

**CITY OF KUNA
REGULAR CITY COUNCIL MEETING
MINUTES**

TUESDAY, APRIL 7, 2015

Kuna City Hall Council Chamber, 763 W. Avalon Street, Kuna, Idaho

7:00 P.M. REGULAR CITY COUNCIL

1. Call to Order and Roll Call

COUNCIL MEMBERS PRESENT: Mayor W. Greg Nelson
Council President Richard Cardoza
Council Member Briana Buban-Vonder Haar
Council Member Pat Jones
Council Member Joe Stear

CITY STAFF PRESENT: Gordon Law, City Engineer
John Marsh, City Treasurer
Wendy Howell, Planning & Zoning Director
Richard Roats, City Attorney
Chris Engels, City Clerk
Bobby Withrow, Parks Supervisor
Bob Bachman, Bldg. Maint & Insp. /Fleet Mgt.
Troy Behunin, Senior Planner

2. Invocation: Marcus Omdahl, New Beginnings Christian

3. Pledge of Allegiance: Mayor Nelson

4. Consent Agenda:
(Timestamp 00:01:46)

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 Old Business or as instructed by the City Council.

A. City Council Meeting Minutes:

- 1.** Board of Correction Minutes of March 17, 2015
- 2.** Council Workshop Minutes of March 17, 2015
- 3.** Regular Meeting Minutes of March 17, 2015
- 4.** Board of Correction Minutes of March 19, 2015
- 5.** Special Council Meeting Minutes of March 31, 2015

B. Accounts Payable Dated April 2, 2015 in the Amount of \$155,059.14

C. Alcohol Licenses:

1. Jacksons #26 – Off Premise Beer and Wine
2. PSL Inc (Cowgirls) – Liquor by the Drink and On Premise Beer
3. ConPaz Inc. dba El Gallo Giro – Liquor by the Drink and On Premise Beer
4. Z-Inc dba Paul’s Market – Off Premise Beer and Off Premise Wine
5. PacWest Bars LLC (Red Eye) – Liquor by the Drink and On Premise Beer
6. Lima Limon Peruvian Restaurant – Liquor by the Drink and On Premise Beer
7. Fiesta Guadalajara – Liquor by the Drink and On Premise Beer
8. Grantura LLC dba Kuna Event Center – Liquor by the Drink and On Premise Beer
9. The Arlene – Liquor by the Drink and On Premise Beer
10. Kuna Chevron – Off Premise Beer and Off Premise Wine

D. Findings of Facts and Conclusions of Law:

Council Member Stear moved to approve the consent agenda as presented. Seconded by Council Member Jones, all voting aye. Motion carried 4-0.

5. Citizen’s Reports or Requests:

(Timestamp 00:02:45)

A. Kuna Farmers Market, Quency Murphey – Request for fee reduction for Bernie Fisher Park for May 9, 2015 thru September 26, 2015

Quency Murphey introduced herself as the 2015 Kuna Farmers Market President. She thanked Mayor and Council for allowing them to be located at the park the last 4 years and requested for the Farmers Market to return again this year and a fee reduction to \$250 for the season. She stood for questions

Council Member Jones asked the cost of the booths and how many vendors do they have.

Ms. Murphey explained that a 10 x 10 booth space it is \$30 for the season, if a vendor has more than 1 booth space, its \$15. There are 10-15 vendors per week.

Council Member Jones appreciates the Farmers Market and thinks they are a good asset for downtown revitalization. He supports the request.

Mayor Nelson asked how much they were charged previously.

Ms. Murphey asked to keep the fee at \$250 for the season.

Mayor Nelson asked about recruiting new members and trying a new night.

Ms. Murphey confirmed they tried a Wednesday night market at the Old Gym but it was not successful. They also tried at the Library with gardening classes this year but it hasn't had a turn out. Perhaps later in the season, there may be a Wednesday market again but it will be at the regular location in the park. She will be continuing to try to get additional vendors but it has been rough because there can be low customer turn outs which affects profits.

Mayor Nelson asked City Clerk Chris Engels if signs were posted last year.

Ms. Engels clarified only the existing signs were posted. The city did not fund the marketing grant that was attempted so additional signs were not put up.

Ms. Murphey added that signage for the Wednesday market was set up at the Saturday market. An A frame sign was set near Super C, and another by the Library. There was a very low turnout.

