

OFFICIALS

Joe Stear, Mayor
Greg McPherson, Council President
Richard Cardoza, Council Member
Warren Christensen, Council Member
John Laraway, Council Member



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

City Council Meeting
MINUTES

Wednesday, November 4, 2020

Note: The regular City Council Meeting is moved to Wednesday to accommodate the election held on the first Tuesday of this November, the regular meeting date for Council.

6:00 P.M. REGULAR CITY COUNCIL

*Per the Order issued by Central District Health on July 14, 2020,
Social distancing and face masks will be required.*

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

***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 November 4, 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
 - ✓ 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.

PLEASE NOTE: Due to social distancing protocol, the Council Chambers Audience Occupancy Capacity is 15. The first 15 persons who appear, in addition to Mayor, City Council, and staff, will be allowed in Council Chambers.

*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 – In Person
Council President Greg McPherson – In Person
Council Member Richard Cardoza – In Person
Council Member Warren Christensen – In Person
Council Member John Laraway – In Person

CITY STAFF PRESENT:

Chris Engels, City Clerk – In Person
Jared Empey, City Treasurer – In Person
Bill Gigray, City Attorney – In Person
Nancy Stauffer, Human Resources Director – In Person
Paul Stevens, Public Works Director – In Person
Bobby Withrow, Parks Director – In Person
Mike Fratusco, Kuna Police Chief – In Person
Troy Behunin, Planner III – In Person
Jace Hellman, Planner II – In Person

2. Invocation: None

3. *Pledge of Allegiance:* Mayor Stear

Consideration to Amend the Agenda

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

(Timestamp 00:00:55)

Add new Section 10, Business Continued, with the following items:

- 10A Report on Mayor's removal of appointed officer,
- 10B Consideration to affirm Mayor's removal of appointed officer,
- 10C Report on appointment of officer on interim basis, and
- 10D Consideration to consent to Mayor's appointment of officer on interim basis

And changing Mayor/Council Announcements to Section 11 and Adjournment to Section 12.

Motion To: Amend the Agenda to add new Section 10, Business Continued, with items 10A, 10B, 10C, and 10D and change Mayor/Council Announcements to Section 11 and Adjournment to Section 12

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 4-0

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

(Timestamp 00:01:45)

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 October 20, 2020
- B. Accounts Payable Dated October 29, 2020 in the amount of \$582,675.04
- C. Resolutions:
 - I. Resolution No. R51-2020

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO REPEALING AND REPLACING RESOLUTION NOS. R9-2007 AND R43-2014; ADOPTING THE STEP AND GRADE POLICY FOR THE PUBLIC WORKS AND PARKS DEPARTMENTS AS ATTACHED HERETO; AND DECLARING AN EFFECTIVE DATE.

2. Resolution No. R59-2020

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO APPROVING A PERFORMANCE BOND BY TOLL ID I, LLC, FOR THE WINDFIELD SPRINGS SUBDIVISION NO. 6 FOR UNCOMPLETED WORK INCLUDING LANDSCAPING PURSUANT TO THE TERMS OF THIS RESOLUTION.

3. Resolution No. R60-2020

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO APPROVING A PERFORMANCE BOND BY TOLL ID I, LLC, FOR THE WINDFIELD SPRINGS SUBDIVISION NO. 6 FOR UNCOMPLETED WORK INCLUDING FENCING PURSUANT TO THE TERMS OF THIS RESOLUTION.

4. Resolution No. R61-2020

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO APPROVING A PERFORMANCE BOND BY TOLL ID I, LLC, FOR THE WINDFIELD SPRINGS SUBDIVISION NO. 7 FOR UNCOMPLETED WORK INCLUDING FENCING PURSUANT TO THE TERMS OF THIS RESOLUTION.

5. Resolution No. R62-2020

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO APPROVING A PERFORMANCE BOND BY TOLL ID I, LLC, FOR THE WINDFIELD SPRINGS SUBDIVISION NO. 7 FOR UNCOMPLETED WORK INCLUDING LANDSCAPING PURSUANT TO THE TERMS OF THIS RESOLUTION.

6. Resolution No. R65-2020

A RESOLUTION OF THE CITY COUNCIL OF KUNA, IDAHO SETTING FORTH FEES, ASSESSMENTS AND POLICIES FOR THE KUNA MUNICIPAL IRRIGATION DISTRICT FOR THE 2021 IRRIGATION SEASON; RECEIVING AND ACCEPTING THE ASSESSMENT BOOK FOR THE 2021 IRRIGATION SEASON; RECEIVING AND ACCEPTING THE ESTIMATE OF EXPENSES FOR THE 2021 IRRIGATION SEASON; SETTING THE TIME AND PLACE FOR THE MEETING OF THE BOARD OF CORRECTION FOR 2021 ASSESSMENTS; SETTING FEES FOR CONNECTING TO SAID IRRIGATION SYSTEM; SETTING UNIFORM METHOD OF ALLOCATING ASSESSMENTS FOR THE 2021 IRRIGATION SEASON; ESTABLISHING BILLING POLICIES; SETTING CUSTOMER SERVICE CHARGES; SETTING SYSTEM POLICIES; REPEALING EXISTING FEES AND POLICIES AS PREVIOUSLY SET BY RESOLUTION, AND SETTING AN EFFECTIVE DATE.

D. Final Approval of Findings of Fact, Conclusions of Law, and Order of Approval for Case Nos. 19-11-AN (Annexation) & 19-08-S (Preliminary Plat) Ashton Estates East Subdivision

Motion To: Approve the Consent Agenda as published

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Approved by the Following Roll Call Vote:

Voting Aye: Council Members Cardoza, Christensen, Laraway, and McPherson

Voting No: None

Absent: None

Motion Passed: 4-0

5. External Reports or Requests: None

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.

A. LedgeStone South Case Nos. 20-01-AN (Annexation) and 20-03-S (Preliminary Plat) –
Public Hearing continued from October 20, 2020
(Timestamp 00:02:31)

- I. Consideration to approve Findings of Fact & Conclusions of Law and close the Public Hearing– Jace Hellman, Planner II and Bill Gigray, City Attorney **ACTION ITEM**

Planner II Jace Hellman had nothing to add to the Findings.

City Attorney Bill Gigray reviewed this was continued by Council as they took a deliberation action at the last meeting to deny the application for annexation in this matter. Mr. Hellman prepared the Findings of Fact and Conclusions of Law as part of the public hearing. In his mind there was nothing to reconsider at that point because that would require re-opening the public hearing for more testimony with regards to the merit of this particular application. That was why this was placed on the agenda ahead of the request for reconsideration. If Council decided they wanted to reconsider and have more testimony in regards to this they could advertise a hearing and go back through the process. They would say they were going to reconsider and tell the public they would continue the hearing for reconsideration and note what evidence they were willing to listen to. Council could go either way but this was the first order of the day.

Mayor Stear understood it as such. He clarified other than taking testimony on the request for reconsideration they would not take further testimony on it that night because the public had not been informed there would be more testimony. Beyond the fact of the request for reconsideration there would be no testimony.

Mr. Gigray said that would be his recommendation. Council could decide if they wanted to get into it or not. If Council did want to get into it, he recommended they continue the hearing to a date and time certain and announce what issues testimony would be taken on in regards to the reconsideration. Then everyone would be aware they were reconsidering because at the last hearing Council was in deliberation and had closed the record of proceedings for additional testimony and evidence. Everyone was on notice that the hearing was continued but only to receive findings which was an action Council took on their own. If they decided there was merit to the request for reconsideration after listening to what they wanted, they would need to re-open the hearing for more testimony and information and continue it to the next hearing date.

Mayor Stear asked, if they approved the findings, would it be a new public hearing because they would close the public hearing with that item.

Mr. Gigray explained, if they approved the findings, they would have to take it up again. If they didn't want to re-notice it, he suggested they take up the reconsideration then and the only decision would be to reconsider and reopen the hearing or not to reconsider and proceed to adopt the findings. They could do it either way. In either event there was not a statutory requirement.

Mayor Stear's preference was to finish out item one and, if Council choose to reconsider, they republish so the public knew it was coming up in consideration of the people who left the meeting thinking it was over and now it wasn't.

Mr. Gigray thought that was a very appropriate procedure and the path they followed in the past.

Motion To: Approve Findings of Fact & Conclusions of Law and close the Public Hearing for Case Nos. 20-01-AN (Annexation) and 20-03-S (Preliminary Plat)

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion:

Council Member Cardoza chose to abstain from voting since he had been absent for the previous discussion.

Motion Passed: 2-0-2

Recused: Council Member Laraway

Abstained: Council Member Cardoza

2. Consideration to reconsider denial of Case No. 20-01-AN (Annexation) ACTION ITEM

Mayor Stear noted there was a letter on behalf of Trilogy Development from Jane Suggs in the packet. Ms. Suggs was there if they wanted to ask any questions. In his mind this had a lot to do with the waste water treatment and the ability to serve. There were still many questions there. He knew they were offering to do what was needed

to assist the City with sewer and that infrastructure, however, they didn't know what that was. At that point, he didn't see that there was anything to reconsider but, that was up to Council to make that determination.

Council President McPherson was of the same opinion. Until they had a better grasp on what the plan was moving forward with the removal of waste water from a new area or addition to a current subdivision, they should put the breaks on while they figured it out. Then they could move forward so when they could get it developed developers could receive their will serve letter and not be held up in their progress.

Council Member Christensen had nothing to add. He felt they were all on the same page.

Mayor Stear noted Ms. Suggs was wanting to say something. He asked if Council was okay with her coming up to present.

Ms. Suggs thanked Council. She asked that they reconsider the denial based on some things that happened since the last meeting. Mayor Stear had received an email from the Public Works Director explaining they had met yet again to discuss the sewer capacity. They agreed to partner with the other developers impacted by this and work with the City to make the improvements to the lift stations and possibly do a whole Mason Creek pump line so these areas that were so important on the east side of Meridian Road could be sewerred. Other projects with the same concerns would be coming forward. As for the timing, they thought the approval of the annexation and the preliminary plat was the incentive they needed to work together. At that point the developer had not purchased the majority of the property and could still walk away. It didn't really give him the incentive to participate in the solutions and she felt they needed everybody to come to the table. Also, in her letter she mentioned some commercial development that was forthcoming. It was very important to the City to bring in commercial lots. This piece, Ledgestone South, was part and parcel to the next piece of development coming from the same developer that would provide some great incentive to connect the residential areas to Highway 69. She mentioned that in the letter. She asked again that they reconsider. This was an annexation and preliminary plat. The will serve letters would come later during final plat. There was clearly some time between what they could do as far as construction and getting this improvement process going. They really wanted to partner with the City on this. She asked that they reconsider and set a date to let them bring the information. At that point they could decide if the reconsideration was valid. She stood for questions.

Mayor Stear said the main issue they had was there had been some development. The original thought on developments was the infrastructure size was based on 3.5 homes per acre and some of these developments had been greatly exceeding that. The City Engineer had already put out for some fact finding from an outside source to see what they needed to do to make it work or if they could make it work. It was a few weeks out before it would be done. That was what they were working with and they weren't sure what it would take to serve it and what capacities would be.

