

**POLSON CITY COUNCIL MEETING MINUTES
CITY HALL COUNCIL CHAMBERS
MONDAY, AUGUST 1, 2005 7:00 P.M.**

ATTENDANCE: Councilmen: Lou Marchello, Mark MacDonald, Jules Clavadetscher, Mike Maddy, Tom Corse present. Dan Morrison absent. Mayor Randy Ingram presiding. City Attorney James Raymond present. **OTHERS PRESENT:** Ethan Smith, Rick Johnson, Tony Porrazzo, Dennis Duty, Mark Karstens, Roseanne Pfeifer Jones, Joann Reksten, Thomas M. Jones, Fred A. Plummer, Patrick R. Plummer, Jay Preston-Ronan Telephone Co., Mike Lies, Jean Lies, Rod Hanson, Sharon Hanson, Bob Massey, Dennis Duty, Andy Mefford, Jerry Beeks, John Kellogg, Traci Williams, Joan Lajoie, Vicki Hoskins, Toni Hoskins, Toni Hier, Doug Chase, Robert Lajoie, Sam Williams, Rory Horning, Cindy Willis, Elsa Duford, Bob Fulton, Steve Jensen, Murat Kalinyaprak, Linda Sappington-Valley Journal.

CONSENT AGENDA:

- A. CITY COUNCIL MEETING MINUTES OF JULY 18, 2005.**
- B. MONTANA LAND USE NBI, MISSOULA, AUGUST 29, 2005, JOYCE WEAVER, BUILDING & PLANNING.**
- C. NATIONAL CRUELTY INVESTIGATION SCHOOL, SEPTEMBER 12-16, SANDY DRAKE, ANIMAL CONTROL.**
- D. ALCOHOL BEVERAGE LICENSE TRANSFER, FLATHEAD LAKE BAR & CASINO, INC., THE LAKE BAR AND CASINO, DALE GILLESPIE**
- E. JULY 2005 CLAIMS, #89292 TO #89535, TOTAL \$536,059.96**
- F. ORDINANCE #611 ZONE CHANGE - PEACEFUL HAVEN ESTATES - SECOND READING.**
- G. ORDINANCE #612 ZONE CHANGE - TIMBERWOLF ESTATES - SECOND READING.**
- H. POLICE DEPT. PURCHASE 2003 CROWN VICTORIA 48,000 MILES @ \$9,670.**

Motion made by Councilman Corse, seconded by Councilman Marchello, to approve the Consent Agenda items A through H as presented.

Councilman Clavadetscher asked that with future capital expenditure proposals that impact the budget, the Council be provided with information justifying their purchase. Police Chief Chase replied that the Mayor Ingram brought this car to his attention and noted that it was a Tribal Law Enforcement vehicle, which was recently traded in. He emphasized the importance of purchasing newer vehicles based on a recent safety report by MACO which states that vehicles with an excess of 100,000 miles are considered very hazardous and several of the police vehicles have high miles.

Elsa Duford noted that the minutes did not correctly reflect the quote she read, on page two of the July 18th meeting minutes. Mayor Ingram clarified that the minutes are not required to be verbatim. Councilman Corse stated that the minutes are done more appropriately in a shorter form and not done verbatim.

Motion carried unanimously.

RONAN TELEPHONE COMPANY - JAY PRESTON AND JERRY BEEKS - REQUEST EASEMENT FOR FIBER ROUTE INTO POLSON FOR EXPANDED LOCAL CALLING AREA AND WIRELESS INTERNET SERVICE: Jay Preston, Chairman of the Ronan Telephone Company asked Council approval to allow them to place a fiber optic line in the City's utility and road right of way easement, to provide their service to the Polson area residents. They have presented a proposal to the Public Service Commission to expand the calling area and he outlined the various combination of services RTC could provide if approved by the PSC. He informed Council that they have been talking with Water and Sewer Superintendent Tony Porrazzo and Street Superintendent Rod Hanson to develop a design that complies with using the existing right of way and a way to do the project without unduly damaging the infrastructure. Council discussed the possible effect of their proposal on the Polson areas' current rates. Jay Preston informed them that the PSC will proceed with public hearings on any proposed changes to the area service. He is asking for the easement from the City that would be used if the Public Service Commission approves their proposal. **Motion made by Councilman Marchello to approve Ronan Telephone Company to place a fiber optic line in the City's utility right of way conditioned upon approval by the Street**

