

POLSON CITY COMMISSION MEETING MINUTES  
CITY HALL – CITY COMMISSION CHAMBERS  
MONDAY JANUARY 7, 2013, 7:00 PM

ATTENDANCE: City Commissioners: ~~Todd Erickson~~, John Campbell, Stephen Turner, Mike Lies, Dan Morrison, Fred Funke and Mayor Pat DeVries presiding. City Manager Todd Crossett, City Attorney James Raymond, City Treasurer Bonnie Manicke, City Clerk Cindy Dooley and Water and Sewer Superintendent Tony Porrazzo present. Others present (that signed in): Rory Horning, Paul London, Elsa Duford, Andrew Speer and Dennis Duty.

Mayor Pat DeVries called the meeting to order. The pledge of allegiance was recited.

APPROVAL OF PROPOSED AGENDA: Commissioner Funke moved to approve the proposed agenda, seconded by Commissioner Turner. Commission discussion: None. Public discussion: None. Commissioners Campbell, Turner, Lies, Morrison and Funke voted aye. Commissioner Erickson absent. Motion carried ~~unanimously~~.

CONSENT AGENDA:

A. DECEMBER 19 – DECEMBER 31 CLAIMS

Commissioner Campbell said that he spoke to Water and Sewer Superintendent Porrazzo prior to the meeting about the payment to Hach Company under the Water Fund and that it should be for the Sewer Fund. City Clerk Dooley said that it has been changed. **Commissioner Campbell moved to approve the consent agenda, seconded by Commissioner Lies.** Commission discussion: None. Public discussion: None. Commissioners Campbell, Turner, Lies, Morrison and Funke voted aye. Commissioner Erickson absent. Motion carried ~~unanimously~~.

CITY COMMISSION WORKSHOP MINUTES DECEMBER 17, 2012: Commissioner Lies said that on page 3 in paragraph 4 that the comma should be removed between the words streets and maintenance to indicate that the city would provide streets maintenance and not the streets themselves. City Clerk Dooley will make this change. **Commissioner Lies moved to approve the City Commission Workshop Minutes of December 17, 2012 with the correction, seconded by Commissioner Funke.** Commission discussion: None. Public discussion: None. **Commissioners ~~Erickson~~, Campbell, Lies, Morrison and Funke voted aye. Commissioner Turner abstained.** Commissioner Erickson absent. Motion carried.

COMMISSION MEETING MINUTES DECEMBER 17, 2012: Commissioner Lies moved to approve the City Commission meeting minutes of December 17, 2012, seconded by Commissioner Campbell. Commission discussion: None. Public discussion: None. **Commissioners ~~Erickson~~, Campbell, Lies, Morrison and Funke voted aye. Commissioner Turner abstained.** Commissioner Erickson absent. Motion carried.

PUBLIC HEARING

FISCAL YEAR 2011-2012 BUDGET AMENDMENTS PRESENTATION: City Manager Crossett said that budget amendments are necessary when expenditures exceed original estimates of revenues and expenditures. He pointed out that an amendment is necessary in the Building Code Enforcement Fund to cover additional expenditures as a result of having an independent contractor take over the building code enforcement duties after the loss of the Building Inspector in May. It was necessary to have someone on board quickly to process the volume of building permits for the summer. He said the independent

contractor payments were tied to the revenue that was being generated. City Manager Crossett said that the \$30,000 amendment in the Sidewalk Loan Fund was part of an original agreement for engineering services for the Main Street Streetscape project. In the Streetscape Fund 4520, the City did not go over the Project budget and actually did not have to spend CTEP (Community Transportation Enhancement Program) funds that the County had promised to loan to the City but the budget estimate was short. City Clerk Dooley commented that the first budget amendment for \$195,845 is a non-cash expenditure. She explained that the Montana Department of Transportation did not actually send the City the grant money, but instead applied it directly onto the equipment purchase for the Street Sweeper and the De-icer. This amendment is necessary in order to show the equipment at its full value. She also pointed out the reason for the budget amendment for fund 2402, which records the City's portion of the special assessment electricity that is paid from that fund, the expenditure was not budgeted. This will also show as an amendment for the current fiscal year as City Clerk Dooley was unaware that this needed to be budgeted in this fund. In the Sidewalk Loan Fund #2510, City Clerk Dooley said she was not sure this needed to be a budget amendment but decided to include it because it is now being budgeted as a transfer but is expenditure neutral. She also pointed out the final two amendments in fund 3542 which budget for the payment of principal and interest in that fund. She said that the original budget had the principal and interest budgeted in fund 4520 which is the construction fund. Fund 3542 is the debt service fund. Mayor DeVries said she would like to see a negative in fund 4520 for the principal and interest budget items to offset the positive budget amounts in fund 3542. City Clerk Dooley said she would add that to the final budget resolution so that it would show as a neutral expenditure amendment. Commission discussion: None. Public discussion: None. **Mayor DeVries adjourned the public hearing.**