Mr. Gigray explained, listening to what was presented and discussed, an option would be to offer a reconsideration subject to this matter being remanded back to staff. Any rescheduling and reconsideration of a public hearing would only be when staff was prepared to make a resubmittal of this application with the additional information needed in regards to sewer capacity for this development and any other associated things when staff felt this was definitive enough to include in sufficient conditions of approval to ensure this project could be served by City services. That would mean the applicant would retain their application date for their rights under the City's code. That would facilitate it not being back until it was ready to go and there was a complete staff report that staff was comfortable with. It would be subject to rescheduling and re-notification at the cost of the applicant since it was their request. Or they could let it stand as it was and they would be under the ordinance requirements regarding reapplication sometime in the future.

Mayor Stear asked if reapplication, since it was denied, would mean a substantial rewrite of the project.

Mr. Gigray thought it was a time period. If they got a denial, he thought it was a year before they could reapply. Then their rights would accrue at the time of reapplication. On the other hand, if there was merit in what was being asked on the part of the applicant and it really was an infrastructure issue, he suggested the City remand it back to Planning & Zoning, specifically Mr. Hellman since he staffed it. They would want to define on the reconsideration that those issues be addressed specifically with the staff's determination in their report that a) no they couldn't have sufficient assurances and conditions and it be resubmitted with a recommendation that the annexation be denied or b) they determine that they could have those conditions they were comfortable with, recommend approval and it not be re-noticed until they reached that determination. That meant a complete staff report with recommendations staff was comfortable with so Council didn't end up in a meeting with incomplete information or they were uncomfortable with it and would require them to keep continuing it. If they chose to go that way, he suggested they call the applicant's representative to see if they would agree to that. At that point, they had a final determination on the denial of annexation so any timetable under City ordinance had been met. They were safe on that standpoint. However, if it was remanded to staff and kept open for reconsideration, he wanted to make sure they weren't going to complain about any timetable. He didn't know why they would though. That was a way to approach the reconsideration if there was any merit in it.

Mayor Stear asked what Council wished.

Council Member Christensen appreciated Mr. Gigray letting them know all of that but, looking at this scenario, he thought the infrastructure was the primary concern with annexing this. However, when it came to approving something for a future set date just to hold their place in line, he couldn't say that was a great idea because it was going to cause a back up if things couldn't get taken care of. When they denied an annexation, it was for good cause at that given point in time. He struggled with

reconsidering just to set a future date to get more facts and ideas from staff. Those were things that should be presented from the beginning.

Council Member Cardoza disagreed. He thought there should be some sort of priority order for the people who were rejected that would allow them to get back in line. It was a prerogative they had. If they didn't want to reapply, they would forfeit their place in line. This would be wide open if they didn't give some priority to anything they rejected as they came back to Council.

Council Member Christensen agreed with that concept. His concern was they were presented the facts to these cases at a given point in time and they were supposed to make a decision based on those facts but, they were saying approve everything before a final plat because they could put in a list of conditions. He understood what Council Member Cardoza was saying but, at some point there would be a back log of everything with a build up of findings for each case. By approving everything to hold places in line, moving down the road he was concerned about when something was presented and the City wasn't ready. He asked at what point would they stop the procedure.

Council Member Cardoza said that was not the point he was trying to make. He thought they denied it based on the inadequacy of the City. It had nothing to do with the developer at that time. If they didn't give some priority to these developers as they denied them, when they opened the lift stations and the waste water treatment plant, he thought they would be opening themselves to litigation due to fights over the EDUs coming available. He asked how they could have an orderly distribution of those EDUs in the waste water treatment plant and the lift stations.

Mr. Gigray explained, in this instance, the property was not in City limits. It was being annexed so he was not worried about that issue. In his mind, the only issue and only clarification for the agent representing the applicant was, if they did suspend their approval of the findings that denied the annexation, they might get into a timetable issue with some of the permits. He wanted to make sure they waived any rights, if they had any, in that regard. His thought was, if it went back to staff, it would be narrowed down to a specific issue. Council was not committing to anything. The hearing would still be open. Council would not have approved anything at that point. Staff would come back with a recommendation when they went as far as they could with it in terms of their investigation and analysis. They would notice it and it would be reheard with everyone being aware and able to address the new staff report. Council would again go through to determine if they were going to deny or grant annexation and zone it. Then there would be the issue of the preliminary plat and then they would get in line in regards to will serve. In terms of the original question, he did not see it as a liability issue if they stayed with the decision as it was because it was not in city limits.

Council Member Cardoza said, once the City had the capacity and capability, there would be no priority. Whoever happened to have something in front of Council would get approved because the capacity would be available at that time.

Mr. Gigray noted plats that had already been approved would be ahead of it.

Council Member Cardoza said everybody who had been denied would have no priority. Someone who came in four months from now could possibly be in line before someone who had come in four months prior with no priority set for denials.

Mr. Gigray stated the process staff had been following, which he had recommended and Council had approved, was when someone who was already annexed into the city and applied for a preliminary plat, the preliminary plat was approved subject to conditions. When they had will serve issues with any parcels in the plat, the policy, or at least the direction they had been following, was one of the conditions of preliminary plat approval be the developer was not eligible to file for final plat until the Public Works Director certified they could serve all the lots subject to that preliminary plat condition. At that point they could file for the final plat. That was when they actually put in all the infrastructure and improvements and got it ready for final plat and approval. Then they could sell the lots. It was also included, as a condition, in the event certification did not come about in the two-year time period in which they had to file for a final plat, they had reason to request an extension which could be done under Kuna City Code. That was when they got in line. Until the preliminary plat was approved, and they already had to be annexed into the city, they weren't in line. In this instance, on reconsideration, should Council grant annexation and preliminary plat, they would be in line but, they would not get final plat until they had a will serve. Public Works would have to know who was in line in what place and they would not certify an ability to serve until they were aware of that ability and everyone ahead of them had been serviced. That would be taken into consideration. That was how they were processing them at that point in time.

Mayor Stear clarified the question before them was do they let the applicant put this on hold for now so they could come back after staff made some changes to provide information that would indicate the City could provide service at some point in the future or did they deny and when they came back again, if they came back again, it would be a substantially different project. Council would be asking them to completely redesign what was brought forth in the first place because it was denied. That would be a year from then before it could happen. The question was do they allow them to, in essence, table it so staff could go back and look at it and let the engineer process and review happen so they could see if the infrastructure could be made to work to serve the project. It could have to be changed substantially anyways. He thought that was the question rather than anybody being in line to save EDUs. There was a lot of capacity at the waste water treatment plant. He didn't think that was the problem. The capacity issues were more about line sizes and lift stations.

Council President McPherson said it wasn't their fault but, it kind of was their fault they couldn't serve them. The City didn't have the ability to service the sewer at that location due to probably no one in the last ten years seeing development going that way; especially as quick as it did. The applicant did put a lot of effort and resources into this and they did their homework with public meetings and neighborhood meetings. Council could deny it or table to a date certain he believed.

Mayor Stear clarified a date certain wasn't necessary. It would just be remanded back to staff and it would be readvertised.

Council President McPherson was inclined to do that as opposed to making them start over. They had done their due diligence and the City couldn't service them. He saw both Council Members Cardoza and Christensen's sides. He wasn't sure which way to throw the ball. He wasn't opposed to tabling it until relooking at the infrastructure was done. He wanted to confirm that the applicant would have to significantly change the development if it was denied.

Mayor Stear believed that was the case. He asked if Mr. Hellman or Planner III Troy Behunin knew for sure.

Mr. Gigray understood, according to the ordinance, that would be up to the applicant. The issue was the applicant was prohibited from filing the application for one year. They could decide to change it but that was up to them.

Mr. Behunin added the requirement was the applicant had to wait one year from the date of denial to bring back an application. It was not specific enough to say they had to change it. There were no conditions to follow if there was a denial but, they did have one calendar year from the date of the signing of the Findings of Fact or the decision. Changing it was up to the applicant.

Mayor Stear said they needed to decide if they were going to make them wait a whole year or not.

Mr. Gigray restated his procedural recommendations for denying the reconsideration or granting it. He added, if they granted it, they would suspend the decision of the approval of the FCOs and it would remand to Planning & Zoning with the direction to restaff it with the major concern being the ability to serve the area with sewer and, until staff was ready with a final report and recommendation, the matter would stay with them. The hearing would need to be re-noticed to go back to Council and would not have to go to Planning & Zoning.

City Clerk Chris Engels asked, if the reconsideration was denied that night, was there anything that stopped the applicant from filing another reconsideration of the denial in two or three months.

Mr. Gigray replied you could never stop someone from filing something but, with annexation there was no legal right to reconsideration. They could determine whether to put it on the agenda or not and he believed the Clerk always conferred with the Mayor in regards to that. They could put it on the agenda for denial at that point but, that seemed kind of silly. They already approved the Findings so the action was complete. Until that was undone, they couldn't reapply for one year because of City ordinance. It made sense because otherwise they would just be regurgitating the same things over and over again.

Mayor Stear asked if they even needed to decide anything at that point if he was saying it was a year before they could bring it back.

Mr. Gigray clarified, if Council decided to reconsider and suspend the Findings they just approved, then they would be on the same track they were on. It just wouldn't be heard until staff was ready.

Council Member Christensen said he was miffed with the situation. He felt they made the decision to deny it and approved the denial that night and if they decided to reconsider the case and left it open ended until staff could figure it out and present something new for them to look at for approval or denial, it opened the door to any denial they do on an annexation for any reason whatsoever. He felt maybe Council Member Cardoza looked at it like it was the City's fault but, when it came down to it, it opened the door for everyone who asked for a reconsideration on annexation denials in the future based on the standard they were setting that night to hold it and send it back so they could think of a better idea. It was almost opening the door for setting a standard for the City. In his view, it was a dangerous standard to be setting.

Council Member Cardoza responded he was looking at if they denied and the applicant had to wait a year to come back but the City got the lift stations up to capacity in three months, anyone coming before them would be annexed and allowed to develop but this developer would have to wait a year to reapply. If there was not some kind of priority, the City would be fixing the problem and annexing new development and those that were denied would not be able to develop. He did believe it was a fault of the City. Maybe years ago the City should have anticipated the growth when it started. He didn't want to point fingers at the City but, it seemed to be a City fault they were underdeveloped on lift stations so should they punish the developers coming before them until they solved the problem and then start opening the door to everyone else while the denied applicant had to wait a year. He did not think it was fair to developers who were willing to work with the City. He asked how they could be fair to both sides.

Council Member Christensen understood what he was saying. It made sense but he had to look at the bigger picture. If it was the City's fault, the school district's fault, ACHD's fault, xyz's fault, it would never be the developer's fault, that was just the unfortunate way of life when going through this process. What Council Member Cardoza was saying was they had to be fair, it wasn't their fault, so they should let them hold their place by approving it anyway and leaving it on the table for new ideas. That opened the door for tabling cases when schools were at capacity or roads were in bad shape because it wasn't the developer's fault and it could be corrected in a few months. Looking at it from that generalized perspective was the point he was trying to make.

Council Member Cardoza said they weren't wanting to approve it. They just wanted to give them some reapplying seniority.

Council Member Christensen said he spoke wrong. They would be withdrawing their denial, reopening it, and keeping it open but the same concept still applied.