Superintendent Rod Hanson and Water and Sewer Superintendent Tony Porrazzo. Robert Lajoie expressed his concern that the easement granted by the City of Polson to Ronan Telephone Company does not result in the City taking responsibility for the relocation or repair of their lines or incur any cost to the City. Jay Preston assured Council that for many years they have worked closely and cooperatively with the City of Ronan and the Lake County Commissioners and have cooperated with any relocation that was done for the good of the town and noted that these types of easements are governed by state law. He stated that they have recently purchased a boring machine, which makes installation of the fiber optic lines less disruptive and faster to accomplish. He assured them that it is in their interest to respond to repairs in a timely manner. **Motion carried unanimously.**

PROPOSAL TO PURCHASE CITY PROPERTY – LOT 21 HAMILTON TRACTS AND ABANDON 20' OF THE 60' EASEMENT - \$40,000 – STEVE SEGO: Mayor Ingram stated that he spoke with Steve Sego by phone on this matter and asked Council for their guidance. His letter to Council proposes to purchase Lot 21 of Hamilton Tracts, contingent on the permitted use for single family residential or other uses consistent with current zoning, assuming the addition of the necessary square footage from the contiguous lot he owns at 32 Bayshore Drive, via a lot line adjustment. Also, abandonment of 20 feet of the 60 foot easement currently recorded on the city road bordering the north side of the property, at a purchase price of \$40,000. Councilman Clavadetscher discussed the need to establish the value of the property and the impact it would have on the Golf Course operations. Councilman Maddy noted that this property was purchased several years ago and didn't feel they have a reason to sell it. Although it is land locked with the irrigation canal when other property becomes available they could develop it for additional cart storage facility. Councilman Marchello agreed that they could find a solution to cover the irrigation ditch and utilize it to provide an additional facility or parking. Councilman Corse related that Larry Newlin and Roger Wallace do not consider the property useful because it isn't large enough to be functional. Councilman MacDonald suggested that an appraisal of the property is needed so they can determine whether or not to sell it. Councilman Clavadetscher stated that they should have a plan for the use of the land from Roger Wallace. Councilman Maddy suggested building a retaining wall and covering the irrigation ditch and leaving open the possibility of other choices for future use of that land. **Motion made by Councilman Corse to sell Lot 21 Hamilton Tracts, abandon 20' of the 60' easement if the appraised value is a minimum of \$40,000. Seconded by Councilman MacDonald.** Leasing, purchase options and a bidding process was further discussed. Mayor Ingram suggested that the bid process could be initiated if the appraisal comes in higher than the offer made by Steve Sego. Fred Sego stated that he knows the two previous owners were not able to build on the property because the set back requirements could not be met due to the location of the power lines. He feels this offer is generous considering the history of the property over the past 10 to 15 years. He emphasized that the improved surface of the golf course parking lot has caused a problem with storm water runoff on that property and down Bayshore Drive. **Councilmen Corse and Clavadetscher voted in favor of the motion and Councilmen Maddy, Marchello and MacDonald voted against the motion. The motion failed.**

CTEP COMMUNITY TRANSPORTATION ENHANCEMENT PROGRAM MDOT – SHARED PROJECT WITH LAKE COUNTY AND NORTHWEST HOLDINGS LLC DONATION OF 13.42% MATCHING FUNDS – HIGHWAY 35 PEDESTRIAN PATH: City Engineer Bob Fulton informed Council that Northwest Holdings LLC, through Dennis Duty, their managing general partner, met with the Lake County Commissioners and Bob Smith, P.E. the County's Road Superintendent, regarding the possibility of using some of the County's CTEP money to construct a pathway along Hawk Drive from the Mission Bay Clubhouse at the intersection of the road south of the tennis courts and Hawk Drive, to Highway 35. A petition in support of this project was drafted by Dennis and was signed by approximately 70 citizens of Polson and delivered to the Lake County Commissioners after they advertised the public hearing for their CTEP program. The County officials have concluded that they are willing to fund the project along with two other projects, however they anticipate that Hawk Drive will in the future become a City street. Under that assumption they are asking the City's participation in this project through transfer of a portion of the City's CTEP allotment amounting to \$25,000, which is allowed under the CTEP regulations. Northwest Holdings would donate the out of pocket cost of 13.42% of the construction costs, if the City would transfer some of their current CTEP fund allocation to Lake County for this project. The total project cost is approximately \$85,000 and the City has about \$50,000 in their CTEP account. Councilman Clavadetscher asked what other projects the City has identified for the use of its allotted CTEP funds. Bob Fulton replied that the Montana Rail Link rail bed was the number one priority identified at the last public hearing that

