

CITY OF POLSON

COUNCIL MEETING

Commission Chambers

October 7, 2013

7:00 p.m.

ATTENDANCE: Mayor Pat DeVries presiding City Commissioners: John Campbell, Fred Funke, Mike Lies, Dan Morrison, Stephen Turner, Interim City Manager, Karen Sargeant, City Attorney, City Clerk Cora Pritt.

Absent: Commissioner Todd Erickson, and City Attorney James Raymond

Others present (that voluntarily signed in): Elsa Duford, Dennis Duty, Margie Hendricks, Rory Horning, City Building Inspector Mike Howke, Murat Kalinyaprak, Heather Knutson, Paul, Lisa, and Skyla London, Mark MacDonald, Bonnie Manicke, Police Chief Wade Nash, Mark Palmquist, Ken Siler, Jill Southerland, Andrew Speer, and Gordon Zimmerman.

1. CALL TO ORDER

Mayor Pat DeVries called the meeting to order. The pledge of allegiance was recited.

2. APPROVAL OF PROPOSED AGENDA

Commissioner Funke motioned to approve the Proposed Agenda. Commissioner Campbell second. Commission Discussion: none Public Discussion: none VOTE: Unanimous Motion Carried

3. APPROVAL OF CITY COMMISSION MEETING MINUTES SEPTEMBER 12, 2013

Commissioner Lies motioned to approve with grammatical corrections. Commissioner Campbell requested the following sentence be added: Mr. Kalinyaprak walked in to the meeting 10 minutes before the meeting recessed. He referred to the Commissioners as corrupt, and criminals. **be added to page 20 for clarification. Commissioner Morrison second. Public Comment:** Andrew Speer-“page 1 there is something left out. What happened was Diane first asked why only the City Commission interviews were open to the public and that the two City government sub-committee interviews would be closed. The Mayor’s answer was that it doesn’t matter because they were being conducted in a round robin and we couldn’t attend them anyhow. At which point I asked why wouldn’t we be able to choose which interview to attend and hear different types of questions. The Mayor’s answer was that the attorney said it was okay to do it and they were staying with the attorney. I don’t understand why the time clock would be on when we’re correcting minutes.” Rory Horning-“Uh, this is to correct page 21. This was uh, when you came back from Executive Session and everybody was ready to go home. Uh, this account is not correct. Uh, Mr. Prothman went out to find Mayor DeVries. When she came in she requested an agenda, she said she didn’t have one. She the stated that we had public comment and asked me, Rory Horning, if I uh, wanted to make a comment. I said no. I wanted to hear the last item on the agenda, which was incidentally, was Authorize Mayor to negotiate and conclude a Final Bargain with the City Manager Candidate. She stated that ah, they had decided not to do that. I said, “really?” I then asked, “who did you hire?” After a blank stare, I said, “Come on you can’t be a secret.” She said, “No comment.” I said, “Wrong answer. You just proved what was said during public comment.” That is basically what happened. Ah, and also, uh, before uh, you uh, you see was it, yes you have Erickson out of here. You actually left, you weren’t here for this. So I wouldn’t go making a motion to accept these minutes because you weren’t part of this. Ah, but it’s okay. It’s however you want to do it. I am required by law to give you notice we are requesting your current hiring be voided because you improperly excluded the public. Murat Kalinyaprak-“There are no agendas. This is Murat

Kalinyaprak. Can you please read what is on the agenda so that we don't miss an agenda item. Are we.....(Cora injects that she ran out of agenda copies. Cora then handed Murat her copy) Murat-"are we approving all the minutes at once or one at a time?" Mayor DeVries-"I believe there are more people here this evening than what we anticipated. If you want the clerk to go make more copies of the agenda..." Murat-"No, I've got it now. So you are going to approve each separate meeting minutes separately?" Mayor DeVries-"Yes." Murat-"Okay. So, uh, I want to make ah correction to the correction I guess. I did not call anybody in the Council derogatory names based on their sex, religion, color, marital status. Corrupt City Council members are not a protected class. So, the Hate speech thing doesn't apply to you guys. Thank You." Mayor DeVries-"Any other comment on the minutes?"

VOTE: Unanimous Motion carried

4. APPROVAL OF CITY COMMISSION MEETING MINUTES SEPTEMBER 16, 2013

Commissioner Lies motioned to approve as written. Commissioner Funke second.