Council Member Stear moved to approve a Fee Reduction to \$250 for the Kuna Farmers Market for Bernie Fisher Park, Seconded by Council Member Buban-Vonder Haar, all voting aye. Motion carried 4-0.

- B. Young Marines – Request to change schedule for Senior Center from 1st and 3rd Saturday mornings of the month to 1st and 2nd Saturday mornings of the month

City Clerk Chris Engels explained the Young Marines representative was invited but she didn't hear back from anyone.

Mayor Nelson asked if Ms. Engels had a recommendation.

Ms. Engels explained there was a conflict with both the Young Marines and the VFW asking to use the same day of the week.

- C. VFW – Request to change schedule for Senior Center from 2nd Wednesday evening of the month to 2nd Saturday morning of the month

Dave Lyon, Quarter Master for Kuna VFW Post 7019, appeared for the VFW and requested the day change to promote additional attendance. Attendance has been low. He explained they had been using it the 2nd Wednesday of the month and wants to change it to the 2nd Saturday of each month. He noticed the Young Marines wanted the 2nd Saturday and the VFW could go to the 3rd Saturday.

Mayor Nelson explained Saturdays are the only good days for rentals. The rentals help carry the Senior Center financially.

Mr. Lyon asked if someone wanted to rent it on the 3rd Saturday of the month.

City Clerk, Chris Engels, explained there are 2 current conflicts but it is the time of the year more requests are made. Some of the requests are for luncheons, breakfasts, showers with brunch, there is a variety. Everyone has to be out by 3:00 p.m. for

when the Senior Association brings in Bingo. The available Saturday rental time is usually 8:00 a.m. to 3:00 p.m.

Mr. Lyon said the VFW could use a different facility.

Council President Cardoza stated that the Council has always had the understanding that the facility would be rented to help with costs of supporting the senior center before donating to the community. The costs continue to go up. He asked Mr. Lyon if there was a conflict to share the facility with the Young Marines.

Mr. Lyon said he thought they could share the space at the same time.

Council Member Stear asked what time the Young Marines use the Senior Center.

Ms. Engels said it was on Saturday mornings around 8:00 a.m. and thought it was until around 11:00 a.m. or so.

Council Member Buban–Vonder Haar asked if another facility could be used.

Mr. Lyon indicated the History Center could be used.

Mayor Nelson agreed that would be a good option.

Mr. Lyon said they would try the meetings at the History Center.

Council Member Buban–Vonder Haar suggested the Young Marines attend a Council meeting to revisit the Senior Center use.

Mayor Nelson and Council requested Ms. Engels to ask the Young Marines to attend a meeting.

Ms. Engels agreed to contact them again.

Council Member Jones explained to Mr. Lyon that it isn't a lack of support for the groups. The dilemma is that even just tonight, over \$1,100 in expenses were approved to maintain the Senior Center and only about a third of the money is brought in to cover those costs. It is difficult to determine where to get the additional funds to make it par. He wants it to be fair to the taxpayers and not a burden on anyone.

Mr. Lyon said he understood.

6. Public Hearings: (7:00 p.m. or as soon thereafter as matters may be heard.)
(Timestamp 00:19:50)

Senior Planner, Troy Behunin, explained the applicant is requesting approval for a preliminary plot for 7 lots and to amend the Special Use permit that was previously approved in 2006. All notices have been fulfilled. It was reviewed by the Planning

and Zoning Commission in February 2015 and the recommended approval. Mr. Behunin explained this is part of the Crimson Development and summarized the history of the application.

Mayor Nelson asked if the Planning and Zoning Commission agreed with the request.

Mr. Behunin confirmed they forwarded a recommendation of approval.

Council Member Stear stated that the Planning and Zoning Commission reviewed the issue in depth and he was comfortable with their recommendation.

Council Member Jones asked if this was a duplication of the other phases.

Mr. Behunin replied it is an addition.

14-05-SUB (Subdivision) and **05-05-SUP** (Amended- Special Use Permit)- Laren Bailey – LEI Engineers and Planners: Applicant requests amending the Special Use Permit and approval for a proposed preliminary plat, creating a multi-family subdivision (Crimson Point Villas No. 2) over approximately 1.24 acres. Applicant requests to amend the SUP, including permission to develop the site for multi-family housing. Applicant proposes five (5) lots for multi-family units and two (2) common lots which will be under the responsibility and maintenance of a Homeowners Association (HOA).