was held last year. That project was completed without using any CTEP funds when MDOT donated their asphalt shavings, which was spread and rolled on the rail bed. The County went through the public hearing process and the proposed project qualifies for CTEP funds. Dennis Duty noted that the walk path would not be used exclusively by Mission Bay residents, but would connect to the new bike trail on Highway 35 and allow public access to walk up to Highway 93 and to Polson Ready Mix. Kathy Randall asked that Council consider Bayview and Bayshore Drive for walk paths because they have been in the City for longer than Mission Bay. Tom Jones asked that Council consider Bayview and Bayshore Drives for walk and bike paths because these roads were also inherited from the County. Bob Fulton explained that Bayview Drive was not selected because golf cart use is not allowed for these CTEP funds and the funds can be withdrawn or have to be refunded if that use occurs. Mayor Ingram noted that the CTEP projects are expensive because of the requirements to pay Davis Bacon wages. A project costing \$18,000 in the private sector can cost \$180,000 when completed through the CTEP requirements. **Motion made by Councilman Maddy to approve the transfer of \$25,000 in CTEP allocation to Lake County for the shared project of a public pedestrian walk path on Hawk Drive from the Mission Bay Clubhouse to Highway 35 and that Northwest Holdings LLC will donate the 13.42% of the matching funds required for the project. Motion carried unanimously.** Councilman MacDonald asked that the City schedule a public hearing to solicit public input for the City's next CTEP project. Councilman Maddy asked Tom Jones if the residents of Bayview Drive would pitch in the 13.42% matching funds required for a walk path on their road and then it would be no cost to the City. Tom Jones noted that Bayview and Bayshore Drive have regular golf cart use and according to City regulations they shouldn't be on the road at all. These roads are narrow and suggested he suggested using a rumble strip instead of a curb, like the walk path on Hillcrest Drive that the County installed. Council agreed that a public hearing should be scheduled soon to consider other projects for the City's CTEP funds.

MISSION BAY PRESERVE PHASE IIC – FINAL PLAT APPROVAL – DENNIS DUTY NORTHWEST HOLDINGS LLC: Joyce Weaver, City Planning and Zoning Official, informed Council that all the conditions of approval have been completed for the Mission Bay Preserve Phase IIC subdivision which has eleven lots. The final plat has been reviewed and approved by Water and Sewer Superintendent Tony Porrazzo and City Engineer Bob Fulton and the examining land surveyor has signed off on the plat. **Motion made by Councilman Corse, to approve the final plat for Mission Bay Preserve Phase IIC, containing eleven lots, Northwest Holdings LLC, as presented. Motion seconded by Councilman Maddy. Motion carried unanimously.**

VICWOOD CONDOMINIUM SUBDIVISION – PRELIMINARY PLAT APPROVAL BAYVIEW DRIVE – WENDELL WOODALL OWNER: Joyce Weaver, City Planning and Zoning Official, noted that the Vicwood subdivision was removed from the July 18th agenda by the owner, as requested by his agent, Marc Carstens. Joyce Weaver presented her staff report which was provided to Council at the July 18th City Council Meeting. She noted that the proposal is for preliminary approval of six duplex structures as 12 condominiums, which is a major subdivision. After review of the application, site plan, and additional information concerning this development, the Planning Department and the City County Planning Board recommended preliminary conditional approval of the Vicwood Condominium 12 unit subdivision plans with 41 conditions of approval and amendments as per the CCPB meeting minutes. She referred to the letters from the public and a petition from the residents of Bayshore Drive in opposition of the Vicwood Condominium Subdivision.