Council Member Cardoza thought they weren't working with the situation due to their incapacity. It was no one's fault so to speak but it definitely wasn't the developer's fault that the infrastructure wasn't in place. The City had a treatment plant that was good for another ten years at the current growth yet the City did not have the capacity to get the brown stuff to the plant. If the developer was willing to work with them, they should have some seniority to come back to the City when capacity was open. He wasn't saying they should approve it. They should just give them a place in line so when they had capacity the next developer coming before Council wouldn't have priority over someone who had already been rejected.

Mayor Stear said this was a new problem. They were finding out, now that Paul Stevens was the engineer and was looking deep into these things, a lot of these developments were scaled to be 3.5 residents per acre. The more R-6 and R-8 that came along, the more that entire plan was messed up. Now they were in a situation with the inability to serve at the moment but, they were looking into what it would take or if it was possible to get it fixed. Both Council Members were making good points. They couldn't keep things in the hopper because something couldn't be served but might be serviceable in a few weeks yet send people off to come back in a year because in six months they could be served. Other people could come in but, these people couldn't because they came in at the wrong place and time. They were both good points.

Council President McPherson added they were talking about priorities. He gave an example of Developer A who came in two years ago and started a project with phases and Developer B came in wanting to annex. They were going to add all that too and that screws up the works so that Developer A couldn't finish Phases 2, 3, 4, and 5 because they wanted their share of the pipeline which put them both in a halt. So, he asked, would they give priority to the developer who did their homework and laid it all out or do they bump the other applicant in line that now wanted in but wasn't even annexed into the city. That opened another whole can of worms. He asked how should they prioritize. They had developments that were only in Phase 1 of 5 or 6 but they should allow another huge several hundred development to take a whack at the pipeline too. He asked where they should draw the line there.

Council Member Cardoza wasn't sure. He thought Mr. Stevens had figures on development in different phases already anticipated for EDUs. He asked if he accounted for each phase when they came in for the capacity of the plant and lift stations. He thought the capacity was already in motion.

Council President McPherson said to an extent. The development they were discussing was up against another development that was already in and developed and EDUs were there but, now they were trying to add to it when it wasn't even part of the city.

City Engineer Paul Stevens stated yes and no. This had all been mapped out and planned out at 3.5 dwelling units per acre and not necessarily including unincorporated areas. They had a bit of a short fall on that. They were working with an outside engineering firm to get a disinterested third party's opinion on the capacities and what could be done to increase those capacities. When capacity was available, they were happy to distribute it any way Council wanted them to.

Council Member Cardoza asked when a developer came in with 400 homes divided into four phases did Mr. Stevens anticipate those 400 in advance for that lift station.

Mr. Stevens replied mostly. There were quite a few already accounted for, for example, Crimson and all those were all laid out but not built yet and were all accounted for in that list.

Council Member Cardoza clarified, if someone came in to be annexed, those EDUs Council was looking at would not be accountable because they were already accountable by prior developers on their lift stations in a certain area.

Mr. Stevens said, as Council President McPherson stated regarding ones that had phases 1, 2, 3, and 4 lined out, those were already in the accounting but, the additions of the rather large ones were not.

Council Member Cardoza asked if there were bought EDUs floating out there that were unaccounted for.

Mr. Stevens said not that he knew of.

Council Member Cardoza was thinking of a specific developer or contractor. He asked if he had used up all his EDUs.

Mr. Stevens said he still had some but they were earmarked for certain developments.

Council Member Cardoza asked if they were accounted in those lift stations.

Mr. Stevens replied to the best of his knowledge he believed they were.

Mr. Gigray advised the Council he did not think it was a good idea for them to approve final plats of subdivision the City was unable to serve with sewer and water because once a final plat was approved, they had a legal lot that could be sold. Once it was sold people would want to develop the property. He reiterated the process he had outlined earlier that evening regarding capacity issues and approvals.

Council Member Laraway asked if he was allowed to make a comment.

Mayor Stear thought, in that case, they were talking about a different issue so it was his opinion that Council Member Laraway could comment.

Council Member Laraway said they seemed to be at an impasse over denial or approval. They kept running into this timeframe on a denial. He asked if it was possible to put in a waiver on the one year since the City was responsible for holding this up.

Mr. Gigray replied they would have to amend the ordinance. It was pretty definitive as it stood.

Council Member Laraway asked if this was a stalemate.

Mayor Stear said it looked like it was two to one.

Ms. Suggs believed the issue was, if they did approve the reconsideration, they would be faced with a time schedule to take up that reconsideration at a public hearing. They could agree to not challenge Council on that time schedule and to delay it to work with staff to come up with a reasonable condition that would allow the annexation and preliminary plat to proceed. It was not so much about getting in line as it was about capacity and capability of accepting those EDUs. She understood, in their work with Mr. Stevens, given the opportunity to have the potential approval of preliminary plat put them in the same room with Mr. Stevens and the third-party engineer to help fix the problem. They could come up with solutions but it would cost tens and hundreds of thousands of dollars or more to make those improvements and they wanted the development community to pony up. To do that, they felt they needed some lots or EDUs. The City had been through this before back in the sewage treatment plant days. It was not just about getting a permit. It was also about partnering with the City to make improvements. They were willing to do that and she thought there were other developers willing to do that as well. They had talked about the model for sewer being at 3.5 units per acre. Yes, they were asking for some R-6 and R-8 zoning designations but their density for the 97 acres was 4.07. They were just over the 3.5. Again the 3.5 model was typically used through the comprehensive plan and not just the annexation area because the comprehensive plan did require the City to provide services. The area of impact should be modeled at that as well.

Mayor Stear said a review would show that if they got there. He asked her get to the point if she had one. They needed to move on.

Ms. Suggs said she did. She stated they already agreed to the preliminary plat conditions that were added about will serves. They requested Council reconsider the denial and accept the request without a date certain with direction to staff to work with them to determine the best time for them to come forward with the same plat and different conditions staff, public works, and the developer could meet and Council would be comfortable with. She also asked that Council treat them fairly; like other projects that might come in for annexation.

Mayor Stear thanked Ms. Suggs. He stated they had hashed this out quite a bit and asked for a motion. They would see where they ended up with a vote.

Motion To: Deny reconsideration of Case No. 20-01-AN

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 2-0-2

Recused: Council Member Laraway

Abstained: Council Member Cardoza

- B.** Public Hearing and consideration to approve Case Nos. 19-14-AN (Annexation) & 19-11-S (Subdivision) for the Patagonia East, Lakes, Ridge Subdivisions. – Troy Behunin, Planner III and Bonnie Layton, WHPacific Applicant ACTION ITEM
(Timestamp 01:06:26)

Applicant, WHPacific–NV5 requests approval for Annexation and Preliminary Plat. Applicant requests to annex approximately 173.80 ac into Kuna City limits, with three (3) zones throughout the project; the R-8 (Medium Density Residential [MDR]), R-6 and R-4 (MDR), zones. Applicant proposes a multi-phased master-planned development to be known as Patagonia East, Lakes and Ridge Subdivisions (Patagonia East). Applicant requests Preliminary Plat approval in order to subdivide approx 173.80 ac into 561 Single family buildable lots, 54 common lots and one 10-acre school lot for Kuna School District. The project site is in Sections 7, 8 & 17, all in Township 2 North, Range 1 East (T2N,R1E), all three projects are at the intersection of Locust Grove and Hubbard Roads.

Planner III Troy Behunin presented the staff report. He passed out an email from the City Engineer certifying Taylor Merrill's willingness to pay a proportional share of sewer upgrades to make sewerage possible as well as a hand delivered letter from Kenneth and Linda Jantz that was brought in after the packet was submitted to the Clerk's Office for the agenda. The Jantz's letter appeared to be identical to the one they submitted in July 2020 which was included in the packet. He also noted a recent development with the Kuna School District and the developer. The developer worked with the school district to solidify the plans for the school and what the needs of the school district were and they agreed with the Principal to purchase the property. However, it had been proposed as a 50/50 meaning 50% of the property would be purchased and the developer would donate 50% of the property to the school district and the community. It was now going to be 60/40 meaning 60% donated and 40% purchased. He stood for questions.

Mayor Stear asked Mr. Behunin if, when he said donated to the school district and the community, was it for two separate uses or was he saying community because it was the school district.

Mr. Behunin explained he said that because anytime the school district benefited from a cooperative developer it relieved some of the pressure on residents as well as part of the grounds would be allowed as usable open space for the public because it was a public facility.

Mayor Stear asked City Attorney Bill Gigray, as a matter of procedure, since this project was in the same waste water system as the issue Council just discussed and, knowing

what they just went through and not being sure this would go anywhere, was there an appropriate way to bypass going through the motions and give the developer a chance to change the presentation or something. He was okay with going through the motions again but, he was afraid Council would come to the same decision in the end.

Mr. Gigray explained this was a public hearing. The application had been made, the staff report had been prepared, and the hearing was open. The best course was to listen to the evidence and make a decision. They couldn't shortcut it. They could direct applicants and other persons to address specific concerns Council had so they had the best information they needed in order to make a decision. They could certainly make those requests and ask questions. He encouraged them to do so but they needed to go through the hearing.

Bonnie Layton, WHPacific and NV5, 690 S Industry Way Suite 10, Meridian, Idaho 83642, representing Westpark Companies and Greg Johnson, the applicant, passed out a presentation to Council and the Clerk. She thanked Council for their time and hoped to provide some additional information for their decision that evening. She reviewed the application and noted their gross density was generally at 3.23 dwelling units per acre the whole project which was below the previously discussed 3.5 threshold over. Also, the school site and resolving that issue was one of the conditions of approval with Planning & Zoning. She gave some history regarding working with the school district on a school site in the original Patagonia location. That site was rejected and they worked closely with the district to relocate the site and provide a much-needed amenity for the area and the citizens of Kuna. She knew there had been a lot of discussion that evening regarding sewer capacity in that area. When their original Patagonia project was developed back in 2015 there was a lift station designed, the Patagonia Lift Station, that contemplated the future capacity. She received a letter from their engineer who was on the project at the time. Mr. Behunin passed a copy of the letter out. He just had the letter but they also had supplemental sewer/pump station calculations that were approved by the City and DEQ for Council's review and consideration that she could submit into the record. Initially, they submitted the application at the end of 2019 and were scheduled to be heard at the end of March 2020 but were delayed by COVID and in that time frame this issue arose. They did not believe it to be an insurmountable situation. Their original Patagonia project was very successful. In the development of that project, and she would defer to her client to speak in further detail but, generally speaking, they built a lift station that could serve 1,500 homes. The City eventually reimbursed them for 2/3rds of that. They built more capacity than they needed and the reimbursement happened ahead of schedule. By 2021 they would be approaching 500 units of the 1,500 that lift station contemplated. Ms. Layton read into record a letter Mr. Behunin had passed out to Council from the engineer on the project, Ben Thomas, and is attached to these minutes. She explained it had been their belief and intention all along to develop this infrastructure with a plan in place to add additional lots in the area. They were agreeable to what was in the staff report including the additional conditions 15 and 16. She requested approval and stood for questions.

Council Member Cardoza asked if the 21.93 acres of open space included the school site.

