

OFFICIALS
Joe Stear, Mayor
Chris Bruce, Council President
Greg McPherson, Council Member
Matt Biggs, 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
Tuesday, August 06, 2024

6:00 P.M. REGULAR CITY COUNCIL

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

ALL ITEMS ON THE KUNA CITY COUNCIL AGENDA ARE CONSIDERED ACTION ITEMS UNLESS OTHERWISE INSTRUCTED BY THE CITY COUNCIL.

1. Call to Order and Roll Call

(Timestamp 00:00:10)

COUNCIL MEMBERS PRESENT:

Mayor Joe Stear -Present
Council President Chris Bruce -Present
Council Member John Laraway -Present
Council Member Matt Biggs -Present
Council Member Greg McPherson -Present

CITY STAFF PRESENT:

Marc Bybee, City Attorney
Jared Empey, City Treasurer
Mike Fratusco, Kuna Police Chief
Adam Wenger, Public Works Director
Doug Hanson, P & Z Director
Bobby Withrow, Parks Director
Morgan Treasure, Economic Development Director
Nancy Stauffer, Human Resource Director
Nathan Stanley, City Clerk

Mayor Stear All right, we'll go ahead and get this meeting to order. Nathan, would you take the roll, please?

City Clerk Nathan Stanley Council Member McPherson.

Council Member McPherson Here.

City Clerk Nathan Stanley Council Member Biggs.

Council Member Biggs Here.

City Clerk Nathan Stanley Council Member Laraway.

NOTICE: Copies of all agenda materials are available for public review in the Office of the City Clerk. Persons who have questions concerning any agenda item may call the City Clerk's Office at (208) 387-7726. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at 387-7726 at least forty-eight (48) hours prior to the meeting to allow the City to make reasonable arrangements to ensure accessibility to this meeting.

Council Member Laraway Yes.

City Clerk Nathan Stanley Council President Bruce.

Council President Bruce Here.

City Clerk Nathan Stanley Mayor Stear.

Mayor Stear Here.

2. Pledge of Allegiance: Mayor Stear

(Timestamp 00:00:26)

Mayor Stear And if you'll join me for the Pledge of Allegiance.

Multiple Speakers I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Mayor Stear Thank you.

3. Consent Agenda: ACTION ITEMS

All items listed under the Consent Agenda are considered to be routine and are acted on with one motion by the City Council. There will be no separate discussion on these items unless the Mayor, Council Member, or City Staff requests an item to be removed from the Consent Agenda for discussion. Items removed from the Consent Agenda will be placed on the Regular Agenda under Business or as instructed by the City Council.

(Timestamp 00:00:49)

A. Regular City Council Meeting Minutes Dated July 16, 2024

B. Accounts Payable Dated August 02, 2024, in the amount of \$1,371,879.01

C. Final Plats

1. Case No. 24-10-FP (Final Plat) Caspian Subdivision No. 2

D. Resolutions

1. Resolution R45-2024

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO APPROVING A PERFORMANCE BOND BY M3 ID VALOR GOLF VILLAS, LLC, FOR GOLF VILLAGES 2 FOR UNCOMPLETED WORK FOR LANDSCAPING PURSUANT TO THE TERMS OF THIS RESOLUTION.

2. Resolution R46-2024

A RESOLUTION OF THE CITY COUNCIL FOR KUNA, IDAHO APPROVING A PERFORMANCE BOND BY M3 ID VALOR GOLF VILLAS, LLC, FOR GOLF

VILLAGES 2 FOR UNCOMPLETED WORK FOR STREET LIGHTS PURSUANT TO THE TERMS OF THIS RESOLUTION.

Mayor Stear First item is a consent agenda.

Council President Bruce Anyone have anything?

Council Member Biggs No.

Council Member Laraway No.

Council President Bruce I make a motion that we approve the consent agenda, as published.

Council Member McPherson Second.

Mayor Stear Motion is made and seconded for approval of the consent agenda, is any further discussion? Nathan, would you poll the Council?

City Clerk Nathan Stanley Council Member McPherson.

Council Member McPherson Yes.

City Clerk Nathan Stanley Council Member Biggs.

Council Member Biggs Yes.

City Clerk Nathan Stanley Council Member Laraway.

Council Member Laraway Yes.

City Clerk Nathan Stanley Council President Bruce.

Council President Bruce Yes.

Mayor Stear And that motion carries.

(Timestamp 00:00:56)

Motion To: Approve The Consent Agenda As Published

Motion By: Council Member Bruce

Seconded By: Council Member McPherson

Further Discussion: None

Members Voting Aye: Council Members, Bruce, Biggs, McPherson, Laraway

Members Voting Nay: None

Members Absent: None

Approved Via: Roll Call Vote

4-0-0

4. Public Comment

(Timestamp 00:01:18)

Mayor Stear That takes us to public comment. I had one person sign in; is there anybody else who wishes to address the Council but didn't get a chance to sign in? Okay, Beverly Wolf.

Beverly Wolf Beverly Wolf, 3420 W Commemoration Ave. Meridian. Thank you for always hearing me. I bring dissent, sometimes. I'm not trying to be argumentative. I've only been in Kuna for a couple of years and when we first visited Idaho, about four years ago, it was really beautiful and I've seen a lot of change just in the two years I've lived here and I come here because of that, because what I hear, what I've seen, what I've learned in the last two years coming to these meetings. Part of tonight is about schools because I'm sure it's coming up again. The bonds or the levies or whatever the new flavor for financing is. And the reason I'm speaking on it tonight is because, twice now, in these chambers I'm not going to name names, I've heard a comment made about, "well, I guess parents just aren't feeling enough pain yet." And every time I hear it, I want to scream because why don't you, and I don't mean *you*, whoever said it, why don't you think parents have enough pain? Are they not paying enough taxes? Are they not paying enough insurance? Paying enough for groceries or their insurance?

