

**POLSON CITY COUNCIL MEETING MINUTES  
CITY HALL COUNCIL CHAMBERS  
MONDAY, JUNE 20, 2005, 6:00 P.M.**

**ATTENDANCE:** City Council: Lou Marchello, Mark MacDonald, Mike Maddy, Tom Corse, Dan Morrison present. Jules Clavadetscher absent. Mayor Randy Ingram presiding. City Attorney James Raymond present.

**Others Present:** Doug Chase, Rory Horning, Bonnie Manicke, Rick Johnson, Sam Williams, Traci Williams, Robert Lajoie, Brenda L. Williams, Ethan Smith, John Lainbeer, Tim McGinnis, Bob Olson, Tom Maloney, Ed Holland, Joe Havlovich, Margie Hendricks, Cindy Johnson, Elsa Duford, Murat Kalinyaprak.

**PUBLIC HEARING – FISCAL YEAR 2004-2005 BUDGET AMENDMENTS:** Mayor Ingram noted the proposed budget amendments, Parks/Salish Point (2210), \$24,000; Weed Cleanup/Maintenance (2500), \$3,500; Drug Forfeiture (2390), \$1,000; SID #38 (3538), \$2,300; Golf Restaurant (5010), \$20,000; Library Hochmark (7050), \$12,000; Library Automation/Technology (7051), \$1,500. He clarified that these amendments are required because of unexpected revenues and expenditures that were not budgeted. **Mayor Ingram closed the public hearing at 6:03 p.m.**

**PUBLIC HEARING – CREATION OF SPECIAL IMPROVEMENT DISTRICT #39 HILLSIDE COURT STREET IMPROVEMENTS:** Mayor Ingram explained that this special improvement district includes 6 lots, to grade and asphalt overlay Hillside Court. Resolution #893, was passed by Council stating its intention to create the special improvement district for a total cost of \$23,296, divided equally would cost each lot owner \$1,456.

Rick Johnson stated that he supports the creation of SID #39 and had solicited signatures from his neighbors and property owners on Hillside Court. The residents agreed that Hillside Court is in poor condition, which affects their property values. It is dusty, muddy and hard on their vehicles and the majority of the residents were in favor of pursuing this special improvement district. In his discussions with Lake County Commissioner Paddy Trusler, he agreed that the County would provide the gravel, which will keep the cost down. The City of Polson agreed to provide support by providing equipment and manpower to get the paving done, and in addition they have pledged \$6,000 toward this project. With the City and County efforts they have been able to keep the property owners' cost below the not to exceed price of \$1,500, which they established and agreed to. He and Paddy Trusler initially estimated \$1,300 but since then the price of fuel has increased and raised the cost of the project. The letter that was sent to the property owners stated that the cost would not exceed \$1,500. 68% Of the property owners recognized the importance of coming together as a neighborhood to support this improvement project and signed the petition to establish this SID, which moved this project forward. They saw that the cost of this project was nominal and would be for the overall good of the neighborhood, it would potentially increase property values and enhance their quality of life on Hillside Court. He expressed his appreciation for the City Council's cooperation in this project and they look forward to having a newly paved Hillside Court in the very near future.

Robert Lajoie, 1009 Hillside Court, commended the City Council for their support of this paving project. He asked that the City place a street sign on Hillside Court because people have trouble finding the street. He also asked for a dead end sign which he feels is important and other dead end streets in the City are posted. He asked that they also consider placing a 15 mile per hour speed limit on Hillside Court after it is paved.

Traci Williams, resident of Hillside Court, also commended the Council and felt that the paving is really needed on that road. She is also concerned about the speed limit sign for her children's safety and felt that the current speed of traffic should be controlled.

Brenda Williams, resident of Hillside Court, said she agrees with everything that Rick Johnson, Robert Lajoie and Traci Williams have said and believes their statements are truthful. The paving is great, the price you can't beat, and working together with everybody is fine, but she felt there are a lot of other underlying issues that need to be addressed.

