

**POLSON CITY COMMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
WEDNESDAY, JANUARY 4, 2012, 7:00 P.M.**

ATTENDANCE: City Commissioners: Todd Erickson, John Campbell, Stephen Turner-incoming, Mike Lies, Elsa Duford-outgoing, Dan Morrison-incoming, Fred Funke, and Mayor Pat DeVries presiding. Judy Preston – outgoing not present. City Manager Todd Crossett and City Attorney James Raymond present. Others signing the attendance register: Joan Hart, Agnes Rinehart, Ken Siler, Bill & Tali Barron, Rita Moldenhauer, Breesy & Bryce Morrison, City Treasurer Bonnie M. Manicke, Carol Jones, Cheryl Wolfe, Seven Wolfe and Murat Kalinyaprak.

Mayor DeVries called the meeting to order and the Pledge of Allegiance was recited.

APPROVAL OF PROPOSED AGENDA: (Audio 00:00) Commissioner Lies moved to approve the proposed agenda and that agenda item requests #1, 2 & 4 submitted by Bob Fulton and an agenda item submitted by Commissioner Lies be placed on the next city commission meeting agenda, seconded by John Campbell. A call for clarification on the motion was made by City Attorney James Raymond. It was clarified by Commissioner Lies that the agenda items submitted by Bob Fulton and the agenda item submitted by Commissioner Lies were not for tonight’s agenda, but for the next city commission meeting agenda. **Motion with clarification carried unanimously.**

SWEAR IN ELECTED OFFICIALS: (Audio 02:15) City Judge A. Doug Olson administered the Oath of Office to the following elected city commission officials: Todd Erickson and John Campbell representing Ward 1; Stephen Turner representing Ward 2 and Dan Morrison representing Ward 3. A round of applause followed the swearing in ceremony. Outgoing Commissioner Elsa Duford vacated her seat and new Commissioners Stephen Turner and Dan Morrison took their respective seats.

CONSENT AGENDA:

A. (Audio 04:17) DECEMBER 15-31 CLAIMS

Commissioner Funke moved to approve the consent agenda, item A, seconded by Commissioner John Campbell. The motion carried unanimously.

CITY COMMISSION MEETING MINUTES DECEMBER 19, 2011: (Audio 4:46) Commissioner Funke moved to approve the minutes of December 19, 2011 with corrections, seconded by Commissioner _____. Commissioner Lies will provide the corrections which are mostly grammatical and spelling errors to the Clerk. Clarification was asked for regarding the references to Audio. Payroll Clerk Sarracino explained that

this references the official audio recording of the meeting. No discussion from the commission. Public discussion: Elsa Duford commented that in order for the general public to understand and follow the minutes as written, that they would need the audio CD. She also questioned the use of the word "citizen" in the minutes as opposed to the use of the individual's name and reminded the commission that at a prior meeting City Attorney James Raymond had commented that anyone speaking at a public meeting did not have a right to privacy. She also questioned whether the minutes were considered action minutes rather than the way the minutes have been taken in the past. She commented that the minutes should be a history of what happened and what was said. She expressed her objection to the minutes and mentioned that it is not necessary to have a court reporter transcribe the minutes when you have an audio CD. Mayor DeVries responded that she felt responsible for the lack of names for some of the public participants. Mayor DeVries reminded all present that you should stand and state your name before making comments to the Chair. Anyone listening to the audio recording would need to recognize an individual by their voice otherwise. Mayor DeVries responded to the question regarding action minutes by commenting that she did not feel the minutes were action minutes – that they contained a lot more information than action minutes. Mayor DeVries noted that she did have a timer for the meeting and would try to enforce the Ordinance 613 clause regarding limiting public participation comments to 3 minutes. Citizen Duford responded that a previous decision regarding the purchasing of a time clock to monitor the 3 minutes had been defeated in December 2008 and that ended the use of a time clock issue. Mayor DeVries responded that to her knowledge with deference to City Attorney Raymond that Ordinance 613 had not been repealed. **The motion to approve the minutes with corrections carried unanimously.**

CITY MANAGER COMMENTS: (Audio 12:00) City Manager Crossett welcomed new City Clerk Cindy Dooley. Mr. Crossett commented that she is a CPA and has a lot of background in governmental accounting. She also has experience with the company that has created the software programs that the City is using and we look forward to working with her.

