

**(DRAFT)POLSON CITY COMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
MONDAY, MARCH 7, 2011, 7:00 P.M.**

ATTENDANCE: City Commissioners: John Campbell, Mike Lies, Elsa Duford, Fred Funke, and Mayor Pat DeVries presiding. Commissioners Don Smith and Judy Preston absent. City Manager Todd Crossett present, City Attorney James Raymond absent. Others present: Police Chief Doug Chase, Dave Sheesley, Jim Redmond, Murat Kalinyaprak, Dean Sams, Bonnie Manicke, and Margie Hendricks.

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

CONSENT AGENDA:

A. CITY COMMISSION MEETING MINUTES FEBRUARY 22, 2011

B. FEBRUARY 15-28 CLAIMS

Commissioner Funke moved to approve the consent agenda, items A and B, as presented. Commissioner Lies seconded the motion. Commissioner Lies and Duford inquired about particular claims. Commissioner Duford expressed that she was still in disagreement with the Commission's decision in regards to Mission Bay Preserve Phase III. She felt they needed to bring the item back before the Commission to give the public proper notice. **The motion carried with 4 in favor, Commissioner Duford opposed.**

CITY MANAGER COMMENTS: City Manager Crossett advised that the golf course restaurant was open with a limited menu, from 11 a.m.-2 p.m. They were focusing on the restaurant systems and smoother bookkeeping. He expected the restaurant to be more successful in the upcoming year.

He had attended the Montana Rural Water conference the previous week, notably there changes to GASB's (Government Accounting Standards Board) procedures. He planned to have a presentation for the department heads. They had already begun working on FY 11-12 budgets and health insurance policies.

The next PDC Committee meeting would be held Wednesday, March 16 at 1:00 p.m. in the Commission Chambers.

The Skyline project had gone out to bid, and there had been 14 submissions so far. They would be reviewing those by the end of March and construction would begin in early July. They were heavily engaged with Stelling Engineering, particularly on the stormwater issue, which they were planning on extending from Skyline to 9th Avenue where it can connect to a large, 24 inch, stormwater pipe. Preliminary engineering had called for splitting the system into two smaller pipes to avoid extending the system all the way to 9th. This would not have handled the amount of water generated in large storm events and would have resulted in surcharging which would have resulted in impacts to property owners and City infrastructure. He felt good about the outcome.

To finish up on Main Street they were working with Alpine Landscaping. The Streetscape fundraising committee was working hard and had already bought benches and waste bins for Main Street. All of the new LED and decorative lights were up on Main Street.

He pointed out that there were many downed branches along the streets of Polson due to the extreme weather. There was a question of whose responsibility the cleanup was between personal property and City right-of-ways. However due to the extent of the mess, the staff planned to have a cleanup day once the weather improved to clean up the debris left behind. They were planning to coordinate with the Polson beautification committee, which was working on an entire month of clean up. They planned to advertise the cleanup day so that citizens could work with the City staff. They wished to involve everyone in the cleanup and they were looking for ideas, such as the beautification committee's challenge to each Ward for clean up. Mayor DeVries added that they were planning to have a block party at the end of the month.

He intended to hold another strategic plan meeting for the Commission to complete the Mission statement after all of the Commissioners returned. They would go over the challenges and opportunities they face, including a broad range of goals. They would find the top priorities they could address with the budget that they have.

The Highway 93 alignment study technical oversight committee would be meeting the week after next and would be continuing to refine their options for the new highway 93 bypass.

Mayor DeVries inquired about the new golf maintenance shop. City Manager Crossett advised that it had just been completed. The staff had been completing the drywall and painting. The next project was complete the permanent restroom facilities that were currently port-a-johns. The first golf tournament would be April 25th, and they planned to have those facilities completed by then at under \$20,000. Mayor DeVries expressed that the new maintenance building looked very good.

Mayor DeVries advised that she would be attending the Mayor's Conference in Helena, of which the only cost would be a hotel room for one night. She hoped to come back with some good ideas for the City.

