

**POLSON CITY COMMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
MONDAY, MARCH 15, 2010, 7:00 P.M.**

ATTENDANCE: City Commissioners: Ron Boyce, John Campbell, Judy Preston, Mike Lies, Elsa Duford, Fred Funke and Mayor Pat DeVries presiding. City Manager Todd Crossett and City Attorney James Raymond present.

CALL TO ORDER: Mayor DeVries called the meeting to order, and The Pledge of Allegiance was recited.

APPROVAL OF PROPOSED AGENDA: Commissioner Lies moved to approve the agenda as proposed, seconded by Commissioner Funke. The motion carried unanimously.

CONSENT AGENDA:

- A. CITY COMMISSION MEETING MINUTES MARCH 1, 2010**
- B. MARCH 1-15 CLAIMS**

Commissioner Campbell moved to approve the consent agenda, items A and B, seconded by Commissioner Boyce. Commissioner Duford noted the success of the golf course in the minutes, and added that she had seen several newspaper articles describing how other golf courses were suffering losses in revenue. **The motion carried unanimously.**

PUBLIC HEARING – URGENT MORATORIUM ON MEDICAL MARIJUANA:

Planning Official Joyce Weaver advised the Commission that selling, growing, and distributing medical marijuana had been State of Montana Voter approved legislation. Various municipalities throughout the state had taken the initiative to pass various ordinances to govern the expanding market of medical marijuana. They had modeled Polson’s ordinance after one recently passed in Whitefish. There would be a temporary moratorium on all medical marijuana facilities within City limits until regulations could be built into the PDC, which was currently being rewritten. **Mayor DeVries called for proponents of the moratorium.** City Manager Crossett offered that the Staff’s recommendation was to create a temporary blanket moratorium to avoid any facilities from moving in that later would be grand fathered in despite the zoning changes. He advised that although some municipalities were considering banning all medical marijuana facilities, he advised against permanently banning a voter-approved initiative. He felt there was more risk for individual cities that went against the State, rather than the Federal Government on this issue as Montana was just one of several states to pass such an initiative. If the Federal Government decided to take action (which it has not), it would likely sanction the entire state, not a single municipality. Commissioner Boyce inquired how many facilities existed within the City of Polson. Planning Official Weaver replied that none had come to the City stating that as their intention. Commissioner Campbell opined that the ordinance was geared towards storefront enterprises, not residential caregivers and patients. He felt that they should not make those low profile patients and caregivers turn to the storefront facilities. City Attorney Raymond clarified that included was the ordinance that “establishment” did not qualify for caregivers or patients with 6 plants or less. John Campbell was hesitant to require a permit issued through the City, citing concerns for medical confidentiality. He also expressed concern that the location of permits would quickly become targets of burglary. Commissioner Duford