It said, its proverb, people, poor people are the rich men slaves; borrow money and you're the lender's slave. Well, I'm still under the slave of the last bond that was put in, in 2017. That said, it was only going to go for 10 years. Well, that would make it, "I'm going to be out of it in 2027, right?" Well, until you read the fine print, all these things come across in marketing with the 10-year plan and then you never hear about the 20 years of interest that still have to be paid after that. So I'm just wondering as one of the little 'we the people' who would like to stay here and not be priced out of the market, because, you know, I'm not getting younger in the older category. But you know, when? When is wisdom part of the decision? When is it not fear of lawsuit? When is it not the developer first or who has the right to do something with their property? Which I've also learned is not always even a citizen of this State or even the country. So I always love to read this from the last page of your appendix on the Kuna Comprehensive Plan. "Nothing in the United States Constitution's Fifth Amendment requires a government entity to promote the maximum development of a site at the expense of the public purse or to the detriment of the public interest. Taxpayers need not subsidize unwise development."

Well, I've also learned attending these meetings and I'm pretty sure our taxes are going to go up on the next budget allocation. And oh, by the way, I've also learned that you're understaffed in your Police Department by at least 8 people, but they only asked for 2. That's a little scary. How fast and how far can you grow without catching up? When is it okay to stop? And the "M" word may not be so bad. It's just an opinion and I thank you for listening.

Mayor Stear Okay, thank you. You had that down just right on the button.

5. External Reports

(Timestamp 00:04:55)

A. Outstanding Citizen Recognition – Mayor Stear

Mayor Stear All right, next we have an 'Outstanding Citizen Recognition.' Today we are recognizing Veronica Vigilant for her exceptional courage and quick action that she displayed while assisting a fellow citizen on June 27th, 2024, during an incident where a jack collapsed on a man fixing his truck. Ms. Vigilant called 911 and performed first aid until the paramedics arrived. She demonstrated selflessness and unwavering commitment to the safety of others. She was nominated by Nicole Bouvier of Kuna Counseling Center. So, Veronica, if you want to come forward.

[Applause]

Council President Bruce That's great.

Mayor Stear Thank you so very much. Also on one side, it says, "Our Hometown" and thank you for being a part of our hometown.

Council Member Laraway Thank you.

[Applause]

B. Kuna Food Bank Update – Marci Durrant
(Timestamp 00:06:48)

Mayor Stear Marci Durrant has a Kuna Food Bank update for us.

Marci Durrant, Kuna Food Bank Thanks for letting me come. I didn't time my presentation, so I'm worried that. So, I'm going to go off...

Mayor Stear Nobody will yell at you for food bank stuff.

Marci Durrant, Kuna Food Bank I'm grateful for this time to come. I wanted to share that this is a photo of some of our volunteers and we have about 45 volunteers that work regularly at the Kuna Food Bank and it's just become this hub of opportunity for service groups to come in. One of my favorite things is when somebody calls, who's called every nonprofit in the valley, trying to get community service hours coordinated, and it's really difficult to get that done, but we enjoy the challenge of being as flexible as we can to make that work for individuals. And it's always turned into just an awesome opportunity and a win-win for everybody involved and those individuals that are helped, they all often come back and serve even beyond their community service hours and it's been really positive. *Did I give you a picture of that van?*

City Clerk Nathan Stanley I don't know if that...

Marci Durrant, Kuna Food Bank Okay, yeah, I got to learn this tech stuff. I'm not very good at all, but we were recently gifted a retired vehicle from the Idaho Food Bank. That was, it's about 22 years old but covered with cracked vinyl of Idaho Food Bank logos. And one of our...a young man who needed community service hours just timed his call perfectly and with his auto detailing experience, he got that van polished up really good and creative wraps. Put a new...new logos on it. And so now we're promoting the Kuna Food Bank on that van. And anyways, he's super proud of it, and we're really grateful for his help.

The Idaho Food Bank also recently informed us that we're one of only 5 pantries in the State of Idaho that distribute food the way that we do. Yeah, it's a real eye-opener. The trend is for food pantries to gather their volunteers have all their donations on site and those donations are arbitrarily put into boxes and then open drive through times are scheduled for patrons to come through and box are given, boxes are handed through window. And it's understood and lots of those volunteers at each pantry will tell the recipients "We know this isn't very much, but you can go to the other pantry, down the street or that pantry." You know, so the patrons are having to drive from place to place. It's a really difficult way to get help with food and the food bank, the Kuna Food Bank, does it completely different and has for years and years. And it's our goal to always maintain this practice of providing the equivalent of your grocery store trip, to where it actually makes a difference within a household budget where they can reallocate funds as they need to, that they they're able to call the food bank for a month, two months, three months and get their feet under them again and get that medical expense paid or whatever it might be. And then we don't hear

from them for a long time. The studies prove over and over again that this method of distributing food is the most successful way to do it. But it requires a lot of people and a lot of resources, and thankfully we live in a community that widely supports that cause and whenever we have a need, we can voice it to an agency or a group and it's supplied.

