

CITY OF POLSON

SPECIAL COMMISSION MEETING

Commission Chambers

October 26, 2015

6:30 p.m.

ATTENDANCE: Mayor Heather Knutson, Commissioners Campbell, Donovan, Erickson, Turner, Siler, and Southerland City Manager Mark Shrives, City Clerk Cora Pritt, City Attorney Rich Gebhardt

OTHERS PRESENT (who voluntarily signed in): Elsa Duford, Una Rose Graham, Andrew Johnson, Shauna Johnson, Lee Manicke, and Tony Porrazzo

CALL TO ORDER: (00:03) Mayor Knutson called the meeting to order. The Pledge of Allegiance was recited. Roll call was taken.

APPROVAL OF PROPOSED AGENDA (00:40) - Commissioner Turner motion to approve the proposed agenda. Commissioner Southerland second. City Commission discussion: none Public comment: none **VOTE: Unanimous Motion carried**

PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC **NOT ON THE AGENDA (01:05)-none**

APPROVE SPECIAL USE PERMIT #15-07 WESTSHORE ESPRESSO (01:25)-City Planner Kyle Roberts presented this agenda item. This application was approved by the City County Planning Board during their October 13, 2015 meeting. The project is located at 48573 U S Highway 93. Commissioner Campbell questioned whether this project would be permitted. The use of a portable toilet is in violation of the current Water/Sewer Ordinance. After reading the Ordinance, Commissioner Campbell is correct port-a-pottys are not permitted. In order to comply, the applicant will need to hook up to City water and sewer. At this current time there is no staff recommendation. **Commissioner Siler motion to remove this item from the table. Commissioner Turner second.** Commission discussion: none Public comment: none **VOTE: Unanimous Motion carried.** City Manager Shrives commented that the City Attorney is present at the meeting should there be any questions. There is a current two year time period in which the applicant has to hook up to water/sewer. The port-a-potty would serve the employees not the customers. One of the other coffee shops located on Highway 35 was required by the County to hook up to City water and install a septic system. Mayor Knutson suggested setting a time period for hook up to water/sewer. The City Manager commented that the owner of the property has signed a fee document, and that the applicant can represent the owner in this particular matter. There was also a discussion about water/sewer. The developer is aware of the hook up and has plans to hook up due to future development of the property. City Attorney Rich Gebhardt commented that the loop hole that the Commission can use is to refer to this a construction, and the port-a-potty is permitted in a construction area. Or, should the Commission choose, the Commission can put a one year time period as a condition. City Manager Shrives commented that there is water hook ups in the area, the sewer would need to be extended from Irvine Flats Road. Shauna Johnson commented that the owner has an application to the State of Montana. Mayor Knutson suggests revising Condition #14 to one year. Commissioner Campbell commented that also eliminate the term service line, just main line. City Manager Shrives commented that there also needs to be a condition regarding the development of the contract with the owner. Mayor Knutson asked if that could be Condition #20. Commissioner Campbell commented to make that Condition #20 and it should read; An agreement with the owner to extend water/sewer within one year period of time. Main line. **Commissioner Turner motion to approve Special Use Permit #15-07 with Condition #20 added; Contract with the owner within one year water main and sewer to be extended to the property. And #14 to one year. Commissioner Siler second.** Commission discussion: Commissioner Erickson commented on the number of advertisement signs on the property. This is a distraction. Commissioner Donovan pointed out that Condition #19 also needs to be changed to one year.

Commissioner Turner amended the motion to change #19 to one year. Commissioner Siler was okay with the amendment. Mayor Knutson reviewed the motion of approval with the revision to Condition #19 to one year, Condition #14 to one year and changing service lines to main lines, and add Condition #20 a contract between the City and the owner to extend water and sewer mainlines within one year. Public comment: none **VOTE: Unanimous Motion carried** City Attorney Rich Gebhardt pointed out that the applicant cannot do business yet. Mayor Knutson advised the applicants to coordinate with the City and make sure that the City gives you the actual go ahead to open.