Commissioner Discussion none. Public Discussion: Elsa Duford-"Ah, I have a question on the ah term that is used where, dealing with the contract. It says about a letter of intent. Is there such a letter of intent? I could not find anything on the City's website dealing with letter of intent. Mayor DeVries-"There was a letter of intent and it was attached to, I believe, to our minutes of September 16th." Elsa-"Well, I didn't find it on the website. Is it a special document aside from a contract?" Mayor DeVries-"It was a special document." Elsa-"Uhhh, well I wanted to look for it, and there wasn't anything on the City's website that referred to a letter of intent as a separate document. Only the contracts. And ah, I missed my chance a minute ago, I was shuffling papers. But I did want to comment on about the minutes. And, Pat you had said that the minutes are edited. And, I think it would be just as easy to transcribe the minutes as they come off the recording than to have them edited. Because it changes the context of what the person is saying. And I recall just before you took your Mayor's position that you were very concerned and insisted that the minutes be changed to correct what you actually said. Any you were very intent on having the correction made. And so I think that rule should apply to people who speak at a meeting. Their comments should not be taken out of context and edited. Because part of what I said, ah, on the September 12th meeting about my being disappointed that the session was not, ah, open to the public, was because I addressed your phone call to me telling me that it would be open to the public. You were also going to call Bob and tell him. And this had to do with a call you got from Greg Hertz. But none of that comment is in the minutes. And I think it distorts what, ah, the conversation I had during the public meeting. And I would like to see the minutes stop being edited. Any by the way, who does the editing of the minutes? Mayor DeVries-"I am sorry, we are approving the minutes. This isn't a question/answer period." Elsa-"Well, it needs to be answered anyway. Thank you." Murat-"Excuse me, I got confused with this minutes. This is Murat Kalinyaprak. Ah, there are no minutes on the table either. So, I thought that they.....somebody just handed me the minutes for the September 12th. I would like to, ah, suggest some corrections to the last page of the minute, ah, the minutes. It doesn't specify the agenda item which was a number seven agenda item authorize the Mayor to negotiate and conclude a final bargain, ah, with the City Manager Candidate. Ah, it says Polson City Council reopened the meeting. The City Council doesn't reopen the meeting. The Chairman does the, reopen the meeting. At approximately 4:30. Ah, I don't know what the approximately business when you look at the clock 20 times when we are speaking. Ah..." Commissioner Lies-"Those minutes have been approved already." Murat-"There not approved." Commissioner Lies-"They have been." Murat-"We are still making comments." Mayor DeVries-"Murat, I am sorry but we did approve the minutes from September 12th. We're on the minutes on September 16th." Murat-"Oh, so you have approved the minutes of the meeting that ah, adjourned at 4:20, ah ten minutes before it was reopened at 4:30 and all that? You guys are shameless!" Mayor DeVries-"Any other comments on the minutes from September 16th?" **VOTE: Commissioner Turner Abstained 5 Ayes Motion carried**

5. APPROVAL OF CITY COMMISSION MEETING MINUTES SEPTEMBER 20, 2013

Commissioner Lies motioned to approve as written. Commissioner Funke second.

Commissioner Discussion: None Public Discussion: Bob Fulton-“Excuse me, for the record, Bob Fulton. I think it should say at the very beginning, on the first page, it is Friday, not Monday. Ah, and very, very kindly, ah all of my questions on page two addressing the proposed contract are, are beautifully recorded except the question that resulted in, ah, Mr. Raymond mumbling and I thought acting rather inappropriately. Which is referred to in the Public Comment at the bottom. So, for the record, the question was has, had the contract been reviewed by an outside attorney since the last contract for the City manager resulted in a settlement of \$35,000.00. But, ah, I don’t care whether you put it in there or not, but the way they read now, ah, by leaving that out the public comment, it was recorded doesn’t make any sense.” Mayor DeVries-“Any other comments?”

VOTE: Commissioner Campbell & Commissioner Turner Abstained 4 Ayes Motion carried

6. CONSENT AGENDA

A. JUNE 2013 CLAIMS

B. SEPTEMBER 12-30 CLAIMS

C. APPROVE TRANSFER OF LOCATION OF LICENSE NO. 15-999-3794-303

D. APPROVE TRANSFER AND OWNERSHIP OF LICENSE NO. 15-860-3732-401

Commissioner Campbell motioned to approve Consent Agenda. Commissioner Funke second.

Council Discussion: Commissioner Lies questioned Shari Johnson’s claim as to why the amount.

Mayor DeVries explained the claim was for 3 months of payment.