expressed agreement, noting the care all pharmacies give to patient confidentiality. She added that the State has a record of all of those legally prescribed, but not public. City Attorney Raymond noted that the Ordinance was geared towards storefront establishments. He did not feel the City could zone individual patients from growing their own. Water & Sewer Superintendent Porrazzo pointed out that the HIPAA Act would likely cover all the regulations for patient privacy. City Manager Crossett noted that section 8 of the proposed ordinance could be removed or altered to allow for the home caregivers and patients. Mayor DeVries noted that a facility with signage reading "Pain Management of Montana" was being worked on along Highway 93, she inquired if they had applied for a business permit. Planning Official Weaver replied that they had not. Police Chief Doug Chase advised the Commission that Polson Police, as well as other law enforcement organizations throughout the State, were concerned with major business. Dispensaries were proliferating quickly across the state, and he felt consideration should be given to where they allow them to exist. He expressed that a temporary moratorium would give time for input from the public and local businesses. He added that his major concern was burglaries, and he requested that any dispensaries be required to have a working alarm system. Preston Johnson commented that in his research he had found that the prescription suppliers were not keeping up with demand. He felt this could be a revenue source for the City, the same way it had benefited in other States. Susanne Lipkey urged the Commissioners not to rush judgment, as there was no problem within the City at this time. She also felt that it would be inhumane to make it illegal for those few sick people who needed that medication. Commissioner Duford noted that there was a stigma attached to marijuana, however it was like all prescription drugs and had the potential to be misused. She expressed that she would like the public to have time to establish how they want the zoning for any dispensaries in the City. The length of the moratorium was discussed. **Mayor DeVries called for opponents to the emergency ordinance.** Cheryl Wolfe commented that she didn't hear any comments from anyone who felt there was an emergency. James Dale, owner of the Medical Marijuana Dispensary neighboring the Jette Store, explained that the demand was exceeding the supply. He commented that most people don't grow for profit, and it helps people. He added that his dispensary helps boost the neighboring business. Paul Hamil expressed agreement. He was concerned about Polson modeling itself to closely after other City's; he felt Polson should be a leader. He suggested that they use the dispensaries as a revenue source. He added that it was a complex issue, and a lot of the information against the medical marijuana was biased propaganda. He felt that if there was concern in the City, more people would have attended the public hearing. Commissioner Preston expressed that the moratorium would be helpful to give them time to decide where to allow the dispensaries, as long as they did not interfere with the small, residential patients and caregivers. Ken Avison expressed his high regard for the Police Chief and urged the Commissioners to heed his advice. Susanne Lipkey commented that she was in favor of the mixed use zoning for the dispensaries. Lee Manicke expressed that a moratorium would give the public and Commissioners time to decide on how to handle the establishments. Commissioner Lies expressed that he was in favor of a flat moratorium, as there were no official locations within the City at this time. James Dale commented that putting a moratorium on the medical marijuana would be limiting how many people could receive the medication they need. Paul Hamil expressed his agreement. Jenna Cederberg noted that the Lake County Health Department had 73 licensed users and growers within Lake County. **The public hearing adjourned at 7:55 p.m.**

Mayor DeVries called the meeting to order at 8:05 p.m.

ORDINANCE NO. 654 – EMERGENCY MORATORIUM ON MEDICAL MARIJUANA: Commissioner Campbell moved to approve Ordinance #654, an emergency moratorium on medical marijuana, with the following changes: It will be a blanket moratorium with no zoning exceptions, “establishments” would be defined as a for profit commercial enterprise in a storefront or dispensary operation, medical marijuana will be authorized in residential areas where home occupancies can otherwise be permitted and allowed, caregivers will be limited to 2 patients during the 6 month moratorium. Commissioner Lies seconded the motion. Commissioner Campbell noted that he’d like to information packets available at City Hall for patients and caregivers. **The motion carried unanimously.**

SCHEDULE WORKSHOP FOR MARCH 29, 2010 – PURCHASE OF MERIDIAN BUILDING FOR WASTEWATER TREATMENT PLANT: Water & Sewer Superintendent Porrazzo advised the Commission that an engineer, who has designed some 30 MBR treatment facilities and currently oversees operation of such a facility in Manhattan that was recently surveyed by Porrazzo and Crossett, was available to give a presentation on the technology on March 29th. He noted that staff had compiled a significant amount of information accumulated to present to the Commission. Commissioner Campbell inquired why Great West Engineers were no longer being used. Water & Sewer Superintendent Porrazzo replied that while they continued to work with Great West, they were not familiar with the MBR technology. The engineer from the Manhattan treatment plant had designed and maintained them, and he would be able to give a more comprehensive workshop. City Manager Crossett added that Great West had been involved in the headworks project and had assisted in gathering and analyzing data relevant to the location of a wastewater treatment plant but that it had become clear that additional information from a firm that had direct experience in the MBR technology being considered by the city would be helpful. Commissioner Campbell pointed out that on January 20th they had asked for a study from Great West, and it had been mailed January 29th. He inquired why the Commissioners had not been provided with the report, adding that it had angered him. City Manager Crossett advised that they had been accumulating data and were waiting until they had complete information before presenting it to the Commission – adding that staff had gone back and forth with Great West with questions several times in the past six weeks. He and staff had pursued the strategy of collecting a complete analyses to present at one time rather than passing on piecemeal information at the request of the City Commission. He had been under the impression that was the Commission’s desire, and he would need clearer direction if that was not the case. Commissioner Preston expressed that she understood that, but felt the report was held back from the Commission. Water & Sewer Superintendent Porrazzo advised the Commission that Great West Engineering had been contracted for the headworks, but it no longer seemed feasible to approach it separately. Commissioner Funke wondered if money had been wasted having Great West do a report on the Meridian building. City Manager Crossett advised that he did not believe so and that it had not been the staffs’ intention to hide the information, but to provide whole and complete data. He added that in the past information on the sewer treatment plant had been presented in pieces as it was acquired, and the Commission had voiced that that method was not working well for them. Commissioner Boyce expressed that the Commissioners wished for clarity on how financially viable the treatment location sites were. He added that they would have liked to have known immediately that a report they requested had