APPROVE REVISION TO CONSIDER THE POSSIBILITIES FOR POLSON DOCUMENT WHICH CREATED THE POLSON REDEVELOPMENT AGENCY (31:58) City Attorney Rich Gebhardt presented this agenda item. City Manager Shrives, “After the last meeting, we met with Rich, Cindy and I, and went through some of the questions. It just seemed to make more sense, at this point, to have Rich come in and answer your questions and explain why the document is written the way that it is. Consider the Possibilities. The language.” **Commissioner Siler motion to remove this item from the table. Commissioner Campbell second.** Commission discussion: none Public comment: none **VOTE: Unanimous Motion carried** Rich Gebhardt, “Well, you came up with the issue of whether or not the City of Polson was the Agency. And I’ve got to confess some laziness there because I didn’t want to redraft that whole document with all the charts and graphs. The first comment I have (inaudible) from the last meeting was about whether or not the City of Polson made itself the Agency. And I think I did that in the sections that we were amending. I’m getting some nods. But that was intended to go ahead and apply to the full document. Without doing that I would have had to go through the whole document and then put City every time you had Agency. That would be good and not that difficult if we had it in word format. But all those charts are difficult to put in the word format and all that we had was other format, PDF file. Which I wish we could find that. Because it would be nice to have that because there’s going to be amendments down the road. And you understand the reason that we did this is because we got the audit exception that said we were not doing our job in deciding who was going to handle this. In fact rumor has it by other departments that on the face of the Ordinance I think we did a pretty good job. The Ordinance enabled this thing but then, this is the policy that goes along with it and I think that was copied from some other jurisdiction and it was just wholesale put in there without regard to making that decision about whether or not we were going to handle it yourself or you’re going to have an outside agency.” Mayor Knutson, “So I guess, wasn’t the confusion that the, like for example the administration starts the Polson Redevelopment Agency shall be organized, wasn’t the misunderstanding that you are using the term City Commission and City interchangeably with the board that is being utilized?” Rich Gebhardt, “Yeah, I think there is some confusion with some other parts of the board, pardon me, of this policy, not the Ordinance. We clarified it all in the Ordinance itself, the (inaudible) Ordinance. That was what you did months ago, a month ago.” Mayor Knutson, “Right.” Rich Gebhardt, “And so, that takes priority over whatever this written policy is. And if you had decided to assign the staff the responsibility to go in there and change that, that would tighten the language up. I’m not going to deny that.” Mayor Knutson, “I’m sorry, if we’d…” Rich Gebhardt, “Where you’re changing City and Commission and Agency, and there was one other one that you had in there, board, because there is no board per-say that is the administrative board of this agency. It is an advisory board to the Commission and the Commission is the one that handles through the department. They set the policy and the City staff handles the administration.” Mayor Knutson, “So when I say Polson Redevelopment Agency shall be organized to implement and administer the redevelopment plans, who does that refer to? The Polson Redevelopment Agency.” Rich Gebhardt, “City Commission. And that’s in that adopted (inaudible) paragraph section that says where we call the City of Polson as the agency.” Commissioner Campbell, “Those contradictions sometimes.” Rich Gebhardt, “There’s lots of them.” Commissioner Campbell, “Talking about litigation instituted by either the agency or the City.” Rich Gebhardt, “Yep. How would you read that to make it work? I would be more than happy to do that but you’ve kind given me twenty hours a month.” Commissioner Campbell, “But you think this can all be fixed by staff here?” City Manager Shrives, “Well, it’s just a matter of going back.” Commissioner Campbell, “Take one word out, put another word in.” City Manager Shrives, “Well, no. It would be a matter of re-writing the document because it does not exist in word version. So that was our biggest problem was trying to find the

