

**POLSON CITY COUNCIL MEETING MINUTES
CITY HALL COUNCIL CHAMBERS
MONDAY, APRIL 3, 2006, 6:30 P.M.**

ATTENDANCE: Councilmen: Bruce Agrella, Mark MacDonald, Jules Clavadetscher, Mike Lies, Tom Corse, Fred Funke. Mayor Randy Ingram presiding. City Attorney James Raymond present. Others Present: Lita Fonda, Charles Griffith, Jean Schwarz, Tony Porrazzo, Nathan Lamphere, Sandra A. Ertle, Jon Raymond, Karen Lenz, Eric Huffine, Elsa Duford, Lou Marchello, Irene Marchello, Bob Lajoie, Nathan Pierce, Linda Sappington, Leigh Huffine, Cindy Willis, M. C. Hammerly, Calvin Ayersman, Bob Fulton, Tim McGinnis, S. Richardson, Duane Wright, Ethan Smith, Rory Horning, Bonnie Manicke, Margie Hendricks, Barbara Jacobson, Maren Stover, Bill Hines.

PUBLIC HEARING

ZONE CHANGE – INCREASE THE CENTRAL BUSINESS ZONING DISTRICT BOUNDARY BY 200 FEET – FROM MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT – A PORTION OF 4.26 ACRES ON THE NW CORNER OF 2ND STREET WEST AND 5TH AVENUE WEST – REQUESTED BY KAREN MCINTIRE LENZ AND ERIC HUFFINE: Joyce Weaver, City Planning and Zoning Official, presented her staff report on the zone change request by Karen McIntire Lenz and Eric Huffine, for a portion of 4.26 acres on the north west corner of 2nd Street West and 5th Avenue West, from MRZD to CBZD. She noted that the City Council could table their decision for up to 35 days. The City County Planning Board recommended approval of the zone change with conditions as stated in the staff report. MCA 76-2-305 requires that an amendment may not become effective except upon a favorable vote of two thirds of the present and voting members of the City Council if a protest against a change is signed by the owners of 25% or more of those lots 150 feet from a lot included in a proposed change. The signatures of protest are included in the staff report. She noted that Park Superintendent Karen Sargeant provided a letter dated March 31, 2006, stating her support for the zone change providing that certain conditions are met. Water and Sewer Superintendent Tony Porrazzo also provided a letter dated March 29, 2006, stating a condition that an easement be granted to the City of Polson. Mayor Ingram asked for comments from proponents of the zone change.

Karen Lenz noted that her family paid taxes on that property for 98 years without asking for anything in return. If the zone change is not approved she will advertise the sale of the property out of state and the City will have to deal with another developer.

Eric Huffine stated that their request for a zone change is to accommodate a commercial use for a store front and the park access is not suitable. Since there is a 20' setback required, there is no room for development.

Tony Porrazzo, Water and Sewer Superintendent, said he has dealt with the McIntyres for years and considers them friends of the City of Polson. They have always been cooperative and gave their approval to place a drain pipe on their property. He feels their proposal would be proper use of that property and it would eliminate their need to access through Riverside Park.

Karen Sargeant, Parks Superintendent, said she supports the zone change because it would get rid of their easement through the park, which would clean it up and would be an improvement.

Mayor Ingram asked for comments from opponents.

Nathan Lampere, resident of 104 5th Avenue West, noted that the letter from Tony Porrazzo is not relevant because the storm drain is proposed on the west side of the property and the zone change is proposed for the east side. He reviewed the twelve points of consideration mentioned in the Montana Code Annotated relating to zone change. Although the City County Planning Board reviewed the owners' responses to the points dealing with congestion, safety, health and general welfare, the answers were not accurate and other issues were not addressed to support the change of zoning. He would be willing to work with them and would support variances rather than a zone change, depending which one of their three different plans they decide on. He asked that Council vote no on the zone change because half of the questions were not answered regarding the effect of the proposed development. He questioned whether it would be a benefit to the neighborhood considering that it would change how it is being used now.

Mike Humphrey, resident of 102 5th Avenue West, spoke against the zone change stating his concerns with increased traffic and the safety of children who live in that area.

Lita Fonda, resident of 606 2nd Street West, noted that she frequently walks by the property and since it is surrounded by residential use, variances would be more appropriate. The zone change would allow 100% lot coverage and would rely on street parking. A buffer should be required for the impact on surrounding residences and landowners. 2nd Street West is currently residential zoning and is heavily used by pedestrians, bikers. The condition of the road is not adequate for commercial use without improvements. If the variance is approved it would create an island of commercial zoning. She asked that Council deny

the zone change request and to encourage the developers to proceed with variances. The zone change would allow commercial development and the current development proposal could be changed.

