

**POLSON CITY COMMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
WEDNESDAY, JANUARY 18, 2012, 7:00 P.M.**

ATTENDANCE: City Commissioners: Todd Erickson, John Campbell, Stephen Turner, Dan Morrison, Fred Funke and Commission President Mike Lies presiding. City Manager Todd Crossett, City Clerk Cindy Dooley, Police Chief Wade Nash and Assistant Police Chief John Stevens present. Mayor Pat DeVries and City Attorney James Raymond absent. Others present: Dennis Duty, Ric Smith, Sharon Fulton, Dennis DeVries, Agnes Rinehart, Ken Siler, State Senator Carmine Mowbray, Carol Jones, Murat Kalinyaprak and Ali Bronsdon.

Commission President Mike Lies called the meeting to order. The pledge of allegiance was recited.

APPROVAL OF PROPOSED AGENDA: (Audio 01:41) Bob Fulton asked if he could address the council. Commission President Lies approved the request.

Bob Fulton expressed that he understood that Attorney Bob Long, a former Lake County Attorney, had offered a legal opinion on Ordinance 624 as written or published and that it is flawed and cannot be enforced on the Hideaway Subdivision lots where the Raymond home is constructed and that as published, section 6.10 states that lots with preliminary approval shall be assessed impact fees prior to the issuance of a building permit.

He said that Mr. Long's observation was apparently that Tom Corse, a councilman when the ordinance was adopted on March 19, 2007, made a motion that the impact fees in 624 would not apply to subdivisions - with preliminary approval and that the ordinance passed with the amendment and that the ordinance that was signed did not include an amendment to reflect Commissioner Corse's motion. He noted that all subdivisions receive preliminary plat and questioned if the motion applied to all subdivisions as the motion did not include bracketing dates.

He concluded that his first two agenda items were apparently no longer necessary. He further said that Ridgewater was in preliminary plat and noted that fees paid for new homes would apparently need to be refunded and asked how many refunds would be necessary.

He suggested that the City contact property owners who qualify for impact fee refunds and asked that agenda items 10 and 11 be removed from the agenda but that item 12 remain for discussion.

Commissioner Morrison moved to approve the proposed agenda with the removal of item 10 and 11, seconded by Commissioner Funke. The motion carried unanimously.

CONSENT AGENDA:

A. (Audio 09:34) JANUARY 1 -15 CLAIMS

Commissioner Funke moved to approve the consent agenda for January claims, seconded by Commissioner Campbell. The motion carried unanimously.

COMMISSION PUBLIC HEARING MINUTES SEPTEMBER 26, 2011: (Audio 11:04) City Manager Crossett commented that these minutes were apparently not approved and former City Clerk Kayla Parker had passed them on to the new city clerk for approval. Commissioner Campbell commented that

on the middle of the first page it talks about the building inspector's wages would no longer be split between facilities and building accounts as they had been the previous year, they would be moved completely to the building fund. Commissioner Campbell thought that it should say water instead of building accounts. City Manager Crossett said that the wages were covered part out of the general fund facilities budget and part out of utilities in the prior year but that it would no longer be charged to the facilities budget. Commissioner Campbell thought that line should be corrected. **Commissioner Erickson moved to approve the public hearing minutes of September 26, 2011 with the noted correction from Commissioner Campbell. The motion was seconded by Commissioner Funke.** Commission discussion: None. Public discussion: None. **The motion carried unanimously.**

COMMISSION MEETING MINUTES JANUARY 4, 2012: (Audio 13:17) Commissioner President Lies commented that the minutes were well written and that sentiment was echoed by several other commissioners. **Commissioner Funke moved to approve the January 4, 2012 minutes as written, seconded by Commissioner Erickson.** Commission discussion: None. Public discussion: Sharon Fulton asked to clarify her comments on page four of the minutes. In discussing the fact that there was no public comment at the public hearing, she had commented that the meeting was shut off after 45 minutes and that was probably why there was no public comment. She had meant to say 45 seconds. Murat Kalinyaprak said his comments on page six were not entirely accurate. He said in regards to Ordinance 625 he did not think he said wondered. Also he noted that Police Chief Nash's comments were included in their entirety in the minutes and he hoped this would set a precedent for others with prepared comments. Elsa Duford, Sharon Fulton and Cheryl Wolfe commented that they believed the City Manager's comment that an audience member was making faces should be included in the minutes and that he should not have made mention of the behavior. **Motion was carried unanimously.**

CITY MANAGER COMMENTS: (Audio 19:02) City Manager Crossett stated that attachments that were not included in the agenda packet, was on the advice of the city commission. He asked and that was the instruction he received.

