

**POLSON CITY COMMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
MONDAY, AUGUST 17, 2009, 6:30 P.M.**

ATTENDANCE: City Commissioners Bruce Agrella, Jim Sohm, Jules Clavadetscher, Mike Lies, Elsa Duford, Fred Funke. Mayor Lou Marchello presiding. City Attorney James Raymond present. City Manager Todd Crossett absent. Others Present for Public Hearing: Mark Evertz, Dick Blumberg, Tali Duford, Diane Gringrich, Jim Duford, Bill Whitford, Pat DeVries, Bill Barron.

CALL TO ORDER: Mayor Marchello called the Public Hearing to order.

PUBLIC HEARING ON RESOLUTION #996 - TO PLACE THE QUESTION OF RESORT TAX ON THE NOVEMBER 2009 BALLOT: Mayor Marchello asked for comments from proponents to place the question of the resort tax on the November 2009 Election Ballot. No comments were made. Mayor Marchello asked for comments from opponents. Jim Duford said he has been a business owner on Main Street for 65 years and with his years of experience in the retail business he has some fears and insight he would like to share with the City Commission about the resort tax. Bill Whitford stated that he has been a Polson resident for 13 years and is a Native American from another tribe. He doesn't understand why the tribal members don't have to pay the resort tax and feels they should. Mark Evertz said he is a citizen of Polson and is opposed to the resort tax because it is too complex an issue to be put on the election ballot this year because there isn't enough time for public comments. Dick Blumberg said he is dead set against the resort tax. He feels that all Lake County residents should be exempt because the county residents are all part of the Polson community. If it does pass the tourist tax should be charged for only 3 months during the peak of the tourist season. He felt the resort tax is no different than a sales tax and there there will be a large number of local residents who don't want to pay the resort tax. He asked the City Commission to reconsider and take more time to decide before putting it on the ballot. Tali Duford said she is the co-owner of the First Resort on Main Street, and feels that the businesses on Main Street have a hard enough time making a profit without having to charge the resort tax. She doesn't feel there has been enough research done by the City and not enough information has been provided to the public for them to vote on the issue. She feels that implementing a resort tax would turn business away, when already too many people go out of town to shop at malls and other stores. They work hard and try to draw people into their store and the resort tax would push more people away. The voters need more information on the resort tax before putting it on the ballot. Diane Gringrich said she feels she would be subject to taxation without representation, since she doesn't live in Polson and won't be able to vote on the resort tax but works in the city and will have to pay the resort tax. The resort tax will affect her without having a say or being able to vote on it. Jim Duford stated that Missoula would relish the added business they would gain if Polson had a resort tax. He felt that there would be friction when they are standing at the counter and see that they are charging some customers the resort tax and not the tribal members. He asked the City Commissioners to really think it out because they could be making a big mistake by rushing into it. Dick Blumberg said he spoke with the Census Department in Denver who gave him the estimated population for Polson at 5,228 not 5,500, which supports not having to rush to put the resort tax on the ballot. The official census results will not be available until

March 1, 2011 which gives enough time to put it on next year's election ballot and the City Commission is going too fast to try and put it on the ballot this year. Mayor Marchello explained that the City Commission isn't making a decision to have a resort tax and by putting it on the ballot they are leaving it up to the voters to decide. Elsa Duford said the newspaper reported that a vote was taken at the August 10th meeting when City Manager Todd Crossett asked for a show of hands. She is concerned that the public's perception is that the City Commission voted. Mayor Marchello clarified that the vote is on this meeting's agenda, following the public hearing, and the minutes will reflect that they did not vote at that time. Commissioner Duford expressed her concern that there is a misunderstanding and misconception by the public and it should be clarified. Mayor Marchello clarified that no official vote was taken at that meeting. Tally Duford said she is like Diane Gingrich and lives outside Polson in Lake County and won't be able to vote on the resort tax but has to pay and collect it as a business owner in Polson. Commissioner Duford explained that there are a large number of other business owners who are in the same position.

The public hearing was adjourned at 6:47 p.m.

CITY COMMISSION MEETING 7:00 P.M.

Mayor Marchello said he would like to implement a new rule when the commissioners vote and asked the City Commissioners, starting at this meeting, to vote by roll call , stating their vote individually. He clarified that this would enable their votes to be more clearly recorded.