document particularly being the entire document with all the charts and graphs. It's a pretty hefty project. So this was a fix to meet what we were trying to do for the (inaudible). This was something we could take on. Right now I'm not sure this is more important than the Growth Policy. (inaudible)." Rich Gebhardt, "Excuse me Mark. Those conflicts that you're talking about were there before. What we're doing is, they came to our attention and now we're trying to straighten them out. I can convert most, I've got a conversion program that can convert most of the PDF word stuff but it doesn't do the charts, I don't have any way to convert that. If you wanted to take it on as an entire thing, we can do it now or we can go ahead and work through it. Nobody is denying there's lots of conflicts and you would have to interpret them in the way that our Ordinance says to interpret them." Commissioner Campbell, "You know honestly most of them, if we, most contradictions, if you read through this, you're going to know who their talking about in each case. And when we're all done with this, this organization will be a part of the City of Polson. It won't be a separate organization, more an advisory committee. It all boils down to the City will be responsible for everything." Rich Gebhardt, "Yes." City Manager Shrives, "And that's what the Ordinance says." Commissioner Campbell, "I would be okay with approving it as we go along. I understand what you're saying. But it does, it definitely contradicts it's self sometimes in the same sentence." Rich Gebhardt, "I mean, there's no choice but to do it right but at the moment we're just fiddling with the Ordinance so that it makes the auditor happy. We're clarifying what our role is." Commissioner Campbell, "Which was, not to leave them out as a separate organization." Mayor Knutson, "Okay. Anything else? Clear as mud? Alright, so what we're agreeing to, if we make a motion to approve this, essentially is that we are reflecting our Ordinance more clearly. This is making a step in the right direction to reflect the Ordinance more clearly that it's not a separate agency but rather a function of the City itself. However we're recognizing that there are still disjointed yet with the actual assignment of responsibilities and the labeling of organizations. Is that an accurate way to put it? We will continue to move forward on making improvements on this recognizing that right now you have other things that are taking precedence on that. Okay. Just making sure we all have an understanding of what we're doing here. It is a little unclear so..." Commissioner Turner, "And the auditor will be okay with what we got?" Rich Gebhardt, "Yes." Commissioner Campbell, "This covers a few (inaudible). Mayor Knutson, "It obviously feels a little uncomfortable because we would like to have it clear. If we're having confusion reading it, then anybody who reads this is going to also have confusion. But this is the first time (inaudible) with this but it does feel unnatural to allow it to go through without making those updates at this point." Commissioner Campbell, "That brings us in line to where we want to be." Mayor Knutson, "Right." Commissioner Campbell, "(inaudible). Mayor Knutson, "We just need to (inaudible). So can I get a motion?" **Commissioner Campbell, "I move to approve revision of sections 9.1 through 9.6 of Chapter 9 of the Consider the Possibilities for Polson! document."** **Commissioner Erickson, "I'll second."** Mayor Knutson, "I've got a motion from Commissioner Campbell with a second from Commissioner Erickson. Do I have any Commission discussion? Do I have any public comment on Agenda item number 6 please?" **Public Comment- Lee Manicke, "Ward II. I kind of think I am responsible for some of this. I have a long standing concern of mine. I had this grandiose plan a long time ago and in a lot of places it has never been followed. So I brought up a case where it wasn't followed about the audit. It said it had a bi-annual audit. That was quite some time ago. Mark said one time I didn't believe he heard me but he did and brought it up. On your, I still have some concerns. On your agenda item it says this was on May 1, 2000 that was done, accepted by City Commission vote or City Council vote and from my interpretation of the Montana Code, adoption of the Urban Renewal Plan has to be done by ordinance. And so the one that was done is dated here was accepted by the City Council, it wasn't done according to the Montana statutes. That then was done in October 2000 with Ordinance number 591 and it made in that it made the document Consider the Possibilities for Polson! part of Ordinance 591. What's requested to be done tonight is to modify Ordinance 591 and my understanding to modify an ordinance you do it by ordinance, not by a vote of the Council. Rich can correct me if I'm wrong, but I think Statutes are clear that if an Urban Renewal Plan needs to be modified by Ordinance. I think 7-15-4221 number 2 an Ordinance Renewal Plan may be modified by Ordinance. Then it goes on to say that that ordinance, the plan can either be done as stated in the Urban Renewal Plan or it can be done by State Statutes. The Urban Renewal Plan says it will be done by State Statute. State Statute says that you modify Urban Renewal Plan the same way you create one, and that's rather**