Ms. Layton responded it did.

Council Member Cardoza said the 21.93 acres was in essence 11.93 acres of open space.

Ms. Layton believed that was correct but didn't have the exhibit from the staff report in front of her.

Council Member Cardoza asked what the purpose of the 31 pictures submitted of fields and what not was. The pictures were all dated 10.24.2019. He thought, if they were trying to show Council what it looked like, the photos should be current, not a year old.

Ms. Layton explained those pictures were submitted in December 2019. They were scheduled to be heard in March of 2020 but were delayed due to COVID and noticing errors. If they had been heard sooner instead of being pushed back, the pictures would have been current.

Greg Johnson, the applicant, 2037 E Terza Street, Meridian, Idaho 83642, purchased some of this land as early as 2003 and had been working on this development ever since. Some of these parcels were auctioned at the time they submitted the first Patagonia and they spent five years getting through ACHD with traffic studies and other things to get this in front of City Council. It had been a long and brutal process. They had been developing in Kuna since 1985 and it usually wasn't this difficult. They had been a little frustrated with the process. In 2014 he met with Gordon Law regarding this latest development of Patagonia, the one currently under construction. After several months they agreed it would be in his and the City's best interest to build the lift station Ms. Layton mentioned. It had, at that time, the capacity to service 500 homes. They had used approximately 300 of those and other developments that had hooked on were using about 50. The Patagonia Lift Station was not at capacity. All it needed when they hit 500 homes was to add two larger pumps. That should cost about \$100,000. That was calculated when it was first built. The initial cost of the lift station and pressure lines and boring into Meridian Road for both water and sewer was well over \$2 million. They launched that in 2014 when the market was just barely turning around in response to requests to build a project in Kuna for move up buyers. They had done that by having homes ranging from \$625,000 to \$350,000.

Mayor Stear thanked Mr. Johnson and asked if there were any questions for him.

Mr. Johnson begged for at least a minute to explain a commitment given him by Gordon Law in 2014 when he agreed to put \$2 million up front into infrastructure.

Mayor Stear asked if he would like to explain during rebuttal.

Mr. Johnson said he could do that.

Council Member Cardoza asked who was supposed to pay for the larger pumps and starter switches and if he thought the City should be imposed with that.

Mr. Johnson explained they paid a fee of \$3,233 with every house that was built for an LID to Key Bank. They paid a fee for an LID for the treatment expansion which would

be for the filtration system; \$1,092 for each house. They paid \$1,329 for a trunk line, collection and pump lift station improvements. There should be millions of dollars sitting there to pay for them. If they weren't there, they would be glad to pay for them but they did front the first costs because at that time the City had no money. Mr. Law was trying to generate income for the City and get things going after the recession.

Council Member Cardoza asked if he had been receiving late comer fees on that lift station.

Mr. Johnson responded \$1,200,000. That was the total reimbursement. The rest of the cost was applied to their project for the capacity of the 450 homes in Patagonia.

Council Member Cardoza asked again who Mr. Johnson thought should pay for the installment of larger pumps and starts; development or the City.

Mr. Johnson said it didn't matter. Development paid for it either way. Either with fees at connection or upfront. They preferred upfront.

Mayor Stear opened the public hearing. He had two people signed up to testify in this matter. He asked if there was anyone else who wished to testify.

There were none.

Support:

Sherry Huber, Neighborhood Representative, 2601 E Hubbard Road, Kuna, Idaho 83634, gave a hand out to Council, the City Clerk, and Planning & Zoning. She said it was interesting listening that night because part of the reason the neighbors had been frustrated was the facts were not consistent between agencies or engineers or within agencies. That night the facts seemed to be consistent but she had just received a report on September 10, 2020 that showed something different. She assumed the numbers and acres discussed that night were the numbers and acres they were talking about. She skipped her first three items on the hand out and moved on to her fourth item. In order for the school site to be included in the annexation, the number of acres should be 173.79 or 177.24 according to Land Solutions surveys of December 12, 2019 and June 9, 2020. The reason this was so important was because during the August 11, 2020 Planning & Zoning meeting, Troy Behunin stated "without the school, the open space requirements would not be met, so there would essentially not be a project." Additionally, in the same meeting Bonnie Layton of WH Pacific stated with the school site there would be 29.93 acres open space or 16.59%. The Planning & Zoning notification she received in the mail showed only 12.4% open space. She felt Council Member Cardoza hit it on the nose when he deducted the ten-acre school site. Her fifth item stated the original Patagonia was west of Locust Grove on Hubbard. The ACHD report of October 21, 2014 showed 150.35 acres with all boundaries touching, 470 lots, and 18 common lots. The new Patagonias were three separate neighborhoods divided by arterials. The acres that night showed 163.6 with 574 lots which was changed again to 561. The difference from the

original Patagonia was 13.25 extra acres and 104 extra lots. This was a materially higher density than the original Patagonia.

Ms. Huber asked, when the timer buzzed, for more time since she was representing her neighborhood.

Mayor Stear gave her an extra minute to wrap up.

Ms. Huber explained the density between the north and south side of Hubbard Road was a 38.5% increase. There was a difference in density. As she had said, the projects were divided by arterial roads and there was no insurance that each parcel had adequate green space. The Kuna staff indicated the comprehensive plan was not something the City followed; it was a guide. Everyone living in the area east of Locust Grove had looked at the comp plan and saw two to four units per acre was planned. This was not following the comprehensive plan passed in July 2019. To make it worse, the developer had started his development and had the opportunity during the comprehensive plan update to apply for a higher density east of Locust Grove but, apparently, he did not. If Council allowed this development as planned, they would be allowing 104 more lots with only 13.25 more acreage. Something was drastically wrong, inconsistent, misleading, and inaccurate. She asked Council to require the developer redesign to comply with the existing 2019 comprehensive plan east of Locust Grove and adequate green space be ensured for each parcel. Once Council changed it and opened the door to a higher density, they wouldn't be able to close it. It also just came to her attention this developer was purchasing or had just purchased another 30 to 100 acres in that same low-density residential area.

Mayor Stear thanked her. He noted she had marked in favor on the sign-up sheet. He asked if she was in favor of it as long as they made some changes.

She thought the people she was representing would say they weren't in favor of it but, when they had discussed it, they felt there was no stopping it.

Joe Randall, 2210 E Hubbard Road, Kuna, Idaho 83634, was surrounded by this proposed subdivision. From what he had seen of the Patagonia Subdivision, it was certainly a quality development. His purpose was to just ask some questions. When the preliminary plat was applied for, he had a question about the alignment of the road that came out of the south property. The road would allow at night for car lights to shine directly into his window. He did ask them to move the alignment about 100 feet or so. He did not receive a reply back and could not tell from the picture if that had occurred. He also noted he had a quarter mile of fence that would be adjacent to this. He asked if there would be a privacy fence put up there. He knew most of this developer's subdivisions had a privacy fence.

Mr. Johnson nodded yes.

Mr. Randall had a three-rail polyvinyl fence he would be happy to remove but it also was in conjunction with an irrigation system. He would work with the developer on that. He

asked, at the time they put in the sewer, if there was a way he could connect his two homes to that sewer line if he decided to annex into the city.

Mayor Stear replied it would depend on if it was a forced main in Mr. Randall's spot. It would be a buy into the sewer system. He thanked Mr. Randall.

Mayor Stear had no one else signed up to testify. He asked if there was anyone who wished to testify that had not signed up.

There were none.

Against: None

Neutral: None

Rebuttal:

Greg Johnson, the applicant, explained if a road was stubbed to someone's property there would be sewer and water in that road. Mr. Randall would just need to meet with the City Engineer. Most of it was buried and would probably serve him. He explained, when he was making the decision to upfront a couple million for a lift station and pressure lines down Hubbard Road to serve this part of the valley with sewer, he was the first to move across Meridian Road. He spent \$600,000 just boring because Meridian Road couldn't be cut. Anything going through it had to be bored. He was making a choice between a parcel of land in Meridian and this one. The land in Meridian had a little less upfront costs but he felt the market potential with this one was very good. That turned out to be the right decision but it was difficult to choose to spend \$2 million upfront to get these facilities in place before anything came in as revenue. He knew Mr. Law was not the current City Engineer but, at that time he had said the Danskin Lift Station was built to handle all of this capacity. The only thing it needed was pumps added; just like theirs. The pressure lines down Ten Mile were very adequate to handle all of that sewage. Pumps were all that was needed. If that was all that was holding this up, if the treatment plant had capacity, adding pumps to a lift station was a very minor deal. He would be glad to pay for them or other developers. They just wanted to move forward. Mr. Law had said at that time everything was ready to go and they just needed to order the pumps when it was time. He didn't know if that had all been lost but, that was the comment he made at that time. Mr. Johnson went ahead and invested the money. They had great success with Patagonia and wanted to continue on with this part of the project. They had initially designed the lift station for 1,500 homes because it would be a third more than the original with this land added to it. The original Patagonia with this one was about 1,000 homes. That left about 500 for other developers on that lift station. Then the plan was for the Mason Creek Collector to be built from the sewer plant up Mason Creek and take this station off the line. Currently Mr. Eck was building Spring Hill and that portion of the trunkline which would get it almost to Columbia. It would cross Columbia and follow approximately the Mason Creek drain over to Meridian Road. It would cross Meridian Road and connect into this lift station which was at the best edge of the Patagonia project approximately 150 yards south of the Mason Creek. That area was all pretty flat and would pick that

drainage up. At that time, all of this would then flow to the lift station at Linder on Mason Creek and out to the treatment plant. The main issue he thought Council was aware of and should be aware of, was at the time the acting City Council purchased the land the treatment plant was on; they did not acquire from the Durrants easements for the trunklines. Mr. Johnson had talked to the Durrants for a bit. He had gone with the Mayor to visit with them. Richard Durrant was very adamant that he did not farm with animals across his farm. It was doable. It would not affect his pivot and he knew the City would need easements across their property but for some reason that was not negotiated. Mr. Johnson recommended someone start working on that and, if it had to be condemned by eminent domain, the City needed that trunkline built within five years. That was the real resolution; getting off the lift stations and letting it flow. Those were his thoughts. He thanked Council.

Mayor Stear asked if there were any questions for the applicant.

Council President McPherson asked City Engineer Paul Stevens if they were able, in a joint venture with a developer or on their own, to upsize Patagonia to pump to Danskin. The issue would then be from Danskin to the plant. He wanted to know where they were at with capacity in that aspect; would it overload it or was it acceptable to add that much more allotment to it.

Mr. Stevens replied they didn't know the right answer yet. They were evaluating Danskin, Patagonia, and the force mains to see what could be put on those. That was being done by the outside engineer. Then they would have an adequate answer they could rely on. They did know there was a place for a third pump in Danskin and the pumps in Patagonia were designed to be upgraded but they didn't know if all the force mains were adequately sized or the correct material to take on the additional velocity and pressures. They were just verifying before moving forward so they didn't make a bigger problem than they already had.

Council Member Cardoza said, looking back at the other case that just came before this one, they had no choice. They just discussed this. They couldn't okay a subdivision with the potential of fixing the problem without knowing what the answer to the problem was. He thought they would be opening themselves to litigation by the previous case if they okayed this.