CONFIRMATION OF 1-YEAR PROBATIONARY POLICE OFFICER LUKE BRANDEBERRY: City Manager Crossett advised that this was the regular process for an officer who had completed a year of service, and the 50 cent/hour raise was included in the budget. Police Chief Chase advised that Officer Brandeberry was an exemplary officer, and though he had given notice that he would be moving out of state soon, they wished to recognize his achievement. **Commissioner Campbell moved to approve the confirmation of Officer Luke Brandeberry's one year probationary period, seconded by Commissioner Lies. The motion carried unanimously.**

Mayor DeVries expressed gratitude to Chief Chase for working on the sidewalks and mentioning them in his editorial in the paper. City Manager Crossett agreed, adding that it helped when people called in when they saw a problem. The City then has an officer give notice to a property owner. If someone was unable to clear their sidewalk, they had a group of high schoolers would shovel for them. He noted that Assistant Police Chief Stevens had even gone out and helped

shovel drives. Mayor DeVries noted that the street department was out working on potholes already. City Manager Crossett noted that they were working on temporary fixes with recycled asphalt until the weather improved and the durapatcher materials were ready, manufacturers would not have that asphalt until mid-spring. The streets department was still working within their budget, being judicious with their time and managing the snow clearing and patching. The police and parks departments had also lent help to staff during the big storms. Commissioner Duford inquired about the length of time a property owner had to clear the sidewalks. Chief Chase advised that they had researched the question, but the City had no specific time limits or deadlines in their snow removal policies. Mayor DeVries advised that she had visited with the City Attorney about the issue, and she thought it was perhaps something to take a look at before the next winter season was upon them. Chief Chase pointed out that if they had a time set it would help enforcement of the ordinance. He noted that almost every property owner immediately took care of their sidewalks once they were noticed. He added that they had volunteers to help with clearing sidewalks, but he didn't want to see them taken advantage of by someone who could take care of it themselves.

APPROVE PORTABLE TOILET FACILITIES FOR LONG-TERM USE ON THE GOLF COURSE NEXT TO JOHN DOWDALL PLAYHOUSE: City Manager Crossett advised that currently the course had 2 locations with portable toilets. One of the locations would be replaced by a permanent structure by April 25th. The one next to the playhouse was planned to be a permanent structure with a small storage building and concession. The Polson Players were originally going to install the facility, however they had unexpected costs. The golf maintenance building had been a priority ahead of the two portable facilities, and it was completed. The portable toilet currently being replaced had been chosen first due to property owner complaints. He noted that current City ordinances did not allow for portable toilets to remain on properties, so he was asking the Commissioners to approve use of the portable toilets until they could be replaced by permanent facilities. He pointed out that they could remove them until permanent ones were in place, however when they had been removed in the past some persons had chosen to relieve themselves in the nearest foliage. Commissioner Campbell expressed that he was apprehensive about giving open long-term approval for the use of portable facilities and felt that it was a bad precedent to set, adding that they were essentially breaking their own laws. He wondered if the bathrooms in the theater could be used instead. He added that he would be comfortable approving temporary use if there was a plan in place to put in permanent facilities. Mayor DeVries commented that she wouldn't be adverse to approving the use for a season. Commissioner Lies mentioned that there had previously been an agreement with the Polson Players, but he wasn't sure why it had not moved forward. He pointed out that there was a unisex bathroom connected to water and sewer on Bayshore Drive that cost about \$1,400 at the time and wondered if a similar small facility would work. Mayor DeVries inquired about the handicapped accessibility, noting that the bathrooms in the downstairs of the theater could only be reached by stairs. Commissioner Funke expressed his agreement with Commissioner Campbell and felt that they could approve the use with stipulations. City Manager Crossett cautioned against committing to a specific plan until they had formulated a plan, which would include identifying available resources and identifying financial resources in the coming budget. Golf Board President Dave Sheesley advised that the portable restrooms had been in place for nearly 10 years, as a matter of priorities. He expressed that the golf board would get on this project right away. He noted that the crew at the golf course had been working very hard to

