

**POLSON CITY COUNCIL MEETING MINUTES
CITY HALL COUNCIL CHAMBERS
MONDAY, NOVEMBER 6, 2006, 7:00 P.M.**

ATTENDANCE: City Council: Bruce Agrella, Mark MacDonald, Jules Clavadetscher, Mike Lies, Tom Corse, Fred Funke. Council President Mark MacDonald presiding. City Attorney James Raymond present. Others Present: Lee Manicke, Ethan Smith, Tony Porrazzo, Dick Matejovsky, Kim Maloney, Irene Marchello, Lou Marchello, Linda Sappington, Nathan Pierce, Robert Lajoie, Greg Hertz, Bonnie Manicke, Ilene Vinson, Elsa Duford, Sue Taylor, Doug Chase.

CONSENT AGENDA:

A. CITY COUNCIL MEETING MINUTES, OCTOBER 16, 2006

B. CITY COUNCIL MEETING MINUTES, OCTOBER 23, 2006

C. HIRE COURT CLERK JOAN RODRIGUEZ @\$8.00 PER HOUR WITH A SIX MONTH PROBATIONARY PERIOD.

D. RESIGNATION – CITY ENGINEER BOB FULTON EFFECTIVE NOVEMBER 15, 2006

E. OCTOBER 2006 CLAIMS

**F. CREDIT CARD SEMINAR – GLACIER BANK IN KALISPELL NOVEMBER 9, 2006,
CITY TREASURER BONNIE MANICKE**

Corrections were noted on items A and B. On the October 16, 2006 minutes, on page 2, Mission Bay Preserve Orchard, Final Plat Approval, was seconded by Councilman Funke and was unanimously approved by Council. Also corrections to the minutes of October 23, 2006, page 1, Councilman Corse was absent and Councilman Clavadetscher made the motion to hold a special Council Meeting on Wednesday, November 29, 2006 at 11:00 to appoint a mayor. Also, a correction that the mayor's position will be placed on the ballot for the November 2007 election. **Motion made by Councilman Corse, seconded by Councilman Agrella, to approve the consent agenda, items A through F with the corrections to the minutes as noted. Motion carried unanimously.**

PROPOSAL TO PURCHASE OR REDUCE LEASE OF SEWER DEPARTMENT'S KERR DAM ROAD PROPERTY FOR THE MERIDIAN BUILDING: Bob Ricketts, owner of Three Dog Down, said his business is growing and he needs to find a larger facility for manufacturing his down filled products. He asked Council to consider approving his request to purchase 5 acres of the property that B & I Holdings is currently leasing from the City Sewer Department for their Meridian building which he intends on purchasing. If the City does not wish to sell the property then he would ask for a long term lease. He would move into half of the building right away and initially employ ten people and lease the other half to B & I Holdings. The City would benefit from the taxes from his business, which would provide more jobs in the future. Fred Innerbichler spoke on behalf of B & I Holdings and explained that Meridian needs cash flow now in order to continue their manufacturing business and this arrangement would give them what they need at this time. Councilman Corse stated that they couldn't consider the \$75,000 offer until a current appraisal was done on the property, but first they need to review the existing lease agreement with B & I Holdings to find out what options the City has. Councilmen Lies, Funke and Agrella volunteered to review the lease and report back to Council in two weeks on what options they could consider. Councilman MacDonald clarified that they would have to provide an independent appraisal of the property before the Council could consider selling the property. **Motion made by Councilman Clavadetscher, seconded by Councilman Agrella, to have City Attorney James Raymond and Councilmen Lies, Funke and Agrella review the B & I Holdings Lease and report back to Council in two weeks. Motion carried unanimously.**

