

**POLSON CITY COMMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
MONDAY, MAY 2, 2011, 7:00 P.M.**

ATTENDANCE: City Commissioners: Don Smith, John Campbell, Judy Preston, Elsa Duford, Fred Funke, and Commission President Mike Lies presiding. Mayor Pat DeVries absent. City Attorney James Raymond and Todd Crossett present. Others Present: Ric Smith, Russell Smith, Robert Byers, Gary Teggerman, Rory Horning, Murat Kalinyaprak, City Treasurer Bonnie Manicke, Water & Sewer Superintendent Tony Porrazzo, Parks Superintendent Karen Sargeant, Streets Superintendent Terry Gembala, Ron Grogan, and Ken Avison.

Commission President Lies called the meeting to order and the Pledge of Allegiance was recited.

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

CONSENT AGENDA:

A. APRIL 15-30 CLAIMS

**B. NEW RETAIL ON PREMISES CONSUMPTION OF BEER & WINE
LICENSE – OLD WORLD DELICATESSEN – JOAN PLATKO**

Commissioner Preston moved to approve the consent agenda items A & B, seconded by Commissioner Funke. The motion carried unanimously.

CITY COMMISSION MEETING MINUTES APRIL 18, 2011: Commissioner Campbell moved to approve the Commission meeting minutes of April 18, 2011, seconded by Commissioner Smith. Commissioner Duford noted that she had been referring to the Salish Point boat ramp near Kwatuqnuq, not the boat ramp at Sacajawea Park on page three of the minutes. The motion carried unanimously.

CITY MANAGER COMMENTS: City Manager Crossett advised that Stelling Engineering would soon be turning in a final design for Skyline. They were currently on schedule with Phase I, beginning construction in July starting on 1st Avenue East. Phase II would begin in the fall on the tunnel and be completed in 2012.

There would be a public meeting on Main Street renovations May 18th at 6:00 p.m. at City Hall. It would be held at the library if the reroofing of the Chambers prevented a meeting. They would be giving a presentation on the plans to move forward, including the chip sealing, restriping, landscaping, fundraising and warranty work. Much of the work would be subject to the weather conditions. He asked anyone with questions or concerns to come to the meeting to have them addressed. He also added that anyone who has damage or issues with the completed portions to please let the City know so that they could address them along with the warranty work.

The City clean up had been successful. He expressed thanks to Boy Scout Troop 1947, who had gone out the Tuesday before the City crew and helped those who could not bag their own leaves or move their branches to the front of the street for pickup. The City staff went through on Friday and went through the whole town picking up the branches and leaves. He also asked that if anyone's property was missed on the pickup day, to please call the City and they would come grab the material. The Envision Polson Group and the Chamber of Commerce had gone through and cleaned the three City Wards with the work of volunteers. He commended their efforts. Commissioner Campbell expressed gratitude for the cleanup of some of the more unkempt properties.

City Manager Crossett advised that they were still working on repairing the roof of City Hall and completing the installation of the HVAC system. They were currently waiting on weather conditions to improve. The removal of the insulation from the ceiling had been done with a certified contractor and was safely removed.

He noted that he had received a letter from David Owens the Northwestern PGA President, thanking the entire golf course staff for pulling together a tournament for them after they were unable to hold it at a neighboring course.

There would be a Highway 93 Traffic Oversight Committee meeting the third week May, followed by a public meeting in early June. They were down to three separate routes, one which followed the current route. Two would be to the south beginning on Caffrey Road - one route proceeding down Kerr Dam Road and the other continuing along a southern trajectory, skirting Ponerilla Hills and crossing the Flathead River to the south. The routes seemed well received. The TOC was also looking into enhancing 7th Avenue, in part of the effort to make sure that traffic was not cut off from the downtown.

There would be a PDCAC meeting on the development code Wednesday, May 18, from 1:00 - 3:00 p.m. at City Hall or the library. They would notice the location once they knew if the Chambers would be completed.