Consideration to Approve **14-05-SUB** (Subdivision) and **05-05-SUP** (Amended-Special Use Permit) – Crimson Point Villas No. 2 – Troy Behunin, Senior Planner

Support:

Laren Bailey stated he represents the applicant. Mr. Bailey offered to provide any details if requested and stood for questions.

Against:

None

Neutral:

None

Council Member Buban-Vonder Haar moved to approve case numbers 14-05-SUB and 05-05-SUP for Crimson Point Villas No. 2, Seconded by Council Member Stear with the following roll call vote:

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

Voting No: None

Absent: None

Motion carried 4-0.

7. Business Items:

- A. Consideration to Approve Resolution R19-2015 Authorizing Lease Agreement with Boise Disc Golf LLC– Richard Roats, City Attorney
(Timestamp 00:30:44)

A RESOLUTION OF THE CITY OF KUNA, IDAHO APPROVING THE LEASE AGREEMENT WITH BOISE DISC GOLF, LLC TO LEASE THE CITY OWNED PROPERTY LOCATED AT 415 W. 2ND STREET, KUNA, IDAHO FOR THE OPERATION OF A CONCESSION STAND PURSUANT TO THE TERMS OF THE LEASE; AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.

City Attorney Richard Roats updated Council that one response to the RFP was received for the old Historical Center and the responder, Boise Disc Golf was present. They propose to pay \$400 a month. The lease has been prepared for consideration.

**Council Member Stear moved to approve Resolution R19-2015, Seconded by Council Member Buban-Vonder Haar with the following roll call vote:
Voting Aye: Council Members Cardoza, Jones, Buban-Vonder Haar and Stear
Voting No: None
Absent: None
Motion carried 4-0.**

- B. Public Works Construction Report, No Action Required – Gordon Law, City Engineer
(Timestamp 00:32:48)

City Engineer Gordon Law had no additional comments.

- C. Penelope Riley, Riley Planning Services, LLC, on behalf of Tom Nicholson. Request for *letter of support* from Kuna City Council to vacate a small existing piece of the Public Rights-of-Way (ROW) within the previously approved Merlin Pointe Subdivision (Kuna Curve). This letter is a necessary element to requesting ROW vacation from Ada County Highway District (ACHD). – Troy Behunin, Senior Planner
(Timestamp 00:33:35)

Mr. Behunin updated Council on the request for a letter of support and the area was 20 feet of Right-of-Way. It is against State code to plat over public Right-of-Way. ACHD requires a Council letter.

Council Member Buban–Vonder Haar asked if there were additional pages since there were 7 pages missing.

Mr. Behunin said they were left out intentionally because only the page provided was needed as a reference.

Council member Buban-Vonder Haar said normally a memo comes with the request and asked what the action being requested was.

Mayor Nelson asked if the Planning and Zoning Commission reviewed the request.

Mr. Behunin said no, because it wasn't necessary.

Council President Cardoza asked if this was ACHD property or if they planned to use it or if the City had a future need.

Mr. Behunin confirmed ACHD did not nor did the city.

Council Member Stear moved to approve a letter of support to be written by staff from City Council to vacate the public right-of-way, Seconded by Council Member Buban-Vonder Haar with the following roll call vote:

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

Voting No: None

Absent: None

Motion carried 4-0.

Council Member Stear asked City Attorney Richard Roats if a motion is needed to authorize the Mayor to sign the letter.

Mr. Roats said in the past is it is done with a resolution.

- D.** Discussion for Council Direction on Idaho Power Franchise Agreement – Richard Roats, City Attorney
(Timestamp 00:41:08)

City Attorney Richard Roats updated Council that the Idaho Power Franchise agreement expires this year. Currently a franchise fee is not charged. Mr. Roats let Council know if they wanted to consider a fee, it is allowable. A rough estimate is \$80,000 - \$100,000 revenue a year at a 1% fee.

Mayor Nelson asked how long the agreement would be in effect.

Mr. Roats responded it can be set for any term.

Mayor Nelson stated he doesn't agree with a fee on a necessary utility by the community. He asked Council's input.

Council President Cardoza asked if Mr. Roats had researched other cities percentages and what fund the monies would go into.