City Attorney Bill Gigray asked if that was a question.

Council Member Cardoza said it was.

Mr. Gigray explained annexation was a matter of discretion but, they would want to exercise that discretion because it was a legislative matter not a quasi-judicial matter. They needed to decide what they felt was in the best interest of the city. If they felt there was a problem and they didn't want to annex in a certain area because of the same issues, then it maybe the same reason for denying the annexation. They should treat each one as they came before Council with the facts in front of them at that point in time in that hearing.

Mayor Stear thought the point Council Member Cardoza was making was not only was it in the same area; it was the same system.

Mr. Gigray said they were making their decision based on the evidence they had in this particular matter and if it was a persuading fact it could be a persuading fact again in their decision.

Council Member Cardoza clarified Mr. Gigray was saying they needed to look at it individually not collectively.

Mr. Gigray said yes, each case stood on its own record unless they were taking judicial notice of certain facts which they liked to do that deliberately. Council had the staff report, the reports from the applicant, and the other exhibits before them as well as the information received at the hearing so they could make that decision. If they determine to deny annexation as in the past, that meant the other applications for zoning and preliminary plat were moot. That was the process they followed before.

Council Member Christensen stated that was a great question on Council Member Cardoza's part and he had nothing to add.

Council Member Laraway recused himself.

Mr. Johnson didn't want to offend anyone but, something had really gone amiss in the transfer from one City Engineer to another. This was all figured out and in place three or four years ago. He didn't know why it hadn't been done; maybe all the records were lost. He felt that he was being held at bay on something he had invested a lot into over the last four years. In his conversations with Mr. Stevens he indicated JUB should have the report to him in a month or two or at least early next year. That part could be resolved and he was happy to pay for those improvements. Those could be installed by September of the next year and if Council approved this plat and they went forward as fast as they could, they would not need sewer until after September of 2021. If Council decided to do as they had with the previous plat, it would put him in a position of having to resubmit a year later and go through a whole new deal with Ada County on roads and a traffic study. The traffic studies alone took a about a year to get through with Ada County and Kuna didn't accept applications until they were done. He asked that they please not deny him because of lack of sewer. The sewer would be there by the time it was needed.

Mayor Stear said, since he called out Mr. Stevens, he came into a system that was already set up. He did not design the system and had nothing to do with the original design of the system. He was merely saying there were some short comings and they needed to look into those further. He had already set the wheels in motion to get that done. He certainly did not deserve to be called out on the floor as Mr. Johnson just did. Mr. Stevens was doing an outstanding job and trying to do what was in the best interest of the City which was his job.

Council Member Cardoza asked if, on page 37 of 250 in section 4g, the negative 264 remaining capacity for the lift station was accurate.

Mr. Stevens said that was based on commitments.

Council Member Cardoza asked how much of that commitment had been honored.

Mr. Stevens did not now.

Motion To: Close evidence presentation and proceed to deliberation

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 3-0-1

Recused: Council Member Laraway

Motion To: Deny Case Nos. 19-14-AN (Annexation)

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion:

Bonnie Layton, WHPacific and NV5, requested Council table the hearing until more information could be received from JUB.

Mayor Stear asked Mr. Gigray what the manner of procedure should be.

Mr. Gigray said they had closed the hearing for the receipt of evidence. That was a procedural motion so, if they decided to table it for more information, they would want to rescind the motion. They would reopen the hearing and entertain a motion to table the hearing to a time certain with direction on the specific information to be provided.

Mayor Stear asked if Council wished to carry forward with the motion that was on the floor or if there was a subsequent motion.

Council Member Cardoza said it didn't seem fair to stop this one when they already made a decision on the other. He didn't know what the consequences would be if they treated these separately since they were different annexations.

Mayor Stear said that was what he attempted to do at the start of the hearing but they had to carry on.

Mr. Gigray said these were two separate matters and had to be taken up separately. The motion was a matter of their discretion. They could motion to amend the original motion and if there was no motion to amend the motion, they would proceed with the motion that was before them. If they proceeded with that motion, he recommended they continue the public hearing and direct the Findings of Fact Conclusions of Law be prepared for their consideration as they had done in the past.

Council President McPherson amended his motion.

Amended Motion To: Deny Case Nos. 19-14-AN (Annexation) and continue the Public Hearing for the receipt of the Findings of Fact and Conclusions of Law

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 2-1-1.

Voting No: Council Member Cardoza

Recused: Council Member Laraway

C. Public Hearing and Consideration to approve Case No. 19-08-AN (Annexation) for Black Rock Market Place – Troy Behunin, Planner III and TJ Angstman, Applicant **ACTION ITEM**

(Timestamp 2:16:43)

Council took a brief recess.

(Timestamp 2:24:50)

SH69 Holdings, LLC requests approval to annex approximately (approx) 40.82 acres (ac) into Kuna City limits in order to develop the same lands utilizing two separate zones; the R-20, High Density Residential (HDR) & C-2 (Area Commercial) zones. The R-20 HDR is proposed to be approx 13.22 ac in size, and the C-2 (Commercial) is proposed to be approx 27.45 ac. The applicant will propose multi-family housing units within the R-20 zone in the future, and Commercial uses will be proposed within the C-2 zone, in the future. The site is located at the hard-northwest corner of Meridian and Deer Flat Roads in Kuna, ID 83634, Section 13, Township 2 North, Range 1 West; (APN: S1313449900).

Planner III Troy Behunin presented the staff report and stood for questions.

Council Member Christensen recalled that parcel of land in the comprehensive plan had no residential right along the Meridian Road corridor right there. He asked if the R-20 portion was in addition to the C-2 just to stick with that.

Mr. Behunin explained it was in the comprehensive plan as mixed use which did require something other than just commercial or just residential. Staff worked with the applicant on multiple versions of their plan. They were very willing to comply with the City's designation for the area. They followed staff's recommendation to move the proposed R-20 from fronting onto Meridian Road to the back of their property so the commercial would have the entire frontage. It was actually a very small portion that had residential uses.

Mayor Stear couldn't find the reduction in R-20s in the packet.

Mr. Behunin didn't know what page in the staff report but it was in a legal description.

Mayor Stear asked if it went that way to Planning & Zoning.

Mr. Behunin replied the reduction was discussed and presented at Planning & Zoning. It was originally 13.22 acres but now was between five and six so it was less than half of what was originally proposed with the submittal.

Mayor Stear opened the public hearing. He did not have anyone signed up to testify in this matter. He asked if there was anyone who wished to testify.

There were none.

TJ Angstman, the applicant, reviewed the application and their plans. He enjoyed working with staff and stood for questions.

Mayor Stear said the only negative thing he saw was the Fire Department didn't like the residential so close to the front and it sounded like that had been worked through. He asked if Mr. Angstman felt better about it after that.

Mr. Angstman said yes. It was better to get the input in advance than someone getting hurt.

Planner II Jace Hellman notified Council Economic Development Director Lisa Holland had just sent him a message that she was available for questions by phone.

Mayor Stear stated this was a simple annexation and zoning. There wasn't anything set in stone beyond that.

Council Member Christensen noted the Fire Chief really made an emphasis on the recommendation to not have any residential within a quarter mile of Meridian Road. He asked how far into land did this go from Meridian Road.

Mr. Angstman explained the entirety of their property would be within 1,300 feet of Meridian Road. It was a requirement of mixed use to have a residential component; not just two different kinds of commercial uses. It was the designation; which was why they worked so hard on their design and reduced it significantly. They thought they had found a way to take one of the stub streets from the Toll Brothers' subdivision and do an "L" shape out to Ardell. They hired a traffic engineer that seemed very knowledgeable and they were making changes to their design based on their recommendation to move from 330 feet from Meridian Road to 440 feet with only a single access on Ardell instead of two. Council would see all of these things later but he wanted them to know he had thought about it. It would be a public road connecting to Toll Brothers out to Ardell and there would probably be a bus stop there. That would be the only access on Ardell. They devised a roadway system with a nub on the road that would block traffic from going one direction so everyone coming from the townhouse side would have to go out to Ardell; not Meridian Road. Otherwise, the real risk to them was all of their accesses to Meridian Road being shut off. They had three deeded accesses and, in their site plan submitted to City staff, they reduced that to two. It was rare to have deeded accesses but they weren't going to use them. He noted they had closed on the property and owned it. They really wanted to be part of the city and the community.

Council President McPherson asked if Council Member Laraway was out on this one too.

Council Member Laraway shook his head yes.

Council Member Cardoza called attention to page 4 of 157. Staff was asking them to add the proposed 18 and 19. This was an annexation. On page 30 of 157, City Engineer Paul Stevens was saying they were meeting capacity at Danskin. Proposal 18 and 19 looked like what was brought up to them on every annexation with the potential of the will serve not being issued within the time the applicant was required to file the final plat. It seemed like they were back to denials by putting this in. They had denied others but here they were giving them the opportunity to proceed waiting for the availability of the will serve. He asked if City Attorney Bill Gigray read it the same way.

Council President McPherson said they had the same in the last ones too.

Council Member Cardoza said he did not see 18 and 19 in the other ones.

Council President McPherson replied they were 15 and 16 in the most recent one. He didn't know what they were in the first but he could look back if needed.

Council Member Cardoza asked why they didn't just proceed with those proposed additions assuming they wouldn't proceed until they got permission from the director. He asked why they were denying some and proceeding with others.

Council Member Christensen thought a lot of those were going to come into play after the annexation. They had seen those will serves in the previous preliminary plat approvals. Will serve came into play after the annexation. He thought that was the difference Council Member Cardoza was seeing. He could be completely off on that but, it was how he made sense of the will serve condition.

Council Member Cardoza asked if they were going to base acceptance on those two proposed conditions and if they were available to the others, why would they deny when given the latitude to proceed just waiting for the will serve. They were giving the permission to annex with the assumption that they would meet the conditions Council was setting yet they turned down others with the same conditions because of capacity. He read 4e from page 512 of the overall packet. "Sewer flows from this development are expected to meet or exceed the capacity of the receiving sewer lift station. It is expected that the development shall provide the additional lift station capacity and infrastructure/force main capacity needed to serve the property." In his discussion with the developer, Mr. Johnson, he was telling them how much he had spent and that the City should pay for it but, given the expense of a development, Council Member Cardoza was sure Mr. Johnson would pay it and end up with late comers' fees. He asked if they were to agree to annexation with the probability of a future settlement with the developer when they didn't know what that settlement would be. If they annexed this, it would be on the condition that they would work with the City Engineer but not saying what the conditions were so they were wide open on who would pay. He asked how they could ok an annexation without knowing there was capacity.

Council Member Christensen did not disagree with anything Council Member Cardoza said.

Council Member Cardoza stated this one said they could work with the developer and the others didn't. He didn't understand that.

Council Member Christensen explained the sewer talk was the breaking point for what they discussed that day in the denials but, there was a lot of other things in residential that swayed that decision as well outside of what they might see with a small commercial development. They talked about the added traffic and safety concerns, road capacity, and schools which were not as relevant with commercial. He thought it was important to look at these individually. He could not disagree with Council Member Cardoza on the sewer point alone. He needed to dwell on it over the next couple of minutes while they discussed.