City Manager Crossett commented that the communication protocol that was established two years ago by the last council, which included the abusive communication wording, was instituted because abusive communication can include non-verbal communication. He does not believe speaking to that type of communication to be inappropriate.

The City just received a geotechnical analysis report from SK Geotechnical engineering firm for the corner of fourth and fifth where there is a cave-in issue. The City's engineer has not analyzed it yet so the findings will be brought to a later meeting. There was significant sloughing on the hillside last year because of the high ground water table. So the concern is that if it happens again this year it will flow into the street and could compromise the utility lines - so those lines have been disconnected and rerouted. He expressed that geotechnical analysis was needed in order to make a sound decision about any money that would be invested into the site. The City needs to look at the potential options and what is a reasonable investment including whether it makes sense to spend more money to look at additional options. Commissioner Campbell stated that he had read about half of the report before coming this evening. He was amazed at the water table information. The report was done during a dryer part of the year and water was found at 14 feet, which is about halfway down the hill, so you can imagine how much water would be there in the spring.

City Clerk Cindy Dooley has been doing a great job. The payroll has been switched from monthly to biweekly to alleviate the situation of numerous advances being taken. The City has been behind on the

audit for the last few years and has been steadily catching up. One of Cindy's priorities is to bring the audit process up to date. Cindy has also been assessing systems with the purpose of identifying efficiencies.

He noted that snow had finally arrived and said that the street crews have asked that he remind everyone not to leave their trash containers in the street after garbage pickup. Also when shoveling snow he asked that people not shovel snow into the street adding that there is an ordinance that covers this. He added that there is an ordinance requiring residents to clear snow from their sidewalks in a timely manner. He realizes that not everyone can get out and shovel their walks after a large snow storm so the City maintains a list of volunteers that are willing to help out. Last year the City had a lot of participation from the Boy Scouts and the school students. He asked that people who needed assistance with shoveling call the City.

The City is working on an approximately \$60,000 EPA grant for preliminary engineering on the stormwater system particularly relevant to a man-made wetlands project that was in the preliminary engineering report (PER) study that was done a couple of years ago. Water and Sewer Department Head Tony Porrazzo and the City's engineer Shari Johnson and other City staff have been working very hard on this. The grant application will go out next week.

NEW BUSINESS

RECOGNITION OF DAVE BARTHOLOME COMPLETING 1 YEAR PROBATIONARY PERIOD:

(Audio 25:44) Police Chief Wade Nash introduced Police Officer Dave Bartholome who recently completed his one year probationary period. The department is excited and happy to have Police Officer Bartholome join the force and serve this great community of Polson. Over the last year, the department has hired several police officers and Police Chief Nash feels that it is important for the community to know the background and experience of the officers that the City has. Police Officer Bartholome started his career with the LAPD in 1982 going through extensive training with the police academy there. He then pursued a career with the Santa Ana (California) police department starting in 1985. He retired after 20 plus years with the department. Police Officer Bartholome has over 1200 hours in training and seminars. He was assigned to several special details during his career and has a high level of professionalism which he has carried into his work with the City of Polson police department. He holds State of Montana certificates in basic, intermediate and advanced training. In his spare time, he enjoys flying airplanes. Police Officer Bartholome holds a pilot's license and is a certified flight instructor. He and his wife were drawn to this area by the outdoors and the hunting opportunities. Police Officer Bartholome then commented that he was glad to be off of probation after 24 years of being an officer! He feels fortunate to be a part of the Polson police department which is made up of people that love their job and want to do their job and also being lead by Police Chief Nash. He is looking forward to being here for many years to serve the community.

