

**POLSON CITY COUNCIL MEETING MINUTES  
CITY HALL COUNCIL CHAMBERS  
WEDNESDAY, JUNE 29, 2005 6:00 P.M.**

**ATTENDANCE:** Councilmen, Lou Marchello, Jules Clavadetscher, Mike Maddy, Tom Corse, Dan Morrison present. Councilman MacDonald absent. Mayor Randy Ingram presiding. City Attorney James Raymond absent. Others present: Sam Williams, Traci Williams, Jean Lajoie, Robert Lajoie, Brenda Williams, Bob Williams, Beth Smith, Tony Porrazzo, Elsa Duford, David Reinsvold.

**PUBLIC HEARING: CREATION OF SPECIAL IMPROVEMENT DISTRICT #39 FOR HILLSIDE COURT STREET IMPROVEMENTS – CONTINUATION OF JUNE 20<sup>TH</sup> PUBLIC HEARING WHICH WAS ADJOURNED:** Mayor Ingram asked for comments and noted that it is not necessary to repeat comments that were made at the previous meeting.

Bob Williams repeated his feelings about the \$15,000 that the City took from the Claffeys. He discussed the possibility of going after Claffeys for any excess costs at the last meeting. He asked his attorney who advised him that it can't happen unless the City spends the \$15,000. The City has an obligation to finish the road in Hillside 3 and if it can't be finished for \$15,000 then the City is obligated to go after the Claffeys' for the balance. Even if the assignment of rights was passed on to the individual citizens, until the \$15,000 is spent, nobody can go after Claffeys for the excess costs to finish the road. He asked if they understand that. Councilman Maddy stated that he doesn't think the City will lose their rights if they approve this SID. They can't correct every mistake that was done in the past and the \$15,000 was for Hillside 3. Mayor Ingram said the information he got was that Hillside Court was supposed to be paved through an SID and Claffeys bond was for Hillside 3 and has nothing to do with the road in front of Bob Williams house. Bob Williams agreed that the bond that the City defaulted on has nothing to do with the street in front of his house, however, when the City took the \$15,000 it was obligated to hire Rick Procopio who was the contractor who was in line to finish the road, or the City had the option to finish the road itself. The City started to do the project and spent \$3,000 for materials out of a \$15,000 bond and failed to finish the road. If the \$15,000 was not enough to finish the road then the terms of the default stated that they could go after Claffeys and the minutes reflect that the City was supposed to do that. There was a big discussion about going after Claffeys for any excess amount and James Raymond determined the \$15,000 amount, and if it wasn't enough the City would go after Claffey for any excess. If that road was completed in Hillside 3 then the SID would only be for the road in front of his house, which is the lower portion and only a small portion of Hillside Court. The current proposal is a big expense for them to get into. The residents on that portion of the street would have to make the decision if they wanted to create an SID. Until the City spends all \$15,000 of that money, nobody can go after Claffeys, that's the terms of the default. He provided all that information to them which is included in the minutes of previous council meetings. If they approve this SID, anybody who wants to mount a legal challenge would have to go back to the City and they are just buying into another lawsuit. He asked why they would want to do that when they can go after Claffeys who are the right people to go after in this situation. Councilman Maddy said they haven't received advice from the City's legal counsel that they would lose their rights to go after Claffeys by approving the SID. Bob Williams asked why they haven't gotten that advice since this issue has been around for a long time. He feels this is inappropriate, the property owners on Hillside Court should never have to pay a dime for this, regardless of whether they were councilmen at that time. The minutes state that Claffeys had just sold land and had the ability to pay for the street improvement and it is Claffeys obligation not the residents'. It really upsets him that the City took \$15,000 and didn't finish that road. He feels they would be upset too. Although they are pledging \$6,000 toward the SID, that is coming out of Claffeys forfeited bond and not the general fund. If they put in the full \$15,000 toward the street improvement then they won't have any problems but if they don't they will have problems. Councilman Maddy replied that he feels they will have problems with him anyway. Bob Williams said that is his opinion and he happens to be right on this issue and has received legal opinions from his attorney.

Elsa Duford said she raised questions regarding the storm water runoff at previous meetings. Paddy Trusler gave her maps which have been amended and asked if Council had the same information on the maps and drawings and Bob Fulton's comments pertaining to the drainage situation. Mayor Ingram replied that he spoke with City Engineer Bob Fulton and he had no overriding concerns about the drainage. Elsa Duford showed the Council what she was given