Council Member Cardoza thought this should be worked out before coming to Council's desk. There should be an agreement on what the developer was going to do with the City Engineer to solve the problem in the area instead of bringing options to Council. There shouldn't be any options. If Council denied one, they should deny them all until they came with a presentation that solved the problem. That should be presented to Council primary not secondary at another meeting or decision making.

Mr. Behunin stated any of the conditions listed in the staff report could be added to or removed. This was only an annexation. They weren't really talking about sewer yet. Yes, that was the first step in development but, it wasn't really the question. He read some information he got from Ms. Holland. "Larger commercial projects are able to pay for infrastructure more easily than residential projects. This annexation just gets them into the city but doesn't approve their development plan." He noted the development plan still needed to come before Planning & Zoning and Council. He continued reading Ms. Holland's comments. "It gives them the ability to market the commercial property to try and find a larger user that would be able to help the city with sewer challenges." He added a developer had to have something to bring them willingly to the table. Ms. Holland also noted, "Commercial helped adjust the tax base away from residential and that it typically used less sewer and water than residential." He explained the reason they could afford a little more on the infrastructure side was they were revenue generators. Residential uses just paid for themselves and did not generate revenue. Ms. Holland had also stated, "Kuna is in need of more commercial services. She had worked with this developer on their mixed-use plans. These reduce the tax burden from the residential population and, typically, you want to see a transition of commercial to single family homes." He noted it sounded, based on what Mr. Angstman said, they were proposing for sale products and it was greatly reduced from what they originally proposed. Council did not have to live with those conditions. They could revoke them because it would come up at a preliminary plat public hearing just like this.

Mr. Gigray addressed Council Member Cardoza's question. It was his recollection, when they denied the Spring Rock annexation, one of the big reasons for it was the annexation was one that would not constitute an orderly development and would contribute to urban

sprawl. The proximity and location of those particular requests weighed in Council's discussion and decision not to annex. It was not just centered on sewer capacity. That was an issue as well as sprawl and the extension of city services out a long distance and the stress that put on them. That was how he understood those proceedings and it was in the findings. In regards to the matter before Council, annexation would be whether or not the subject land would be included in Kuna's corporate limits. Then the land use that would be allowed in that area. The conditions were like a development agreement. They were conditioning the zoning designation. With regards to infrastructure, those conditions usually came in with preliminary and final platting. In this instance, they were not seeking the platting yet. It was his opinion annexation was a discretionary matter but he wanted to bring to their attention that orderly development of the community and urban sprawl was a factor in their other decisions.

Mayor Stear added to what Ms. Holland had stated. An issue they had with bringing commercial development to Kuna was they didn't have properties that were already annexed and zoned commercial. That was a process that took a while and most commercial entities looking to build somewhere were ready to buy; not hang out and decide what people wanted to do later. If there were properties already set up and zoned that the City knew they could serve at some level, that was how to get those in. It was probably why there wasn't a set plan as to what would go in this. They didn't know exactly who would have an interest in this. They probably had some people on the hook but he didn't know. They had to have something already zoned commercial before they could show or sell it as such. He thought that was the major difference in this versus the others.

Mr. Angstman stated they were not going to ask the City to pay for sewer. They were going to participate and might have to have late comers' fees. Unfortunately, they were probably at the end of the line and no one would be connecting behind them if they put in a lift station. He would like Council to approve some of the other developments with the same conditions so their developers would pay some of it too. They would like to see contributions from everyone that would benefit from upgrading the Danskin Lift Station. The best way to do that was to get them teed up but not ready to go until this was solved. It was not a word problem. It was a money problem. Sewer would move down hill with money. They just needed enough people with economic interest to support upgrading these. The money was what would solve the problem. It wouldn't be words, talking, or hearings. He agreed with Council Member Cardoza that this really shouldn't be at Council's level. It was something they solved all the time on their projects; infrastructure. It was difficult to work with people but they had to. What it came down to usually was money. He wasn't trying to criticize Council's denial of the other projects. Theirs was different because they only included annexation and zoning; not a preliminary plat. They would come back later for the preliminary plat after the problem was solved. He wouldn't come back again and he couldn't leave with a denial. It would give him a 12-month time out and he would have to withdraw his application if he thought they were going to deny him. He filed this application a year ago. It was important to get the zoning in before getting in front a tenant because, if they heard the City was out, they would go elsewhere. His biggest fear for Kuna was the commercial center would go a bit north and the town

would get spread out with two cores. There were places around where that happened and it hurt the community's sense of place. Kuna had that.

Support: None

Against: None

Neutral: None

Rebuttal: None

Motion To: Close evidence presentation and proceed to deliberation

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 3-0-1.

Recused: Council Member Laraway

Council President McPherson asked what Council Member Cardoza thought.

Council Member Cardoza didn't have a problem. The only thing he would contend with Ms. Holland was a restaurant would traditionally use up 200,000 gallons of water. If the average house used 3,000, that was about 1,000 homes in the equivalent of a good restaurant. It was definitely a burden on the system. His biggest problem was not with developers. The City had a problem. He wanted to see the City Engineer and Planning & Zoning solve the problem before it came to Council. It would make their decision so much easier and they didn't put conditions back on them. The conditions should already be met when it came to Council. It made it hard for him to make a decision on a denial or acceptance when he didn't know what was going to happen later. Once they were in the City, they had the City's (*unintelligible*) in their hand. He would love to see the decision making made easier because every condition was already discussed as to who was paying and who was not paying for it. Then he wouldn't have City Engineer Paul Stevens coming to him with things needing to be done at the lift station and asking for money out of contingency funds. Growth should pay for itself; not the City.

Mayor Stear agreed. This was one of those situations where they rolled into a divot in the road. Mr. Stevens was working diligently to resolve it and there would be some changes in the Planning & Zoning Department and the way things worked. They would actually be able to put their finger on what exactly needed to be done and how to get there when things came to Council. They had just gotten into an unfortunate position and he understood his frustration.

Council Member Cardoza stated he did want commercial. Kuna needed to get away from roof tops and get to commercial. He would love to see everything down Meridian Road as commercial.

Mr. Gigray added, with regards to the City's infrastructure, they could not enlarge or expand that system using funds the City already had. It had to be done through the development and the developers had to pay for it. That was the reason for late comer fees and surcharges. Otherwise, they would be in violation of Supreme Court decisions. He reviewed Council's options with conditions, approval, denial, or tabling.

Mayor Stear stated they were looking at a rezone and annexation. He didn't think there was anything to send back to staff to look at but, if Council wanted to send it back to staff, they certainly could do so.

Motion To: Approve Case No. 19-08-AN (Annexation) and Close the Public Hearing.

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 3-0-1.

Recused: Council Member Laraway

7. *Business Items:*

A. J&M Sanitation Franchise – Chad Gordon, J & M Sanitation (Timestamp 03:22:01)

1. Consideration to approve Ordinance No. 2020-30 ACTION ITEM

AN ORDINANCE OF THE CITY COUNCIL OF KUNA, IDAHO:

- REPEALING ORDINANCE NOS. 578, 679 AND 2014-04; AND
- REPEALING CHAPTER 4 OF TITLE 8 KUNA CITY CODE; AND
- AMENDING TITLE 8 KUNA CITY CODE BY THE ADDITION THERETO OF A NEW CHAPTER 4 PROVIDING A SHORT TITLE, STATING AUTHORITY, PROVIDING DEFINITIONS, STATING FINDINGS OF PURPOSE AND INTENT, ESTABLISHING A SOLID WASTE COLLECTION SYSTEM AND SERVICE, PROVIDING FOR CONTRACTOR FRANCHISE AGREEMENT AND CONDITIONS FOR SOLID WASTE COLLECTION SYSTEM AND SERVICES, PROVIDING FOR CONTRACTOR SERVICES SCHEDULE AND FEES, ESTABLISHING COMPULSORY SOLID WASTE COLLECTION SYSTEM AND SERVICE USE BY PREMISES OWNERS AND OCCUPIERS, ALLOWANCE OF PERSONAL HAULING OF SOLID RECYCLABLE WASTE, PROVIDING FOR SOLID WASTE SANITARY CONTAINER REGULATIONS, PROVIDING FOR VOLUNTARY SUBSCRIPTION FOR COLLECTION OF RECYCLABLE WASTE, PROHIBITING AND DECLARING UNLAWFUL IDENTIFIED TYPES OF SOLID WASTE FROM COLLECTION, DEFINING AND DECLARING THEFT OF COLLECTION SERVICES AS UNLAWFUL, PROVIDING THAT THIS ORDINANCE APPLIES TO ALL CITY ANNEXATIONS, DECLARING DESCRIBING CIRCUMSTANCES WHERE THE PLACEMENT OF SOLID WASTE AND RECYCLABLE WASTE IS PUBLIC NUISANCE, PROVIDING FOR NOTICE TO VIOLATORS AND DECLARING A CONTINUED VIOLATION AS A

MISDEMEANOR, PROVIDING FOR A PENALTY FOR VIOLATIONS OF CHAPTER 4 OF TITLE 8; AND

- DIRECTING THE CITY CLERK; AND
- PROVIDING AN EFFECTIVE DATE.

Motion To: Waive three readings of Ordinance No. 2020-30

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Motion Passed: 4-0

Motion To: Approve Ordinance No. 2020-30

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Approved by the Following Roll Call Vote:

Voting Aye: Council Members Cardoza, Christensen, Laraway, and McPherson

Motion Passed: 4-0

Motion To: Approve Summary Publication of Ordinance No. 2020-30

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Motion Passed: 4-0

2. Consideration to approve Ordinance No. 2020-31 ACTION ITEM

AN ORDINANCE OF THE CITY COUNCIL OF KUNA, IDAHO:

- FINDINGS OF HISTORY, AUTHORITY, PURPOSE AND INTENT; AND
- GRANTING TO J & M SANITATION, INC. A FRANCHISE FOR SOLID WASTE AND RECYCLABLE WASTE COLLECTION SERVICE AND AUTHORIZING THE THIRD AMENDED AND REFORMED FRANCHISE AGREEMENT; AND
- DIRECTING THE CITY CLERK; AND
- PROVIDING AN EFFECTIVE DATE.

Motion To: Waive three readings of Ordinance No. 2020-31

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 4-0

Motion To: Approve Ordinance No. 2020-31

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Approved by the Following Roll Call Vote:

Voting Aye: Council Members Cardoza, Christensen, Laraway, and McPherson

Motion Passed: 4-0

Motion To: Approve Summary Publication of Ordinance No. 2020-31

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 4-0

3. Consideration to approve Resolution No. R58-2020 **ACTION ITEM**

A RESOLUTION OF THE CITY COUNCIL OF THE KUNA, IDAHO:

- SETTING FORTH CERTAIN FINDINGS; AND
- AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ON BEHALF OF THE CITY THE CITY OF KUNA ADMINISTRATIVE BILLING AGREEMENT WITH J & M SANITATION, INC.; AND
- DIRECTING THE CITY CLERK; AND
- SETTING AN EFFECTIVE DATE.