You may be aware that the Food Bank just relocated to a warehouse space that was offered by Mike Smith. We outgrew the basement in the Methodist Church, a couple of years ago, and it's so wonderful to be in this new space where we have a little bit of breathing room, no tight corners and it's working out a lot better, but of course that's not the solution. Before we go to the next thing, *oh, we can't even see it*. So let me just read the numbers and it's probably good because I have a major addition mistake in there or didn't even attempt the math at all on that 2024 year. But you can see if we look back, if we just look at the month of July in 2022, we did 81 food orders that month, serving 75 households. In 2023, that July we did 108 food orders serving 97... serving 97 households. And this past July, we did 307 food orders serving 178 individual households.

Council President Bruce Wow.

Marci Durrant, Kuna Food Bank So, just between so in 2022, the total individual served was 309 compared to this July, 676 individuals. The number I really am grateful for that we're here, is, especially with our seniors and the children. In 2022, we serve 27 Seniors that month of July and 106 children this past July was 90 seniors and 279 children. In the one month and people most people aren't aware too, that the food bank stocks and funds the Ross School Pantry, and Terry and I are able to meet monthly and between the two we only have about a 3% overlap, which I think is pretty, pretty incredible and we're pretty proud of that, that we're able to reach those different demographics without duplicating our efforts too much at all.

Another important number is that first time household served. If you take that number and put it up against the individual households served. We averaged 20 - 25% every single month of households calling a food bank for the very first time. And that's been pretty consistent since 2022. It's really sobering. So out of those 178 households that we served last month, 46 of them were contacting a food bank for the very first time. And the stories just range across the board and just makes me really grateful that this safety net is within our community, that when people fall on hard times, they can look to the Food bank for that little bit of assistance and we do it in such a way that they're not humiliated, that dignity is maintained.

We request of them to consider what they have and actually state their needs rather than us just going through a listing, well, we've got this, this, this and this, we actually encouraged them to hang up the phone, look at what they already have, consider what they like to cook and feed their family and prepare that list, and then call us with the definition of their needs. And it works out so good and we can almost always meet every single need stated because of the variety of donations that are received from our from our neighbors. 90% of what is stocked in the Kuna Food Bank and 90% of the funds that come from to the Kuna Food Bank are right from our next-door neighbors. I don't know. I know Food Bank tells me that you've never seen another pantry work the same way and so it's really something to be proud of.

This year marks the 30th anniversary of the Kuna Food Bank had started in 1994 and for 30 years its volunteers have assisted neighbors in need and since 2006 it has helped start and keep the school districts pantry stocked and funded. The food banks volunteers are committed to see that this vital work continues to move forward and provide essential services to anyone in Kuna and in our neighboring rural communities who need help during difficult times. As you're aware, we've been actively fundraising for an independent food bank building. As I met with one prospective donor a month ago, he did something miraculous. I was simply hoping he would be willing to put some of his own 'skin in the game' so that I

could go to others and say, "Hey, Tommy Alquist is putting in this much, would you be willing to match that?" Tommy has lived in Kuna now for just over 2 1/2 years, I believe and he owns Ball Ventures, Alquist and He replied with, "I will do better than that. Marci. Let me take this off your shoulders. Give me a week, or so, and we'll have all the funding required." It really is a miracle. I remember being invited to sit down in early 2021 with Kathy Gayley with Lisa Holland, The Mayor was there I think Ted Weimer and a bunch of others to talk about this very thing of what are we going to have in place as a City to help make sure the needs of Kuna are met as the years continue to progress? Everybody in that room recognized the population was going to be surging, developments were going to be... continue to come forward. It's really amazing that in that short time that's less than four years. We now are going to be constructing this independent food bank building. We'd love to see it started before the end of the year. Our volunteers are anxious for that 30-year celebration. Have it be community wide and I can't think of a better, more effective way to bring the community together than to turn that into a groundbreaking ceremony.

Nobody in the food bank profits at all. It's completely 100% volunteer driven and now everybody who has decided to get involved in the construction of this building, they're not looking to make a profit. Everyone's being a contributor to the cause, for a bigger purpose, and no one's in it for themselves or recognition or anything. I know at that time, a few years ago, or maybe that conversation didn't happen a few years ago, but the City was really committed to helping and making sure costs were reduced, so that any possible roadblocks could be lifted. Not in any illegal kind of way, of course, but there are methods the city can take to ensure that those costs are decreased so that this can be something that can come to fruition. I was really sad when Bonnie Heinrich, who's managing the project for us, came back to me and told me how much these new costs were going to be. And I just want to invite the city that just as everyone else is putting their own skin in the game. That the city would do the same as well, that there's got to be a way to decrease those expenses. This isn't a building that's going to be occupied by a ton of people at one time. We're only open a couple hours a day and there may be a few evenings a week where there may be people there. Those costs, there is so much room for those costs to come down and just I want to invite I figure this is the best public forum.

Everyone involved in the processes are here and I appreciate the opportunity to extend that invitation to everyone to look at those numbers and see what can be tightened up to make sure that this building that provides such a vital service and adds so much to the health and well-being of the human community as can come to fruition sooner than later. Everything's going to be in place for us to start as soon as soon as we have those approvals and we're just finishing up with the last requirements for the design review. And anyway, we're really excited and I want to make sure that cities are a partner in that whole process and the we can make this a big Community celebration getting started this year and celebrating the 30th anniversary and continue forward for years and years to come, making sure our neighbors have the help when we're all going to have a turn and it's nice to know there's a food bank nearby supported by the community that we can call on when that when our turn comes around. Thank you, so much.

