

**POLSON CITY COMMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
WEDNESDAY, SEPTEMBER 7, 2011, 7:00 P.M.**

ATTENDANCE: City Commissioners: Todd Erickson, John Campbell, Judy Preston, Mike Lies, Elsa Duford, Fred Funke and Mayor Pat DeVries presiding. City Attorney James Raymond and City Manager Todd Crossett present. Others present: Jeff Key, Julia Roberts, City Treasurer Bonnie Manicke, Fire Chief John Fairchild, Police Officer William Cleveland, Joslyn Shackelford, Rory Horning, Murat Kalinyaprak, Doug Morigeau, Margie Hendricks, Dean Duncan, Lita Fonda, Lee Manicke, John Swenson and Terry Swenson.

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

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

CONSENT AGENDA:

A. AUGUST 15-31 CLAIMS

Commissioner Lies moved to approve the consent agenda, item A, seconded by Commissioner Funke. Commissioner Duford inquired about the Alpine Landscaping invoice for Main Street. The motion carried unanimously.

CITY COMMISSION MEETING MINUTES AUGUST 15, 2011: Commissioner Preston moved to approve the minutes of the August 15, 2011 meeting, seconded by Commissioner Campbell. Commissioner Duford directed attention to page 1 of the minutes where she had commented about the survey from the Salish Building and City Park properties. She questioned the attachment of exhibit “A” and felt that it was not clear the exact properties used for the calculation. She questioned the amount of property involved and noted that she would have to go to the County Clerk & Recorder to get a plat map to see the exact property lines. She expressed concerns about the property lines and the language change of a condition on the agreement. She felt that after the Commission had voted for the change they should have seen the agreement again before it was sent out for signatures. She added that in regards to the agenda item request form being left out of the packet, the item itself should have been postponed until a later meeting. She directed attention to page 3 of the minutes in regards to the letter from Bob Fulton and expressed that she still felt it should be an item on the agenda because there were many concerns and the public should be more informed on the opening of the street to the mansion’s traffic. Dean Duncan commented that he had his wife had gotten a response from the City in regards to the letter Mr. Fulton had wrote. Mayor DeVries asked that comments in regards to the minutes be made at this time and all others be made during the public comment portion of the agenda. **The motion carried unanimously.**

CITY MANAGER COMMENTS: City Manager Crossett advised that in regards to the Benerika agreement for Sacajawea Park, the agreement change made had been specific to the Commission’s voted change. He had then been directed to move forward with the agreement if

that change was accepted by Benerika, LLC. He asked that the Commission include in the motion if they wish 2nd draft brought back prior to sending it to the other parties.

He advised that Police Chief Chase would be retiring on September 28th, and his retirement party would be held the 24th. He noted that they were doing their best to find a replacement and were currently working on updating the job description. He added that they would keep the Commission informed on their progress.

The streets department had received an MDOT grant worth about \$251,000 towards equipment, including a new streetsweeper and sander, for the upcoming year. \$33,000 would be required in matching funds for the equipment. Commissioner Campbell inquired if the existing sweeper could be sold to cover the matching costs. City Manager Crossett advised that the street department currently planned to hold onto the old sweeper in case of breakdowns or other equipment issues. Commissioner Lies noted that if the old sweeper had been purchased with grant funds the equipment could not be sold for that purpose.

The resurfacing and curbing of the playground at Riverside Park had begun. He noted that Parks Superintendent Karen Sargeant would be back at work soon, as she was recovering from surgery. He advised the Commission that the Elections Office had sent out notification on September 2nd regarding the upcoming November elections. If the Commissioners wished to have a poll ballot they would need to hold a special meeting to vote for it prior to September 14th or the election would default to a mail in ballot. Commissioner Duford expressed interest in a poll ballot. Mayor DeVries asked that any Commissioners interested let her know and if there was a majority she would call a special meeting.

City Manager Crossett advised that the new ladder truck was having its final work done and should be headed towards Montana by the end of the week if it stayed on schedule.

Skyline project was going well, along with a lot of water and sewer improvements. They were working on several issues, including dust controls and detours which they were now on top of. LS Jensen, the same company contracted for Phase I, had one the low bid for the bridge, bypass and culvert. Those portions of the project were slated to be completed by early December. The main body of the project would begin the following summer.

He directed attention to the new artwork at the front of the Commission Chambers and thanked Richard Campbell for the donation. He noted that once the HVAC system upgrades were entirely completed they would be repainting and patching the walls of the Chambers. Mayor DeVries expressed thanks to Assistant City Clerk Cora Pritt for cleaning the Chambers prior to the meeting after the completion of the dropped ceiling.