cumbersome I agree with that. And so I think you are trying to satisfy the auditor, but really, there's a lot of things that's brought up. There's a lot of things that need to be revised in this thing and so I think really the whole thing should be looked over and done. I don't think your vote tonight as presented is doing it the proper way because it's not done by ordinance. It's done by Commission vote. If you look at the revision on this, it shows it to amend the development plan how it will be done. Right above that in Annual Program Budget; the agency prepared an annual program work budget and I don't believe the City has ever done that. I don't believe that the PRA has ever presented an annual budget or an annual work plan and a budget. So there's another thing that probably needs to be done. Last meeting you were shown a plan where the outline of the PRA District is. That plan is, I think what's now being used by the Department of Revenue but this is the official plan that is in here and they're not the same plan. There's a lot of changes that have been made in this over the years and I don't know that they've ever been done by ordinance which is a requirement of the Montana Statutes. I agree with Rich that the whole thing needs to be done, rewritten because this thing is 17 years old. There's no changes been made to it. There's some things in here that are not done but I don't think you can find any document anywhere in the City Hall that ever says that this plan, this map has ever been revised. There are a lot of revisions that have been made. Personally I think you're premature in what you're doing. I know you're doing it to satisfy the auditor but I think you need to go back and take a whole new look at this thing. We're not following it folks. We haven't followed it for a long, long time. It's aggravating that you've got some people coming back, giving us a lot of recommendations for some grandiose plans that don't follow this plan, and they're the ones that drew it up. They're the ones that accepted it or some of them are. Rich you can tell me if I'm wrong, but I really think that this needs to be done by Ordinance not just by vote of the Commission to revise this." Mayor Knutson, "Thank you. I would like some clarification on that if you wouldn't mind please." Rich Gebhardt, "Lee and I are not disagreeing at all. But I think, if you will recall, we did amend this by ordinance. That was what, two months ago? Or a month ago?" Mayor Knutson, "We amended the Ordinance." Rich Gebhardt, "The Ordinance and that is exactly what he is suggesting that we had to do. Now for the rest of the plan, and then the changes that are shown to you tonight or the last meeting are just effectuating that Ordinance. So it's straightening out the language that we've already adopted in the Ordinance that had to go, I think maybe that's where there's a disconnect or miscommunication between Lee and I is he thinks the actual document, at this point, needs to be in the Ordinance itself. It doesn't. It's an enabling Ordinance and that's what we did this for. But he is correct in that it does need to be amended by ordinance and we did that on this one subject alone. Now he brings up two different points that here we go again. I think we are going to have to make this into a bigger project. To go ahead and comply with the fact that we never amended the maps. That it doesn't do an annual budget or a work plan on an annual basis. Okay. Those are important points to go ahead and carry through. I think the staff has got an obligation to come back to you with those things. If somebody out there has got a word document that has this on it we would really appreciate that. But I think we've done what Lee has said to do. I think we can do a better job with the next step in the process." Mayor Knutson, "So is it your recommendation to still proceed with approving this policy as it is?" Rich Gebhardt, "Yes." Mayor Knutson, "And then updating in the future. So, if we were to be making any other changes on this policy we would not have to go through the ordinance process on this correct?" Rich Gebhardt, "No. We would have to go through the ordinance process." Mayor Knutson, "But not this time I guess." Rich Gebhardt, "This time we did already." Mayor Knutson, "We did for the Ordinance but this policy The Consider the Possibilities actual document that's what we're changing right now." Rich Gebhardt, "It's effectuating what we've already adopted in your Ordinance." Mayor Knutson, "Okay." Rich Gebhardt, "It's just making us do what you told us to do a month ago." Mayor Knutson, "So when we go in the future to make any additional changes to this Consider the Possibilities, will we, I just want to try clarification, will we have to go through the ordinance approval process?" Rich Gebhardt, "Ordinance approval process but it will be, what it will be will be the ordinance itself that re-enacts it just like we are doing with the codification, with our regular codification. It will be an ordinance that re-enacts it and it will be attached to it as a document that effectuates the ordinance. Effectuates the creation." City Manager Shrives, "If you go to the back page, the last page of this document, the Ordinance that we passed was an ordinance to amend Section 2.05.510 that no separate agency was created for the Urban Renewal. The language, the changes that we made within the document, the policy

document, are those changes that the Ordinance approved. So when we go back to update the other items that were brought up then we will have to do another ordinance that provides the language that we didn't go back and change the policy. So, the ordinance and then the ordinance drives the policy changes." Mayor Knutson, "Okay. And it's your opinion that we can make this policy change to support the most current ordinance that we approved." Rich Gebhardt, "Correct. We bring it back to you so that you know that we have effectuated the Ordinance that you adopted." Mayor Knutson, "And in order to do that we do not need to do another ordinance." Rich Gebhardt, "You've already done the Ordinance." Mayor Knutson, "Okay. Any other public comment? Do you have a question? Lee do you have a question? Is that what you are asking?" Lee Manicke, "Yes." Mayor Knutson, "Clarification?" **Lee Manicke**, "Rich, I read this Ordinance. I see nowhere in here that modifies the Urban Renewal Plan. It says you want to do that but it doesn't do it. Now you're doing that but you're not doing it by ordinance. You got the degree Rich. I don't I can't argue with you." Rich Gebhardt, "Yes, you can argue with me." Lee Manicke, "I don't see anywhere in here that it says at all that we have modified the Urban Renewal Plan. You have an attempt you want to do that but you don't do it unless you do it by ordinance. Because it was created by ordinance and you modify it by ordinance." Rich Gebhardt, "I just don't agree." Mayor Knutson, "Okay." Lee Manicke, "I do agree that the whole thing needs to be redone. I think I hope you don't have a whole bunch of these for each sections that are modified. I hope you do it by actually modifying the document itself." Rich Gebhardt, "And adopting the document." Lee Manicke, "As an Ordinance." Mayor Knutson, "Okay. Thank you. Any additional public comment this evening on Agenda Item #6? Okay. We have a motion from Commissioner Campbell with a second from Commissioner Erickson. We have our City Attorney's opinion on this so I will go ahead and take a vote then." **VOTE: Unanimous Motion carried**