INTRODUCTION OF NEW POLICE OFFICER JIM ATKINS & RECOGNITION OF AKTKINS AND LSCO SGT. MIKE CARLSON LIFE SAVING AWARD:

(Audio 29:22) Police Chief Nash introduced Jim "Jimmy" Atkins who just graduated from the Montana Law Enforcement Academy several weeks ago. During the Academy training an officer is away from home for three months. Police Officer Atkins has a wife and two children with a third child due soon. Police Officer Atkins has an extensive background with the Lake County Sheriff's office. He went through an extensive application and interview process and was selected and Police Chief Nash commented that he has truly been a blessing to the department.

Police Officer Atkins is still in the one year probation period and will continue to do a great job for the department.

Police Chief Nash then introduced Lake County Sheriff's Office Sergeant Mike Carlson. Officer Atkins and Sergeant Carlson were involved in a lifesaving incident on July 23, 2011. At approximately 11:00 pm both men responded to a call at a residence in Polson where a female was not breathing. When the men arrived at the residence they found the female lying on the floor and unresponsive. The men determined that the victim had no pulse and that her tongue was obstructing her airway and immediately began CPR. When the ambulance crew arrived the men stepped aside and the female was shocked with an AED (Automated External Defibrillator) system where she regained a pulse and was transported to the hospital. Police Chief Nash commented that anyone putting themselves in this situation can see how professional their efforts were in saving this woman's life. Police Chief Nash commented that he is truly honored to be able to recognize Officer Atkins and Sergeant Carlson and how proud he is that they are serving our community in such a fine manner. Police Chief Nash and Assistant Police Chief Stevens then presented each officer with a framed award and a special lifesaving ribbon for their uniform. This was followed by a round of applause and a standing ovation.

DETERMINATION OF IMPACT FEES THAT ARE OUTSTANDING BASED ON ORDINANCE 624:

(Audio 35:10) Commission President Lies reported that the City has received a check for \$5,704.00 for payment of impact fees on the mansion property. City Manager Crossett clarified that the check has not yet been deposited. Commission President Lies ceded the floor to Commissioner Campbell. Commissioner Campbell commented that he would like to put this matter to rest this evening. He acknowledged that there have been mistakes made during this process. The City started with a very good ordinance and he does not feel that the Ordinance, through the process, was strictly adhered to. Commissioner Campbell feels that the Ordinance will work if the employees are trained or actually re-trained to use it. Commissioner Campbell believed that some old processes had continued after the new ordinance had been put in place. Commissioner Campbell would like to get a resolution to the matter by accepting what has been done and acknowledging the mistakes. Commissioner Campbell thanked Bob Fulton for bringing issues to the City's attention. The City Commission had been working with the City Manager who had suggested ways to prevent the mistakes from happening in the future. Commissioner Campbell commented that everyone can agree that the mansion building has between 24,000 and 26,000 square feet. Of that amount 6,617 square feet has been improved. The impact fees were assessed on that amount. Unlike other buildings built in the City limits that start with a building permit and then construction, the mansion property was brought into the City partially built. It was framed up and had a roof. A waiver of \$3,628 was given by the Fire department based on the 6,617 square feet, but more importantly the Fire department did not give a waiver on the remaining square footage that has not been improved. So, if the remaining square footage is improved, which amounts to about 20,000 sq. ft, which Commissioner Campbell feels is likely based on his walkthrough of the building, the City can come back and assess impact fees on the additional improved area. The fire assessment alone, based on Bob Fulton's numbers was \$14,820.00 for the entire 26,000 square feet which means there is still a lot of money that could be collected. The building permit fee of \$640.00 was accepted plus \$100.00 for the zoning compliance. He noted that the water line and fire hydrant that were installed were done as a service line and that potential future development on the surrounding property will need to find water elsewhere, have it brought in as a main, engineered and designed as such. Commissioner Campbell further commented that all future improvements into the mansion building will be assessed impact fees according to Ordinance 624. Commissioner Campbell then proposed that 1) there needs to be re-training for the department heads on Ordinance 624. 2) Any variances or reductions in fees proposed by the homeowners or builders, etc. are no longer to be approved by the department heads. An Impact Review Board described in Ordinance 624 should be reestablished to review all reductions or variances and to