Public Discussion: None VOTE:

Commissioner Morrison abstained, 5 ayes Motion carried

7. CITY MANAGER COMMENTS *INTERIM CITY MANAGER KAREN SARGEANT*

- McCrumb Construction on schedule. There are regular construction meetings every Monday.
- Karen read a letter from a tourist who visited Polson this summer. The tourist had lost her camera at Boettcher Park. City Park employee Forrest Nemeier found the camera, the City mailed the camera to the tourist. She was very appreciative, and sent a check with a reward donation and reimbursement for postage.
- A City resident on Bayview Drive wrote a letter thanking the Streets Department for patching a pothole near his home. Also, Karen thanked the Streets Department for a job well done on the improvements made to the street corners making the sidewalks handicap accessible.
- There will be a ribbon cutting ceremony on Saturday, October 12th at 10:00 a.m. to open Skyline Drive after the completed upgrade.
- Karen thanked Council for giving her the opportunity to serve as City Manager. This was her final meeting as City Manager. She stated she had learned a lot and could not have done the job without the support and cooperation of the City Staff and Employees.

OLD BUSINESS

8. SECOND READING OF ORDINANCE NO. 668 AMENDING CH 2.26 OF THE POLSON MUNICIPAL CODE (PMC) TO AUTHORIZE THE FIRE CHIEF TO ISSUE CITATIONS UNDER THE INTERNATIONAL FIRE CODE (IFC).

Commissioner Lies motioned to approve the second reading. Commissioner Campbell second. Council Discussion: Commissioner Lies commented that it has made a difference in cleaning up the lawn located on 7th. **Public Comment:** Elsa Duford-“I was just wondering if you could explain this International Fire Code. Is there a document?” Karen Sargeant-“Yes, there is a book. It is a thick book, about this thick (note Karen is showing approximately 3” with her fingers) It’s called the International Fire Code. It’s just a fire code that was adopted by the City and that’s what we use to

enforce any fire code violation, that's what we look at. To do any inspection." Elsa-"So that would be quite a bit different than the Montana Code Annotated?" Karen Sargeant-"Oh no. This is totally separate from the Montana Code. This is a National code." Elsa-"Okay." Karen-"Actually, it's an International code." Elsa-"Thank You." **VOTE: Unanimous Motion carried**

NEW BUSINESS

9. APPROVE RESOLUTION NO. 1050 SETTING IMPACT FEE COLLECTION LEVELS

Mayor DeVries explains that this resolution would change the Impact Fee's to 50%. Karen Sargeant states that according to the Ordinance we are allowed to change the amount as we see fit. It was brought to Karen's attention that 50% was just a starting point. The other part that Karen was advised of by the City Attorney was that we could set a separate rate for residential and commercial. So we could take a look at two different rate structures. Commissioner Turner asked Building Inspector Mike Howke to come to the podium. Commissioner Turner asked Mr. Howke on the number of new residential build in the last year. Mike answered that he has seen very little new residential permit applications. It has been primarily remodels, or decks. Mike feels that the reduction of the fees to stimulate residential growth didn't happen. Mike comments that it doesn't matter whether the fees are at 50% or 100%. Commissioner Turner asked if Mike knew the number of applications for new residential builds. Mike answered that at the present he has two residential, and two commercial. Commissioner Turner asked if the new residential builds were high end or low end. Mike replied the builds are high end. Commissioner Turner then comments that the impact fees for low end would have a greater affect. Mayor DeVries explained that the impact fee was a flat fee. If the home were a smaller one, the total cost would be felt more. Mike agreed, but states that the fee is the same whether a low income or high income build. There is further comment from Commissioner Campbell about waiting until spring to consider raising the percentage. **Commissioner Funke motioned to table Resolution No 1050. Commissioner Turner second. Public Comment:** Rory Horning-"Sorry I jumped the gun. Usually you, you make a motion before you guys start discussion. So it just threw me off." (there is comment from one of the commissioners but I was unable to identify the commissioner.) Rory Horning-" I know how the system works. The deal is, is ah the fee #1, what I wanted to tell you, is a pass on fee. And so no matter where you put it, you impact the community. And right now the community is hurting. It's hurting nationally but it's hurting here. So, there's no need to raise anything. But the other thing is, that by law the fee is supposed to be set on the actual impact. Not whether a department needs some additional income or whatever. You guys throw this fee around like you just want to raise or lower or whatever so therefore, you are not basing it on impact. You are basing it on this money we want to generate and spend." Mayor DeVries-"Any other comments?" Terry Gembala-"Yes. Terry Gembala Street Supervisor. I guess if you are going to table this, I would like to see that next April the Street Department could be involved in this or get part of this fee. Because there is a definite impact on the streets with all the people or businesses." Karen Sargeant-" Uhhmm, I talked to Missoula. You can't have, use it for maintenance of streets. But you can use it to improve or enlarge the capacity of a street. That's how they do it. They call it a Transportation Impact Fee. They put curbs, sidewalks, and bike paths, and widen streets. But there's a whole process to it." Mayor DeVries-"When they did this they left the Streets out so we would probably have to do another study to bring the Streets in. So that might be something that we want to look at. So, yeah the impact fees themselves were based on a study that was done. Karen-"What Terry is asking for is that it just be considered in the next process." Mayor DeVries-"Any other comments?" **VOTE: Unanimous Motion carried**

10. PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC **NOT ON THE AGENDA.** (Address items to the Chair. Commission takes no action on items discussed.)

