

**POLSON CITY COUNCIL MEETING MINUTES
CITY HALL COUNCIL CHAMBERS
MONDAY, JUNE 18, 2007, 6:30 P.M.**

ATTENDANCE: City Council: Bruce Agrella, Mark MacDonald, Tom Jones, Mike Lies, Tom Corse, Fred Funke. Mayor Jules Clavadetscher presiding. City Attorney James Raymond present. Others Present: Lee Manicke, Noma Giffin, Dick Giffin, Jennifer Berhand, K. Avison, Maryann Balstad, Pam Coutts, Wilhelmina Laughlin, Chris Balstad, Rory Horning, Tony Porrazzo, Elsa Duford, Kari Ferguson, Mike Ferguson, Andy Mefford, Doug Chase, Bonnie Manicke.

PUBLIC HEARING - ZONE CHANGE AMENDMENT TO POLSON DEVELOPMENT CODE FROM LOW DENSITY RESIDENTIAL ZONING DISTRICT (LRZD) TO HIGHWAY COMMERCIAL ZONING DISTRICT (HCZD) – BLOCK 1 LOTS 4 THRU 7 OF LAKESHORE ADDITION AND LOTS 2 THRU 9 OF LAKESHORE HOMESITES - REQUESTED BY PAMELA SANDALL AND GEORGE CROFT: City Planning and Zoning Official **Joyce Weaver** noted that the public notice requirement had been met by advertisement of this item in the newspaper. She provided a map showing the area requested for zone change and provided highlights of her staff report. On May 8, the City County Planning Board meeting, with five out of eight members present, voted unanimously to deny this zone change request. The City does not accept spot zone changes, and a petition was circulated and provided with sufficient signatures to proceed with the zone change request. In total, eleven people signed for the zone change and twenty-two people signed against the zone change. Approval requires a vote of two-thirds of the council members present, as per state law. She noted that with a zone change to HCZD all existing use is allowed through the grandfather clause but there are issues with limited space for parking and any change of use would require a variance for highway access. **Councilman Jones** asked what the difference would be in property taxes with different zoning. **George Croft** spoke on behalf of the zone change, stating that the tax appraisals are based on existing sale of properties in the area. **Councilman Lies** asked if a variance would be required for a home occupation. **Joyce Weaver** replied that it is addressed through the building permit process. **Lee Manicke**, resident of 5th Avenue East, stated that the Polson Development Code contains standards, which are the least the City should do. The information provided on this zone change does not meet the standards in several different aspects. In the past exceptions were made for the Kentucky Fried Chicken business when they realized they could not comply with the standards. A fourteen foot wall was built with a chain link fence on top that collects trash and has no room for a vegetative buffer as required by the PDC. This is an example of allowing what does not fit. A similar situation exists with the Lambrose Realty property and the problem has not been resolved. Lot 4 and lot 1 do not meet the PDC requirement for a vegetative buffer and 13 parking spaces for vehicle parking and setback requirement. He encouraged council to follow the City County Planning Board's unanimous recommendation to deny this zone change request. **Willie Laughlin**, resident of 4th Avenue East expressed her concern that there isn't sufficient parking for the existing businesses and residences and there wouldn't be enough room for vehicles to pass if it were zoned commercial. She suggested that businesses use the downtown area where land is available to provide sufficient parking. **Chris Balstad**, a 37 year resident of 908 4th Avenue East, stated that he is opposed to the zone change because 4th Avenue is already very congested. He stated his concern that mirrors would be knocked off of cars because the lanes become very narrow with parking along the sidewalk when the Farmers Market is in progress.

Meeting adjourned at 6:50 p.m.

COUNCIL MEETING

APPROVAL OF THE PROPOSED AGENDA : **Councilman MacDonald** stated that the date on the agenda was incorrectly printed as July 18th and should be changed to June 18th. **Motion made by Councilman Lies, seconded by Councilman Agrella, to approve the agenda as printed with a change to the date of the agenda to June 18. Motion carried unanimously.**

CONSENT AGENDA:

- A. CITY COUNCIL MEETING MINUTES MAY 29, MAY 30, MAY 31 & JUNE 4, 2007**
- B. POLICE TRAINING – INTOXILYZER CERTIFICATION - 8/20-24 HELENA- MLEA \$297 – BILL BARRON**
- C. POLICE TRAINING – SERGEANT’S ACADEMY – 7/9-13 HAMILTON – RESULTS GROUP \$590 – CLINT COTTLE**
- D. FLATHEAD LAKE 3 ON 3 BASKETBALL TOURNAMENT – JULY 27-29 –RICH FORBIS STREET CLOSURE – MAIN ST. – HWY.93 TO 6TH AVE. & 3RD & 4TH AVE. E. TO ALLEY**
- E. COVE DELI/POLSON SOFTBALL TOURNAMENT – DANCE – JUNE 22-6-10 PM -WAIVE OPEN CONTAINER & STREET CLOSURE – 3RD AVE. W. FROM 1ST ST. W. TO ALLEY**