make a recommendation to the City Commission who will reserve the right to approve or disapprove any reductions to future assessments through Ordinance 624. **Commissioner Campbell moved that the City should accept the fee of \$5,704.00 for the improvements that have been done on the 6,617 square feet. All other improvements will be assessed using Ordinance 624.** Commission President Lies commented that the total additional amount due if any future improvements are made is \$14,347.00 and asked if Commissioner Campbell would clarify his motion to include this amount. Commissioner Campbell questioned whether this would be paid in phases as the improvements are done or paid all at once if any improvements are started. Commission President Lies clarified that it would be paid all at once if any additional improvements are made. **Commissioner Campbell added to his motion to include a single payment of \$14,327.00 to be paid if any future improvements are started. Commissioner Funke seconded the motion.** Commission discussion: Commissioner Funke then commented that he would like to see the Impact Review Board get going as-soon-as-possible. His recollection is that it includes two people from the council, and people from the public. City Manager Crossett asked if the Review Board should continue to include two City Commissioners selected on an as-available basis as had been done since he had been appointed or if the City Commission desired that it should be restricted to the same members each time. Commission President Lies felt that the changes made during the time of former City Manager Jay Henry should be "whited-out", and the Review Board should be setup as stated in Ordinance 624 and that the Review Board would have the same individuals each time. Public discussion: Judy Preston commented that she was confused about the \$14,347.00, stating that she thought what they already had paid would be deducted from the fire fees. Commission President Lies responded that the original amount was \$20,051.00. After payment of the \$5,704.00, there is a balance due of \$14,347.00 which has been figured on the average square footage of the building. Judy Preston then questioned whether this was just the fire part or the entire amount. Commission President Lies clarified that it was the total amount. Bob Fulton questioned when the amount is paid. Commission President Lies responded that it would be paid as-soon-as they start building on it. Bob Fulton commented that he understood that the 6,617 square feet was based on Black Mountain being in the building, but now S & K is in the building also and that he believed there has been remodeling work done. He said that Ordinance 624 states that new development does not include remodeling and expressed that the language seemed to vary. Commissioner Campbell said the square footage of 6,617 that he received today was based on the businesses in the building. Bob Fulton commented that building permits are issued on plans and it seems odd that in his opinion there is a variance in the total square footage. Murat Kalinyaprak commented that the motion does not fit the agenda item that says determination of dollar amount of impact fees that are outstanding. Commission President Lies responded that they did determine the total amount and subtracted out what was paid. A citizen asked if this was just pertaining to the one property – the mansion on the hill. Commission President Lies responded that yes, this just pertained to the mansion property. Murat Kalinyaprak then asked whether they concluded that there were no other impact fees outstanding. Commissioner Campbell responded that there are additional fees that could be assessed to that building but not at this time. Murat Kalinyaprak asked what happened to the City Attorney's impact fees. Commission President Lies responded that was not the current discussion item. Commissioner Campbell stated that was not the subject they were talking about. Ric Smith thanked Commissioner Campbell and agreed that we need to move on. He commented that the awards for the police officers tonight reminds us that there are a lot of good things going on in this town. He agreed that there have been a lot of mistakes on this, but to get it resolved and move forward would be the best thing for the City. Cheryl Wolfe commented that she feels it is actually better to fix a mistake rather than just say you will do it right in the future. Commission President Lies responded that The City is trying to do the best that it can to correct the whole thing, and he assured her that it would work out. City Manager Crossett addressed the chair to offer further explanation. He said that the building was brought into the City as unfinished residential and that the building permit was based on only the square

footage being finished, which was for commercial use. The remainder is still unfinished residential and it cannot be assumed that commercial impact fees are owed at this time for the remaining square footage. Regardless, the appropriate impact fees would be paid when the further development was applied for. Murat Kalinyaprak commented that he felt the motion was misleading. He would like to know if the Commission holds secret meetings to approve agenda items. He asked if fire sprinkler systems can be installed on a ½" service line. He also asked if the sprinklers are only installed in the 6,000 square foot part and if the fire insurance only covers that part of the building, since no fire impact fees have been paid on the rest of the building. Murat Kalinyaprak commented that he thinks the Commission is sweeping the issue under the carpet. **The motion carried unanimously.**