APPROVAL OF PROPOSED AGENDA: Motion made by Commissioner Agrella, seconded by Commissioner Funke, to approve the agenda as presented. Motion carried unanimously.

CONSENT AGENDA – A. POLSON CITY COMMISSION MEETING MINUTES AUGUST 3, 2009 – B. AUGUST 1-15 CLAIMS: Motion made by Commissioner Clavadetscher, seconded by Commissioner Sohm, to approve the Consent Agenda items A. Polson City Commission Meeting Minutes of August 3, 2009, and B. August 1 through 15 Claims. Mayor Marchello asked for a correction to the August 3rd meeting minutes on page 3 correcting Deer Lodge to Red Lodge as one of the cities that has successfully implemented a tourist tax. Motion carried unanimously to approve the consent agenda with corrections to the minutes as noted. Commissioner Duford questioned and it was confirmed that the claim for a water refund was for a water deposit when a renter moved out. She noted that there are three pass refunds in this claim approval list and six claims for golf refunds were approved recently. She asked if the membership is still up from last year. Mayor Marchello replied that the membership is still ahead of last year. Motion carried unanimously.

ORDINANCE #648 – 2ND READING – UTILITY BILLING ADMINISTRATIVE FEES: Motion made by Commissioner Funke, seconded by Commissioner Agrella, to approve the second reading of Ordinance #648 setting Utility Billing Administrative Fees. City Attorney James Raymond said he is available to answer any questions regarding this ordinance as requested by Todd Crossett upon his absence. As to the landlord tenant question, according to

his research the ordinance as written is not contrary to the Montana landlord tenant laws. This ordinance allows tenants to hold utility accounts in their name with a minimum deposit of \$50 to a maximum of \$200, depending on their credit history, which seemed to be the best laddering system. Commissioner Duford expressed her concern that the credit rating should be the landlord's responsibility and not be determined by the City water department. She felt that in the landlord tenant relationship the landlord sets the costs associated with the rental and the credit reference should be the landlord's responsibility and the water department should not determine what deposit amount should be required. City Attorney James Raymond replied that it is not difficult to do. Commissioner Duford said she feels that the tenants should know their rights and felt it is an issue between the landlord and tenant and not the city water department. Water & Sewer Superintendent Tony Porrizzo clarified that the water department currently follows the Municipal Code which states that water service will be disconnected if an account is 90 days past due and most of the delinquent accounts are renters. Commissioner Duford further stated that the landlord makes the rules for the renter. City Attorney James Raymond noted that the commissioners can vote to require that the landlord be responsible for the water account. Pat DeVries said she is a landlord for a duplex, which has two water accounts and so far hasn't signed any document for the renters to put the account in their name and asked how the signatures will be obtained and what kind of forms will be used. Water & Sewer Superintendent Tony Porrizzo noted that the landlords having the largest rental accounts pay their bills but some renters don't conserve on water use and now there is a storm water utility charge, which the landlord is ultimately responsible for. Keeping the rental accounts in the landlord's name keeps the City out of the middle of it. Being a landlord is a business and he doesn't feel that the City belong in it. Commissioner Clavadetscher asked that a process be developed to notify the landlord that the account is in the tenant's name but that the landlord is ultimately responsible for the bill. The notification should be done as a courtesy to the landlord. Tony Porrizzo agreed that they would do that. Commissioner Duford said she read a newspaper article recently, which gave information quoting Bruno Friia, a landlord, on the relationship between the landlord and tenant. She doesn't think it's the City's job to do credit research on renters. Commissioner Sohm asked that the water department make a commitment to provide adequate communication to the landlord on their rental accounts. Tony Porrizzo said they would do their utmost. Commissioner Lies clarified that Ordinance #648 states that there would be an acknowledgement letter that would be required to be signed by the landlord in order to put the water account in a renter's name. City Attorney James Raymond clarified that the original ordinance was not written to allow tenants to get water accounts in their name. Tony Porrizzo explained that another issue is that the billing cycle ends on the 15th and the renters usually leave on the 1st of the month which leaves 15 days of water use on the next month's bill that comes out when they are long gone. Commissioner Duford felt that the landlord should have a written agreement with the renter stating the terms of the rental. Tony Porrizzo agreed that the agreement needs to be between the landlord and the tenant. He noted that the renters don't keep the promises they make to pay their delinquent balances the following month, then they move out before the next bill is sent out. City Attorney James Raymond stated that the existing City ordinance requiring the landlord to be ultimately responsible for the renters' bill is not contrary to law. Mark Evertz said he has been a renter for a number of years in a number of places in Polson and the landlord has always required him to put the water account in his name and be responsible for the water bill. He felt it should be stated in the rental agreement or the City would have a hard time

collecting past due accounts. **The City Commission voted unanimously in favor to approve the second reading of Ordinance #648 as presented. Motion carried unanimously.**