NEW BUSINESS

CONFIRM APPOINTMENT OF WADE NASH AS POLICE CHIEF: (Audio 13:13) City Manager Crossett explained the process regarding the appointment of Officer Nash as the new Polson Chief of Police. After lengthy discussion with all of the sergeants and the assistant Police Chief it was decided to offer the position internally. The rule of thumb is that if you have a well functioning department that has the expertise and the right culture that you hire internally as opposed to a culture that you are not happy with or individuals who are not interested or qualified, you hire externally. City Manager Crossett commented that hiring internally offers

opportunities for moving up in the department and having someone who is already familiar with the culture. There were 3 very qualified applicants. Each applicant was asked to submit a detailed resume and references. The job description for the position was re-written to reflect a more up-to-date analysis of the department. An interview committee was created with very diverse individuals from the public as-well-as the Police Commission. The committee created an extensive list of interview questions covering a broad range of topics. The committee interviewed the applicants over an 8 ½ hour time period and deliberated extensively afterwards. The decision was very difficult because the applicants were all very strong candidates and each would make an excellent Chief of Police. Mr. Wade Nash was the recommendation of the committee. A background check and credit report was requested and passed by Mr. Nash. City Manager Crossett agrees with the committee's recommendation and is asking the commission to support Mr. Nash's appointment. City Manager Crossett explained that the City Attorney and the Chief of Police are the two positions that require commission approval. **Commissioner Erickson moved to confirm the appointment of Wade Nash as Police Chief, seconded by Commissioner Funke.** Commission discussion: Commissioner Erickson thanked the committee for the time that they devoted to making this very important appointment, realizing that this was a very difficult decision. Public discussion: none. **The motion to confirm the appointment of Wade Nash as Police Chief carried unanimously.** Mayor DeVries acknowledged Wade followed by a round of applause. Police Chief Nash read the following prepared statement:

Good evening! Madam Mayor and commission congratulations to your new appointments and your continued terms. I stand before you feeling truly privileged and honored to have been selected as the new Chief of Police for the City of Polson. I know through good communication and brain storming with you and the public we will continue to lead Polson in a positive direction. My number one priority is to make Polson a safe and enjoyable place to live and visit. I encourage community involvement! I believe for us to be productive in our profession we have to have the support of our community and we work for you and it is you who gives us the funding and support to do our jobs.

I want to maintain the high standards of this organization and the high quality of service the community has received and deserves.

I believe there are five things to make a foundation for a productive and professional department. The first one is hiring good people. Have good policy in place and attend good training. Have excellent supervision, which we have and good discipline for our people and the community as well.

I don't want to make this long, but there's something always in the back of my head when I think about things and make decisions. And that is, every employee with the City of Polson and every person of the community...is the most important in the world to someone else. And that is something that I believe in and I think when we come to those tough times and everything, that it is something we need to continue to think about. Again thank-you very much and I greatly appreciate it.

Police Chief Nash's comments were followed by a round of applause.

PUBLIC COMMENT ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC NOT ON THE AGENDA: (Audio 21:18) Mayor DeVries reminded the public that Ordinance 613 limits the public comment period during the “Public Comment on Matters of Significant Interest to the Public Not on the Agenda” item to three minutes per person. With clarification from City Attorney Raymond, it was further noted that this is per person, not per item discussed during this agenda item. Items that are listed separately on the agenda that allow for public discussion each have their own three minute time allotment per person. Mayor DeVries further commented that she is not in favor of the three minute rule in Ordinance 613. However, it has been pointed out to her that the Ordinance was designed to increase public participation by limiting the amount of time, so that more people would have a chance to speak. She further explained that the Ordinance can be changed by the current commission if they want to change it.

(Audio 23:15) Elsa Duford read a section of Ordinance 613 regarding the three minute rule as follows: “... However the council may, by motion that such is reasonable and proper, opt to extend such periods in particular circumstances, but in such event, shall give equal time to all citizens wishing to comment...”. She acknowledged that there have been complaints about individuals dominating the conversation but she wants to stress the idea of public participation. She was very concerned about the use of the timer at the last commission meeting. She felt it confounded the public in terms of what they could do and say. She spoke about the meeting on December 15, 2008 where a vote was taken on the purchase of a three minute time clock. The motion died on a tie vote and from that time forward there was no time clock used. She feels that the time clock is very irritating and distracting and she is very much opposed to it. She feels that unless we have a large group of people at a commission meeting that wants to talk, that it is unnecessary to have a three minute timer. Mayor DeVries responded that she did have a different timer for this meeting that does not beep. It is her feeling that if you are going to invoke the three minute rule that it needs to have a timer. This was her own timer (not purchased by the City) and the City could look at purchasing a timer that everyone could watch.