APPROVE FINAL CHANGE ORDER FOR GOLF CAR STORAGE BUILDING (54:15)-City Manager Mark Shrives presented this agenda item. City Manager Shrives, "So I had to go back and try remind myself of this. Back in June after the project started, we ran across debris that was in the area that the two buildings were going to go in to. At that time we talked about the need for a change order because we had the contractor on site and at that point we had no delay claims by the contractor starting to add up. At that point we did a cost + 15% change order. At that time we were somewhere between \$30,000.00 to \$40,000.00 was what that change order was going to be. It has now come in at \$37,446.77. So that's the actual numbers of the cost +15%. That was the actual numbers all of these, the invoices, the stand-by time, were all verified by our City Engineer Shari Johnson. In addition she worked the contractor over going thru all the delay claims and brought that down considerably. So what this is tonight would be the final approval of the change order for \$37,446.77. The original budget for this was \$220,000.00 so brings it to \$219, 205.00. Cindy did send me an email that we will see some additional costs. This is not related to the contract but it's related to Shari's time and then there was a charge from Mission Valley Power and that's going to be about \$5,176.00. So that will be absorbed by the Golf fund paying for Shari's time under her retainer. They will pay that portion of it so but tonight basically what this is for is to approve the \$37,446.77 to Bjorn Johnson Construction in which then the project is done. He's off site. The buildings have been turned over to the Golf Course." Mayor Knutson, "Okay. Any questions before we call for a motion." Commissioner Campbell, "Do we get a warranty?" City Manager Shrives, "Yes, we get a warranty for one year. Standard one year warranty. That's our original contract." Commissioner Campbell, "Are they using it yet?" City Manager Shrives, "They are not using it yet. I think Pat, I talked to Pat last week. He thinks probably two weeks we'll be putting the private carts in." Mayor Knutson, "Okay. Any other questions? Okay. Then I look for a motion to approve." **Commissioner Donovan, "I motion to approve final amount for Change Order Number 2 in an amount of \$37,446.77 for payment to Bjorn Johnson Construction." Commissioner Southerland, "I'll Second."** Mayor Knutson, "Okay. I've got a motion from Commissioner Donovan with a second from Commissioner Southerland. Any Commissioner discussion? Do I have any public comment then on Agenda Item #7 please?" **VOTE: Unanimous Motion carried**

RECESS FOR PERSONNEL (58:08) Next we are on to recess for a personnel Executive Session. This matter concerns the City Manager Contract. I have determined that the interest of the public and the

knowledge of this contract clearly outweighs the interest of the employee's privacy. However, the City Manager has the right to request that the discussion of the contract be closed as a matter of personnel privacy and if he exercises that right, the discussion will be closed. If the discussion is closed, upon its completion the Commission will reconvene into open session only to determine the action versus full minutes and to adjourn. The actual City Manager Contract will be presented at a future public meeting. I expect that the discussion will take approximately 1 to 1.5 hours. At this point I would like to ask the City manager if he would wish for the discussion to be closed." City Manager Shrives, "Yes." Mayor Knutson, "Okay. Thank you. With that then we will go into recess."

Recess (58:53) 7:30 p.m.

Reconvene (58:56) 9:22 p.m.

(59:04) Mayor Knutson asked the Commission if there were any items that needed full minutes or will action minutes suffice. The Commission requested Agenda Items #6 & 7 have full minutes. All other action minutes.

Adjourn. (01:00:27) Commissioner Southerland motion to adjourn. Commissioner Campbell second. Commission discussion: none Public Comment: none VOTE: Unanimous Motion carried.

ADJOURN: 9:23 p.m.

ATTEST: _____

Heather Knutson, Mayor

Cora E. Pritt, City Clerk