Mr. Roats indicated he could bring the information back to Council and confirmed that the funds would go into the general fund.

Council President Cardoza said he wasn't opposed to a franchise fee if it was earmarked for Parks.

Mayor Nelson responded there was another option to take care of that.

Council Member Stear agreed with Mayor Nelson on taxing power services but he does think that it could be considered to cover the street light fee.

Mr. Roats will return to Council with further fee information.

- E.** Discussion to set Workshop for Kuna City Personnel Manual – Richard Roats, City Attorney
(Timestamp 00:47:33)

City Attorney Richard Roats he indicated the personnel manual is almost completed and will be ready for review. He would like to do a workshop to review the manual.

Mayor Nelson asked if a draft copy would go to Council before the workshop.

Mr. Roats said he intended to. In response to Mayor Nelson, Mr. Roats thinks the workshop could be scheduled prior to a Council meeting.

Council was agreeable to a workshop.

- F.** Discussion for Council Direction to proceed forward with Park Impact Fee – Richard Roats, City Attorney
(Timestamp 00:49:39)

City Attorney Richard Roats explained that he thought a workshop to review the details of a Park Impact Fee and if so, there would need be an appointment of a committee of 5 and establish the criteria that come from the statute. There are funding details that would need to be discussed.

Mayor Nelson updated the Council that the city has a Park Survey from the High Five grant and it is timely to consider the issue. He is supportive of the impact fee.

Council Member Stear was agreeable to reviewing the issue and see where it goes.

Council was agreeable to a workshop.

- G.** Discussion on Franchise Fee for Cable One – Richard Roats, City Attorney
(Timestamp 00:52:58)

City Attorney Richard Roats explained there is a 3% franchise fee included with Cable One franchise agreement. There was a mistake on Cable One's interpretation of the contract and have been charging 5% as allowed by state law. Cable One has asked if the city wants to stay at 5% or return to 3%. Cable One is an optional service not a mandatory service.

Mr. Roats responded to Council President Cardoza that the Cable Company is responsible to the Secretary of State. The company files a Certificate of Franchise authority with the Secretary of State and the basis comes from State code. The statute is up to 5% depending on the community request.

Council Member Jones asked how much it brings in each year.

City Treasurer John Marsh indicated it was \$40,500 for this year. Last year it was \$33,205. It is budgeted at \$31,592.

Council Member Jones asked if Dish or Direct TV pay a franchise fee.

Mr. Roats indicated they do not.

Council Member Jones would like everyone or no one to pay a franchise fee.

City Engineer Gordon Law explained the franchise fee is actually for the right of way use which is why some services don't have a fee because they do not use right of way.

Mayor Nelson explained this fee has been in effect for an extended time.

Council Member Stear would like to leave it at 5%.

Mr. Roats will work on agreement and a resolution for Council consideration.

H. Appointment of Kuna City Clerk – Richard Roats, City Attorney and Mayor Nelson
(Timestamp 01:02:45)

City Attorney Richard Roats stated the interview process was concluded and Chris Engels is the recommendation of Mayor Nelson as City Clerk beginning April 8, 2015.

Mayor Nelson said the Deputy Clerk would be replaced. He stated Chris Engels has done a great job and the monies she brought in; she has more than paid her salary.

Council Member Stear moved to appoint Chris Engels as the new City Clerk effective April 8, 2015, Seconded by Council Member Buban-Vonder Haar with the following roll call vote:

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

Voting No: None

Absent: None

Motion carried 4-0.

8. Ordinances:

(Timestamp 01:05:34)