RESOLUTION #996 - PLACE THE QUESTION OF RESORT TAX ON THE NOVEMBER 2009 BALLOT AND APPROVE THE BALLOT LANGUAGE: Motion made by Commissioner Sohm, seconded by Commissioner Clavadetscher, to approve Resolution #996 to place the question of Resort Tax on the November 2009 Ballot and approve the ballot language. Commissioner Clavadetscher said he wanted to make clear that the issue is to place the question of resort tax on the ballot and not have the commissioners decide, but to let the people vote on the issue. The comments he has heard that this is something new and that the commissioners are rushing to judgement on the resort tax is not true. He explained that when he was mayor in 2007 he had contacted the State Department of Commerce having lengthy discussions with the city commissioners and the tribes on the best approach to put the resort tax issue to a vote. The issue died when there was some question that the City of Polson qualified to be designated as a resort community, which has now been confirmed by the State of Montana Department of Commerce. Mayor Marchello stated that he would not vote because he has a conflict of interest as a business owner. Commissioner Sohm said he did a thorough research and read articles on communities that have implemented resort tax and have collected the resort tax in 2008 and 2007. He was impressed that the small towns like St. Regis, that is not a prime tourist destination collected \$469,000 and used the funds to improve their sewer system, which they could not have saved for in that period of time. West Yellowstone is another community that has benefited greatly and made significant downtown improvements from resort tax proceeds. Red Lodge collected \$600,000 last year from resort tax and only has a population of 3,000, and in July alone collected \$37,000. The argument that there would be a loss in the number of people shopping is not likely when Columbia Falls re-voted in their resort tax for the past three years, despite Kalispell being in close vicinity and offering more varied shopping and larger stores. At this meeting there were five opponents who spoke and two live outside the city limits who can't vote. He feels strongly that the Polson residents should have a right to vote on this issue. There have been discussions about implementing the resort tax for two years since he has been a councilman and it would have proceeded last year except for the barring by the state agency to designate the City of Polson as a resort community. The City of Polson has no funds available to repair streets. He is not in favor of implementing the resort tax for only a partial year because the City needs the revenue for improvements. He is a renter and business owner now and is not fearful of implementing the resort tax. He does know that he hasn't heard one negative comment from St. Regis, West Yellowstone, Red Lodge, and Whitefish who are continuing to charge the resort tax, and report on the improvements they are making to their communities'. He is a proponent to let the voters decide. The City has to bear the burden to pave the streets, and the improvements will benefit all the residents of Lake County who do not pay City taxes. Commissioner Duford said she is an opponent to the resort tax and doesn't feel that Polson is comparable to the cities that do charge a resort tax. Whitefish has a train station and a ski resort, and the other towns are not comparable in what they offer to tourists. She wondered how the Tribes feels about it and if they would collect the resort tax. She doesn't feel that Polson is comparable to other resort towns and it isn't fair to the business owners in town. She pointed out that if Polson needs money to repair its streets it should use contributions it is already receiving such as the franchise fee from the Bresnan Cable TV Franchise agreement which was \$37,000 last year and increases annually which is being paid by