complete the maintenance building and were pushing to complete the other permanent bathroom facility. He added that they needed heat in the bathrooms. He asked that the Commissioners approve use of the remaining portable restrooms until the end of this season, with the expectation that there would be a permanent structure by the following season. The golf board would contact the Polson Players and see where they were at with their finances. City Manager Crossett advised that they could not guarantee that, but he would work with the golf board to work on a plan to move forward. **Commissioner Funke moved to approve the use of portable restroom facilities next to the John Dowdall Theater through the upcoming golf season, with the main priority being either the removal of them or permanent facilities to replace them at that time. Commissioner Campbell seconded the motion. The motion carried unanimously.** Murat Kalinyaprak commented that he was hopeful after hearing Commissioner Campbell mention that they shouldn't break their own laws, but they ended up breaking them. He opined that maybe breaking their own laws should be included in the motion.

SCHEDULE EXECUTIVE SESSION FOR CITY MANAGER EVALUATION 6:00 P.M. PRIOR TO MARCH 21ST REGULAR CITY COMMISSION MEETING: City Manager Crossett inquired if there were another time that would work better for the Commissioners. Mayor DeVries wondered if one hour was long enough. She added that it would be helpful to have City Attorney Raymond provide a summary of the previous evaluation's comments. Commissioner Campbell inquired if there was a form for them. Commissioner Funke felt that they didn't need a form; the previous evaluation had gone well as a round table discussion. **Commissioner Lies moved to schedule an executive session for the City Manager evaluation for 5:30 p.m. March 21st, seconded by Commissioner Funke.** Murat Kalinyaprak questioned if the public would be able to comment in person or if they would need to submit it in writing. City Manager Crossett advised that the public would be able to comment either prior to or after the executive session portion. They would also be able to comment on the regular City Commission public comment agenda item. The location of the executive session was discussed. Murat Kalinyaprak inquired if they were extending the contract or just evaluating. City Manager Crossett advised that this was only an evaluation. The contract would expire in June, and he recommended the Commission designate two people to negotiate the contract and come back with a recommendation to the Commission. Mayor DeVries suggested that they include authorization to begin negotiations on the next agenda. **The motion carried unanimously.**

PRELIMINARY JANUARY 2011 CASH REPORT: City Treasurer Bonnie Manicke advised that January had been a very busy month, including the first time the TIF district software was being utilized. There were now \$73,838.69 in the TIF district, \$50,000 of which had been designated to finish off the lighting on Streetscape. She was going to attend the PRA meeting the following Monday to approach them about the remaining \$10,000 from the FY 09 TIF revenue and to share ideas from the Streetscape fundraising committee. She advised that there were several negative balances. The primary negative fund was building code enforcement, if building got started in the upswing she estimated they could cut the balance in half. The tree fund was negative, the grant reimbursement had been received in February so it would be back in the black the following month. The ARRA grant was over \$3,900, and she would check with staff in regards to additional funding they had not yet received. The fund for SID 42 was being worked on, a detailed report would be sent to CTEP. She did not want to use anymore of the County's money than they needed because of fees charged for that. She estimated that it may

stay in the red until the first half of taxes were received. There were 9 properties delinquent on SID 42, two of which were paid under protest. The final negative balance was the stormwater fund, and she would work with Water & Sewer Superintendent Porrazzo on where to move the funds from to make it clear and whole on June 30th.

PUBLIC COMMENT ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC NOT ON THE AGENDA: Margie Hendricks commented that she had concerns about the decision made at the June 19th and February 2nd Commission meetings in regards to Mission Bay Preserve Phase III. She had been denied when she tried to put these concerns as an item on the agenda. She commented that the agenda item was incorrectly titled as Mission Bay Phase III, which had already been completed. She felt this mistitling gave the public no notice and no information for the public. She commented that the vote had been changed in the minutes as a grammatical correction, but it was a substantive one. She commented that not all of the public comments concerning the item being incorrect were included. She felt there was harm done to the public process and their rights and a failure to act within the MCA. She commented that she would be preparing additional materials and would be submitting an item for the March 21st meeting.