YOUTH PROFESSIONAL DEVELOPMENT TRAINING: Julia Roberts informed the Commission of her work experience with the youth of Polson. She explained the training for youth activism and organizing that she wished to attend. She had approached various local governmental and school entities to ask for small portions of the cost of the training. She would be bringing back knowledge and skills to pass onto the youth of the area and felt that it was very important that the City look to the future and listen to the youths' voices. She felt she was a good person for the support and aide for the youths. Mayor DeVries inquired if after the training she would come back to the City and give a presentation to the employees. Julia Roberts replied that she would be happy to pass her information onto any employees that worked with children. She wished to bridge the gap between the youths and adults, and emphasized the potential for the area's youth. City Manager Crossett noted that there were no specific funds set aside for such an item, however it could still be included within the upcoming year's budget. He added that the

City did help charitable organization on an occasional basis. **Commissioner Campbell moved to approve \$200 towards Julia Robert's youth professional development training course, stipulating that she would come back and present her information. Commissioner Erickson seconded the motion. The motion carried unanimously.**

DRAFT POLSON AREA TRANSPORTATION PLAN: Jeff Key presented a power point slideshow for the Commission and public reviewing the concepts, recommendations, and public comments regarding the existing Highway 93 and possible changes. He went over the projects the transportation study had highlighted as issues, including intersections, highway access points and non-motorized network plans. He reviewed the concept plans, adding that they were focusing on the existing highway with a possible highway bypass. He reviewed the concern the public had brought up at the transportation plan committee meetings. The draft of the Polson Area Transportation Plan was available at City Hall, as well as several other locations and had been the cooperative effort of MDOT, the City of Polson, Lake County, and the Tribe. The deadline for public comment would be the upcoming Friday and the final draft would be available at the end of September. Murat Kalinyaprak raised questions about the roads shown on the non-motorized traffic map in the Ridgewater Subdivision area. Margie Hendricks expressed concerns that the Ridgewater's traffic study and impact had not been included in the transportation plan. Jeff Key advised that the traffic model included all data that had been approved and was recorded, and he would look into that particular subdivision. Margie Hendricks felt that it would impact his review. Commissioner Duford inquired about the original thought that 15th & 16th Avenue would be used as part of the road network for that subdivision, but added that they had been found not feasible. She suggested he look over the study published by TD & H. Lita Fonda inquired if they changed the secondary highway from Main Street to one of the adjacent, if they would change the street lighting. Jeff Key advised that they would. Mayor DeVries noted that they had met with MDOT about the secondary highway. City Manager Crossett advised that they had approached MDOT to cover the cost of chip sealing Main Street as it was the current secondary highway, however they would not. He pointed out that it no longer functioned as a through street and commented that they would communicate with MDOT in regards to changing the secondary highway, however they had been waiting for the completion of the transportation study. Rory Horning questioned how long the designated bypass routes would be viable. Jeff Key responded the bypass was controversial, however the area would require an alternate route within the next 30-50 years, including a new bridge crossing. He added that there were property constraints that would inhibit certain routes. Any bypasses would have to have access control. He commented that he could not say if these routes would be viable 30 years in the future, it depended on the land use.

REVIEW ORDINANCE #620 – FIREWORKS ORDINANCE – FOR POSSIBLE CHANGES: Commissioner Funke advised that he felt the ordinance needed revisiting. The hours allowed for fireworks use was 24 hours per day on certain days leading up the 4th of July. He asked that the City Manager appoint two Commissioners and some members of the public to form a committee to review the ordinance and come back before the Commission with a recommendation. Commissioner Duford inquired if there were fireworks at the blues festival at Salish Point in August, she did not remember them asking for permission but it was advertised.

Mayor DeVries pointed out that during the first blues festival on July 3rd, there had been fireworks, but they were fired from a boat on the lake, which the City had no authority over. Officer William Cleveland clarified that there had been no fireworks at the 2nd event. Commissioner Campbell expressed his agreement with Commissioner Funke that the ordinance needed review and he felt the police department needed an ordinance they could enforce. Mayor DeVries agreed that the current ordinance was vague. Commissioner Erickson recalled the issue coming up before, and expressed agreement that the ordinance needed review. Fire Chief Fairchild commented that the majority of fire calls in July were between the 3rd and the 6th, the majority of which was to tax payer and personal owned property resulting from fireworks misuse. He felt the policy should be more aggressive. Margie Hendricks commented that she lived near where several of the fireworks stands were located, and she felt they were also a cause of the trouble, particularly late at night. Fire Chief Fairchild noted that the City had no control over the stands on Tribal owned property, but that they were planning to work with the Tribe to find an amicable agreement for both sides. Doug Morigeau advised that he had spoken with the Tribe in previous years, and they also had grave concerns, particularly for the forest land. Commissioner's Funke and Campbell volunteered to serve on the committee. Mayor DeVries asked that anyone with concern or ideas to please bring their input to the committee.