(Audio 26:16) Sharon Fulton commented that she felt it was objectionable that at the special city commission meeting that involved the executive session for City Manager Crossett’s evaluation, that there was no public comment necessary since there was no public there. She felt that the reason for this was that the meeting was shut off after 45 minutes. She also questioned City Manager Crossett as to why he had an attorney present for his evaluation. City Manager Crossett responded that the session involved personnel and was private. Sharon Fulton responded that she realized it was private

but wondered why the City Manager had an attorney and if all employees were entitled to an attorney. City Manager Crossett responded that employees could have an attorney if they wanted one. Mayor DeVries reminded the audience that comments during the Public Comment agenda item are to be addressed to the Chair. She also stated that she felt that a City employee could have an attorney and emphasized that the City did not pay for City Manager Crossett's attorney.

(Audio 28:31) Cheryl Wolfe as a taxpayer questioned whether the City pays an attorney to represent the City at personnel matters similar to the Executive Session later in the agenda. Mayor DeVries responded that she was not sure if City Attorney Raymond was staying for the Executive Session but the City does not pay him any extra to attend those sessions. She stated that if a City employee wants an attorney, the City employee pays for their own attorney. Cheryl Wolfe then questioned whether the City pays for an attorney to talk to the other attorney and does the City pay for the attorney to be there. Mayor DeVries responded that the City Attorney is on retainer to the City so the City does not pay any extra for him to attend any meetings. Cheryl Wolfe stated that she has seen that he now normally does not attend those meetings. She further questioned if City Attorney Raymond would be paid to attend the Executive Session later in the evening as it is her tax dollars. Mayor DeVries responded that she was unsure of the question. Cheryl Wolfe then rephrased her question to ask if the City was paying for an attorney to be present at the executive meeting later in the evening. Mayor DeVries responded that based on her understanding the answer to that question is no.

(Audio 30:23) Carol Jones expressed her concern regarding the accounts of the commission meetings that she has been reading in the newspaper. She stated that the citizens are represented by each of their councilmen. The citizens are encouraged to seek out their city councilmen when they have questions and to convey their questions to them. She further stated that she read in the paper that Judy Preston, a sitting councilman, was not put on the agenda when she specifically had a cause and her constituents had asked her about it and Bob Fulton, who has been a part of this City government for years and who has a very good reputation, should be given a spot on the agenda when he has questions. She stated to City Manager Crossett that under the current form of government that he was the only one who could give permission or non-permission for an item to be put on the agenda. She stated that in the past there have been some things that have gone on within the council that have nothing to do with most of the current commission. Then, questions were not being addressed that were asked by the public, and there were big reasons why. She stated that she is highly suspicious of why these two people, a sitting councilman and someone of Bob's position in our town was not allowed to be put on the agenda. She questioned what we have to

do to get an item on the agenda that we have a concern about. Mayor DeVries responded that there would probably be some type of council workshop or education scheduled. She stated that the agenda is set by Ordinance now. City Attorney Raymond clarified that it is set by the Charter and cannot be changed. City Manager Crossett explained that it is not his intention to keep anyone out or from being heard. He would prefer that it be the city council's job or the Mayor's job to set the agenda. He stated that he does not work for any one person, not Carol, or Bob; that he works for the city council. He takes direction from the city council and works for all of the people of the city of Polson. He further stated that sometimes those interests are in conflict with each other so typically there are two sides to the issue. Particularly with land use issues, there is some liability and he has some personal liability for setting up that agenda and for people putting their individual interests up against each other. When one council person asks for something to be put on the agenda it is not necessarily the will of the council that it be put on the agenda, or it may not be appropriate for it to be on the agenda, or sometimes there is no time for it to be put on the agenda. Some items take a lot of work to put them on the agenda. Bob Fulton made a request for items to be placed on the current evening's agenda, but there was no one available to process those requests. City Manager Crossett stated that the request was made right before Christmas and he was gone on vacation. It is currently his job to put items on the agenda, but that can be discussed. City Manager Crossett stated that he has to make a professional decision, if he puts something on the agenda that he professionally feels is not appropriate he would have some personal liability. He would prefer to hand it over to somebody else, but that is how it is set up. Mayor DeVries suggested that possibly there could be a rotating committee to work on the agenda.