Council Member Biggs Thank you.

Council President Bruce Thank you.

Mayor Stear Thank you. Yeah, and I, I don't know, I haven't talked to anybody about this project yet, so I don't know what they've brought forth, but any cost that we control that we can do something with, we will certainly make sure we do.

Marci Durrant, Kuna Food Bank That would be great, thank you.

6. Public Hearings:

Public Hearing Process: Items begin with the presentation of the project by staff for up to 15 minutes. The applicant is then allowed 10 minutes to present their project. Members of the public are allowed up to 3 minutes each, to address City Council with testimony restricted to the matter at hand. After all public testimony, the applicant is allowed 5 minutes for rebuttal.

City Council members may ask questions throughout the public hearing process.

Once the public hearing is closed, no further testimony or comments are heard.

City Council may move to continue the application to a future meeting or approve or deny the application.

8. Business Items:

(Timestamp 00:19:59)

- A. Consideration to approve a request from Patagonia Development, LLC, Patagonia Lakes Development, LLC and Westpark Company, INC. and Hayden Homes of Idaho, LLC, for a partial re-assignment of the Patagonia East, Ridge and Lakes Subdivision recorded Development Agreement. – Troy Behunin, Senior Planner **ACTION ITEM**

Mayor Stear All right, that takes us to Business Item, number A. Consideration to approve a request from Patagonia Development, LLC; Patagonia Lakes Development, LLC; and West Park Company incorporated; and hidden homes of Idaho, LLC for a partial reassignment of the Patagonia East Ridge and Lake Subdivision recorded development agreement, Troy.

Senior Planner Troy Behunin Good evening, Mr. Mayor, and Members of the Council. For the record, Troy Behunin, Senior Planner, Kuna Planning and Zoning Department. So the development agreement that was recorded for the Patagonia East Lakes and Ridge Subdivision back in October of last year; The original developer has someone who's interested in purchasing part of that overall subdivision, not the whole thing just some of it, and they would like a partial reassignment to take on some of those responsibilities themselves, and that's what this agreement is all about, Heath Clark with Clark Wardle is here tonight. If you have any specific questions. But I'm also here if you have any questions about the overall development, as well.

Mayor Stear And so can you maybe explain a little deeper into what that reassignment looks like? Is there any changes to the development agreement or is it just reassigning the same development agreement to a new owner?

Senior Planner Troy Behunin For the record, Troy Behunin, again. That's a great question, Mr. Mayor. There are no changes to the development agreement, just a reassignment of obligations on performance obligations.

Mayor Stear Okay. Yes, sir?

Council President Bruce Is this... is this something we normally do or have done in the past?

Senior Planner Troy Behunin Development Agreements are done frequently, but this is the first partial reassignment.

Mayor Stear Yes.

Council Member Laraway Question for you. Is there anything under the original Patagonia Development Agreement that has not been brought up to date as far as pumps, pipeline, anything that is going to be handed over to this next company?

Senior Planner Troy Behunin For the record, Troy Behunin. Good question, Council Member Laraway. Right now, they're... They have not started any kind of construction for the portion that will be reassigned these obligations, so...However, the original developer West Park, let's call it West Park Company, they are getting ready to record the first plat in Patagonia East. So yes, infrastructure has been extended to and through that site but the part of the development agreement affected by this partial reassignment has yet to even begin.

Council Member Laraway Okay, thank you.

Mayor Stear Further questions?

City Attorney Marc Bybee Mayor, if I might.

Mayor Stear Yes.

City Attorney Marc Bybee Marc Bybee, City Attorney. Just to answer, I think it's Council Member or Council President Bruce that asks if we've done this before. My recollection is actually last year at this same DA, there's a proposed partial reassignment that the Council did approve and then that transaction that...between the current developer and the buyer and developer fell through, so the assignment actually ended up not happening and so. We have... the Council approved one of these before it was actually on the same day a different buyer. The last time this one structured slightly different because the last one was a single purchase. This one there's two purchases and so it's going to be like a phased reassignment. So there's two agreements for each portion of the purchase, if that makes sense, but it's to the same. Each purchase is to the same new developer, it's just they're phasing it. I think Mr. Clark could speak more to why that's happening, but I just wanted to point out we have... The Council actually had seen this before with a different buyer.

Mayor Stear Thank you. Yes.

Council President Bruce Once this is done, Troy, will this...will they be able to change anything that's already been approved, like for the layout or? Or do they have that option to come back and change just that portion? So if they buy this and say, "Hey, we don't want to build it like we already agreed."

Senior Planner Troy Behunin For the record, Troy Behunin, and that's a great question, Council Member Bruce, Council President Bruce. There are no proposed changes to the development agreement, which means there's no proposed changes to the approved preliminary plat. So if in the event that they would like to change something material or by design, they would have to come back for Council's approval or and if it rises to that occasion, they would have to do another public hearing in order to make those changes. But this does not propose any changes at all to what's already been approved.

Council Member Laraway One more question.

Mayor Stear Yes.

Council Member Laraway How many, I don't know if you can answer this, but how many dwelling units are we talking about in this phase that we are transferring over?

[Short Pause]

Senior Planner Troy Behunin Council Member Layaway, for the record, Troy Behunin, I'm not sure but the... this portion of the project, so there's three different subdivisions all within the same application. There's Patagonia E, Patagonia Lakes, and Patagonia Ridge. This represents the 3rd and final subdivision which is roughly half of what was approved roughly. I don't know the number...