Councilman Funke and Councilman Lies questioned the need to waive the open container law for an event put on for children ages ten to sixteen years old. **Councilman Jones** asked if the liability insurance was provided for item D. **City Clerk Aggi Loeser** replied that proof of coverage is usually provided closer to the date of the event. **Motion made by Councilman Funke, seconded by Councilman Lies, to approve the consent agenda items A through E without approval for waiver of open container for item E. Motion carried unanimously**

ORDINANCE #628 – FIRST READING – 12 LOT ZONE CHANGE AMENDMENT TO PDC – LRZD TO HCZD –BLOCK 1 LOTS 4 THRU 7 LAKESHORE ADDITION & LOTS 2 THRU 9 LAKESHORE HOMESITES – PAMELA SANDALL & GEORGE CROFT (SEE ITEM 1): Motion made by Councilman Lies, seconded by Councilman Funke to retain the existing Low Density Residential Zoning District for the proposed twelve lot area, Block 1 lots 1 thru 7 of Lakeshore Addition and lots 2 thru 9 of the Lakeshore Homesites. Motion carried unanimously. Councilman MacDonald said that the neighbors he talked to didn’t have a problem with the existing home occupation but they didn’t want to change the zoning as a whole. **Councilman Corse** stated that the City County Planning Board does good work and Council should consider overruling their recommendations only when extreme conditions arise.

PRELIMINARY PLAT APPROVAL – MISSION BAY PRESERVE PHASE III – 11 LOT SUBDIVISION: City Planning and Zoning Official, Joyce Weaver gave a summary of her staff report noting the changes to the original report. The City County Planning Board voted unanimously to recommend approval of the Mission Bay Preserve Phase III, 11 lot subdivision. **Motion made by Councilman Corse, seconded by Councilman Funke, to approve the preliminary plat for Mission Bay Preserve Phase III, an 11 lot subdivision, with 32 conditions of approval, as presented. Councilman Jones** asked if MDOT provided a document approving the access for the subdivision. **Nick Kaufman**, Land Use Planner for WGM Group in Missoula, provided a letter of approval from MDOT dated May 28, 2007. **Councilman Lies** asked about the long area going into the cul de sac. **Mayor Clavadetscher** replied that it was addressed previously by Council action, based on the City Attorney’s opinion. **Dennis Duty** asked if the new impact fees would be charged for this subdivision. **Mayor Clavadetscher** replied that any impact fees collected would be applied as credit toward the new impact fee schedule which are due when a building permit application is processed. **Councilman Corse amended his motion to include a change to condition 16 and 17 imposing the new impact fee schedule for this subdivision. Councilman Funke seconded the amended motion. Motion carried unanimously. Joyce Weaver** clarified that this subdivision will be consistent with the trailways in other Mission Bay Developments and will not have sidewalks, curbs and gutter.

FINAL PLAT APPROVAL – PEACEFUL HAVEN ESTATES – 21 LOT SUBDIVISION: City Planning and Zoning Official, Joyce Weaver gave a summary of her staff report stating that the developer has addressed all the issues satisfactorily and has met all the conditions of approval. The City County Planning Board gave their recommendation for approval of the Peaceful Haven Estates Subdivision as presented. **Motion made by Councilman MacDonald, seconded by Councilman Agrella, to approve the final plat for Peaceful Haven Estates, a 21 lot subdivision, as presented. Councilman Lies** asked if the streets were built to City standards. **Andy Mefford**, PCI engineer, replied the roads in the subdivision exceed the City standards since they were

built with significant amount of sub-base. **Councilman Jones and MacDonald** commented that the subdivision is a very nice addition to the City of Polson. **Motion carried unanimously.**

FINAL PLAT APPROVAL – TIMBERWOLF ESTATES – 40 UNIT CONDOMINIUM SUBDIVISION: **City Planning and Zoning Official, Joyce Weaver** gave a summary of her staff report and noted that all of her concerns have been cleared up and the conditions of approval have been met satisfactorily. She can now recommend final plat approval for this subdivision, along with the City County Planning Board's recommendation for final plat approval. **Motion made by Councilman MacDonald, seconded by Councilman Corse, to approve the final plat for Timberwolf Estates, a 40 unit condominium subdivision, as presented. Motion carried unanimously.**

MAY 2007 CASH REPORT: **City Treasurer, Bonnie Manicke**, presented the May 2007 Cash Report stating that it contains nothing unusual. She noted that tax collections have been in the high ninety percent range for the past two years. The City received the full amount budgeted for the HB124 Entitlement Allotment and the absence of gambling on the reservation had no effect on this year's revenue, but it might result in some reduction next year. **Motion made by Councilman Lies, seconded by Councilman Agrella, to approve the May 2007 Cash Report as presented by City Treasurer Bonnie Manicke. Motion carried unanimously.**