(Audio 35:52) Murat Kalinyaprak stated he has brought Ordinance 625 to the attention of the council before and he had specifically dealt with the problem of the City Manager having too much to say about the agenda. He stated that at a prior meeting or the last commission meeting that the council was explicitly prevented from making a motion for a discussion item by the City Attorney. He asked that people read the Ordinance 625 and wondered why it was needed, and why it was passed and why it overrides the Charter in the clerical meaning of preparing the agenda. Regarding the three minute rule, Murat Kalinyaprak feels that the council did not want to enforce it after December 15, 2008 where as Elsa Duford noted, the purchase of a time clock was defeated. He feels that you cannot interrupt people verbally to remind them that they have a minute or 30 seconds left. He stated that after December 2008 that several council members expressed in public that this council does not enforce the three minute rule anymore. He feels it is not up to the Mayor to purchase an egg timer and begin enforcing the three minute rule. Ordinance 613 was not repealed after the December 2008 meeting and he feels that the council is keeping it as an ace in their sleeve for shutting the public off and

not letting them speak when the public presents items that the council can't answer or not putting items on the agenda so people can speak longer than three minutes.

(Audio 39:37) Sharon Fulton asked when the loud speakers would be back up and if they are working. HR Director Ardrene Sarracino responded that staff was looking at getting them up hopefully before the next commission meeting. City Manager Crossett responded that the walls are going to be painted following the major renovations that have been done. The speakers are now working. There were a series of roof leaks, and a renovation that prevented use of the speakers. A staff person from the Parks department will be doing the painting, but he is currently recovering from a finger amputation. Sharon Fulton asked if the wires can just be strung out or do they have to be installed. Mayor DeVries commented that the wires do have to be installed and it is a complicated system.

(Audio 41:17) Bob Fulton commented that it had been previously suggested by City Manager Crossett that demand units were used to reduce the fire impact fee for the mansion by 75%. Bob Fulton pointed out that this is not what the Ordinance (624) says. He says that demand units as defined in Chapter 6.9 shall apply and that demand units actually do apply to fires for residential dwellings. He further pointed out that on page 8 of the Ordinance, for nonresidential development it says per gross square foot. He commented that you can't arbitrarily pick what you want unless you want a preferred result. He stated that the language is too clear, unless someone wants to correct him if there was a mistake made, that residential units do use demand units but commercial does not, so you can't have it both ways.

(Audio 43:00) Lita Fonda commented that regarding the agenda issue, that there is currently a process that is being rigorously followed and it is not functioning in a manner that people would like to see it function, including the council. She would like to encourage the council to follow up on the suggestion that has been made to take a look at that and see if they can find something that works better for the council and the public.

(Audio 44:02) Sharon Fulton asked when the new City/County Planning Board will be selected for the ensuing term. City Manager Crossett responded that it should be on the next council meeting. Mayor DeVries reiterated that it would probably be on the next agenda meeting.

(Audio 44:24) Bob Fulton asked if the impact fees for the mansion, assessed inappropriately in his mind, have been received by the city after two years. Sharon Fulton asked if the commission cares. Mayor DeVries responded that the city does care

and is trying to collect them. She does not know what the city is doing specifically to collect them, but re-emphasized that the city does care.

(Audio 45:23) Mayor DeVries explained to Sharon Fulton and others present that the Ordinance (613) is for three minutes at one time; it is not a cumulative three minutes. Murat Kalinyaprak commented that the rule was enforced on Elsa Duford but not on Sharon or Bob Fulton, so the Mayor was incapable of enforcing the rule. Mayor DeVries agreed that she was incapable of enforcing the rule but that she was trying very hard to and needed help.

(Audio 45:23) Cheryl Wolfe questioned whether she could get a \$40,000 judgment against her as someone else had, if they felt they had been discriminated against because of the three minute rule. Mayor DeVries indicated that she had read the case and it was not over the three minute rule, it was over how the individual was handled by the police officers. Cheryl Wolfe then questioned whether that depends on whether the City Manager considers it appropriate. City Attorney Raymond cautioned Mayor DeVries not to engage in debate.

(Audio 46:38) Lee Manicke commented that sometimes a big problem gets made out of a little problem and the effects of the three minute rule have shown that at this meeting. He feels that the council should get rid of the three minute rule.

(Audio 47:09) Mayor DeVries closed the public meeting.

CLOSED SESSION – PERSONNEL MATTER: Mayor DeVries brought the executive session to order. The personnel matter was discussed and concluded. Mayor DeVries reopened the public meeting and adjourned.

The meeting adjourned at 8:15 p.m.

Mayor Pat DeVries

Attest: Cindy Dooley, City Clerk