Motion To: Approve Resolution No. R58-2020

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Approved by the Following Roll Call Vote:

Voting Aye: Council Members Cardoza, Christensen, Laraway, and McPherson

Motion Passed: 4-0

B. Consideration to appoint Tyson Garten's to the Planning and Zoning Commission – **Jace Hellman, Planner II** **ACTION ITEM**

(Timestamp 03:28:30)

Planner II Jace Hellman presented the request to appoint Tyson Garten to the Planning & Zoning Commission and stood for questions.

Mayor Stear noted he was the one who suggested Tyson Garten talk to Planning & Zoning. He had talked to Mr. Garten a bit. He was quite capable and interested in being involved in City operations. He felt he would be a good fit and Planning & Zoning felt the same way. He recommended appointing him.

Motion To: Appoint Tyson Garten to the Planning & Zoning Commission

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Motion Passed: 4-0

8. Ordinances: None

9. Executive Session:

(Timestamp 03:31:37)

Convene Executive Session pursuant to:

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

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

Mayor Stear indicated he, Council, City Attorney Bill Gigray, and Human Resources Director Nancy Stauffer would stay for the Executive Session.

Motion To: Convene Executive Session pursuant to Idaho Code Section 74-206 (1)(b) with full Council, legal staff, and Nancy Stauffer

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Approved by the Following Roll Call Vote:

Voting Aye: Council Members Cardoza, Christensen, Laraway, and McPherson

Motion Passed: 4-0

Executive Session City Council Regular Meeting of November 4, 2020 – The City Council, upon a unanimous vote, convened into the Executive Session, pursuant to Idaho Code Section 74-206 (1)(b) to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public-school student. The executive session was convened at 9:34 p.m. In attendance was Mayor Joe Stear, Council President Greg McPherson, Council Member Richard Cardoza, Council Member Warren Christensen, and Council Member John Laraway. Also, in attendance, by request of the Mayor and Council, was City Attorney Bill Gigray, and Human Resources Director Nancy Stauffer. Mrs. Stauffer was appointed as special clerk to take the minutes of this executive session. Information was then provided to the Mayor and the members of the City Council regarding the subject of the executive session. At 10:01 p.m. Council President Greg McPherson moved and Council Member Christensen seconded to come out of executive session and to reconvene into open session which motion passed unanimously.

Nancy Stauffer, Clerk of Executive Sessions

Open session resumed

10. Business Continued

A. Report on Mayor's removal of appointed officer – Mayor Stear

Mayor Stear reported to the City Council pursuant to his authority and responsibility [I.C. § 50-602] as chief administrative official of the City and with superintending control of the officers of the City; he determined to remove Wendy Howell as the Director of the City's Planning & Zoning Department and to immediately relieve her from active duty status and terminate her employment with the City effective this 4th day of November, 2020. This action was based upon his discretion that it was in the best interests of the City and the Planning & Zoning Department in order to maintain a cooperative working environment in that department.

Mayor Stear requested and entertained a motion of the City Council affirming this action pursuant to Idaho Code Section 50-206.

B. Consideration to affirm Mayor's removal of appointed officer ACTION ITEM

Motion To: Affirm Mayor's removal of appointed official Wendy Howell

Motion By: Council President McPherson

Motion Seconded: Council Member Christensen

Further Discussion: None

Voting No: None

Absent: None

Motion Passed: 4-0.

C. Report on appointment of officer on interim basis. – Mayor Stear

Mayor Stear reported, as Mayor of the City of Kuna, to the City Council that, pursuant to his authority and responsibility to appoint officers of the City [I.C. § 50-204]; he appointed Jace Hellman to the office of Planning & Zoning Director on an interim basis, pending further action by the Mayor and the Council regarding the appointment to this office. This appointment was with the condition that, in the event Jace Hellman was subsequently not appointed by the Mayor and Council as the Planning & Zoning Director, he should resume his current position as Planner II with the Planning & Zoning Department.

Mayor Stear requested and entertained a motion of the City Council consenting this action pursuant to Idaho Code Section 50-204.

D. Consideration to consent to Mayor's appointment of officer on interim basis. ACTION ITEM

Motion To: Consent to Mayor's appointment of Jace Hellman on an interim basis as director of Planning & Zoning

Motion By: Council President McPherson

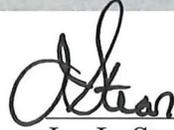
Motion Seconded: Council Member Christensen

Further Discussion: None

Voting No: None
Absent: None
Motion Passed: 4-0.

11. Mayor/Council Announcements:

12. Adjournment:



Joe L. Stear, Mayor

ATTEST:


Chris Engels, City Clerk

*Minutes prepared by Ariana Welker, Deputy City Clerk
Date Approved: CCM 11.17.2020*



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

November 04, 2020 – City Council, Public Hearing

Case Name: Patagonia East, Lakes and Ridge Subdivision.

Case Type: Annexation & Preliminary Plat

Case No.: 19-14-AN (Annex) and 19-11-S (Subdivision)

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

IN FAVOR NEUTRAL IN OPPOSITION

Testify/Not Testify checkboxes and handwritten entry for Sherry Huber, neighborhood Representative, 2601 E Hubbard Rd, Kuna ID 83634.

Testify/Not Testify checkboxes and handwritten entry for Joe Randall, 2210 E Hubbard Rd, Kuna Id 83634.

Testify/Not Testify checkboxes and blank form fields for a third individual.

Testify/Not Testify checkboxes and blank form fields for a fourth individual.

Troy Behunin

From: Paul Stevens
Sent: Wednesday, November 4, 2020 5:00 PM
To: Mayor Stear; Troy Behunin
Cc: Taylor Merrill; Catherine Feistner; Mike Borzick
Subject: Patagonia East Subdivision

Good evening, Mayor and Troy:

Taylor Merrill represents Patagonia East et. al. Taylor requested certification that he is willing to pay a proportional share of sewer upgrades to make sewerage the proposed subdivisions possible. Proportional share is yet to be defined and could include sewer main line, lift station improvements, and force main improvements.

The evaluations of Dan Skin and Patagonia Lift Stations is underway and should be available in a few weeks. At the moment we have not got enough information to determine how many additional equivalent dwelling units can be made available. We also have not got enough information to estimate costs.

Respectfully,

Paul A. Stevens, PE
CITY OF KUNA - ENGINEER
PHONE 208-287-1727



751 W 4TH ST
PO Box 13
KUNA, ID 83634

received
10-30-20 10:24AM

November 4, 2020

City of Kuna
Kuna Planning and Zoning Department

RE: Patagonia East, Lakes, Ridge Subdivision(s)

Do not approve this request! These Subdivisions are not compatible with the properties in the surrounding area.

LOT SIZES

High density housing of 8, 6, 4, and even 2 houses per acre is not reasonable when existing houses are on lots of 1, 5, 10, 20 acres and larger. The quality and the benefits of Kuna's rural life will be changed forever. Does Kuna really want to focus on tiny low income housing causing an insufficient tax base?

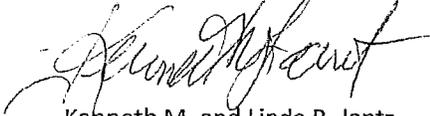
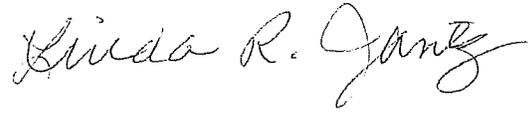
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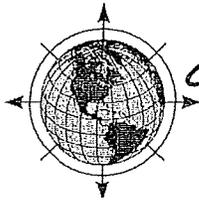
Thanks to Patagonia (West), Brighton Homes, Meridian Dump and other planned developments, Locust Grove Road, a slightly improved farm road, is now overrun with unsafe drivers and unsafe driving conditions and in need of improvement. NOW! Our Property line goes to the center of the road, so we are obligated to pay property tax on ½ the road.

INCREASED TAXES

Don't expect current property owners to pay for increased school, fire and police services. We have already said no to more property taxes for the fire district. Make developers responsible.

Please consider these very serious issues

 
Kenneth M. and Linda R. Jantz



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PROFESSIONAL ENGINEERING

1043 E. Park Blvd. Ste. 101
Boise, ID 83712
Phone: (208) 884-8181
www.civil-innovations.com

November 4, 2020

Mr. Paul Stevens, PE
City of Kuna
6950 N. Ten Mile Road
Kuna, ID 83634

Re: Patagonia Subdivision – Sewer lift station

Dear Paul:

There appears to be some confusion regarding the design capacity of the Patagonia Subdivision sewer lift station. As the design engineer I can tell you what was constructed after being reviewed and approved by the City of Kuna and the DEQ.

As requested by the City Engineer at the time, Gordon Law, the station was designed to initially serve 500 lots with the ability to upgrade the system in the future to serve a total of 1,500 lots. The wet well, force main, and all of the other piping and valves are currently sized to serve 1,500 lots while the existing pumps were intended to serve only 500 lots. The sizing calculations as approved by DEQ are enclosed.

It was always anticipated that the two submersible pumps would need to be replaced with larger pumps at some point as more homes connected to the system. By simply installing larger pumps and new starter switches the capacity of this pump station can be increased to serve up to 1,500 lots.

If you have questions regarding how this station was designed, please feel free to contact me.

Sincerely,

Ben Thomas, PE
Enclosure: Sewer Pump Station Calculations

November 4, 2020

Patagonia East, Ridge, Lakes

I am not against this annexation and development.

I have spent a great deal of time trying to verify facts, calculations, and acres. **Facts between agencies are not consistent; facts between engineers are not consistent, and facts within an agency are not consistent.**

The following are nine examples of what I am concerned about:

1. The ACHD report of 2020 shows 174 acres and 561 lots.
2. The 9-10-20 email I received from P&Z staff shows 177.24 acres 574 lots....a difference from the ACHD report....**an increase of 13 lots or 130 vehicle trips per day.** Why?
3. The P&Z notification I received for tonight shows 163.60 acres 574 lots which includes a 10 acre school site. 8-11-20 P&Z Troy Benhunin testified 173.8 acres, 561 lots, 54 common lots plus school site. **The acres decreased and the lots increased.** Why?
4. In order for the school site to be included in the annexation the number of acres should be 173.79 or 177.24 according to Land Solutions surveys of 12-12-19 and 6-9-20. The reason this is so important is because during the 8-11-20 P&Z meeting (see minutes), Troy Benhunin stated **"without the school, the open space requirements would not be met, so there would essentially not be a project."** Additionally, in the same meeting Bonnie Layton of WH Pacific stated with the school site there would be 29.93 acres open space (16.59%). The 11-4-20 P&Z notification indicates only 12.4% open space. Which is correct? What has changed? (attachment#1).
5. The original Patagonia is west of Locust Grove on Hubbard. The ACHD report of **10-21-14** shows 150.35 acres (**ALL BOUNDARIES TOUCHING**), 470 lots, and 18 common lots. The new PATAGONIAS are THREE SEPARATE NEIGHBORHOODS DIVIDED BY ARTERIALS (attachment #4).
6. The acres tonight show 163.60 acres with 574 lots. A difference from the original Patagonia of **13.25 extra acres and 104 extra lots.** THIS IS A MATERIALLY HIGHER DENSITY THAN THE ORIGINAL PATAGONIA. Why?
7. The density North of Hubbard Road (Ridge) is 3.68 lots per acre (see attachment #1). The density on the South of Hubbard Road (Lakes) is 5.55 lots per acre or a **38.5% increase between North and South sides of Hubbard Road.** The North side of Hubbard Road complies with the existing July 2019 Comprehensive Plan, the South side does not comply (see attachment#1). Why?
8. The projects have been treated as one but are actually **three separate parcels divided by two arterial roads and the boundaries of these three parcels do not touch** (attachment #4). Arterial roads are 50mph, 2 lane roads which will eventually become 4 lane roads. Three different names do not make the project "feel" or physically appear like one neighborhood. These parcels/projects will be built in phases, so that is even more of a reason to **ensure each parcel has adequate green space.**

9. According to minutes of the 8-11-20 P&Z meeting the staff stated this project “generally conforms” or “generally speaking” conforms to the Plan without giving any information, facts, data or reasonable transparent information for the general public to see how it does or does not conform to the 2019 CP.