and noted that the irrigation canal is not shown on the City plat map. Mayor Ingram asked what the misunderstanding is about the irrigation canal. Elsa Duford replied that the map doesn't show the location of the irrigation canal. She discussed her concerns to Council showing them the plat maps and the design for the street improvement. Bob Fulton's comments on the drawing state that drainage is not sized for DEQ design and it will not contain gradient runoff. Councilman Maddy noted that this is not a new road and they are trying to correct a road as good as they can. Elsa Duford referred to a DEQ brochure, she got from City Hall, which states her concern about the amount of storm water runoff that would flow into the irrigation canal. Mayor Ingram clarified that the proposed design does not pipe storm water directly into the canal. Elsa Duford said it's pretty close and if the proposed Hillside Estates subdivision would attach to Hillside Court with all the paved streets, it would increase the amount of water coming off of the hill from the streets, which are sand and gravel based. She asked the mayor and council to go on site and see what is there. A resident of 15<sup>th</sup> Avenue told her that the irrigation ditch has overflowed in the past. She wanted to point out that she is not opposed to paving the street but she doesn't think it is a good plan for the storm water runoff. Councilman Maddy said their options are limited because the road can't be moved. Elsa Duford said she is relying on the engineer's comments on the drawings. Councilman Maddy said he interprets those comments that this plan handles the storm water better than what is existing and that is their goal. Elsa Duford said she wanted everyone to know there is an irrigation canal up there, since it isn't shown on the maps. Also that the irrigation people said you can't let storm water run into the canal and the DEQ representative she talked to agreed with that. She believes the residents of Hillside Court deserve to have a decent street and since they pay taxes it should be maintained. Her only question is the runoff, which needs to be looked into further and to find out from the DEQ if its ok with the canal people, which should be in writing. Councilman Maddy asked if she would accept Bob Fulton's approval since he is the City's Engineer. Elsa Duford replied that she is commenting on his notes about the runoff and DEQ requirements. Councilman Maddy stated that they don't have the expertise to question Bob Fulton's approval as an engineer. Elsa Duford replied that you could see that the bank of the canal is low there and any volume of water would flow over into the canal. The DEQ pamphlet talks about the runoff from parking lots stating that gas, oil and grease would get into the water and those canals empty into Flathead Lake. Tony Porrazzo, Water and Sewer Superintendent, noted that every road that the canal goes under gets runoff from that road. It's a poor design and there's nothing they can do about it now. Elsa Duford replied that there should be some precautions they could take, now that they are aware that the storm water drains back into the Lake. Tony Porrazzo stated that all of the City's storm systems also empty into the Lake, which all comes off of the roads, and is a bigger problem than Hillside Court. Elsa Duford suggested that there may be a better way to design the runoff and asked that they reconsider the proposed design.

Brenda Williams agreed that it is an old road but the City should make the improvements right, because some of the proposals are not right. She feels that the Council's comment, that issues happened before their time, is a cop out. She asked them to do their homework and do things right, and make it better for the City, for themselves and our children. She noted that Bob Fulton did a survey in 1995 of how that should be properly dispensed, although she can't relate it to them because she doesn't have it in front of her. She felt if this project was in front of their homes they would also have the same concerns. She asked that they don't just push this down their throats. They are asking for solutions. Councilman Maddy reminded her that this street improvement request was originated by her husband Bob Williams. She replied that they personally asked for this but there were some underlying issues that they saw which others might not know about. She asked that the City give them the dead end and a speed limit, and what they initially asked for as far as the developer's responsibilities. She asked if they would give them some answers and wondered why James Raymond didn't give any answers to the questions that he was asked to give. Mayor Ingram replied that there will be a speed limit but he can't guarantee that it will be 15 but it will not be more than 25. The dead end road might be changed to a through street if a future subdivision needs to use that public road for access to their property, he can't guarantee that the City can deny that. It's a public road and adjoining properties have as much right to access it as the current residents have, therefore he can't make that guarantee.

Traci Williams stated that they own three lots that are part of this SID and cost wise the SID affects them more than any other individual property owner. It is her opinion that all they can do is move in the right direction. They can't go back a hundred years and fix everything in the past. All they can do is move forward and make everything as good as they can. That's the best

anybody can do, nothing gets fixed instantly and there is no magic. In her opinion it is a very good thing for that area, it needs to be put through because doing the street improvement is moving in the right direction.

Elsa Duford asked if they would check further into this drainage situation and find out if there can be a better solution than what is currently proposed, one that will not risk adding more contaminants to the canal and the Lake. She stated that she will ask more questions of Paddy Trussler because water quality and protecting water source is very important.

Brenda Williams said she is a proponent of the pavement and the improvements are what they all would like, for the City and their own homes, but it's the underlying issues she is not comfortable with.

Robert Lajoie said he is willing to pay for this project, even though there might be additional money that the City has rights to obtained from Claffeys. Just to get clarification and get their roadway paved, he asked if the City Council would request City Attorney James Raymond to research the issue and come before the City Council with a statement clarifying in regards to the finances and stipulations of the default of the Claffeys bond. Mayor Ingram replied that if Council directs him to do so he will make that request from Mr. Raymond.

**Mayor Ingram adjourned the public hearing at 6:25 p.m.**

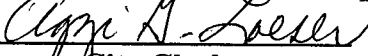
#### **CITY COUNCIL MEETING**

**RESOLUTION #895 – CREATION OF SPECIAL IMPROVEMENT DISTRICT #39 HILLSIDE COURT STREET IMPROVEMENTS: Motion made by Councilman Corse, to approve Resolution #895 Creation of Special Improvement District #39 for Hillside Court Street Improvements.** Councilman Maddy suggested that the motion be amended to include that the approval be conditioned upon City Engineer Bob Fulton's approval. Mayor Ingram clarified, that was his understanding when he spoke with Bob Fulton today and he will ask him for a letter to that effect. **Motion amended by Councilman Corse, to include, that the approval is conditioned upon City Engineer, Bob Fulton's letter of approval. Motion carried unanimously.** Councilman Clavadetscher asked that the Council get a reading from the City Attorney, outlining the City's legal position regarding Claffeys' bond for Hillside 3, which was defaulted by the City. Mayor Ingram asked City Clerk Aggi Loeser to e-mail City Attorney James Raymond asking him to provide that information to Council.

Meeting adjourned at 6:27 p.m.



**Randolph B. Ingram, Mayor**

ATTEST:   
Aggi G. Loeser, City Clerk