Marc Carstens, agent for owner Wendell Woodall, explained that they postponed their request for approval to allow additional time for public comment. He noted that the walkway, which was previously proposed as gravel will be paved, has been redesigned and at a new location. It will be a five foot sidewalk section and will have a 34% lot coverage with 35% allowed. He emphasized that the storm water issue was addressed using Osprey Environmental engineer's evaluation criteria. They have over designed their storm water retention plan and it is more than what is required. In addition it will require review by the City Engineer and final approval by DEQ. He further discussed the concerns residents have expressed regarding the zoning issues. He understood that the overlay district was intended as a bridge between the two golf courses and the zoning map in the Polson Development Code documents that area to be Low Density Residential Zoning District within a Resort Residential Overlay District. He also addressed the effect of this development on the wells in that area. The developer has agreed to participate in any Special Improvement District for improvements to the area and has complied with parkland donation required by subdivisions. He noted that at the July 18th City Council Meeting 65 units

were approved without opposition and the impact of this condominium proposal is less than if the property were developed into single family residents.

Motion made by Councilman Corse to grant preliminary plat approval for the Vicwood Condominium Subdivision subject to conditions of approval as recommended by the City County Planning Board including the amendments as documented, subject to review and approval of the revised concrete sidewalk design by Joyce Weaver and the compliance with no more than 35% impervious lot coverage. Motion seconded by Councilman Marchello.

Kathy Randall stated she is the property owner to the west of this proposed condominium development. She expressed concerns about the effect of runoff on her artesian well, the restriction of the maintenance access to the overhead power line, the hammerhead being the only egress for the power company and emergency vehicles, also that the walkway will be diminished along with privacy and requested additional buffer zone be placed.

Tom Jones asked Fire Chief Tom Maloney to comment on the emergency traffic diameter of the cul de sac, which is shown as a 60' radius on the plat. Tom Maloney replied that they did not use a cul de sac so the 60' radius is not required. The Fire Department prefers a hammerhead, which is what he approved for this subdivision and is further documented as part of the staff report. Tom Jones questioned how they could amend the gravel barrier that was proposed to the CCPB, without further review. Council clarified that the CCPB recommended that the sidewalk be concrete rather than gravel and it will be reviewed by Joyce Weaver as noted in the motion. Tom Jones questioned the Resort Residential Overlay Zoning District for this area. He remembers the RROD was in effect for Fairway Properties I and II; but did not include areas west of Bayview Drive which have been LRZD. He understood that the zoning would continue as in the past with no authorization to change it. Councilman Maddy stated that he did research this issue and although he doesn't remember the RROD designation for this specific area, he does remember discussions about the area between the old nine and new nine golf courses. According to the zoning maps this condominium proposal is legal and complies with zoning in that area. Councilman MacDonald noted that more units would be allowed on that property if it were LRZD without the RROD overlay district designation. Kathy Randall noted that she was annexed in 1994 with an LRZD designation. Tom Jones asked that Council not approve this subdivision without getting the RROD designation legally defined for that area. Kathy Rexton said she was also annexed in 1998 and has the LRZD designation on her property documents.

Mike Lies expressed his concern about the storm water retention pond that is proposed would be just south of his house and he believes will breed mosquitoes. He noted there is a gravel bed that will not percolate storm water north or west and will fill his basement. The storm water will flow onto his property spreading hydrocarbons and will percolate into his artesian well. Kathy Randall informed Council that all the residents of Bayshore and Bayview Drive signed the petition opposing the Vicwood Condominium Subdivision.

Fred Segó, resident of 64 Hogan Way, questioned that there would be more lots allowed if the LRZD did not have the RROD overlay district. Because of the configuration of the lot, he felt they would be lucky to get ten single family dwelling lots, and the Vicwood proposal is for ten condominiums. He noted that the easement for the sewer line connection needs to be resolved because the property owners are not aware of any easements for that line. Marc Carstens clarified that there is a manhole on site. Fred Segó noted that the effect on wells in the area has to be addressed by DEQ. What was proposed is not a storm water retention pond but a closed basin pond, which has no outgoing filtration system and there are different calculations and requirements for a closed basin ponds. The pond must be analyzed for a one hundred year event. The ideal location is in the middle of the area to be developed and as designed the ponds at the lower end might increase the peak flows. He asked Council to consider the potential that they would be creating a mosquito pond in the area, which they don't have at this time.

Mike Lies stated that in 1996 Casa Heights Subdivision was denied because of a retention pond being proposed to be built for storm water retention. It is not a standard and creates other problems which were a concern to the Council at that time. Councilman Maddy noted that at that time the City Council did review storm water retention for developments and now it is being deferred to the State. Mike Lies replied that DEQ always reviewed the plans.

Kathy Randal commented that since the residents received notification of this subdivision they have been told how the review process goes from Joyce Weaver to the approvals by a vote from