Jean Schulz, resident of 5th Avenue and 2nd Street West, expressed her concern about the increased traffic that would be put on the streets in that area and the large number of pedestrians using those streets.

Maren Stover, resident of 106 4th Avenue West, said she agree with Nathan Lampere's earlier statement, that the applicants have not met the MCA requirements. Most of the people who live in the neighborhood have children and ride their bikes and it should stay residential. She asked that Council deny the request until the owners' plan is more clear. She suggested that they apply for a variance without a zone change, which would change the neighborhood.

Lita Fonda said she understood that the owners' park access easement was for personal use only.

The public hearing was adjourned at 6:58 p.m.

CITY COUNCIL MEETING

CONSENT AGENDA:

- A. CITY COUNCIL MEETING MINUTES MARCH 20, 2006**
- B. HIRE ANIMAL CONTROL OFFICER CHANCEY ANDERSEN AT \$7/HOUR PLUS \$.50 CENTS UPON SATISFACTORY COMPLETION OF SIX MONTH PROBATION**
- C. MARCH 2006 CLAIMS #91287 TO #91530 FOR A TOTAL OF \$256,078.71.**

Motion made by Councilman Corse, seconded by Councilman Funke, to approve the consent agenda A through C as presented. Rory Horning asked to correct the City Council Meeting Minutes of March 20, 2006. Under Other Public Comments Not On The Agenda, it stated that Council was given letters to view on their own time from Mr. Horning. He clarified that he didn't give them letters but gave a written request for information, of which he has since received a written response back. That is a correction to the second sentence. Also, the fifth sentence stated that Rory would like a response on letterhead, which is after they had the second discussion about the City's agenda request form. That sentence should be with the other issue. He asked that those corrections be made, which would make the minutes more factual. **Motion carried unanimously.**

RESOLUTION #920 – ANNEXATION – SKYLINE ADDITION #1 LOT 27 ON JB DRIVE AND LOT 1 ON CLAFFEY DRIVE BY WILLIAM AND JOANNE HINES: Mayor Ingram noted that this annexation is standard and part of the area excluded from the recently passed Resolution #916 annexation suspension. **Motion made by Councilman Clavadetscher, seconded by Councilman Funke, to approve Resolution #920, annexation of Lot 1 and Lot 27 of Skyline Addition #1. Motion carried unanimously.**

ORDINANCE #618 – FIRST READING ZONE CHANGE – A PORTION OF KAREN MCINTIRE LENZ AND ERIC HUFFINE'S PROPERTY FROM MEDIUM RESIDENTIAL ZONING DISTRICT TO CENTRAL BUSINESS ZONING DISTRICT: Mayor Ingram noted that based on the number of protest signatures, passage of this ordinance will require a two thirds vote in favor. **Motion made by Councilman Clavadetscher, seconded by Councilman MacDonald, to approve the first reading of Ordinance #618, to change the Medium Residential Zoning District to Central Business Zoning District in a portion of 4.26 acres on the north west corner of 2nd Street West and 5th Avenue West as requested by Karen McIntire Lenz and Eric Huffine, with conditions one through eight as stipulated in the staff report.** Councilman Lies asked if 4th Avenue is adequate to handle commercial traffic. Councilman Clavadetscher noted that 4th and 5th Avenue is typical of the streets in Polson and he didn't notice any traffic impediments that were mentioned tonight. In his opinion, that the streets in that area are no better or worse than other streets in Polson. **Councilmen Clavadetscher, MacDonald, Agrella and Corse voted in favor. Councilmen Lies and Funke voted against. Motion to approve the first reading of Ordinance #618 carried with a two third majority.**

RESCIND RESOLUTION #916 – TEMPORARY SUSPENSION OF ANNEXATIONS BASED ON THE FACTS IN THE ENGINEERING REPORTS – NATHAN PIERCE: Nathan Pierce asked Council to rescind Resolution #916, a stay on annexations which they approved at the March 20, 2006 City Council Meeting. He related that Councilman Funke stated the reason for the suspension was based upon the City's water shortage issues and that the City needs a new well. He questions if all the council members had other than water issues in mind when voting in favor of the stay on annexation. This gives the public the impression that the City does not have sufficient water supply. Yet the information provided in the recent reports on Polson's water issues prepared by Thomas Dean and Hoskins and Anderson Montgomery stated clearly that in their opinion the City of Polson does not have water issues and Polson can meet the maximum daily demands through the year 2021 with a population of 7,517. This issue should not only be viewed as population versus available hook ups but also in terms of consumption versus production ability. During the November 2005 billing cycle, the City of Polson's water usage was 19.8 million gallons total. This works out to an average need of 458 gallons per minute or around one fourth of the City's production ability. During peak usage months, such as August 2005, the usage was 43.2 million gallons, which works out to an average need of 968 gallons per minute or less than half of

Polson's water production ability. He agreed with Councilman Funke, that Polson will always have need for another well if we want to continue to grow. But he doesn't think we are in dire need of a new well at this time and this moratorium should not be placed based upon water. He asked the Council to vote on the question, if Polson needs this moratorium based upon Councilman Funke's concern for water? He asked them to vote yes to rescind Resolution #916.