Council Member Laraway Ballpark figure. I won't hold you to it.

Senior Planner Troy Behunin 290.

Council Member Laraway Thank you.

Council President Bruce I have one more question.

Mayor Stear Yes.

Council President Bruce And if this project if we did do the reassignment. And there was a certain number of EDU's that were assigned to this project as a whole, who would get to pull them first? If he started building, they would be his and then...

Senior Planner Troy Behunin That's excellent question, Marc...For the record Troy Behunin, Marc Bybee and I've had that discussion and Marc and Heath have discussed that, as well.

City Attorney Marc Bybee Yeah, so that was a concern of mine too. So when I reviewed this, that was a concern that I spoke to Mr. Clark about because the EDU's for the this this preliminary plat. They were approved in... because this developer actually helped build some infrastructure and that is essentially the purchase agreement as we get that, we grant them EDU's in order to pay for that sewer infrastructure that they constructed. And so the developer that would be the seller here, they possess, so they belong to that developer. But we also put a caveat in that agreement related to, you know, granting those EDU's that they're unique to these parcels. They're not something that they can say, well, I have, you know, the 500, whatever EDU's I'm going to sell some of this and take them across town to another piece of land. They're unique to those. And so speaking with Mr. Clark, there is an agreement which we're not a party to as a city. It's not something we'll agree to, but they're going to be selling EDU's to this developer as well. And so they're and I have told them to look there's no way that person can come and use the EDU's without the proof, and so we're at some point going to have to be made aware of the city, because if the this buyer here were to show up and say, "Hey, I'm developing this" 'till they can actually show they have the EDU, they wouldn't get approval. So that's an assignment agreement that has to happen where they obtain the portion of these EDU's to be able to actually develop it. I hope that makes sense how I explained that I was a little all over the place.

Council President Bruce No, I get it, I guess I just wanted to make sure that we're not just because we're essentially creating, you know, two other developed 22 developments. I just didn't want to...

City Attorney Marc Bybee Not creating new EDU's and that was something that absolutely came up. That was that was probably my primary concern when I saw this is how it's this new developer going to have EDU's and that's something that there is another agreement that's going on for this, I guess the purchase and assignment of a portion of the EDU'S.

Heath Clark, West Park Company Mr. Mayor, I'm with Mr. Clark. I'd be happy to answer any questions about this and I might be able to add a few things to help.

Mayor Stear Do you want to hear from?

Council President Bruce It's your show. I'm just here.

Mayor Stear If you want, go ahead, and come on up and state your name and address for the record.

Heath Clark, West Park Company Mayor and Council, Heath Clark, 251 E front St. in Boise, representing the West Park Company and, I thought I'd just give a little bit of background. So this is something that we've asked for, not looking for any sort of special treatment or a favor or anything out of the ordinary. It's based largely on the language of the development agreement that speaks to Council needing to provide approval whenever there's a complete assignment of a development agreement.

So in this case, we're assigning the rights to that portion of the property, and so out of an abundance of caution, spoke with Marc, and we decided that it probably makes the most sense to bring this to you and just allow you to rubber stamp that so that the Council is very much aware of that, that property is transferring. To Troy's point, the development agreement runs with the land, right? So, the development agreement is going to be a binding obligation of any subsequent owner. This is sort of a dotting of the I and crossing of the T's that we're talking about here. Then, with regard to the EDU's, there are no new EDU's that are being created. West Park has the contractual right to a certain number of EDU's and there's 287 that are associated with this property. So Troy was pretty darn close and the arrangement is that we will provide an assignment document at closing that says you buyer have these EDU's and then they can march over to the city and say, "Okay, these of the ones that West Park has, we now have this portion of them." So hopefully that clarifies all of that not creating any new development rights, not changing anything, dotting I's, and crossing T's.

Mayor Stear Okay.

Heath Clark, West Park Company Thank you.

Mayor Stear Thank you, anything further?

Council President Bruce I don't have anything further, Greg?

Council Member McPherson No.

Council President Bruce Biggs?

Council Member Biggs I'm just wondering, is there anything that prohibits, I guess in this development agreement, to accelerate the development in any way compared to the other. Is it all going to be...applied for just like anything else? So I mean now we have two different owners on the same in the same section, I guess I'm asking.

Senior Planner Troy Behunin For the record, Troy Behunin, I think I understand your question. You just you just want to find out scheduling and timing of construction, correct? Okay, so I had a detailed conversation with Mike Borzick in public works about this. The agreement that the City has with West Park for the sewer expansion. A lot of those EDU's are already reserved because of their contribution to that system. So, certainly with two developers working on the same project. Yes, the timeline is going to be compressed and so we're going to get to the finish line sooner, but with our limit to 40 EDU's per phase and developers usually only do one phase, maybe a little bit more than one phase, per year. And there's like 18 phases here we've got several years before the end actually is reached, certainly sooner than just one developer, but they are welcome to... I mean, if approved, then they would be welcome to proceed in the same fashion, without restriction.

Council Member Biggs So okay, so if I'm following you then so the original... a phased approach. If they had 18 phases and these were numbers, were supposed to be 15, 16, 17, 18. Hypothetically, now those can go at whatever at basically when they want to, as long as they have EDU's.

Senior Planner Troy Behunin That would be correct.

Council President Bruce I have a question, Mr. Mayor.

Mayor Stear Okay.