Elsa Duford said she agrees that Hillside Court needs to be paved. She recently spoke with Paddy Trusler and Bob Smith concerning the drainage, which they plan to pipe into the irrigation canal. She doesn't believe that they are allowed to divert storm water into an irrigation canal. Mayor Ingram clarified that the storm water is not being directed into the irrigation canal, although it is possible that some of the water may flow into the irrigation ditch during some

storm events. Elsa Duford said Paddy Trusler wanted to talk to her tomorrow about this issue. She feels that before the road is paved the water coming off the hillside needs to be addressed. She referred to Councilman Maddy's statement at a prior Council Meeting, that storm water needs to be contained on site. She is concerned about the drainage problem and feels it would be a problem for all the development on the other side of the irrigation ditch.

Brenda Williams stated that she is an opponent in the legal aspect dealing with the issues of the way the petition was put together. Some of the petitions were not dated and some properties were described incorrectly. The ad was published only once in the June 9<sup>th</sup> issue and not in the June 16<sup>th</sup> issue. Mayor Ingram stated that he will address that issue at the end of the public hearing. Brenda Williams said there are too many of these illegal things happening. Mayor Ingram asked which legal descriptions are inaccurate. He noted that the property descriptions were taken from the legal descriptions on the tax statements of the respective properties. Councilman MacDonald asked if she feels that all the property descriptions are wrong. Brenda Williams replied that the property descriptions in Hillside 3 are wrong. Councilman Maddy asked if she had documents to prove that the descriptions are wrong. Brenda Williams replied that she has and asked if City Attorney James Raymond had done the research that Councilman Clavadetscher asked him to do at the last city council meeting. Brenda Williams stated that in the 1992 Hillside Addition No. 3 certificate of survey showed two parcels, Tract 1 and 2. In 1994 it changed. Tract 1 changed to Tract A and Tract 2 changed to Tract B. Councilman Maddy clarified that the newest plat trumps the previous plat. Mayor Ingram asked if she felt that someone was not given proper notice, or whose property abuts the road and would be affected by the SID and did not get notice. Brenda Williams said that is possible because she doesn't feel they know the whole circumference of this road going through. She showed the plat of Hillside 3 to Councilman Maddy and he explained that the most currently dated, recorded plat has the correct legal property descriptions and with every new recording the old plats become irrelevant and obsolete. Mayor Ingram said he doesn't think it will be a problem because the SID assessment will be applied to the tax statement of the respective property owners'. Rick Johnson clarified that the property descriptions on the petitions that were signed by the property owners were directly taken from the tax statements. Mayor Ingram noted that the legal owners of the properties adjacent to the road have signed the petition. Brenda Williams agreed that they are the owners but she doesn't feel the property descriptions were very clear. Mayor Ingram clarified that the legal descriptions were all taken off of their tax statements.

Robert Lajoie noted that George Hefflen is his neighbor and a resident of Hillside Court and couldn't attend this meeting. He wanted to relay his concern that right now the water runs off of the road into his garage from the landing in front of his garage. When the storm water floods his garage he has to sweep it out as fast as he can. He asked that they get the grade down as low as they could and make it lower than it is, removing the hump between his property line and his neighbors. Council asked that George Hefflen himself write a letter to the City regarding this issue.

Elsa Duford asked if there is anyone else who will be reviewing the storm water runoff design besides the City and Paddy Trusler. Mayor Ingram replied that Paddy Trusler assured him that he will make the contacts that need to be made to address the runoff issue, since the County is doing that part of the project. Councilman Maddy clarified that his comment at a previous council meeting, regarding the containment of storm water on site, related to the subdivision planning act but this special improvement district is not a subdivision. Elsa Duford replied that several years ago a neighboring subdivision retained storm water by digging a hole, which had to be filled in because it was in a park area which wasn't fenced and created a safety issue. Councilman Maddy stated that they are not under the subdivision regulations with this project but are fixing an old problem. New regulations apply to subdivisions, which are currently being developed and the City is not required to fix the problems from the older subdivisions and apply the new regulations, they just do the best they can. She asked if storm water can be run into an irrigation ditch. Mayor Ingram said Paddy Trusler indicated that he would keep him informed about that issue. Councilman Maddy noted that this project would be an improvement. Elsa Duford expressed her concern that there will be more runoff than in the past because the asphalt will create more impervious surface. Mayor Ingram noted that they will be grading the road and putting in a culvert, which will direct the culvert down the alley. Robert Lajoie stated that their discussions with the County last year was to have a very flat ditch going toward the irrigation ditch. It would allow maintenance of the area and reduce the velocity of the flow going toward the irrigation ditch and has a gravel base.