Kuna City staff has consistently indicated that the 2019 Comprehensive Plan is not something the City follows but is rather a guide. Why it isn't reasonable to believe low density residential are 2-4 units per acre? If you allow this project to increase the density then the July 2019 Comprehensive Plan is meaningless for the area East of Locust Grove. **Once the door is opened for a higher density the door will never get shut.**

To make the issue of density even more perplexing.....this developer started this project during the 2019 Comprehensive Plan update; therefore, he had adequate time to lobby for the higher density he wanted East of Locust Grove. Why is he assuming he can have higher density without a CP amendment?

We were told by the developer and his engineers that the development would be similar to the original Patagonia (attachment #2). If you allow this development as presented **you are allowing 104 more lots with only 13.25 more acres than the original Patagonia.** Something is drastically wrong, inconsistent, misleading and inaccurate.

I would respectfully request the following:

1. Require the developer to redesign the project to comply with the existing 2019 Comprehensive Plan East of Locust Grove AND ensure adequate green space is provided for each parcel (attachment #1). It is disappointing this developer has represented that these projects would have the similar amenities as the original Patagonia and they do not (see attachment #2).
2. Please direct your staff to be more specific about how a development conforms to existing Plans, and to provide a factual basis for recommendations that would be legally compliant with the 2019 CP. Statements such as “appears to follow” or “generally comply with” do not help support the 2019 CP but rather makes one believe the staff is arbitrarily making a decision.
3. Please have staff provide documents that the Kuna School District owns the 10 acre school site East of Locust Grove; **if documents are not provided refer to item #4.**

I AM NOT AGAINST THE ANNEXATION OR THE DEVELOPMENT..... I just want to be provided accurate, reliable, and consistent information.

One more thing, on 9-24-19 I sent a letter to Kuna City Sewer Department regarding access to the sewer line. My letter of 9-24-19 explains in detail our concerns (see attachment #3).

Do you have any questions?

Thank You,

Sherry Huber

2601 E Hubbard Rd / Kuna

208-888-4247

Attachments:

- 1 Calculations for density
- 2 Summary Neighborhood meetings
- 3 Letter dated 9-24-19
- 4 Site Plan

ATTACHMENT #1

CALCULATIONS FOR DENSITY (12.5% open space; 20% roads and r/w=32.5% decrease in acres)

East

127 lots 28.09 acres decrease to 19.17 acres divide number of lots=6.62 lots per acre

12.5% open space=3.51 acres

Ridge

146 lots 58.78 acres decrease to 39.68 acres divide number of lots=3.68 lots per acre

12.5% open space=7.35 acres

Lakes

288 lots 86.92 (10 acres decrease due to school site)=76.92 decrease to 51.92 acres divide by number of lots=5.55 lots per acre.

12.5%=9.62 acres

Total 12.5% =20.48 acres

CONCLUSION:

Patagonia East complies with Comprehensive Plan

Patagonia Ridge complies with Comprehensive Plan

Patagonia Lake DOES NOT comply with Comprehensive Plan. ***Density is increase by 38.5% over 2-4 low residential density SHOWN IN PATAGONIA RIDGE***

None of the three parcels have a club house or swimming pool.

8-11-20 P&Z meeting: Bonnie Layton, testimony:

Total open space=28.83 (includes 10 acre school site). Common areas are 19 acres=16.59%. Usable open space =12 acres gives total of 29.93 acres.

Comment: 12 acres is approximately 10.83% of usable land but nothing shows the acre distribution on the three different parcels. 12 acres does not comply with the 12.4 or 12.5% Kuna City required open space.

SUMMARY OF NEIGHBORHOOD MEETINGS- & P&Z---ATTACHMENT #2

1. 8-30-17 Greg Johnson, Developer Kent Brown, WH Pacific present-Given a handout of preliminary plat and idea of general concept of development. 173.8 acres 603 lots R-6
2. 9-17-19 Jane Sluggs, WH Pacific present-Neighborhood letter stated new Patagonia would be similar to original.....club houses, swimming pool, open space, parks, and potential elementary school site. Discussion similar to 8-30-17 concept. 154 acres 540 lots
3. 6-4-20 Bonnie Layton, WH Pacific-No handouts....told to take pictures of project plat maps. Indicated the only reason for meeting was to let us know additional 10 acres acquired. However, 8-30-17 plat shows that the (Woods) ten acres was already part of project.
4. 8-11-20 P&Z meeting-163.60 acres 574 lots. R-4, R-6, R-8.

Note: The same land has been shown since 2017 but acres have varied, lots have changed, density has changed (see plat provided at 8-30-17 meeting).

Not one neighborhood meeting has provided the same information as presented tonight, 11-4-20.

attachment #3

September 24, 2019

City of Kuna

Mike. Public Works Department

Reference: Phone conversation of 9/18/19 with Mike and Sherry Huber regarding Main Sewer Line Hubbard Road

This will confirm my conversation with Mike, and my concern that the developer of Patagonia East is showing the main Kuna sewer line east of the canal on Hubbard Road continuing on his private property which includes property starting east of the canal and continuing to the NW corner of Hubbard and Locust Grove and the NE corner of Hubbard and Locust Grove (formerly Bridges and Ray properties).

As you know, the main sewer line is currently in Hubbard Road west of the canal on Hubbard. If the sewer line is allowed on private property it gives the developer an unfair ability to control the timing of development to the east on Hubbard. Additionally, it could also allow him to dictate values of properties to the east if the main sewer line is on his property. Although we do not plan on developing our property at 2601 E. Hubbard Road, we certainly do not want any developer determining the timing of when we do develop by having a public sewer line on his private property. It appears to me that the only fair way for all property owners is to have the main Kuna sewer line in Hubbard Rd the same way it is to the west of the canal on Hubbard.

This letter would be my formal objection to allowing the developer of Patagonia East to place the Kuna main sewer line on his private property, rather than in the public rights-of-way on Hubbard Road.

In my discussions with you it appeared you understood my concerns and assured me you would be fair to all parties. I appreciate your expertise and patience answering my questions and concerns. If you should have any questions, please feel free to contact me. I would appreciate being notified of your final decision regarding the placement of the main sewer line on Hubbard to the east of the canal.

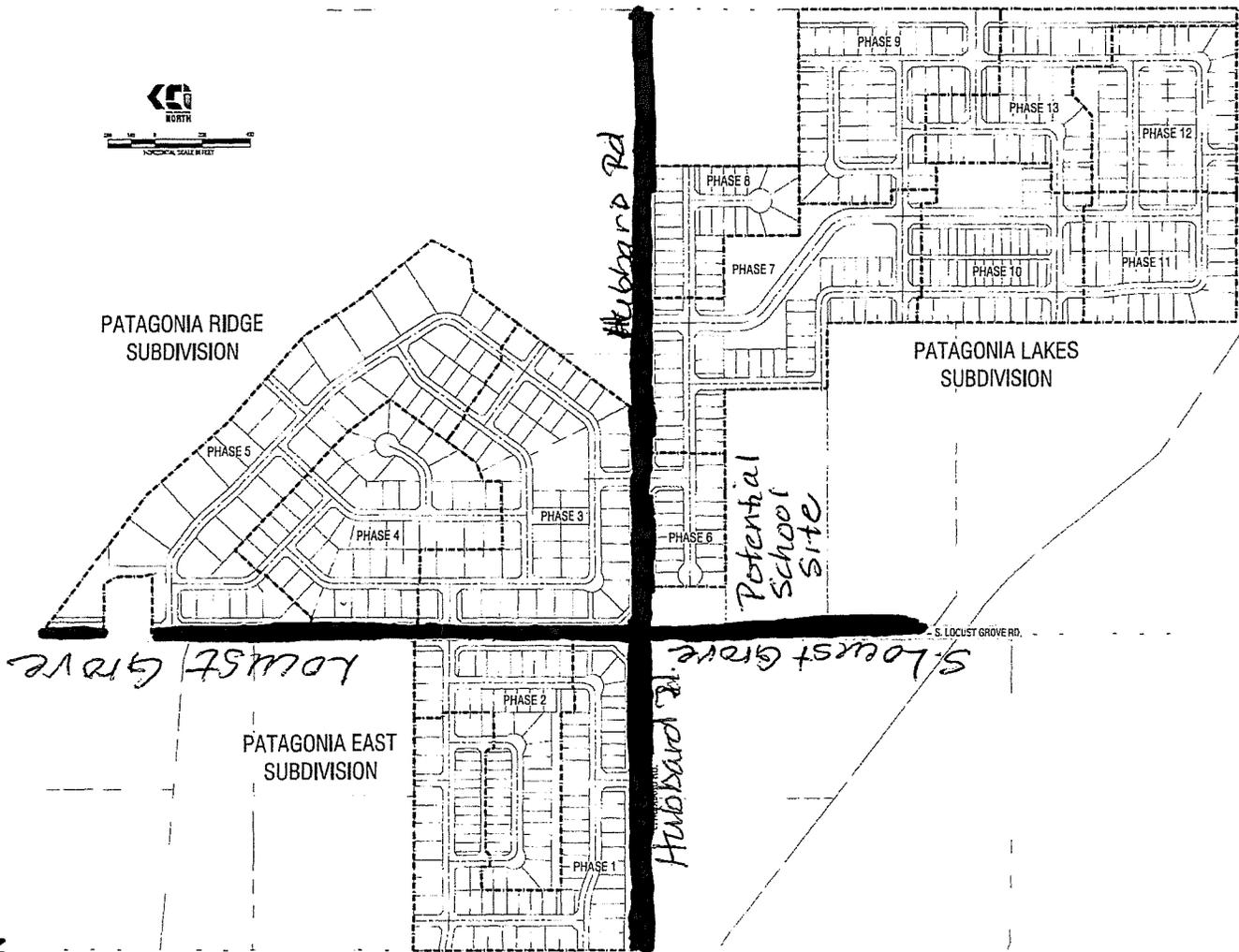
Thank you for your time.

Respectfully,

Sherry R. Huber
2601 E Hubbard Road
Kuna, Idaho 83634
208/888-4247

Attachment #4

SITE PLAN



Planning has not recognized the unique characteristics of this Project.

ACFD
Subdivision / KPP18-0004



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

November 4, 2020 – City Council, Public Hearing

Case Name: **BlackRock Market Place.**

Case Type: Annexation.

Case No.: 19-08-ZC (Annexation).

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

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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