements:

(Timestamp 01:08:42)

Council Member Cardoza noted paving started downtown.

Mayor Stear added they had some issues with some of the concrete that was poured. It had to be redone so there had been a couple of delays. He didn't know how far behind they were on the project but they felt like they could turn it around get back to a normal timeline. Everything else was going pretty well. He was listening to the Central District Board meeting that afternoon. They didn't get to the vote or even the motions before he had to come into Council Chambers but, he believed, by what the discussion was, they negated their order from June 22, 2020 to close the bars because they didn't have the proper public hearing notification for that to happen. It sounded like they were going to go back into it though. He didn't hear the motion but he believed the only change they were going to make to that was change "gatherings of 50 people or more should be avoided" to "gatherings of 50 people or more shall be avoided". They were also looking at directing the director to come back with a recommendation, depending on the number of cases and how that worked, for their July 14, 2020 meeting that would require mandatory mask wearing. That was Central District Health and it sounded like they were going to monitor things for a while before stepping up with the next order. Cases were starting to drop slightly. Hopefully, it would continue on that downward trend and they wouldn't have to back up any more steps.

Mr. Gigray noted ITD was going to start asking for public input on various highway projects and priorities. Where the state highway bent and came into Kuna was on that list. He thought the City would want to be involved with comment on that because it would directly affect the community. He thought they were also looking at improvements on Meridian to widen it to three lanes going each way to improve access out to Kuna and congestion.

Mayor Stear thought it would be a pretty popular thing to add the right turn lanes at all the intersections. City Clerk Chris Engels and Planning & Zoning Director Wendy Howell posted that out on City sites to get comments. They would need to work with Economic Development Director Lisa Holland on that to see what she had going especially where that curve was concerned. That was a very good recommendation.

11. Adjournment: 7:13 P.M.



Joel L. Sear, Mayor

ATTEST:


Chris Engels, City Clerk

*Minutes prepared by Ariana Welker, Deputy City Clerk
Date Approved: CCM 07.21.2020*