Commissioner Campbell inquired about the warranty on Main Street's sidewalks. City Manager Crossett advised that the warranties were for two years. He noted that one of the problems Polson faced was that due to the water and soil the surface was very moveable. Some would be repaired this year, and some others they would observe. He asked that anyone who knew of an issue on Main Street, but was not sure if the City were aware of it, to please call and let them know for the warranty work. They were waiting on the weather to proceed with additional work. The bulbout design had been finalized and the Main Street Fundraising Committee was doing an excellent job of raising donations. Commissioner Preston noted that she liked the new railing on the step outside of the Art Bistro on Mains Street. City Manager Crossett agreed and commended the water and sewer department for fabricating the railing.

Commission Smith expressed concerns in regards to the bank erosion near the end of 5th Avenue West and 4th Street West. The McIntire property was eroded severely and he was concerned the river would progress, wearing away the adjacent City property. Streets Superintendent Gembala advised that the street department was aware of the dramatic change in the embankment and they

were watching its progress. Commissioner Campbell noted that they had been dealing with repairing that bank from erosion damage for at least 35 years. Water & Sewer Superintendent Porrazzo noted that he and the City Engineer had also gone to the site and assessed the situation.

DISPOSAL OF JOINTLY OWNED PROPERTY (UNITED METHODIST CHURCH & CITY): Robert Byers explained that he had recently taken over as the United Methodist Church finance chair. The Church and the City were interested in divesting the property they co-owned with the City. They had no desire to expand or develop the property. They needed the City's help to move forward. He requested that the Commission pass a motion to empower a City representative to work with the Church to help them divest themselves of the property. City Manager Crossett noted that there was not a lot of opportunity for the City to use the property, and Golf Pro Roger Wallace had advised him that the golf department was in favor of selling the property, as they did not see many uses for it in the future. Commissioner Campbell inquired if the Church was interested in owning the entire piece of property. Robert Byers advised that they were not. City Manager Crossett advised that they had two options. They could jointly sell the property, or the City could buy the property from the Church with the intention to sell the entire piece at a later date. Commissioner Lies felt the City should dispose of the land if they could. **Commissioner Smith moved to authorize the City Manager to work with Robert Byers and the United Methodist Church to dispose of their joint property, seconded by Commissioner Campbell.** The motion carried unanimously.

AUTHORIZE CITY MANAGER TO COMPLETE PURCHASE OF MERIDIAN BUILDING: City Manager Crossett advised that Mike Maddy, the primary owner of the building, had approached the City with an offer of \$590,000 for the Meridian building. Previously there had been an offer of \$700,000. The building would stay intact, with all the features remaining, including the HVAC system. The lease term remaining was approximately 43 years. He reviewed the City's current facilities assessment, which currently was working, but they were at their max. Various departments were at capacity, and the police department had been forced to rent out storage units to contain their evidence and property. The current building did not meet legal requirements for storage of police records and evidence. The Meridian building would also allow room for a fabrication shop and storage for water, sewer, parks, and streets. The stormwater system would be ending on the City property in that area, as would be the new wastewater facility. He recommended that if the Commission chose to move forward they take advantage of the low interest rate loans and keep the City's cash on hand. Commissioner Preston inquired if the lease payments were current. City Manager Crossett advised that he was behind, but the payments tended to come in cycles. Commissioner Campbell wondered if the \$18,000/year of sewer revenue that comes from the lease could be used to rent out facilities for space for the City. He thought the City would eventually have that building, but not at the current offered price. Commissioner Lies commented that there plenty of metal buildings that would be nearly 1/6 of the price build than offered price. City Manager Crossett noted that at that location the site prep cost nearly as much as the existing building. Commissioner Duford inquired if there were any back taxes due on the building. City Manager Crossett advised that he did not know, but that would be part of the due diligence if they moved forward. If there were taxes owed there payment would be a condition of the purchase. Commissioner Funke expressed his agreement in regards to putting the lease revenue aside for that purpose, but he was not all interested in the Meridian building. He felt the City should not