POLSON FESTIVAL DAYS STREET CLOSURES AUGUST 10, 11 AND 12, 2007: Kim Maloney said she is in charge of the Festival Days event this year and needs to get approval of the street closures early so they can proceed with organizing the event and advertising for vendors who will participate in the event. She has submitted the street closure request form and personally spoke with the department heads and received their signatures of approval. They are requesting the street closures for August 10, 11 and 12 and guarantee that the fire lanes and all intersections except Main Street would be left open and accessible. The closures would include Main Street from the Highway, (2nd Avenue) to Seventh Avenue and including Third, Fourth, Fifth and Sixth Avenues East and West to First Street East and West. Also one block of Fourth Avenue East from First Street East to Second Street East not including the intersection, and Second Street East from Fourth Avenue East to Fifth Avenue East not including the intersections. She noted that these additional street closures are being requested to provide room for activities near the Art Show on the Courthouse lawn and to tie in the activities being planned at the Linderman School. They are also asking for Riverside Park to be closed to through traffic on August 10th only, and that Council waive exclusivity for the concession contract

for Friday, which Bjorge's had last year. She noted that they could not provide the same compensation to them this year as they did last year. Councilman Corse stated that it would have been better to discuss this issue with the Bjorge's prior to this meeting and the reason the City allows them the exclusive concession contract is because they provide a clean up service to the park which is a valuable service. City Attorney James Raymond suggested that the Council could give the Park Board the authority to decide that issue. **Motion made by Councilman Clavadetscher, seconded by Councilman Fumke, to approve the street closures as requested, and to close Riverside Park to through traffic on Friday, August 10th and to delegate the decision on the request to waive the exclusive concession contract, to the Park Board at their next meeting. Motion carried unanimously.**

ACTION TO BRING POLSON REDEVELOPMENT AGENCY IN COMPLIANCE WITH MONTANA STATUTES: Lee Manicke read his statement, which was provided to Council with their agendas, which he read as follows. The Polson Urban Renewal District was established in November 1997 by Resolution No.739 by "exercising the powers conferred by the Montana Urban Renewal Law". That law is MCA 7-15, Parts 42 and 43.

During the promotion for creation of Polson's Urban Renewal District, the City Council at that time and the Citizens of Polson were told many times that public funds would only be used for public projects and that no public funds would be used to enhance private property.

More recently during the promotion for Polson's Main Street Project we were told this was not a grant program. Funds were available for technical assistance but not for grants. At the last budget hearings the Polson Redevelopment Agency (PRA) requested and received \$7,500 to fund the Façade Grant Program. This program appears to use public funds to improve private property.

Montana Code Annotated, Part 42 is the statute authorizing Urban Renewal. "7-15-4204. Interpretation. The powers conferred by part 43 and this part are for public uses and purposes for which public money may be expended.....". Neither part 42 or part 43 authorizes the use of public funds for private uses and purposes. Thus, the funding of the Façade Grant Program is not authorized. It needs to be repealed.

"7-15-4235. Restrictions on agency commissioners holding other public office. A majority of the commissioners of an urban renewal agency exercising powers pursuant to this part and part 43 shall not hold any other public office under the municipality other than their commissionership of office with respect to such urban renewal agency, department, or office." Three of the present five PRA commissioners now hold other public offices in Polson. Lou Marchello is a member of the Board of Adjustments, Jules Clavadetscher is a member of the City Council, Nathan Pierce is a member of the Local Government Review Study Commission. Thus, the PRA commission has been in violation of MCA 7-15-4235 since early this year.

"7-15-4240. Misconduct in office. Any violation of the provision of 7-15-4235 or 7-15-4239 shall constitute misconduct in office." This raises the question: Are actions taken by the PRA commission valid during the time it was in violation of the cited MCA? It certainly opens those actions to challenge.

Montana Code Annotated 7-15-4237 requires the PRA to "...file with the local governing body, on or before September 30th of each year, a report of its activities for the preceding fiscal year." This statute also cites the requirements this report must contain and that it must be filed in a newspaper in the community and be available in the office of the city clerk. It appears that the PRA has never filed this report since its inception in November 1997.

Therefore, the City Council needs to complete the following: 1. Rescind the budgeting of public funds to enhance private property. 2. Bring the membership of PRA commission into compliance with MCA 7-15-4235. 3. Determine if actions of the PRA Commission during the period of non-compliance are valid. 4. Require completion of all reports required by MCA 7-15-4237.

Lee Manicke said he expected that Council would discuss the issues he raised at this meeting and asked for a vote at the next meeting.