been received at City Hall. Mayor DeVries advised that she had looked over the engineering information and felt that all the information needed put together into one packet. She added that the workshop had been her idea. Commissioner Preston felt they needed a meeting to discuss this info, particularly the data that suggested there were a lot of reasons not to buy the Meridian building. Commissioner Mike Lies criticized the wording of the agenda item, saying that it should have read something to the effect of location of the wastewater treatment plant, not whether or not to purchase the Tamsco/Meridian building. City Manager Crossett suggested they word the workshop agenda in whichever way they feel is appropriate. He added that if they felt they were being pushed in one direction, it was not staff's intention to do so but that it was the recommendation of staff to purchase the building. He added that staff could withhold making recommendations if the Commissioners wished. He expressed that they did not feel the information was complete, and they had been under the assumption that the Commission did not want data until it was put together into a single informational packet that was clean and made sense. MBR technology is new and they are doing their best to research and analyze. He added that the strategy of providing information as quickly as it's received had backfired into accusations against himself and the Water & Sewer Superintendent. Murat Kalinyaprak commented that's right. Ric Smith commented that he had attended all the meetings for the wastewater treatment location, and he understood the frustration. He felt that the staff's solution to the heated meetings was to get everyone together with all the information at once made sense. He commented that Mr. Kalinyaprak had made a personal comment against a staff member, and he felt that it went against the code of conduct the Commission had set for the meetings. He was unsure of the ramifications, but he felt that Mr. Kalinyaprak should be suspended from meetings. He urged the Commission to stick to the code of conduct and not allow inappropriate outbursts that conflict with that code. Ken Avison commented that he agreed Mr. Kalinyaprak's comment was inappropriate and not respectful to the City and employees. Commissioner Lies felt that wording of the agenda should be stricken, as he understood the workshop would be strictly for all information. He felt that the wording "purchase of Meridian building" was incorrect. Mayor DeVries agreed that her intention for a workshop had not been specific to the Meridian building. Commissioner Duford inquired about previous reports, which suggested their plan was to build the treatment plant alongside the current sewer building on the west side. Murat Kalinyaprak commented that it bothered him greatly that with the code of conduct the Commission could be yelled at by an employee. He added that all he was saying was that this process has looked suspicious. Commissioner Boyce commented that the way he had made his comment had sounded as if he was accusing Water & Sewer Superintendent of being dishonest. He added that it was up to the Commission to how they interact with employees, and Mr. Kalinyaprak's comment was out of line. Commissioner Preston commented that sometimes things get out of line when people are upset. Tim McGinnis commented that it seemed the Commissioners were fighting the decision. He wondered why they were opposed to freeing up the 40-acre (actually about 20 acres) of riverfront property, which was far more valuable without a sewer treatment plant for the taxpayers and public. **Commissioner Preston moved to schedule a workshop for March 29th at 6:30 p.m. to review information from staff on the sewer treatment plant, seconded by Commissioner Boyce. The motion failed 4-3, with Commissioners Campbell, Duford, Funke, and Lies opposed. Commissioners Boyce, Preston, and Mayor DeVries in favor.** City Manager Crossett asked for direction from the Commission. Commissioner Duford commented that even without a workshop, she would like to see the information. Commissioner Campbell agreed and would like to see it on the next Commissioner meeting's agenda.

Commissioner Boyce felt that they needed to make a decision on the location. City Manager Crossett requested that a Commissioner submit an agenda request with suggested wording. Commissioner Preston mused that there may be other benefits to purchasing the Meridian building, if not for water and sewer. Commissioner Campbell agreed that perhaps the time and price were not right for the City to purchase it.