the residents of Polson who subscribe to cable. The revenue is part of the overall general fund revenue and is not designated for any particular expenditure. Those who subscribe already bear the burden of that tax and she feels the resort tax would be an additional burden especially if it was charged year round. Mayor Marchello noted that he spoke with a member of the Tribal Council who was receptive to the idea and felt they were willing to consider ways to cooperate because it would allow funds to make improvements and make Polson a more desirable tourist community. Commissioner Duford said she felt the public doesn't have enough information to vote on this issue therefore she isn't comfortable to put it on the ballot. The details need to be identified for example the list of taxable exempt items that is pertinent to our community, also how will they identify the people who live here, and what amount of property tax relief will be provided. Commissioner Funke replied that the City Commission is not voting on implementing the tax, but only to put it on the ballot for the residents to decide and vote on. Commission Sohm said he would be offended if he were a resident and the City Commission were to vote on implementing the tax, because he would want to be able to vote on it as a resident and not leave it up to the City Commission to decide for him. He did extensive research and feels he is well informed about the experience that other cities have had by implementing a tourist tax and has found it has a positive effect on their community. For example St. Regis does not charge the tax year round and received \$62,000 with a population of 150 and Red Lodge charges resort tax year round and had \$639,000 revenue. He feels that Polson is comparable to those cities and can benefit from their experience and we should allow the City residents to make their decision. Commissioner Duford said she doesn't agree with the concept of a resort tax. City Attorney James Raymond explained that City Manager Todd Crossett took notes from the August 10th information meeting where the consensus was to charge a 5% resort tax at point of sale, for a ten year period. 2% would be allocated to the stores for administration and the remainder 3% would be gross revenue of which 20% would be allocated toward property tax relief which would apply to all City residents unless they are federally exempt from paying taxes. If voters approve the ballot an advisory committee would be formed from members of the public to work out the details of the process, create a strategic plan of how to spend the proceeds in the following year. Whitefish collected \$800,000 in their first year and they are in their second ten year cycle collecting resort tax. Since Polson is smaller an approximate estimation for Polson's revenue would be 25% to 75% or roughly \$200,000 to \$600,000. It was questioned if kids groups would be exempt. City Attorney James Raymond noted that City Manager Todd Crossett has a meeting scheduled with the Tribes on Monday, August 24th allowing for changes to the ballot language until Friday, August 28th. Dick Blumberg expressed his appreciation to the City Commission for their explanation of the process that led to their decision. He asked when the details of the resort tax would be provided for the public's review. City Attorney James Raymond explained that the ballot language in Resolution #996 is generic and the details will be compiled in an ordinance, which will be published as required by law, 30 days prior to the election in early in October. City Manager Todd Crossett has indicated that he will hold information meetings with groups and field public comments or concerns about the resort tax. The meeting on Wednesday is tentatively scheduled, following Todd Crossett's meeting with the Tribes, and will be held only if it appears that the discussion with the Tribes would require the ballot language to be changed. A member of the public addressed the City Commission stating it is easy for the city to place ballot issues to be voted on but the public has to collect names and signatures and the City Commission has influence on people. It takes the public sometimes one or two years to get enough signatures to put an issue on the ballot and doesn't require a percentage of votes but a

simple majority of one vote can make the difference. Murat Kanlinyaprak felt the ratio of the size of the city to the tourist population is not the issue, but that the locals are taxed inadvertently and it is no different than a sales tax and is unfair to lower income people. He asked if other business owners on the City Commission would abstain from voting like the Mayor said he would. Pat DeVries expressed her appreciation for making information available on the City's website which she finds very convenient and is able to get agendas and attachments for the upcoming meetings. Mark Evertz stated that he doesn't agree with the comparison of Polson to other cities like St. Regis or Red Lodge. He felt that Polson is unique and we should keep it that way. Diane Gingrich said her address is Polson and she works and shops in Polson yet this resort tax will be affecting her but she won't be able to vote on it. She felt that 30 days is too short a time to place it on the ballot. It would be more positive if the public knew what would be taxed. Bill Barron felt that St. Regis is different from Polson. He knows the City and County are desperately in need of funds but hopes the City Commission will weigh the pros and cons carefully and consider the effect of the resort tax on the whole community including the county residents and not just consider the City of Polson individually. He asked that when they make their decisions they keep in mind the effect on the community as a whole including the Tribes, the County and local cities. He noted that the resort tax could help the City of Polson but cause definite problems for store owners' in downtown Polson. Commissioner Duford noted that the taxable items should be determined and asked if non-profit organizations like the Sandpiper Gallery would be exempt. She felt this is being put on the fast track without having adequate answers that are needed. Dick Blumberg noted that Seeley Lake turned the resort tax down by a vote of 60 – 40 but feels he lost his argument and it should be put on the ballot for the voters to decide. Murat Kalinyaprak asked if there were any cities that dropped the resort tax after having it in place. Commissioner Lies replied that there were none that he knew of. **Commissioners Agrella and Duford opposed. Mayor Marchello abstained. Commissioners Sohm, Clavadetscher, Lies and Funke in favor. Motion to approve Resolution #996 carried.**