JULY 2011 CASH REPORT: City Treasurer Manicke advised the Commission that the July cash report was typical with little activity. The month of July had no tax revenue, as all that was receipted was applied to the June tax collection. It was the first month of the new fiscal year and she was working diligently with the Department of Revenue and Lake county to anchor down the value of the newly taxable property. It was currently undergoing a cursory study by a CPA. The current amount had dropped from \$514,000 in FY 2010-2011 to \$87,000 in FY 2011-2012. She added that they were working on the numbers, but they were not firm yet, but she felt they were very close. City Manager Crossett noted that they would be moving forward with the numbers that they have, but noted that not receiving the accurate numbers had slowed the budget process. **Commissioner Campbell moved to approve the July 2011 cash report, seconded by Commissioner Funke. The motion carried unanimously.**

PUBLIC COMMENT ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC NOT ON THE AGENDA: Lee Manicke commented that although a mail ballot may yield a bigger vote, it was not necessarily a more informed vote. He listed several concerns involved with mail ballots and felt there was a lot of room for mischief. He encouraged the Commission to consider a poll ballot, despite a mail in ballot being easier to administer. Dean Duncan commented that the traffic issue involving the mansion at Ridgewater was not solved. He felt the Commission was at fault for the approval of the annexation and rezoning of the property. He commented that the square footage of the building had been incorrectly presented to the Commission at the time of approval by 14,000 square feet. He questioned whether proper building and hookup fees had been paid by the developer. He commented that he was disappointed in the City of Polson and felt that the amount of traffic was beyond what should be allowed on that residential street. He encouraged the Commission to put the item on the agenda. Commissioner Duford expressed agreement that the item be on the agenda, and questioned how to get it on the agenda. City Manager Crossett advised that the agenda request form would need filled out and he offered to help anyone who had difficulty in understanding the process. Mayor DeVries questioned whether the Commission could do anything at this point to

change the situation. City Manager Crossett commented that he did not believe they could. He pointed out that to reverse a land use decision could be costly for the City. Commissioner Duford questioned what kind of cost. City Manager Crossett advised that there was a potential for legal liability. Commissioner Preston felt that it should be on the agenda. Commissioner Duford expressed that it should be on the agenda so the matter could be addressed. She commented that with the responses from the City, nothing had been accomplished and the PDC had not been followed in the approval of the building. She commented that private homes should have a say. She wondered if they should schedule a public hearing for the matter and felt they needed a good solution. City Manager Crossett advised that land use decisions were not legislative, they were quasi judicial, and it was dangerous to confuse the two. Mayor DeVries expressed that she understood the frustration, but was at a loss for what the Commission could do. She wondered if a public hearing would be appropriate. Commissioner Duford Commented that the Commission did hold public hearings. City Manager Crossett advised that the Commission held public hearings on a variety of subjects, including budget approval ordinance readings, however they were for legislative issues, not quasi judicial. Murat Kalinyaprak commented that the Commission had made too many knowing mistakes recently. He commented that Mr. Fulton's letter had spread like wildfire. He commented that City Attorney Raymond had said that no special use permit was required for the building, and now they say they can't make the customer pay for it and he wouldn't do it voluntarily when they had asked. He commented that the first thing they should do is get rid of the people who caused the problems, accusing the City Attorney of this situation. He commented that there were lots of things the Commission could do. He commented that right now it looked like two people were running the whole show, and they were just spectating and not doing their jobs and he was afraid their mug shots would be on national TV soon. Dean Duncan suggested they look into the avenue of the owner misrepresenting the original footage. He felt they needed to use the original access to the building, or build a road on the adjacent property owned by the same person to highway 93. He commented that he had spoken with the owner, and Mr. Maddy would only build a road when there were 750 cars per day on the road, and he and his wife currently counted 100. He felt the Commission voted based on false information and the annexation could be voided. He referenced previous meetings where the transitional zoning had been mentioned as inappropriate. He commented that there were also possible health risks to the employees that worked in the mansion, as he had seen thick layers of bird feces in the unfinished parts of the building. He commented that the City could be open for liability in that situation if the building inspection was not done properly or issued. He commented the he struggled with why they could not correct a mistake. Margie Hendricks referred to the past history of Ridgewater and commented that the public had never had an opportunity to comment or participate on Phases II and III of the subdivision. She commented that she had come in to City Hall to speak with Planning Official Weaver and she was told that she couldn't answer her questions at the counter and she needed to fill out an information request form. She felt that it was illegal for the phases not to come back before the public. She commented that the public had been left out of 90% of the project. She felt the situation was a failure of the Planning and Administration departments. Terry Swenson commented that the Commission had previously been asked if they were familiar with Agenda 21 and felt it would be beneficial if they were. She encouraged the Commissioners to attend a presentation on Agenda 21 which would be held in Kalispell. She questioned who would be attending the Montana League of Cities and Towns conference, why there were going, and why it was necessary for them to. Commissioner Erickson asked Mrs. Swenson her name