jump on the purchase just because the price went down. Commissioner Smith commented that he would be for purchasing the building if it was a steal, but at the offered price it was not. He saw plenty of uses for the building, however the City had lots of property where other facilities could be built. He suggested they make an offer of \$400,000 for the building, and he'd be willing to approve that. He admitted that it would relieve a lot of the storage issues, but the current price was too high. Commissioner Preston felt that the price was too high, particularly with the value of the lease attached. Commissioner Smith expressed that \$590,000 was too much of a luxury at the current time, even though he believed there was the potential for use in the future. Commissioner Lies commented that he didn't think they could financially afford it. They could build or raise the utility rates, and people could not afford it anymore. The cost of everything was going up except incomes. He added that the City was not in the business of bailing people out from their bad business choices or banks for over lending. Commissioner Preston expressed that she agreed with Commissioner Smith. They needed to protect the City's assets and provide services to the Citizens. She felt the City could use the building, but only at a lower price. Commissioner Duford agreed with Commissioner Lies' comments, adding that the people could not keep paying for the increased costs. **Commissioner Smith moved to authorize City Manager Crossett to make an offer of \$400,000 for the Meridian building and to negotiate the purchase if accepted, seconded by Commissioner Preston.** Ron Grogan commented that there was a need for the City in conjunction with the County to have a community center, there was currently nowhere low cost for the public to utilize for community or family events such as trades fairs or receptions. He suggested if they went forward with the purchase that they set aside a part of the facility for a community center. Murat Kalinyaprak commented that he was not against the purchase of the building, but that it should be done properly. He didn't think they should throw out numbers without any basis and make an offer based on that. He didn't think the City should pay any more for a piece of property than anyone else would. He thought there should be a uniform appraisal. He added that it might be a good buy if it was done properly. Rory Horning commented referenced previous City Commission meeting minutes in which the Meridian building was on the agenda. He noted that previously the Commission had failed a motion to pursue the purchase of the building. He commented that the City Manager did not believe in the vote on that issue and went to negotiate the purchase of the building without their approval. He felt the issue should have been brought to the Commission by the seller. He commented that they had been unauthorized to negotiate the purchase, but they negotiate very well without the Commission approval. Ric Smith commented that there had been no negotiation. An offer had been submitted to the City and the City Manager did his job and brought that offer to the Commissioners. He hoped that a decision was made that night on the matter. **The motion failed, Commissioners Campbell, Duford, Funke, and Lies opposed, Commissioner Smith and Preston in favor. Commission President Lies called for a motion on the agenda item as presented.** Rory Horning commented that motion should have been called for before another motion was accepted, and it didn't make sense to ask to ask for that motion after the other failed. Commissioner Lies advised that they needed to clear the originally proposed item to proceed. City Manager Crossett advised that if no motion was made the item would die. **The item died for lack of a motion.**

FEBRUARY 2011 CASH REPORT: City Treasurer Manicke advised that the cash report was similar to the preliminary. Interest earnings were posted in the amount of \$8,500, one of the very last good interest bearing CD's at 1.11%. The Glacier Bank repurchase agreement overnight

remained at .70%. The City and other municipal offices would be happy with that interest rate. The intercap was at 2.5-2.8%. **Commissioner Preston moved to approve the February 2011 cash report, seconded by Commissioner Campbell. The motion carried unanimously.**

RESOLUTION #1019 – TO AUTHORIZE PARTICIPATION IN THE INTERCAP PROGRAM CURRENTLY BUDGETED CASE 221E WHEEL LOADER - \$47,000 STREET DEPARTMENT LOAN @1.95% VARIABLE RATE – GAS TAX: City Treasurer Manicke advised that it was a 2008 front wheel loader, and Streets Superintendent Gembala had found a very good buy for the machinery. It had been used to do the City wide cleanup on Friday. The total price was \$65,000, \$15,000 of which had already been paid as a down payment. The loan was for 3 years at a variable rate with semi annual payments of \$8,100 allocated from the gas tax. She added that it had been an exciting debt service to work with, and it would retire on August 15, 2014. Commissioner Campbell inquired if this was replacing an existing loader. Streets Superintendent Gembala advised that it would be coinciding with the other loader. The 221E had more applications and could also be utilized with various attachments including a street sweeper. They had constructed a man basket to attach to it, so high objects such as tree limbs could easily and safely be accessed. It had a blade for plowing the walk paths as well. Commissioner Campbell commented on the City having three front end loaders. Commissioner Lies inquired about the Skidster. Streets Superintendent Gembala advised that the golf maintenance department may purchase the equipment. The Skidster did not work well for the Streets and the were unable to make much use of it. City Treasurer Manicke advised that the documents would need sent to intercap by May 10th. **Commissioner Campbell moved to approve Resolution #1019 to authorize participation in the intercap program, seconded by Commissioner Funke. The motion carried unanimously.**

SCHEDULE STRATEGIC PLANNING WORKSHOP – MISSION DEVELOPMENT: City Manager Crossett suggested the workshop be held prior to the next meeting from 4-6 p.m., May 23 was also a possible date they could schedule. **Commissioner Preston moved to schedule the strategic planning workshop for May 16th at 4:00 p.m., seconded by Commissioner Funke. The motion carried unanimously.**

PROCLAMATION – EXTRA MILE DAY NOVEMBER 1, 2011: Council President Lies proclaimed November 1, 2011 Extra Mile Day for the City of Polson.