SCHEDULE SPECIAL CITY COMMISSION MEETING ON WEDNESDAY, AUGUST 26, 2009 AT 6:00 P.M. – REVIEW RESOLUTION #996 - AND VOTE TO APPROVE IF ANY CHANGES ARE RECOMMEND: City Attorney James Raymond explained that since the ballot language is generic, the meeting will only be necessary if the ballot language needs to be changed in order to meet the Election Office's Friday, August 28th deadline for changing the ballot language. **Motion made by Commissioner Clavadetscher, seconded by Commissioner Sohm, to tentatively schedule a special City Commission Meeting on Wednesday, August 26 at 6:00 p.m., only if a change to the ballot language is necessary as determined by City Manager Todd Crossett and City Attorney James Raymond. Motion carried unanimously.** It was clarified that the meeting cancellation will be on the City's website and posted on the window at City Hall on Tuesday.

ENGINEERING SERVICES CONTRACT - SIX MONTH EXTENSION WITH THOMAS DEAN & HOSKINS INC. FROM AUG. 20, 2009 TO FEB. 19, 2010: Motion made by City Commissioner Clavadetscher, seconded by City Commissioner Sohm, to approve the six month extension for engineering services contract with Thomas, Dean & Hoskins Inc. from August 20, 2009 to February 19, 2010. City Attorney James Raymond explained that he was able to negotiate the extension of their contract at the 2007 rate. The rates are listed by different categories and the 2009 rate schedule would have raised the top engineer's

hourly scale by about \$20 from the \$170 rate they are currently charging. He noted that the advertisement process to request bids will be started in October to allow time for the selection process. **The motion carried unanimously.**

JULY 2009 CASH REPORT: City Treasurer Bonnie Manicke presented the July 2009 Cash Report. She noted that the ending balance for all funds was \$5,884,965.92. The General Fund ending balance was \$203,554.79 and the HB124 Entitlement Share quarterly payment of \$133,395.19 is expected in September. The Fiscal Year 2010 monthly allocation for gas tax was increased by \$78.33 to \$8,523.67. The Golf Revenue Bond payment of \$32,000 is due on October 1 and will require a transfer of funds from Golf Operating at the end of September. Commissioner Clavadetscher asked and Bonnie Manicke replied that the reason for the \$292,000 transfer out from the General Fund was larger because payroll was \$131,900 which is generally higher in the summer months and claims were \$141,000 because more projects are under way in the summer creating more expenditures. **Motion made by Commissioner Lies, seconded by Commissioner Agrella, to approve the July 2009 Cash Report as presented by City Treasurer Bonnie Manicke. Motion carried unanimously.**

CITY MANAGER COMMENTS: City Manager Todd Crossett was absent.

PUBLIC COMMENT ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC NOT ON THE AGENDA: Water and Sewer Superintendent Tony Porrazzo informed the City Commission that the water reservoir project bid was awarded to the low bidder Sandry Construction for \$1,139,895 which was \$400,000 below the engineer's estimate. The contract was signed and the contractor expects to be on site by the end of the month. Dick Blumberg asked how the Ridgewater zoning violation was resolved. Commissioner Clavadetscher asked that he contact City Manager Todd Crossett since it is an administrative issue. Murat Kalinyaprak clarified that the August 3rd meeting minutes sounded as if he was praising the City Commission when he was being sarcastic. He asked that if the minutes are written by paraphrasing statements that are made that they would be better if transcribed verbatim. City Commissioner Lies said he thought that Murat was praising them. Pat DeVries said she is in favor of a mail ballot and asked when the City Commission will decide whether they will ask for a mail ballot rather than a poll voting process. She noted that she is a member of the Polson Chamber of Commerce, and they received a strong letter chastising them for not providing recycling containers for plastic bottles during the car show. She asked the City Commission to consider providing recycling options to the community, especially since the Folkshop closed down.

Meeting adjourned at 8:10 p.m.

Lou Marchello, Mayor

ATTEST: _____
Aggi G. Loeser, City Clerk