

**SPECIAL MEETING
POLSON CITY COUNCIL MEETING MINUTES
CITY HALL COUNCIL CHAMBERS
MONDAY, OCTOBER 27, 2008, 5:30 P.M.**

ATTENDANCE: Commissioners Present: Bruce Agrella, Jim Sohm, Jules Clavadetscher, Elsa Duford, Fred Funke. Interim City Manager Mike Lies present. City Attorney James Raymond present. Mayor Lou Marchello presiding.

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

APPROVAL OF PROPOSED AGENDA: Motion made by Commissioner Clavadetscher to amend agenda item number four to appoint a new interim city manager until a city manager is hired. Motion seconded by Commissioner Agrella. Commissioners Agrella, Sohm and Clavadetscher, and Mayor Marchello, voted in favor. Commissioners Duford and Funke voted against. Motion carried. Commissioner Duford questioned if they could vote on an agenda item that was not advertised as an interim city commissioner for ward two. Mayor Marchello replied that the agenda item can be amended and it is legal to do that. According to the state constitution appointing an interim city commissioner for ward two is not legal. They could not appoint someone temporarily to fill the position because it is Mike Lies's position, but they can appoint an interim city manager. Commissioner Clavadetscher stated that Mayor Marchello was quoted in the Valley Journal that he called a special meeting on October 27th to discuss applications for city manager and that's the way the agenda should read. Commissioner Duford explained that she took that to mean agenda item number three, the search committee's recommendations for city manager interviews. Commissioner Clavadetscher clarified that it referred to the interim city manager. Mayor Marchello explained that they talked about both items at the last meeting. Commissioner Duford stated that it is her opinion that it is incorrect. Mayor Marchello stated that they are following legal procedure. City Attorney James Raymond explained that the bottom line is the will of the voters who elected Mike Lies to that seat. It was ok for him, in his (James Raymond's) opinion, to serve for ninety days in the interim as city manager, while he is abstaining from exercising his vote as city commissioner for ward two. However, since the first go around for the manager search has gone upside down we are looking at another potentially long time and the people in ward two are entitled to be heard and represented by their elected representative, which is his (James Raymond's) opinion. He is quite certain that the city commission cannot appoint someone to an elected seat unless the office is vacant. In that event it can be a temporary appointment to serve out the remainder of the unexpired term or until the next general election. It's unfortunately like a rock in a hard place situation. Commissioner Duford agreed it is a difficult situation.

SEARCH COMMITTEE REQUESTS COMMISSION APPROVAL TO DETERMINE FOUR FINALIST CANDIDATES TO INTERVIEW ON FRIDAY, NOVEMBER 14 AND HOLD AN OPEN HOUSE: Commissioner Sohm explained that the search committee went through the remaining applications and made selections based on a three step process as before and now we are at the point of getting approval from the City Commission to schedule four interviews on November 14. The search committee will then contact the individuals by phone to make sure that they are still interested. Interview times will be assigned and after that the commission will receive resumes and the search committee's notes on the candidates, which state the pros and cons as a result of phone references and overall perceptions of the committee members. The

interviews will be scheduled for 8 a.m., 10 a.m., 1 p.m. and 3 p.m. with an open house at 5:30 p.m. to 7:00 p.m. that evening and the commission will be making a selection the following week. Unlike the last time we are looking at not notifying any other candidates until after the candidate that has been selected, has had their contract approved and the person has accepted the job, so we don't get into the situation where we lose the second candidate because we thought we had a candidate and we ended up losing them due to them accepting another job. **Motion made by Commissioner Sohm, to approve four candidates to interview for the City Manager position, based on the search committee's recommendations, for interviews to be held on Friday, November 14th at 8 a.m, 10 a.m. 1 p.m. and 3 p.m. and to hold an open house at the Tee Box Café on the same day following the interviews from 5:30 to 7 p.m.. Motion seconded by Commissioner Clavadetscher.** Commissioner Duford asked if the same process will be used to negotiate the contract. Commissioner Sohm explained the process will be different in that the other applicants will be notified after the contract is approved and the applicant accepts the job. Commissioner Duford questioned if the first successful applicant, Paul, received the contract to review and did not know about the personnel policy and when he found out then he changed his mind. Mayor Marchello stated that he was given the contract and the only thing he was concerned about was that that the City did not cover the cost of his wife on the medical plan. He felt that Paul was negotiating for another position at the same time, yet he stated that his best quality was his honesty and integrity. **Motion carried unanimously.**