Bob Williams explained how the road would be designed, according to what he was told by Paddy Trusler and Bob Smith the other day. He stated that it is a great concern because the

velocity of the runoff will be increased and in any storm they will have more runoff on properties down below. Councilman Maddy asked Bob Williams if he is for or against this SID. Bob Williams replied that he would like to see it paved but he is kind of upset that there is a lack of disclosure about the possibility of the road going through and increasing the traffic on Hillside Court. Mayor Ingram noted that he is referring to a potential subdivision, which may or may not be developed. Bob Williams said they are all aware of that and have seen the proposed plans. They are aware that there is potential that they could have traffic going through there and it is possible that Cougar Ridge would use Hillside Court also. He feels that everybody has a right to enjoy their property and would want to keep the cul de sac and not have a thru street. He asked that they develop a better design for the storm water runoff and is also concerned that the citizens are shouldering the majority of the cost of this improvement. The City took \$15,000 from the Claffey's and only spent \$3,000. He asked that all of the remainder of the money be put toward this road. There is a lack of disclosure about the City owning the road. They can't take a bond without asserting ownership, which they have done for years. That's not right and they have all kinds of documentation to support that fact. He would like to see all of the balance of the bond applied to the cost of this project and after that he wouldn't mind kicking in the balance. He wants to see all of the \$15,000 the City took from Mr. Claffey applied to this project.

Elsa Duford said she has lived on 15<sup>th</sup> Avenue for 34 years and she knows that water runs downhill, after seeing it for years. The storms that create considerable runoff happen more often than every one hundred years. She thinks there has to be something better to catch the storm water than what is being proposed for this project.

Mayor Ingram clarified that the second notice advertisement for this public hearing was not in the paper last Thursday. Therefore the Council will adjourn this public hearing and continue it at a special meeting that will be advertised in this week's paper, for Wednesday, June 29<sup>th</sup> at 6:00 p.m. A special Council Meeting will follow the public hearing, for Council to vote on the creation of Special Improvement District #39.

Robert Lajoie noted that if the property above Rick Johnson's house is subdivided in the future, it would have to comply with the subdivision and platting act, with regard to the drainage being retained within that subdivision. So no water would then be flowing downhill by the ditch between Sam and Traci Williams and Rick Johnson's property. The developer of the proposed subdivision would be responsible to contain the storm water runoff.

Mayor Ingram asked for comments from anyone who cannot attend the June 29<sup>th</sup> meeting or anyone else who would like to speak on this issue.

Sam Williams thanked the Council and expressed his appreciation for their efforts to complete this project. He knows there are a lot of problems that some people are trying to fix and realizes that it is a headache for everyone, but thanked them for their effort.

Bob Williams asked if there was discussion of assigning the rights. Mayor Ingram said it has not been discussed tonight and he isn't sure that it is relevant to the SID in particular. Bob Williams replied that there should be specific language in the resolution to assign the City's rights over to the property owners involved in the SID. Mayor Ingram asked and City Attorney James Raymond replied that it would not necessarily be part of the SID but possibly done separately. He is not sure how at this time. Mayor Ingram asked that it be presented at a future date if he wants Council to consider that as a separate issue. Bob Williams said he doesn't agree with that and feels that the property owners should have the ability to go after Claffey's for anything they want. In as much as Claffey was the developer and he reneged on all this. He would like the City to assign their rights to the residents of Hillside Court. There is some language in the default whereby the City has the right to go after Mr. Claffey for any excess above and beyond the \$15,000 they bonded at that time. That assignment of rights should be passed onto the property owners, so the individual property owners have the right to go after Mr. Claffey for any excess, which he thinks is only right. That language is part of the default. Mayor Ingram said that can be put in as an objection to the SID for that reason. It wouldn't have any effect because Claffey's bond is not part of the SID proposal, which they are taking public comment on, although he can bring that issue up at a future date.