and if she represented anyone. Terry Swenson answered with her name and added that she represented herself. Mayor DeVries pointed out that this was public comment period and not a question and answer agenda item. She advised that she had attended the MLCT conference the previous year and she highly recommended it to any other interested Commissioners. Terry Swenson questioned if they knew where MLCT got its policies, and commented that it was from the United Nations. Lita Fonda inquired if they would explain what Agenda 21 was for the benefit of the public. John Swenson commented that it was the global realization of a Soviet Union type of government that was not a representative government. He commented that Agenda 21 was the policy of a global society with totalitarian leadership.

Murat Kalinyaprak commented that private citizens had brought information to the Commissioner regarding boundary line adjustments. He questioned the Police Chief's letter of resignation later being referred to as "retirement" and commented that the City Attorney was sending threatening letters to Post within days of that. He commented that the Commission was being reduced to nothing. He commented that Commissioners had asked for the Mansion issue to be on the agenda, and it was recorded in the minutes. He felt that any Commission should be able to put any item on the agenda. He commented that there was now too much dirt to sweep under the rug. He commented that he was proud to live in a country where even the rich and powerful could be sent to jail, adding that no one was above the law.

Dean Duncan commented that in the August 1st minutes the Mayor had requested the mansion issue be put on the agenda, and Commissioner Duford had also requested it. He felt that the City Manager should be helping the Commissioners get any issue they wish on the agenda.

Commissioner Duford thanked them for noting that she had brought up the issue. She felt that anyone who wanted on item on the agenda should be allowed to do so. She commented that this was still America even if it was starting to look like another country. She commented that citizens had the right to bring their concerns, and felt that now it was exclusive and she did not like it. She commented that there was a reasonable expectation of freedom of speech for Americans. She commented that she would sponsor putting the mansion issue on the agenda. She commented that she agreed with Mr. Duncan that a mistake had been made and it should be fixed and she identified with his concerns. She commented that developers push through, and they do need to correct mistakes, they were all people and people make mistakes. She commented that the controversy starts when the mistakes are ignored.

Margie Hendricks commented that she had tried to get on the agenda in March and so had Commissioner Duford. She mentioned times when she was unable to get information from City Hall. She commented that it was getting harder and harder to get information and mentioned various information that she had wished to view and she had been quoted costs for staff researching the items. She commented that she was not allowed to meet with the Planning Official when she had requested to earlier that day. She commented that if they didn't have the citizens input, they would have made other mistakes in the past the public had brought to their attention.

Murat Kalinyaprak commented that the public had the power to ask for an investigation into mistakes that were knowingly or purposefully done. He commented that they owed the public to clean up. He requested that they have an investigation. He commented that the public had already done enough of their work for them. He commented that they should do the investigation or they would make themselves look bad and perhaps be something they didn't want to live with.

Rory Horning commented that he had heard a staff member say the mansion issue could open the City up to legal liability. He commented that didn't they think the citizen that had the issue and built a 1.4 million dollar home could also bring them legal liability. He commented that generally if you sit down before it goes to court you could generally work something out, but if they were going to kick them in the shin and make them go to court, the next time it would be hard to negotiate. He commented that it was fascinating that they let someone walk out of the meeting without giving them the courtesy to at least talk about it.

The meeting adjourned at 9:25 p.m.

Mayor Pat DeVries

Attest: Kala Parker, City Clerk