APPOINT NEW INTERIM CITY MANAGER UNTIL A PERMANENT CITY MANAGER IS HIRED: Mayor Marchello referred to a letter of interest from Mark MacDonald to serve as interim City Manager, which was received earlier today at City Hall. He asked if there were any other letters of interest received. City Clerk Aggi Loeser replied that was the only letter received. Mayor Marchello asked for a motion to approve Mark MacDonald as the interim City Manager until the city manager position is filled. **Motion made by Commissioner Clavadetscher, to approve Mark MacDonald as the interim City Manager until a new City Manager is hired. Motion seconded by Commissioner Sohm.** Commissioner Funke stated that this agenda item has just been changed and this is the first time he heard of Mark MacDonald wanting that job. It sounds like someone is ramrodding him into that position and he doesn't like to move that fast on something like this. He feels it is unfair and feels that Mike Lies can stay in the position until we can find more candidates. It seems dishonest to him and Mark MacDonald doesn't have the qualifications. Commissioner Duford stated she agrees with Commissioner Funke, since this was not even advertised and asked how Mark Macdonald knew about the position. Commissioner Clavadetscher replied that the newspaper covered the vacancy. Fred Funke replied that it didn't refer to the interim city manager but to the applications for city manager, which is totally different. He believes some people talked him into it and he doesn't see it as fair. Commissioner Duford stated that nobody else had an opportunity to know about the position. Margie Hendricks stated that at the last meeting it was clear that the council was looking for someone to replace Mr. Lies's council position. Mr. Lies stated at that meeting that he would look into finding other people to replace him. But there was absolutely nothing said to replace him as city manager. It is shocking that without any public notice there is an attempt to replace someone in such an important position as the city manager. She felt there should be an explanation of how that happened. Commissioner Sohm said he did not understand that from the discussion at the last meeting or he would have spoken up. He stated his opinion at an earlier meeting that it was a conflict of interest for Commissioner Lies to take the interim city manager position when he is the elected representative for the ward two seat. He understood that he was looking for candidates to fill the interim city manager position and not the commission seat. He communicated to James Raymond that he has a

conflict with the proposed ward position appointment. He didn't know about Mark MacDonald's interest in the city manager position prior to this meeting but believes he has the qualifications to serve as interim city manager with his years of experience serving on the City Council. He noted that Mike Lies stated at the last meeting that the city manager position is not a full time position now with the budget being completed. Commissioner Duford stated that on the October 20th agenda item twelve was to discuss a temporary ward two representative. Commissioner Sohm said that was not what he understood and expressed his concern for the people who elected Commissioner Lies as their representative. They had a comment from a ward two constituent several meetings ago that he wasn't happy with the commission for not having any representative for his ward for an extended period of time. They have left the position vacant for more than thirty days and he believes the commission is violating the trust of the people who elected him for that position. Commissioner Duford stated that she looks at it differently based on the information they were given. Commissioner Sohm replied that she is looking at it from a personal basis but the people elected him to hold that position and it is not up to her to decide what position he holds. Commissioner Duford said she is not arguing that point and referred to the agenda item on October 20th. Commissioner Sohm suggested that the decision should be made at the next meeting on November 3 and they should decide on replacing Mike Lies as interim city manager so he can resume his ward two commissioner position. Commissioner Funke stated that this is the first time the topic of changing the interim city manager was discussed but there was some discussion previously about appointing someone to fill his commissioner seat. Mayor Marchello stated that he interpreted it the other way and discussed it at the last meeting, that Mike Lies would be providing names to fill the interim city manager position. Commissioner Clavadetscher stated that he put the item on the October 20th agenda and the point was to get him back to his commissioner seat and get a new interim city manager, that was the whole point of the discussion. Commissioner Funke said he has no problem with getting Mike back in his commissioner seat but he wants to give it more time to get somebody qualified to take the interim city manager position. Commissioner Sohm stated that Mike Lies has done an excellent job with the budget and all that he has done as interim city manager. This is not about the quality of his work and he doesn't want to be misconstrued. His issue is that they took an elected official, arbitrarily pulled him out of that position and appointed him into a paid position, and as a group they are now proposing to supplant the wishes of ward two voters by selecting somebody else to fill that seat, when the person they selected is present. If he would vacate the position until the next election then they can replace him, but if not they can't go against the wishes of an elected body. If more time is needed then he suggested they advertise and have it on the next agenda on November 3. The longer they wait the longer they are doing harm to ward two and the statute requirement is thirty days so they have to do something. Constitutionally they can't appoint someone else when he is sitting right there. Mayor Marchello asked for a vote on the motion to appoint Mark MacDonald as interim city manager. **Commissioners Sohm, Clavadetscher and Mayor Marchello voted in favor. Commissioners Agrella, Duford and Funke voted against. Motion died as a result of a tied vote.** Commissioner Agrella stated that they need more people to apply for the position. Commissioner Duford stated that they need someone qualified and their salary expectations and job responsibilities need to be decided. Commissioner Sohm stated that the people who elected Mark MacDonald three times thought he was qualified and questioned who else would be more qualified. Commissioner Funke stated that the qualifications for the city manager position, is totally different from a city commissioner. **Motion made by Commissioner Sohm, to place an agenda item for the November 3 meeting to appoint another interim city manager to allow Mike Lies to return to his commission seat for ward 2, and to advertise for the interim city manager position with a deadline of 5 p.m. November 3. Motion seconded by Commissioner Funke. Motion carried unanimously.**