A. Second Reading of Ordinance No. 2015-07 Police Regulations

Consideration to waive third reading

Consideration to approve ordinance

Consideration to approve a summary publication of the ordinance

AN ORDINANCE OF THE CITY OF KUNA, IDAHO STRIKING AND AMENDING CERTAIN SECTIONS OF CHAPTER 1, TITLE 10, KUNA CITY CODE- ENTITLED POLICE REGULATIONS, AS FOLLOWS: STRIKING 10-1-1 DISTURBING THE PEACE; AMENDING AND RENUMBERING 10-1-2 BY CHANGING THE TITLE FROM WINDOW PEEPING TO INVASION OF PRIVACY AND ADDING LANGUAGE MAKING IT UNLAWFUL TO LOOK THROUGH AN OPENING TO VIEW THE INTERIOR OF A SPACE WHERE A PERSON HAS AN EXPECTATION OF PRIVACY AND MAKING IT PUNISHABLE BY AN INFRACTION; AMENDING AND RENUMBERING 10-1-3 ENTITLED FAILING TO DISPERSE BY MAKING SEVERAL GRAMMATICAL CORRECTIONS; STRIKING SECTION 10-1-4 AND 10-1-5; AMENDING AND RENUMBERING 10-1-6 ENTITLED PUBLIC ELIMINATION OF HUMAN WASTE AND MAKING IT PUNISHABLE BY AN INFRACTION; AMENDING AND RENUMBERING 10-1-7 ENTITLED FIGHTING BY MAKING SEVERAL GRAMMATICAL CHANGES; AMENDING AND RENUMBERING 10-2-1 ENTITLED CURFEW BY CLARIFYING THAT A VIOLATION IS A MISDEMEANOR; AMENDING 10-2-2 TO RETITLE IT TO JUVENILE BEYOND THE CONTROL OF PARENTS OR GUARDIANS AND MAKING SEVERAL GRAMMATICAL CHANGES; AMENDING AND RENUMBERING 10-2-3 ENTITLED PARENTAL RESPONSIBILITY BY MAKING SEVERAL GRAMMATICAL CHANGES AND STRIKING SEVERAL SECTIONS; AMENDING AND RENUMBERING 10-3 ET SEQ.- ENTITLED ANIMAL CONTROL AND MAKING CERTAIN SECTIONS PUNISHABLE BY AN INFRACTION; AMENDING 10-4 ET SEQ. – ENTITLED FALSE ALARM ORDINANCE MAKING SEVERAL GRAMMATICAL CHANGES AND MAKING A VIOLATION AN INFRACTION; AMENDING 10-5 ET SEQ. –ENTITLED DISCHARGE OF WEAPONS MAKING SEVERAL GRAMMATICAL CHANGE, REORDERING AND RENUMBERING SEVERAL PARAGRAPHS AND MAKING A VIOLATION OF SUBSECTION B AN INFRACTION; AND PROVIDING AN EFFECTIVE DATE.

Mr. Roats updated Council that he made the changes requested at the last meeting of Invasion of Privacy is a misdemeanor and the animal control impoundment.

Council Member Buban–Vonder Haar mentioned on page 20, section D, there is still a reference to 5 days in the Animal Control.

Council Member Stear asked if any comments had been received.

Mayor Nelson indicated there have not been any.

9. Mayor/Council Discussion Items:

(Timestamp 01:10:44)

Mayor Nelson updated Council the map for the Kuna-Meridian line has been presented to Meridian's city attorney, Bill Nary. Mr. Nary responded that Meridian's Mayor and Council President were non-committal. There hasn't been any word received as of yet.

City Attorney Richard Roats indicated the Schmillen case has been resolved from the 4th St. water main break. It was set for trial but has been settled.

Mayor Nelson discussed the great job the One Stone kids did on their weekend project and City Clerk Chris Engels is contacting the Kuna youth to get input for Mayor's Youth Council. He was impressed with the work the kids put in. He appreciates Bob Bachman, Bldg. Maint & Insp. /Fleet Mgt, Bobby Withrow, Parks Supervisor, City Forester Natalie Purkey and City Clerk Chris Engels for all their work.

Council Member Stear commented that the kids were having fun but yet still respectful and was impressed by the demeanor.

Council President Cardoza updated the Saturday Easter egg hunt went very well and the families appreciated the event. He thought there were approximately 1,500 kids.

Council President Cardoza asked Chief Dusseau if there are problems at the skate park.

Chief of Police Justin Dusseau said it is seasonal as to attendance. He isn't sure why there is such a large age range using the facility. There have been a few issues lately but his officers are keeping an eye on things. He works with parents toward a solution.

10. Announcements:

11. Executive Session:

12. Adjournment:

Council Member Stear moved to adjourn the meeting at 8:19 p.m. Seconded by Council President Cardoza, all voting aye. Motion carried 4-0.

W. Greg Nelson, Mayor

ATTEST:

Chris Engels, Interim City Clerk

Minutes prepared by Chris Engels
Date Approved: CCM 04.21.2015