**CITY MANAGER COMMENTS:** City Manager Crossett said that many things are being worked on but that most of those projects were ongoing and had not come to closure during the holidays. He said the Police department has been having a very constructive dialogue with the school district on school security issues brought to light by the shooting in Newtown, Connecticut and also on the issue of bullying and that they had been working very successfully with Superintendent Reksten.

City Manager Crossett said he is looking for individuals and groups to sign up that would be willing to do snow shoveling this winter. He said there have been several calls so far that have been given to the Boy Scouts to handle but more volunteers would be appreciated.

There will a Heart & Soul neighborhood gathering for the Hillcrest area on Sunday January 20<sup>th</sup> at the Showboat Cinema at noon. He encouraged everyone to attend.

Over the Christmas break, City Manager Crossett met with Dave DeGrandpre for a day to work on the next phase of the Polson Development Code re-write.

City Manager Crossett had also been continuing to work with the CSKT Department of Land on Airport issues. It is hoped this can be resolved by sometime in March. He said they have been great to work with.

City Manager Crossett reported that the attorneys for the City and for City Attorney Raymond and City Manager Crossett have filed notices with the court this week indicating that the judge granted summary judgment in the lawsuits against the City of Polson and City Attorney Raymond and City Manager Crossett filed by Rory Horning.

City Manager Crossett said that the first of several strategic planning sessions with the commission has been scheduled for Friday January 11<sup>th</sup> at 4:00 pm. Mayor DeVries said she thought we should post notice of this meeting. City Clerk Dooley inquired of City Attorney Raymond if this would be a noticed meeting and he replied that it would be. Mayor DeVries said the meeting would be held in the City Council Chambers from 4:00 pm to 6:00 pm.

Mayor DeVries said she saw the notices in the paper regarding snow removal and appreciated that the information had been communicated to the public.

## NEW BUSINESS

**APPROVE RESOLUTION NO. 1035 – BUDGET AMENDMENTS FOR FISCAL YEAR 2011 – 2012:** Commissioner Funke moved to approve Resolution No. 1035 – Fiscal Year 2011-2012 budget amendments, seconded by Commissioner Turner. Commission discussion: None. Public discussion: None. Commissioners Campbell, Turner, Lies, Morrison and Funke voted aye. Commissioner Erickson absent. Motion carried **unanimously**.

**REVIEW OF FY 10 – 11 AUDIT REPORT:** City Manager Crossett said this audit was for the year ending June 30, 2011. He said the City has been behind on the audit report for the last three years and is now getting caught up. He said City Clerk Dooley is working hard on getting caught up by the end of this fiscal year. He pointed out the financial highlights of the City which include net assets of \$22.4 million compared with \$21.6 million the year before. There is \$5.7 million available as unrestricted net assets that can be used to meet the City's ongoing obligations to citizens, vendors and creditors. He reported that the City's total net assets increased by \$1.6 million including a capital asset increase adjustment of \$90,000 and a residual equity decrease of cash and capital assets to the new North Lake County Library District in the amount of \$390,000. At June 30, 2011 for total governmental fund balances, \$356,000 was available for spending at the government's discretion (unassigned fund balance) and in the general fund the amount was \$422,000 or 18% of total general fund expenditures. He said the general fund is quite a bit healthier than it was earlier in the recession when it was around \$180,000 or 7% of general fund expenditures. He said the City is moving in the right direction.