Council President Bruce So the sewer will be built out by the original developer prior to the other developer having access to it, I think that's what you're asking, right? Is, if will the agreement be met prior to?

Council Member Biggs Basically, yeah.

[Inaudible Background Conversation]

Planning and Zoning Director Doug Hanson For the record, Doug Hanson, Kuna Planning and Zoning staff. So, the sewer infrastructure, irrigation, sewer, water, pressurized irrigation, that's all something that gets installed after preliminary plat is approved on a phase-by-phase basis. So not all that is installed at once. So for phase 1 before the city will sign a final plat to bring it to record the county so they can start getting CFO's and building, they need to install all of that infrastructure. So if it is hypothetically phases 15, 16, 17 like you asked, it's likely that the portion that the partial assignment is being transferred to, we'll still construct on a similar timeline because it won't pencil out for them to pull services further when the initial developer is building, those in a phased approach, they'll likely wait until it's ready to step directly into, because that won't be as much of a cost burden as well.

Council President Bruce Thanks. Marc, how do you want this worded the motion? Do you want this motion worded a certain way?

City Attorney Marc Bybee Did you have a resolution or no? So, It'd just be a motion to authorize or approve the partial assignment of the DA. You could say the name of the DA, but that's what it is.

Council Member Laraway Would it be partial 'reassignment'?

Council President Bruce Yeah, partial 'reassignment'?

City Attorney Marc Bybee Just 'assignment.'

Council President Bruce Assignment.

Council Member Laraway Assignment.

Council President Bruce I make a motion that we approve the partial assignment from Patagonia Development, LLC; between Patagonia, LLC Lakes Development, LLC; and West Park Company, Inc; and Hayden Homes of Idaho, LLC.

Council Member McPherson Second.

Mayor Stear Okay, we have a motion and a second for approval. Is there any further discussion? All those in favor say 'aye.'

All Council Members Aye.

Mayor Stear Is there any opposed? Motion carries.

(Timestamp 00:35:30)

Motion To: Approve The Assignment From Patagonia, LLC between Patagonia, LLC Lakes Development, LLC; and West Park Company, Inc; and Hayden Homes of Idaho, LLC.

Motion By: Council Member Bruce

Seconded By: Council Member McPherson

Further Discussion: None

Members Voting Aye: Council Members, Bruce, Biggs, McPherson, Laraway

Members Voting Nay: None

Members Absent: None

Approved Via: Voice Vote

4-0-0

- B.** Consideration to approve the Findings of Fact and Conclusions of Law: Case Nos. 23-06-AN & 23-05-S, Bristle Creek Subdivision. – Troy Behunin, Senior Planner ACTION ITEM

(Timestamp 00:36:05)

Mayor Stear Next, we have consideration to approve the findings and fact and conclusions of law for case #'s 23-06-AN and 23-05-S Bristol Creek subdivision, Troy.

Senior Planner Troy Behunin Thank you, Mr. Mayor. For the record, Troy Behunin. Council Members, thank you. The only reason why staff is prepared a memo for this particular item because normally findings of fact are or a written decision is not on this portion of the agenda. It's usually a consent agenda, but the change this time is because you'll notice that the format is very different than what Council has seen in the past. It's more streamlined and it is something that Marc Bybee and staff has been working on to follow a better format in the event that there's a challenge.

Mayor Stear Yes, Marc.

City Attorney Marc Bybee Marc Bybee, City Attorney, so to shed a little more light on that, there's been some recent Idaho Supreme Court Case Law related to land use decisions. A phrase that is oft repeated in those decisions that I've seen is 'reasoned statement' that we need to have a reasoned statement that comes from the requirements of LLUPA. And if you consider the decisions you've been signing for a number of years now, they're called 'findings of fact, conclusions of law and order.' We refer to them as FCO's a lot. And so this is a shift to recognize that Supreme Court case law and trying to make decisions that are more consistent. I can tell you the structure is a little bit different; the substance is different and it's a result of I've looked at case law and I've basically said "what is the Supreme Court telling us our decisions need to have?" And so the sections in here I'll tell you, I caused quite a bit of consternation for Troy on this to kind of get this put into the format to have the right substantive findings in there to be consistent with what I think the Supreme Court is telling us, our city decisions must be and so that's kind of the driving force behind this.

And in particular like the section about relevant criterion standards, factual findings, and then a very, in the factual findings, there's a subsection called 'relevant contested facts.' And that's the part that definitely was a shift in identifying what were contested facts, who was contesting them and ultimately, eventually this section that's Council's findings of fact on a relevant, contested facts. And so if you think about this

when there's a contested fact. I mean you could have one person come in saying the sky is blue or someone else is saying it's orange. Council hears it and they and when you make your determination, you say, "well, which one?" "What did we find?" We heard those two versions of testimony and people fighting about what the color of the sky is. Well, we find the sky to be blue, right? That's. And so it has provisions like that where you're actually identifying that there was a fact. Contest about something, whether as a member of the public or somebody else offering some contest, maybe contest. Maybe an engineering report or the opinion of the developer, and then the Council's conclusion on that. And so those happen those factual findings happen in Section 2, where it concludes with the subsection C in there, where there's this Council's factual findings on these relevant contested facts, where you're actually saying, "Here's two versions of facts we were presented that's in B and then in C This is what we found to actually be the facts." Does that kind of make sense on that? And it ends with a reasoned statement, which is a rationale for the city's decision based on the criteria that was in front of it and other decisions. If, like if this wasn't solely based on an annexation, there would be a lot more, or not a lot more, but there'd be more sections than what's in here since this is an annexation, we eliminated some sections. If this had LLUPA permits that were being decided, like rezone or a pre-plat. There would be more sections addressing some other parts that need to be in there for those. But nonetheless, this reasoned statement in subsection 3 I want I'm drawing this to the Council's attention because this is my attempt to capture what I think the Council was saying on this application, and I think this is a fairly strong position the Council is taking it, but adopts this paragraph in Section 3 and I want to make sure it actually matches what the Council believes. So I'm drawing your attention specifically to that, asking you to read it before voting, and if there's a reason to deliberate or directions to staff that actually you missed it, go back, and fix it, then let's get that in before this is signed.