Murat Kalinyaprak inquired if the Commissioners had seen the agenda item packet that himself and Mrs. Hendricks had submitted. He felt that even if an item was denied the Commissioners should still get a copy of the item and its attachments. He commented that the Commissioners had unknowingly broken the MCA and PDC when they had unknowingly approved an expired preliminary plat extension for Mission Bay Preserve Phase III for a second time. He felt if the item had been properly noticed they might have found that information. He commented that their agenda item had quickly been denied and they had gone to Commissioner Duford for help. Commissioner Duford had also tried to put the item on the agenda and was denied. He commented that it was insulting to a Commissioner to have a hired employee deny an elected official being on the agenda. He commented that Commissioner Duford sits up there and the City Manager sits down there. City Manager Crossett expressed that he completely endorsed the public's right to be heard, but he wondered if they were getting to the point of sarcasm and personal attacks. Murat Kalinyaprak commented that it was a problem the City Manager acting like a dictator, and he didn't think any of the other Commissioners would have appreciated being talked down to. He felt the setup for the agenda needed fixed. He commented that since the Commission had the ability to strike an item from the agenda they should be able to put item on. He informed the Commissioners that part of the agenda item they had submitted was to declare the January vote for preliminary plat approval null and void, and added that even if they didn't it was. City Manager Crossett advised that to be clear on the agenda setup in the Charter form of government the City Manager sets the agenda. He noted that in a situation where he was doing the bidding of individual Commissioners it could become ugly, particularly in the event that separate Commissioners were pushing for opposing goals. He advised that he did the bidding of the Commission as a whole. He expressed that he had advised Commissioner Duford that the process to add a denied item to the agenda would be to make a motion at the approval of the proposed agenda including adding that particular item to the following meeting's agenda, and if the majority voted to approve it, it would be added to the following agenda. That way he was clear on direction of all of the Commissioners. He noted that the public can always comment on any issue they want at the public comment portion of the agenda. He advised that he had

certainly meant no disrespect to Commissioner Duford, adding that when Commissioner Duford had brought the issue up at previous meetings no other Commissioner had voiced a desire to pursue the issue. He noted that if the Commissioners wished to change the method for setting up the agenda they were able to do so. Commissioner Duford inquired if he had run the request by the other commissioners. She felt there was an existing problem with communication and public access to the agenda. She commented that she often saw employees, officials, and non-profit organizations able to get on the agenda, but not regular citizens. She felt there was a difference with being able to have an item on the agenda and only being able to publicly comment. City Manager Crossett pointed out that quasi-judicial issues, such as land use, had different requirements than the regular legislative issues the Commissioners normally had. He advised that he had specific responsibilities to the City of Polson and had a responsibility to exercise professional judgment in doing the job he had been hired to do. Revisiting the quasi-judicial decision in this way did not seem appropriate in his judgment. Murat Kalinyaprak commented that he was creating the environment for Commissioner Duford to feel that the other Commissioners would tell her she could not put an item on and he could not imagine that. He felt they could vote for it or against it, but they could not tell her she could not put it on the agenda. In addition to the public having the right to comment they had the right to ask for a vote and they could not get that without an item being on the agenda. He commented that all this blabbering trying to explain away something that was wrong was not right, just fix what's wrong and don't let it happen again. He felt that making Commissioner Duford ask for a vote to put an item on the agenda just delayed things; he felt that her submitting an item for the agenda was the same as her coming before the Commission to put it on the agenda. He hoped they understand what was happening here. He accused the Mayor of rolling her eyes when answering Margie Hendricks. Margie Hendricks commented that the Mayor had asked her if she wanted to speak. Mayor DeVries advised that Mrs. Hendricks had raised her hand. She asked Mr. Kalinyaprak to stop pointing at the Commission. Murat Kalinyaprak commented that at the February 7th meeting Commissioner Duford had pointed out the extension had already been granted. He commented that some of Commissioner didn't understand the implications of that, and some of them did and played possum. He commented that the City Attorney knew that it was not allowed. When Mr. Kalinyaprak continued pointing at the Commission, Mayor DeVries ended the meeting.

The meeting adjourned at 8:49 p.m.

Mayor Pat DeVries

Attest: Kala Parker, City Clerk