CITY MANAGER COMMENTS: Mayor Marchello stated that a meeting was requested by MDOT and is scheduled for Wednesday, November 5th at 1:00 p.m. as a work session to discuss the bridge improvements proposed by MDOT. Another proposal by MDOT is to build a berm on the other side of Memory Lane which they can make comments on at the same meeting. Mike Lies stated that he passed out a letter from MDOT on the proposal to build a berm, and asked the commission to look at the proposed site proposed for the other side of Memory Lane. It will be on the November 3rd meeting for a vote on whether to approve building a berm and they can tell the MDOT representative their decision at the November 5th meeting. He noted that the November 5th meeting is a discussion regarding the bridge improvements and how they will direct the flow of traffic during construction. Commissioner Clavadetscher stated he will not be able to attend the November 5th meeting. Mayor Marchello asked what size of berm is being proposed. Mike Lies replied that he doesn't know but the size can be a recommendation to the MDOT representative. He stated that they are pouring concrete on 15th Avenue and are doing a good job. The engineer from TD&H inspecting for the City told them they have to continue doing a good job or they will have to tear it out again. He believes it will get done soon. He stated that he realizes that he has been in the interim city manager position for a long time but feels he is still representing his constituents in ward 2 because he has had more calls at city hall than he ever had at home. He suggested that he could be the commissioner for ward two on meeting days and have City Attorney James Raymond as interim city manager on those days. He talked to James Raymond about this and he told him that although he is busy he could do it. Councilman Sohm said he still sees it as a conflict because he is still serving both in the executive and legislative branches and there is supposed to be a separation of powers. The charter says that the administrative duties have left the mayor and council positions and have gone to the city manager. The mayor and council have separate duties for setting policy and we have to follow the charter, which the people voted for. Commissioner Duford said she is concerned that a new city manager will not know the issues like Mike does and a contract will have to be negotiated. Commissioner Clavadetscher asked the City Attorney what the role of the council has in negotiating the contract. City Attorney James Raymond stated he would not respond to that at this time. However, he wanted to inform council that earlier the council instructed him to resist a writ in district court involving a density issue at the development of the marina parcels and the decision came out in favor of the city. The judge denied the writ, to which he will file a response by a written brief.

PUBLIC COMMENTS ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC NOT ON THE AGENDA: No comments were made.

Meeting adjourned at 6:05 p.m.

Lou Marchello, Mayor

ATTEST: _____
Aggi G. Loeser, City Clerk