DEFINITION OF PROCESS FOR RESOLUTION OF QUESTIONS REGARDING CITY DECISIONS/PROCEDURES: (Audio 53:45) Bob Fulton stated his belief that it is difficult to ask questions and get answers and that he would like the Commissioners to take responsibility to answer public questions. Bob Fulton further commented that each commissioner represents approximately 600 – 700 people and that an individual Commissioner should unilaterally be able to place any item on the agenda. He further commented that he has asked Commissioner Funke this question and Commissioner Funke replied that all questions must go through the City Manager but that he would like to be able to address the Commissioners directly with questions. Commission President Lies responded that the Commission would do its best to answer his and the public's questions – even though the answers may not always satisfy the questioner. Murat Kalinyaprak commented that the City Manager has put items on the agenda in the past that were from one city council member. Murat Kalinyaprak then commented that he was not aware of when the Council voted on the agenda items that are on this evening's agenda. City Manager Crossett explained that the vote was taken at the last City Commission Meeting during discussion of the proposed agenda which was before Mr. Kalinyaprak had arrived.

ADOPTION OF AN ORDINANCE PROHIBITING USE OF A MOBILE DEVICE WHILE OPERATING A MOTOR VEHICLE: (Audio 59:13) Commission President Lies commented that many cities and towns throughout Montana are adopting ordinances on the use of cell phones while driving. Bozeman just put theirs into effect in the last several days and Whitefish has one. Commission President Lies attached the introduction from Missoula's ordinance as an example for drafting the City's own ordinance. Commissioner Lies commented that he was prompted to consider adoption of an ordinance after he was nearly hit the other day at the Post Office. Commissioner Lies would like a motion to adopt an ordinance to prohibit the use of a mobile phone while driving. Commissioner Funke pointed out that he would like to have a public hearing on this as it is a pretty big issue. City Manager Crossett clarified that the process for an Ordinance involves two public readings before it can be adopted. What you are actually instructing the City to do is have the City Attorney draft an ordinance based on models of other ordinances that can then be brought to the Commission for discussion, two public readings and a vote. **Commissioner Campbell moved to have the staff put together an ordinance so that public meetings could be held on prohibiting the use of mobile telephones and other electronic communication devices while driving a motor vehicle, seconded by Commissioner Funke.** Commission discussion: Commissioner Erickson commented that he hoped law enforcement would have some input on this. Commission President Lies responded that he hoped that would be the case. Public discussion: Police Chief Nash commented he is behind the ordinance because of the safety issue and also that because of the reservation issues, the Tribe would have to be involved in this; City law enforcement would not be able to cite tribal members. Commission President Lies responded that everything will have to be taken under consideration before adopting the final ordinance, but the City should begin work on it soon before someone is hurt. **Motion passed on a vote of 4-2. Commissioners Erickson, Campbell, Lies and Funke voted aye. Commissioners Turner and Morrison voted nay.**

PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC: (Audio 01:04:30) Commission President Lies reminded the audience that this is not a question and answer session – it is for comments only.

Ric Smith commented that he supports the three minute rule. He feels the three minute rule insures more public participation – not less and that it is enough time to express ones thoughts unless the speaker is an applicant or has an agenda item. If the City needs help purchasing a timer he would be happy to make that donation.

Lita Fonda commented that at the last City Commission meeting, it was mentioned that the agenda process may be looked at. She expressed disagreement with how the agenda process works.

Judy Preston commented that she would like to see the sound system put back in.

Sharon Fulton commented that at the last meeting she had asked when the City County Planning Board would be formed or notified and believed it was supposed to be on this meeting's agenda.

Cheryl Wolfe commented that a letter in the paper made allegations against the new Police Chief and asked if the City Manager or interview committee was aware of that.

Murat Kalinyaprak commented that he feels the government of the Town is becoming more and more “like a dictatorship” and that he believes citizens’ questions during public meetings are not answered. He commented that he has some requests for information that have not been answered. He said he has questions from this meeting yet unanswered. He is concerned about items that are put under the consent agenda not being open to debate.

Ken Siler commented that he talked to Cora at the City about when the Board of Adjustments and City County Planning Board would be put on the agenda and she thought it would be the first meeting in February.

Elsa Duford commented that she has mixed feelings about the three minute rule. She expressed that people are frustrated when they do not get their questions answered at meetings. She expressed concern about Commissioners not talking to people. And she expressed that three minutes seemed extreme for most things.

The meeting adjourned at 8:14 p.m.

Commission President Mike Lies

Attest: Cindy Dooley, City Clerk