PUBLIC COMMENT ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC NOT ON THE AGENDA: Streets Superintendent Gembala thanked the Commissioners for authorizing participation in the intercap loan program.

Ken Avison noted the Commissioners participation in the Clean up-Green up. Commissioner Funke thanked Ken Avison for taking care of them on Sunday.

Ron Grogan advised that he was representing the Mission Valley Rockies Senior Babe Ruth League. He had submitted an agenda request but was not informed it would not be on the night's agenda. City Manager Crossett apologized for the ball being dropped and them not being notified. He advised that the requested agenda item was to repeal the lease the City held with the Mariner's on O'Maley Field. Himself and Parks Superintendent Sargeant had been working with

both leagues for 3 months to coordinate a joint use agreement. The sharing of the field is included in the lease. He advised that if they did not reach an agreement by the coming Friday, they had been told the City would taking over the scheduling. The Mariner's were not currently in default of the lease. Ron Grogan commented that Superintendent Sargeant had been doing a good job, however they were back peddling on the use. They were given late notifications, and they were not being allowed use of the concessions. They were battling for equal use of the fields. He commented that the land had been donated to the City for the use of everyone, and the State and Federal Wildlife Grants did not allow for exclusive use. He commented that the Mariner's coach would not return their calls. He felt the City should consider doing away with the lease, and make all schedules go through the Parks Superintendent. He expressed that the could not get along with the other league, and it was impossible for them to get adequate practice with 4 hours a week when they have 4 hours a day. City Manager Crossett advised that if they did not see resolution by Friday, they would take over the lease. However, they could not cancel the lease until the Mariners were in default. Commissioner Funke inquired who maintained the fields. Ron Grogan replied that the Mariners do. He commented that the previous summer, one of the Mariners' volunteer, had an open blade mower and went within a foot of their players while they were warming up. He commented that he had checked with the State and their volunteers doing the maintenance were not covered by workman's comp insurance. He expressed that the Mariner's shouldn't be mowing with open blades, especially while their kids are playing. He commented that there name is painted and attached to the fence, and when they had asked for a sign for their team, they were told it had to be removable. He commented that it offends him and makes their kids feel inferior. Parks Superintendent Sargeant advised that many Montana cities had similar lease agreements for baseball field, and that's what theirs was based on. The original purpose of the lease was mainly for a lease agreement because the parks department did not have the resources to maintain the field as well as the Mariners. The lease went through the park board and the City Council, after a number of revisions it was approved. The lease was a requirement for the grant money that the Mariners had used to install various permanent improvements to the field that were now City property. She had contacted the Fish, Wildlife and Parks Department in regards to the land and water conservation grant the park had received, and they had made changes to the lease to comply with that department. She expressed that she had been working on this for 2 ½ years for the betterment of the field for the kids, and her only goal for the park was to make sure that as many young people as possible were able to use the facility. Commissioner Smith commented that it seemed that they weren't all able to use it. Parks Superintendent Sargeant disagreed, adding that they had held meetings between the two leagues. Commissioner Smith asked who was lying then. Parks Superintendent Sargeant advised that they were working through it, but they were dealing with a lot of he-said/she-said. Commissioner Smith asked what they needed to do to make it happen. He commented for her to make it happen, she was the superintendent. City Manager Crossett advised that they were in the public comment section of the meeting, and they were getting beyond that. He added that there were definitely two sides to the story, of which Mr. Grogan was giving them one side. He felt it was inappropriate to beat on just the Mariners, and in his opinion Mr. Grogan's team was as much a part of the problem, in part an inability to work with other people. He advised that they would be resolving the issue by Friday. Commissioner Lies expressed that he was never in favor of the lease because when it was gifted to the City it was for the benefit of all of the people of Polson, and putting a lease on it was not for the benefit of all of the people of Polson. Parks

Superintendent advised that everyone had the opportunity to be benefited by it because there were mechanisms they had put in place to do that.