PUBLIC FUNDS INVESTMENT - PURCHASE \$575,000 CERTIFICATES OF DEPOSIT FROM 1ST CITIZENS BANK @5.43% - 3/21/2008; OTHER BIDS: 1ST INTERSTATE BANK 5.41%; COMMUNITY BANK 5.39%; GLACIER BANK 5.32%: **City Treasurer Bonnie Manicke**, asked Council approval of public funds investment to purchase Certificates of Deposit for \$575,000 from 1st Citizens Bank at 5.43% term 277 days maturity 3/12/2008. She provided bid amounts from other banks and comparisons of Treasury Note Yield at 5.024%, U.S. Government Agency Yield at 5.341% and Nationwide Jumbo C/D Rate at 5.41%. **Motion made by Councilman MacDonald, seconded by Councilman Funke, to approve the purchase of \$575,000 in Certificates of Deposit through 1st Citizens Bank at 5.43% for 277 days, maturity 3/12/2008, as presented by City Treasurer Bonnie Manicke. Motion carried unanimously.**

ORDINANCE#629 – FIRST READING – REVISE TITLE 1 AND 2 OF POLSON MUNICIPAL CODES: **Mayor Clavadetscher** stated that the City of Polson's new charter form of government will be effective on July 1 and it requires revising the existing municipal codes. **City Attorney James Raymond**, clarified that the difference in the forms of government is that under the existing general governing powers the Council can do only what the State MCA allows, and under the new self governing charter form, the Council can do anything except what the MCA prohibits. The entire Polson Municipal Codes will have to be revised by July 1, 2008. Under general powers form of government the Council is obliged to make a number of appointments but under the charter form only the City Manager and the City Attorney are required to be appointed. The Council can retain the power to appoint other City staff or delegate it to the City Manager. This is a policy question and the ordinance can be amended accordingly at the second reading scheduled for the next meeting. **Mayor Clavadetscher** clarified that if the Council appoints a position then it retains the power to hire and fire those employees and if the employees are not appointed then the City Manager would have the authority to hire and fire them. **Councilman MacDonald** asked if the City Manager has authority over the Fire Chief. **City Attorney James Raymond** replied that the volunteer firemen work for the Fire Chief and are therefore subject to be disciplined by him. **Motion made by Councilman MacDonald, seconded by Councilman Corse, to approve Ordinance #629, the first reading of revisions to Title 1 and 2 of the Polson Municipal Codes. Councilman Corse** stated that the new form of government was voted in by the voters in Polson, who wanted this change. He felt it would be lessening their vote if the City Manager did not have the authority to hire and fire and select employees or to take disciplinary action. If Council kept that authority it would not be in the spirit of the vote. **Elsa Duford** asked if the charter form of government can enact ordinances and make laws which are prohibited by the constitution of the United States. **City Attorney James Raymond** replied that it cannot make laws contrary to the constitution of the United States. **Motion to approve the second reading of Ordinance #629 carried unanimously.**

RESOLUTION #946 – AUTHORIZE NEW CHARTER FORM OF GOVERNMENT TO HEAR SECOND READING OF ORDINANCE #629: Motion made by Councilman MacDonald, seconded by Councilman Agrella, to approve Resolution #946, authorizing the new charter form of government to hear the second reading of Ordinance #629. Motion carried unanimously.

APPOINT INDIVIDUAL(S) TO NEGOTIATE CONTRACTED SERVICES WITH CITY ATTORNEY: Motion made by Councilman Agrella, seconded by Councilman MacDonald, to appoint and approve that Mayor Clavadetscher negotiate contracted services with the City Attorney. Motion carried unanimously. Councilman Lies asked that the contract resulting from the negotiations be presented for Council approval. Councilman MacDonald amended his motion to include Council approval of the contract. The amended motion was seconded by Councilman Agrella. Motion carried unanimously.

OTHER PUBLIC COMMENTS: Jennifer Berhand asked Council what their opinion would be of their construction site across from Pizza Hut, using a temporary five foot fence with banners. The Building Inspector Ron Melvin informed them that it was not prohibited in RZD zoning, although it has not been used in Polson. **Mayor Clavadetscher** replied that the Council cannot vote on this issue at this meeting but he is personally opposed to that type of banner fencing. **Joyce Weaver, Planning and Zoning Official**, clarified that although the sign ordinance allows banners in certain situations, she is not in favor of the proposal because it could be a traffic and/or pedestrian hazard and would set a precedent. She would deny a sign permit for this type of fencing and the applicant could go through the appeals process. **Lee Manicke** asked if Ordinance #628 would require Council to pass a resolution similar to what they did for Ordinance #629. **City Attorney James Raymond** replied that no further action is required on Ordinance #628 since Council did not approve the first reading. **Mike Ferguson** thanked the Council and the City staff for their positive attitude through his interaction while developing his subdivisions, Timberwolf and Peaceful Haven. **Elsa Duford** asked for clarification of the minutes on page 1 and 2 where it refers to three design options for improving 15th Avenue, which she thought was only two. **Mayor Clavadetscher** replied that a third design might be incorporated and they will know more information when the designs and cost estimates are provided by the engineer.

Meeting adjourned at 7:57 p.m.

Jules Clavadetscher, Mayor

ATTEST: _____
Aggi G. Loeser, City Clerk