Councilman Clavadetscher said Lee Manicke raised some good points which they will have to research, regarding the makeup of the PRA. The definition of public office, is stated in MCA 7-15-42-06, definitions #13, and he feels there is no violation since the members are not in charge of any department. Council will review the other issues he raised and discuss it at the next City Council Meeting. He stated that the objectives of the PRA are to benefit Polson and downtown and not to

violate the MCA. Lee Manicke replied that the PRA was created to reduce blight and the projects being proposed are to spruce up the downtown. He feels that there are other better ways to get funding for those projects. The City budgeted \$2,500 last year and \$5,000 this year and feels it can lead to mischief. Councilman Clavadetscher replied that he values his input but will need to have time to research the answers to his questions. Councilman Corse stated that they need an opinion from legal counsel before they can take action.

FIVE VALLEY TRANSPORTATION STUDY – APPOINT ELECTED OFFICIAL TO REGIONAL POLICY GROUP REPRESENTATIVE AND NOMINATION FOR TRANSPORTATION STAKEHOLDER GROUP: Councilman Corse explained that MDOT is organizing the Five Valley Transportation Study to provide bus service for the Five Valleys which include the rural portions of Missoula, Granite, Lake, Mineral, Ravalli and Sanders County, that have significant transportation interactions with the Missoula Metropolitan Area. The focus of this study will be to identify the intercity bus transportation needs in those areas and to develop a service plan for meeting the needs. Councilman Clavadetscher volunteered himself as policy group representative for the City of Polson. **Motion made by Councilman Agrella, seconded by Councilman Funke, to approve Councilman Clavadetscher as the City of Polson’s elected official representative on the Five Valley Transportation Study. Motion carried. Councilman Clavadetscher abstained.** Council requested that the City solicit interest through a block ad in the local paper for the Nomination for a member of the Transportation Stakeholder Group.

OTHER PUBLIC COMMENTS: Elsa Duford stated that she has a problem with the Study Commission’s flier that was sent out, which states mainly the majority’s position and only one line is directed to the minority position, which is not equal representation. It gives only one side of the presentation. It also states, please vote yes to change the current form of government, which is giving their opinion. Public funds should not be used to tell people how to vote. The Government Review Commission was asked to make a recommendation, not to tell people how to vote. The chart that was published in the paper was revised after she reviewed it. The commission should not be telling people how to vote. The flier asked people to attend the public meeting on November 1st and she received the flier on November 2nd, the day after the public meeting. She asked the Council or the City Attorney if they thought it was ok or not ok. Councilman Clavadetscher replied that Dave Rensvold told him that no public funds were used for the flier. Nathan Pierce stated that the majority of the cost was paid for by Gull Printing. Elsa Duford said she was not informed that there was money donated to the study commission. Their purpose was to educate the public and provide information; not to tell them how to vote. She was surprised to see that the flier asked to please vote yes, which she feels is wrong coming from the study commission, and is not acceptable. City Attorney James Raymond replied that the concerns she raised regarding this issue is regulated by the Political Practices Commission. Councilman Lies said the flier should have had a disclaimer statement on it because it gave the assumption that it was paid for by the local government commission. Councilman Agrella agreed that there should have been a disclaimer on the flier.

Councilman Corse referred to a Missoulian article acknowledging that the Pacific Northwest Section of the PGA has named PGA professional Roger Wallace of Polson Bay Golf Club as the recipient of the 2006 Bill Strausbaugh Award. He has been a member of the PGA of America for 19 years, and was presented the award for mentoring contributions to fellow PGA professionals and recognizes his character, service to the association and community involvement. He was recently elected as the director for the Pacific Northwest and Southwest sections of the PGA and will assist the current director of District 14 until January 2008, when he will take over control. He pointed out that this shows the quality of person that Roger Wallace is, and that the City is proud to have him working at its golf course. The detractors need to be aware of the caliber of its staff.

Meeting adjourned at 7:55 p.m.

EXECUTIVE SESSION – DISCUSS PENDING LITIGATION: City Attorney James Raymond updated Council on the status of pending litigation the City is currently involved in. The cases discussed were the City of Polson vs. Westana,, Lake County First vs. City of Polson, Council and Wal Mart and Murat Kalinyaprak vs. the City of Polson regarding a human rights complaint. After being advised of the premises on all pending litigation, the City Attorney was instructed by the City Council to take steps with the City’s counsel to resolve the litigation.

Meeting adjourned at 8:20

Mark MacDonald, Council President, Chairman

ATTEST: _____
Aggi G. Loeser, City Clerk