**Mayor Ingram closed the public hearing at 7:10 p.m.**

## CITY COUNCIL MEETING

**CONSENT AGENDA** – Mayor Ingram read the consent agenda items A through M. Councilman Corse asked that item M, reschedule of the next council meeting, be removed from the consent agenda for further discussion. **Motion made by Councilman Corse, seconded by Councilman Marchello to approve the Consent Agenda as follows:**

- A. **City Council Meeting Minutes of June 6, 2005**
- B. **Hire Beth Smith as part time Assistant Clerk at \$7.00/hour with a \$.50/hour increase after satisfactory completion of a 6 month probationary period**
- C. **Hire Travis Scheibe as Police Officer at \$12.75/hour**
- D. **Police Training, Instructor Development, Officer John Fairchild, July 11-15, Billings, Montana Law Enforcement Academy**
- E. **Off Premise Consumption Wine License for The Terrace Flowers & Gifts**
- F. **Resolution #896 Budget Amendment for Fiscal Year 2004-2005**
- G. **Resolution #894 Annexation Lots 5 & 6 Frelich's Highview Acres, Starr**
- H. **Todd Erickson's resignation from the Polson Redevelopment Agency**
- I. **Kyle Karstens' resignation from the Board of Adjustments, Water Committee and the Library Board**
- J. **Audit Response Letter for Fiscal Year 2003-2004**
- K. **Street Closure for Polson Softball Association 6/24, 6 to 11 p.m. 3<sup>rd</sup> Ave. West**
- L. **Chamber Beautification Bridge Banners – Dave Tolley**

**Motion carried unanimously.**

**RESCHEDULE NEXT CITY COUNCIL MEETING** – Councilman Corse asked that, because of the 4<sup>th</sup> of July holiday on Monday, that the next Council Meeting be rescheduled to Wednesday, July 6<sup>th</sup> instead of Tuesday, because of scheduling conflicts. Councilman Marchello said he has a conflict on that day but will try to attend. **Motion made by Councilman Corse, seconded by Councilman Morrison, to reschedule the next City Council Meeting to Wednesday, July 6<sup>th</sup> at 7:00 p.m. Motion carried unanimously.**

**RESOLUTION #895 – CREATION OF SPECIAL IMPROVEMENT DISTRICT #39 HILLSIDE COURT STREET IMPROVEMENTS** – Mayor Ingram noted that this item will be deferred to the special Council Meeting scheduled for next Wednesday, June 29<sup>th</sup>, which will follow the 6:00 p.m. public hearing.

**ORDINANCE #609 – SECOND READING – TO ALLOW DETACHED GUESTHOUSES IN LOW DENSITY RESIDENTIAL ZONING DISTRICTS WITHIN RESORT RESIDENTIAL OVERLAY DISTRICTS:** **Motion made by Councilman Corse, seconded by Councilman Morrison, to approve the second reading of Ordinance #609, to allow detached guesthouses in Low Density Residential Zoning Districts within the Resort Residential Overlay Districts. Motion carried unanimously.**

**GOLF RESTAURANT CONTRACT – LETTER TO CANNONS STATING PROVISIONS** – Councilman Corse clarified that at the last meeting he related some of the problems the Cannons' were having with their increased costs to manage the City's liquor license. He referred to the letter attached to the agenda which proposes three ways to give them back some of the costs for the restaurant equipment. The City would be paying for the entertainment and make higher monthly payments to the Cannons in the new budget year during the busy months. He asked that Council vote to approve the letter, thereby stating their intention to follow through with the items mentioned. Councilman Marchello said he agrees with everything stated in the letter except that the City should only pay half of the cost for the Friday night entertainment because they serve more meals on Friday nights compared to Wednesday nights. **Motion made by Councilman Corse, seconded by Councilman Marchello, to approve the provisions stated in the June 7<sup>th</sup> letter to the Cannon's, items 1. and 3. as printed and item 2. revised, that the City will pay the full cost of entertainment on Wednesday nights and half the cost on Friday nights. Motion carried unanimously.**

**GOLF PRO CONTRACT – ANNUAL RENEWAL** – **Motion made by Councilman Marchello, seconded by Councilman Corse, to approve the renewal of the annual golf pro contract, with the corrections.** Councilman Maddy suggested that the golf pro contract term should be from January 1 through December in the future, and proposed that this year's contract could be for a one and one half year term. **Councilman Marchello amended his motion to**