- Murat Kalinyaprak-“I would like to finish my comments about the minutes meeting that I did not get to finish. Ah, again the last page of the minutes, it says attest Cora E. Pritt, City Clerk. Ah, at the end of the last meeting I asked her, she said she had not returned to the meeting. That there was no audio recording of the meeting. And so, I don't know how she can attest to minutes that she didn't take when she wasn't there. Ah, I would like to know who took the minutes. Okay, obviously no comment. Ah, okay, ah I think Cora is in ah, in violation of the law for attesting to something that she didn't witness. Ah, the item doesn't say the item number and there's ah, required a motion and vote. If the City Council was reopened ah, to the public, ah, if it was done properly there would have been ah, ah, ah request of motion by Mayor and there would have been a vote. And none of that happened. Ah, it's the time, approximate times, getting the names of the people, ah, left wrong, and adjourning the minutes, meeting, ten minutes before it resumed, indicates that this was concocted after the fact. Ah, and uhmmm, so it is forgery, as far as I'm concerned, and so that kind of, ah, shows what you guys are up to. And the meeting of September 20th, ah, was an emergency meeting. Ah, maybe I should turn this around (let the record indicate that Murat picked up the podium and turned it so that he was facing the time clock in the council chambers). I don't get the visual clue that this clock is supposed to give us. Ah, at the September 16th meeting, ah, you announced that the City Manager's contract would be handled at the next meeting. Ah, which would have been today. But two days later you gave public basically you ambushed public with a 48 hour notice. Ah, so that there were only barely quorum. Four council members and three members of the public. Ah, yeah, I think the timer doesn't really accomplish the visual clue that it was supposed to give us. It's just distracting. You looking at the clock, timer 20 times while we're talking. You may want to put it somewhere we can see while we are talking. Thank You.”
- Rory Horning-“Yeah, I just wanted to add that ah, give you some more food for thought. There were several things that were, became evident during your interview process, the part that was open to the public. That you were unhappy with Mr. Crossett. You stated to one of your members, ah, and you brought up several points of how bad Mr. Crossett was. And yet, when the public brought those up, excuse me I won't keep you too long. When the public brought that up, you didn't feel that it had any merit. Ah, so ah, as it goes on about the part about not completing the workload, if you want to talk about a study for ah, streets and things, if you'll go back in the archives, you'll find that Mr. Crossett did off to do a complete look at all the needs of the community and provide a report. But it never appeared, or if it did it was never in the public. And then, I would like to say that, uhmm, I'm really sorry that ah, Mr. Raymond isn't here. Because, I am in a quandary about how law is practiced where, ah, at one time it's practiced one way, and next time it will be practiced another way. You were given notice that Mr. Raymond had a conflict of interest, I can do it in three minutes, ah, had a conflict of interest because, ah, he had worked with Mr. Maddy and so therefore, he couldn't represent you the City with anything of Mr. Maddy. Oddly enough, Mr. Raymond represented Mr. Crossett when Mr. Crossett attempted to bring ah, a restraining order on me. Yet after they did that, Mr. Crossett, I mean Mr. Raymond was able to go back and represent you to give Mr. Crossett his \$35,000.00 severance package. So, when was he having conflicts? Your attorney. Or does he only have selective conflicts? I think, ladies and gentlemen, part of the

process you can be upset with some things that the public says. You really ought to do your homework.”

- Andrew Speer-“Ah, besides having a closed meeting sessions, on September 12th which violated Montana Constitution, Article II, Section 9: The Right To Know section, the City Council did not follow their own agenda which they approved. Ah, because the public expects the City to follow the law and the meeting rules, they are chastised. And I find this very sad.”
- Mayor DeVries-“Any other comments?”

11. ADJOURN-Mayor DeVries adjourned the meeting at 7:47 p.m.

Note-for the record: the public comment portion of this meeting was transcribed verbatim to the best of my ability. These minutes took a total of 3 hours and 45 minutes to prepare.

Mayor Patricia DeVries

ATTEST:

Cora E. Pritt, City Clerk