Mayor Stear Yes, Council Member Bruce.

Council President Bruce I think it looks good. Yeah. No, no, I like it.

Mayor Stear Okay, good.

Council member Biggs I read it I thought it looks great.

Council President Bruce Yeah.

Council Member Laraway Makes it easier.

Council President Bruce Looks like you've done that before.

Council Member Biggs You've captured...

City Attorney Marc Bybee This is this is actually this is the first rendition of this decision for me or this format. So it was... Yeah, some close reading of case law and saying what are they actually saying We need to do and like these section headings are using language from case law actually, just as an FYI.

Council President Bruce Thank you.

Mayor Stear And Troy pulled most his hair out during that conversation, so.

[Laughter]

Council Member Biggs I just want to make sure that is this only going to be for denials, or is this for anything?

City Attorney Marc Bybee It's going to be for all of our decisions, they're going to follow this format. There needs to...there... We need to be having these reason statements and in all of them. We need to be resolving fact contests, so that goes to... You may remember there's a conversation, Me and Troy had with you probably two or three months ago where we were talking about, we're probably going to interject and say "Hey, We got some members of the public arguing this. We have the developer saying this. We have an engineer report saying this." What is the Council's decision on that? What? What's the facts? Like, what did you conclude is, for lack of a better term, reality here? What? What do you? Does that make sense? And so that's this to make this format work, there's going to be instances where going to say, "look we as staff are sitting here hearing two people saying different things about the same thing." We need you guys to decide what is the fact what is, what's reality. So I will tell you that makes that those types of decisions, if there's an appeal, they're going to zero in on those things. And so we got to be deliberate about doing that and those finding the fact must actually be supported by evidence in the record and not just conjecture or heartburn that you're having that day they need to be supported by things that were presented to the Council.

Council Member Biggs And I guess you would come back to us for feedback if you didn't quite capture the whether we just had heartburn or something like in this case this is a, this is a denial and there was a you know pretty obvious reason why. But if there wasn't then that's something would probably come back to us for more explanation during the decision-making process?

City Attorney Marc Bybee Yes.

Council Member Biggs Thank you.

Council President Bruce Capture the essence.

Mayor Stear Yeah, I think it's a really good clarification of what was discussed and how you came to that decision. I think I like it a lot better. It's a better format. Okay, anything further?

Council Member Laraway Yes, I've got a question, Troy. If possible, can I get a copy of this one section in the paper? Because once we once we're out of here, we get rid of it. It's going to be hard to go back and try to find this.

Senior Planner Troy Behunin I will have a copy of the written reason decision for you before I leave.

Council Member Laraway Okay.

Mayor Stear All right, we need a motion.

Planning and Zoning Director Doug Hanson Mr. Mayor, if I may, for the record, Doug Hanson, Kuna Planning and Zoning staff. In your if you choose to approve in your approval this evening, can you please make that approve the decision and reason statement for case numbers 23-06-AN and 23-05-S rather than the Findings of Fact and Conclusions of law?

Council President Bruce All right, say that again.

Planning and Zoning Director Doug Hanson Where it reads approve the findings of fact and conclusions of law. We need that to be 'approve the decision and reasoned statement.'

Council President Bruce And will it be changed for all of the future ones like this?

Planning and Zoning Director Doug Hanson That's correct.

Council President Bruce Anybody have anything else?

Council Member McPherson No.

Council Member Biggs No.

Council President Bruce I make a motion that we approve the decision and reasoned statement for case #23-06-AN and 23-05-S.

Council Member Biggs Second.

Mayor Stear Okay, we have a motion and a second, is there any further discussion on that? All those in favor say 'aye.'

All Council Members Aye.

Mayor Stear Is there any opposed? And that motion carries.

Council President Bruce Thank you, Marc, and team.

Council Member Laraway Troy.

Council President Bruce And Troy.

(Timestamp 00:45:14)

Motion To: Approve The Decision And Reasoned Statement for Case#23-06-AN and 23-05-S

Motion By: Council Member Bruce

Seconded By: Council Member Biggs

Further Discussion: None

Members Voting Aye: Council Members, Bruce, Biggs, McPherson, Laraway

Members Voting Nay: None

Members Absent: None

Approved Via: Voice Vote

4-0-0

9. Ordinances:

(Timestamp 00:45:46)

A. Consideration to approve Ordinance 2024-19 ACTION ITEM

A MUNICIPAL REZONE ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KUNA:

- MAKING CERTAIN FINDINGS AND DECLARATION OF AUTHORITY; AND
- REZONING CERTAIN REAL PROPERTY, TO WIT: ADA COUNTY ASSESSOR'S PARCEL NO. S1301438810, OWNED BY TOLL SOUTHWEST, LLC, SITUATED WITHIN THE CORPORATE CITY LIMITS OF THE CITY OF KUNA, ADA COUNTY, IDAHO; AND
- AMENDING THE ZONING MAP; AND
- DIRECTING THE CITY ENGINEER AND THE CITY CLERK; AND
- PROVIDING AN EFFECTIVE DATE.