Murat Kalinyaprak commented that he had left his sign in the car tonight. He asked that the City correct mistakes that were done in January. He commented that PDCA was meeting and working hard revising the City Code which the City had broke that night. He commented that it tempted him to go to the PDCA meeting and ask why they bothered because the City Commission would do whatever they please whenever they please regardless of what the Code says. He felt that it would be good for the Commission to revisit the issue because it was based on incomplete and inaccurate information. He commented that it violates the State Code and was an illegal act. He commented that he understood that people make mistakes, but they should be able to go back and correct them if that happens. He commented he had requested a copy of the press release the City Attorney had provided the media with in regards to his human rights complaint, it had been nearly a month and he did not have a copy. He commented that it greatly bothered him that the City Manager takes over the meeting by saying what goes in the public comment portion of the meeting and telling a citizen to stop.

Ric Smith commented that he had thought a lot about the recent City Commission meetings, and it seemed to him that they should be able to walk out of these meetings positive and feeling good about what happens. He commented that there were tough issues, but they should be civil discussion, and it seemed that they had drifted from that. He commented that there was a very vocal minority who tended to monopolize the meeting. He felt that people should be able to speak, but those that monopolized the meetings impeded others' right to participate. There were people that didn't come to meetings anymore because they didn't want to hear it, they didn't have time for it. He suggested that they utilize the three minute rule if it existed. Commissioner Duford answered that it was not enforced. Ric Smith agreed, and added that it should be enforced, perhaps limiting it to two minutes. He commented that if one could not put their thoughts together in an organized, concise two minute segment, something wasn't right. He advised that they heard rude comments in the back during the meeting and it wasn't right. He commented that they were a board of directors, they were running a business, and these meetings should be conducted as business meetings. He applauded the City Manager for trying to keep control. He commented that whether it was the Mayor or the Commission President chairing the meeting, he urged them to enforce the three minute rule and felt it should be reduced to two minutes. Commissioner Duford commented that many people who were on the agenda went well over three minutes, and asked if he was referring to presentations or only public comments. Ric Smith replied that he was referring to public comments not agenda items, adding that they should only be able to comment once on an issue. He advised that he would try and meet with a Commissioner to try and get that enforced again, adding that he would offer to buy the timer. He commented that the point was that they were impeding the rights of others when they allowed a minority to monopolize the meetings. He commented that he was unaware of how many lawsuits Mr. Kalinyaprak had against the City, whether it was 4, 5 or 6, adding that he had read the news article and press release in regards to the Human Rights Board finding on the issue and it seemed very clear. He felt that it was inappropriate for Mr. Kalinyaprak to comment to the Commission because of his history and present appeal against the City, adding that if Commissioner Duford were to look down at the floor while he was talking, that could invite another complaint against the City. He felt that Mr. Kalinyaprak should be directing all

correspondence to the City Attorney due to his history and present appeal. He added that he meant his comments tonight in good faith and in the interest of what were best for the City.

Rory Horning commented he wasn't going to speak tonight, but he was glad they had an open forum. He suggested that Mr. Smith read the ordinance on the three minute rule. He commented that it was not a three minute rule, he could talk to City Attorney Raymond about it. He commented that no one was impeded from speaking that night or any other when he was present. And he asked Mr. Smith who the hell he was for telling another citizen he didn't have the right to speak.

Murat Kalinyaprak commented that time and other limitations on public participation would be counterproductive and asked for a reaction. He thought that the City should do what's right and not necessarily what other cities are doing because of their time limitations and what the law says they can do. He commented that they should promote participation and dialogue. He commented that they could use the ordinance, but if they were doing it only for the purpose of limiting people, they could find 20 people who would come up and speak 3 minutes on every single agenda item all night long and they would get pissed off. He commented that they could not try to limit people in a fascist dictatorship format, if there was a need for it fine but if there wasn't it was counterproductive. He commented that no one had really abused this Commission since they stopped applying the three minute rule.

The meeting adjourned at 8:40 p.m.

Commission President Mike Lies

Attest: Kala Parker, City Clerk