City Manager Crossett said the auditors did not find any deficiencies in internal control that were considered a material weakness. He said one weakness that had been reported in the past was the fact that the City did not have a CPA on staff, but that is no longer reported since hiring City Clerk Dooley who is a CPA. City Manager Crossett said that the auditors did report one finding as other matters under the auditor's report on Internal Control Over Financial Reporting and On Compliance and Other Matters having to do with bidding requirements. One of the issues was outside of the actual audit year. The first issue was the purchase of more than \$100,000 of water/sewer piping and parts from the same supplier on the same day. City Manager Crossett said he is waiting for a statement from the Water/Sewer department concerning this. City Manager Crossett said that there were some big orders placed for the Skyline project and this was one of them. City Manager Crossett said that the City is required to file a response to the findings within 30 days of receipt of the report and that the response will be wrapped up this week. The second issue was the pathway at Sacajawea Park and the trail adjacent to that. City Manager Crossett said that the City's stance is that the seawall project which was actually cleaning up of old dock systems and pilings which were a hazard and then putting in rip-rap to mitigate erosion was done in conjunction with a private business that was doing the same work in the area. The walkway was a separate project completed for just under \$50,000 and there were miscellaneous expenditures of \$3,985 which was a separate project that was materials for a connecting path completed by the City's crew that

came in about the same time. The third issue was the replacement of the HVAC (heating, ventilation and air conditioning) system. City Manager Crossett said that about three and a half years ago the City received a grant from the Department of Environmental Quality (DEQ) to do energy upgrades including HVAC replacement. City Manager Crossett said that the City had looked at a number of different designs and engineering solutions and reviewed them with DEQ to come up with something that was acceptable to DEQ and was cost effective. He said that bids were solicited but not through the RFP (request for proposal) process. He said they had a bidder that came in under \$50,000 for parts, equipment and installation of the system that the City had chosen. He said it was an all-inclusive bid and there were some engineering changes during the process that changed the configuration. City Manager Crossett said the project did not go well with that bidder, there were many problems, and the City tried to salvage the project by doing a change order and agreeing to pay more to get the work done. He said there were a number of errors in that work and the City had to hire another firm to complete the project. City Manager Crossett said they were not trying to get around the bidding requirements; it was a project that did not go well. The Better Business Bureau had given him an A rating so the City was not aware of any reported problems with the shortcomings. City Manager Crossett said the contractor was not fully compensated as a result. City Manager Crossett said it is the auditor's job to present the findings if there is a concern. He again stated that the formal response will be out this week.

Commissioner Campbell said he thought the City was working on a purchasing policy. City Manager Crossett said that yes, they had developed an updated purchasing policy and that City Attorney Raymond had developed a specific contract template for projects under \$50,000. He said that for projects under \$50,000 the policy called for price checking but did not necessarily demand a formal bid. This facilitated use of local businesses. City Manager Crossett said that there is always some risk in hiring a contractor that no one has filed a grievance against. City Manager Crossett said that there was another issue with the new water tank on the hill where a subcontractor came in and did subpar work. In that case, the general contractor went above and beyond to preserve his reputation and made sure the work was corrected. The subcontractor ended up going bankrupt and left the area.

Mayor DeVries asked if City Manager Crossett would send a copy of the audit response to the Commission when it is sent to the Department of Administration. He replied that he would do that. City Clerk Dooley said that the audit report is currently just in the agenda packet, but that it would be posted separately on the website and that an audit statement would be published in the Lake County Leader to notify citizens that the audit is available for inspection.

#### **PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC NOT ON THE AGENDA:**

Ken Avison asked for clarification on City Manager Crossett's comments earlier in the evening regarding the Horning lawsuits and had several other comments to make. Mayor DeVries asked City Attorney Raymond to respond to this. City Attorney Raymond said that the City's attorneys from a Missoula firm moved for summary judgment for all claims against all people. The judge, Nels Swandal, from Livingston (however, the case was a 20<sup>th</sup> Judicial District case) granted all motions for summary judgment which dismissed and closed the cases. Mayor DeVries asked if the summary judgments were on file. City Attorney Raymond said that they are available at the Lake County Courthouse because the case was in the 20<sup>th</sup> Judicial District and Judge Swandal was substituted in by the jurors. City Attorney Raymond said there are two summary judgments because Mr. Horning sued the City of Polson and then separately sued City Attorney Raymond and City Manager Crossett. He said the summary judgment in the City case was granted about a month ago and the summary judgment against City Attorney Raymond and City Manager Crossett was granted last week. Both files were just filed by the City's attorney for the case.

The cases could be appealed according to City Attorney Raymond. Ken Avison said he spoke with School Superintendent Reksten about the police department cooperation with the schools and she was very pleased with the police department and with Chief of Police Nash in particular. Ken Avison also thanked the City Commission and the Street department for the help during the holiday shopping season in the downtown area. He said that an employee from the Street department brought the bonfire pit down for each event and it was greatly appreciated by the downtown businesses.

**The meeting adjourned at 7:33 p.m.**

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**Mayor Pat DeVries**

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**Attest: Cindy Dooley, City Clerk**