Consideration to waive three readings.

Consideration to approve Ordinance.

Mayor Stear Consideration to approve Ordinance 2024-19. A Municipal Rezone Ordinance of the City Council of the City of Kuna making certain findings and declarations of authority and rezoning certain real property. To wit, Ada County Assessor's parcel number S1301438810. Owned by Toll Southwest, LLC situated in the within the corporate limits of the city of Kuna, Ada County, Idaho, and amending the zoning map and directing the city engineer and city clerk and providing an effective date.

Council President Bruce I make a motion that we waive 3 readings of Ordinance #2024-19.

Council Member Laraway Second.

Mayor Stear Motion is made and seconded to waive the three readings. Is there any further discussion? All those in favor say 'aye.'

All Council Members Aye.

Mayor Stear Any opposed? Motion carries.

(Timestamp 00:46:42)

Motion To: Waive 3 Readings of Ordinance 2024-19

Motion By: Council Member Bruce

Seconded By: Council Member Laraway

Further Discussion: None

Members Voting Aye: Council Members, Bruce, Biggs, McPherson, Laraway

Members Voting Nay: None

Members Absent: None

Approved Via: Voice Vote

4-0-0

Council President Bruce I make a motion that we consider the approval of Ordinance 2024-19, as published.

Council Member McPherson Second.

Mayor Stear Motion is made and seconded for approval. Is there any further discussion? Nathan, would you poll the Council?

City Clerk Nathan Stanley Council Member McPherson.

Council Member McPherson Yes.

City Clerk Nathan Stanley Council Member Biggs.

Council Member Biggs Yes.

City Clerk Nathan Stanley Council Member Laraway.

Council Member Laraway Yes.

City Clerk Nathan Stanley Council President Bruce.

Council President Bruce Yes.

Mayor Stear And that motion carries.

(Timestamp 00:47:00)

Motion To: Approve Ordinance 2024-19 As Published

Motion By: Council Member Bruce

Seconded By: Council Member McPherson

Further Discussion: None

Members Voting Aye: Council Members, Bruce, Biggs, McPherson, Laraway

Members Voting Nay: None

Members Absent: None

Approved Via: Roll Call Vote

4-0-0

10. Executive Session:

(Timestamp 00:47:28)

- A. Enter into executive session under 74-206(c) To acquire an interest in real property not owned by a public agency; (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated.

Mayor Stear The only other thing we have on the agenda tonight is an executive session. There's a couple things we need to talk about. There will be no decisions made at this executive session, you're welcome to stay until after we're finished with that. Basically, we're going to come out and say that information was received and no action was taken, so...

Council President Bruce I make a motion that...

Mayor Stear Have a good rest of your evening.

Council President Bruce You need a motion to?

Mayor Stear Yes, please.

Council President Bruce make a motion that we move to executive session under section 74-206 (C).

Council Member McPherson Second.

Mayor Stear Motion is made and seconded to enter executive session under 74-206 (C).

Mayor Stear Nathan, would you...

City Clerk Nathan Stanley Also, section F as well.

Council President Bruce Oh, and Section F.

Mayor Stear Section F.

City Clerk Nathan Stanley Council Member McPherson.

Council Member McPherson Yes.

City Clerk Nathan Stanley Council Member Biggs.

Council Member Biggs Yes.

City Clerk Nathan Stanley Council Member Laraway.

Council Member Laraway Yes.

City Clerk Nathan Stanley Council President Bruce.

Council President Bruce Yes.

Mayor Stear All right, that motion carries.

(Timestamp 00:48:00)

Motion To: Enter Executive Session Under Idaho Code 74-206 (C); and Idaho Code 74-206 (F)

Motion By: Council Member Bruce

Seconded By: Council Member McPherson

Further Discussion: None

Members Voting Aye: Council Members, Bruce, Biggs, McPherson, Laraway

Members Voting Nay: None

Members Absent: None

Approved Via: Roll Call Vote

4-0-0

Pursuant to Idaho Code 74-205(2) The Executive Session Minutes May be Found Below:

Persons Present:

Mayor Stear

Council Member Bruce

Council Member Biggs

Council Member McPherson

Council Member Laraway

J. Empey

N. Stanley

M. Treasure

A. Wenger

City Attorney M. Bybee

Purpose and Topic(s) of Executive Session:

Idaho Code 74-206 (c) To acquire an interest in real property not owned by a public agency; 'and'

Idaho Code 74-206 (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement.

Pursuant to Idaho Code 74-206(3) No executive session may be held for the purpose of taking any final action or making any final decision.

Information Received; No Action Taken

Executive Session Adjourned at 7:56PM

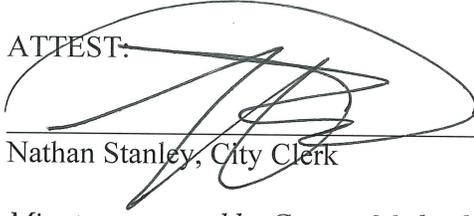
11. Mayor/Council Announcements:

12. Adjournment:



Joe L. Stear, Mayor

ATTEST:



Nathan Stanley, City Clerk

Minutes prepared by Garrett Michaelson, Kuna City Clerk's Office
Date Approved: CCM 08.20.2024