Councilman Clavadetscher explained that he agrees with rescinding Resolution #916, based on the issue raised by Nathan Pierce, that the issue does not appear to be water. In talking with the members of the Council there are other issues that come up to support their position, such as impact fees, which should be addressed if that is the problem. But not disguise the issue with what is a bogus issue based on the engineering reports and the City Engineer's analysis of the City's water availability. **Motion made by Councilman Clavadetscher, seconded by Councilman Corse, to rescind Resolution #916.** Rory Horning questioned a point of order, that under Roberts Rules of Order, if they are requesting a vote of reconsideration of the last meetings' vote on this issue, then generally it is the prevailing party that requests the vote not the opposing parties. Mayor Ingram explained that it is a vote to rescind the resolution. Rory Horning noted that it appears that they can bring up rescinding other things at other meetings with no problem. Mayor Ingram asked City Attorney James Raymond if he had concerns about this issue and he replied that it is a new vote on a new matter and they can proceed. **Councilmen Clavadetscher and Corse voted in favor. Councilmen Agrella, MacDonald, Lies and Funke voted against. Motion to rescind Resolution #916 failed.**

OTHER PUBLIC COMMENTS NOT ON THE AGENDA: Councilman Lies asked if the City accepted a bid on the Hillcrest Drive sewer extension. If not, then why did the ad appear in the newspaper stating a cost of the sewer hook up. Mayor Ingram stated that the ad might have to be revised to clarify that issue. Councilman Lies asked if it will be a Special Improvement District thereby annexing the whole area, or will it be annexed piecemeal. City Engineer Bob Fulton stated that two bids were received and opened after this meeting's agenda deadline. The previous Council authorized to advertise this project with no discussion of an SID. It was agreed that the Hillcrest property owners would have access to the sewer at a proportionate cost of the sewer installation, after the City paid to install it in the right of way of Hillcrest. The right of way is currently in the County and will be annexed into the City. The City sewer department would pay for this extension up front. His engineer's estimate was \$114,000 and the low bid was below that estimate. Council did not indicate their intention to create an SID for this project. Water and Sewer Superintendent Tony Porrazzo stated that he put the ad in the paper to give the Hillcrest property owners as much time as possible to consider annexation, and give them fair warning of the estimated cost to hook up to City sewer.

Rory Horning asked if Council would hold some kind of instruction for the public regarding the rules of its proceedings. He asked if the City had a parliamentarian on staff to advise them. Mayor Ingram replied that the City does not have a parliamentarian on staff. He asked to let him know if he feels that the Council has made an error in their proceedings and he will research the question when it is brought to him and Council will reconsider their action if necessary.

City Treasurer Bonnie Manicke said she has something to bring up on the Hillcrest project and the annexations. At the October 3, 2005 Council Meeting, she addressed the fact that they were proposing to use the sewer replacement and depreciation operating funds for the Hillcrest project, which would drain it down. At that time she asked the Council to put in an escalation clause on the hook ups and establish the timing of the hook ups. Also to put in an interest factor on the borrowed funds for the project and for the payback from the property owners. The new infrastructure fees should also be analyzed. A contract with Tischler and Bise, to review the impact fees, was signed on November 7, 2005, and there should be some consideration for that. There should be some consideration for the cost of laddered connections in this project. The cost of the project, according to the advertisement is \$2,500. A time frame for hook ups needs to be established. If it is truly a project to provide sanitary sewer in the wellhead protection area, then the time to hook into the sewer needs to be escalated, which she recommends to be two to three years. Mayor Ingram said he agreed with her and asked that she work with them to prepare a proposal for the Council. Bonnie Manicke said the \$2,500 fee is probably a little low. They also have to address the cost of providing services to the new development in that area because there is a lot of bare land to develop. She is looking at the fiduciary responsibility for the sewer department and also for the users of the City of Polson. She asked the Council to revisit the Hillcrest Sewer Extension project and agreed to work on a committee with them to come up with those numbers. Mayor Ingram thanked her for her comments.

Meeting adjourned at 7:20 p.m.

Randy Ingram, Mayor

ATTEST: _____
Aggi G. Loeser, City Clerk