SECOND READING ORDINANCE NO. 655 – AMMEND ORDINANCE NO. 523 TO ALLOW 20 YEAR REBATE PERIOD (CURRENTLY 15 YEARS): Commissioner Lies moved to approve the second reading of Ordinance #655, seconded by Commissioner Funke. City Attorney Raymond noted that Ordinance 655 would change the rebate period to not exceed 20 years, and it would be the responsibility of the developer to establish that a hook up should be reimbursed. **The motion carried unanimously.**

CITY/RURAL INTERLOCAL CONTRACT – DECISION TO TERMINATE 90 DYAS PRIOR TO JUNE 30, OR BY APRIL 2: City Attorney Raymond advised that it was an annual agreement, and this was the last meeting they would be able to opt out for the following year. City Manager Crossett advised that the staff strongly recommended keeping the contract. Commissioner Campbell concurred, adding that both departments work as a team. **The item died for lack of a motion.**

WHETHER TO INITIATE JOINT SID/RSID WITH LAKE COUNTY IN ORDER TO FUND PRELIMINARY COSTS FOR FEDERAL AID SKYLINE DRIVE IMPROVEMENT: City Manager Crossett requested that the item be tabled. He explained the item may not be needed, and they would know more after more discussion with officials in the County, Tribe, MDOT and the State. **The item died for a lack of a motion.**

FEBRUARY 2010 CASH REPORT: City Treasurer Bonnie Manicke advised the Commission that there were two negative balances. The building department continued to remain negative, however there had finally been a building permit issued in the last month. The other was the police federal grant fund. However, it was now back in the black, the payment had been received and would reflect in March. There had been a debt service payment for the golf carts, with one payment remaining on August 13, 2010. The total cash value of the City of Polson was \$6,400,152.92. Mayor DeVries noted how successful the golf course had done with the sales of passes. **Commissioner Lies moved to approve the February 2010 cash report, seconded by Commissioner Funke. The motion carried unanimously.** City Treasurer Manicke noted there was the opportunity for any departments who wanted to request a Montana Intercap Loan at 1.95% variable interest until February 15, 2011. She would recommend the three-year loan period.

CITY MANAGER COMMENTS: City Manager Todd Crossett advised that the Main Street waterline project was moving ahead of schedule, and he was pleased at how well Tony Porrazzo had managed the project.

The bid package and approvals on Streetscape project were in progress the City hoped to take the package out to bid soon with the intention of locking in a contract before Summer to commence construction in September.

The City's street sweeper was in the repair shop, however MDOT had been helping the City out by periodically sweeping Main Street that had been impacted by the recent construction.

The City had received 11 requests for proposals for City engineer services, and 13 applications for the golf restaurant food and beverage manager. They would be evaluating those in the following week.

He noted that City Attorney James Raymond and himself would not be able to attend the April 5th Commission meeting, and Building Inspector Ron Melvin would be filling in. He added that he would contact the engineer and let him know there would not be a workshop. The data on the subject would be compiled and distributed to the Commissioners and available to the public.

PUBLIC COMMENT ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC

NOT ON THE AGENDA: Murat Kalinyaprak apologized for speaking out of turn, but felt that no one should be yelled at in a meeting. He commented that there was no doubt some people were pushing the purchase of the Meridian building. He was pleased with the discussion on golf course issues at the previous Commission meeting, but disappointed that no action had been taken. He commented that he resented trying to discuss numbers and facts at the previous meeting, and having 5-6 people argue those points with opinions. He added that he hoped the golf course was doing better; he didn't want to destroy it, only push people harder to do a better job for the golf course. He commended the use of Facebook and Twitter for the golf course. He added that he was considering making a website compiling all of the information he has obtained on the golf course. He hoped people would participate.

Ric Smith commented that healthy, spirited debates were expected among the Commission and staff, but they led to good end results. However, he felt when discussions becomes personal the results were not good, and the Commissioners should draw a firm line when it comes to the audience making comments. He added that out of line comments were destructive, particularly to the other audience members who might hear more than the Commissioners can up front.

The meeting adjourned at 9:20 p.m.

Mayor Pat DeVries

Attest: Kala Parker, Assistant City Clerk