

**POLSON CITY COMMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
MONDAY, NOVEMBER 21, 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 Manager Todd Crossett and City Attorney James Raymond present. Others present: Acting Police Chief John Stevens, Officer Michelle Scott, Civilian Assistant Hazeez Rafiu, Officer William Cleveland, Bob Fulton, Sharon Fulton, Jana Tayler, Don Morriss, Jim Sanderson, Diane Speer, Andrew Speer, Rory Horning, Rick Breckenridge, Murat Kalinyaprak, City Treasurer Bonnie Manicke, and Water & Sewer Superintendent Tony Porrazzo, Stephen Turner, and Dan Morrison.

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

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

CONSENT AGENDA:

A. NOVEMBER 1-15 CLAIMS

Commissioner Preston moved to approve the consent agenda item A, seconded by Commissioner Campbell. Commissioner Duford commented that she was under the impression that Mission Valley Aquatics had requested the court reporter at the Board of Adjustment hearing. Mayor DeVries expressed that it was the City Manager's decision to have the verbatim minutes. City Manager Crossett advised that he had felt they needed them, and explained that in order to have fewer staff on hand he had chosen to hire the firm to do the verbatim minutes of that hearing as needed, which was more economical. Commissioner Duford inquired about the importance of the meeting requiring verbatim minutes. City Manager Crossett advised that they were necessary for appeal hearings. **The motion carried unanimously.**

CITY COMMISSION MEETING MINUTES NOVEMBER 7, 2011: Commissioner Lies moved to approve the November 7th minutes with grammatical corrections, seconded by Commissioner Funke. Commissioner Preston inquired about the Police Commission mentioned on page 4 of the minutes. Mayor DeVries advised that the Police Commission was a three member board already in existence which would be a part of the Police Chief search committee. Commissioner Duford inquired about Mrs. Wolfe's comment on page 7 in regards to holding on to a check issued by MVAC and whether that was customary to hold a cashier's check. Mayor DeVries advised that they were reviewing the accuracy of the minutes and that had been what was said, other discussion belonged elsewhere. Commissioner Preston noted a grammatical issue on the second to the bottom line of page 4 and 2/3 of the way down on page 6. Commissioner Lies agreed. Commissioner Duford commented that the discussion on page 6 in regards to the power pole easement seemed contradictory whether or not it could be fixed. She asked if it was usually asked when minutes were approved if there were additions or corrections. Mayor DeVries advised that it is proposed on the agenda to approve as presented, and if they are

incorrect they can make the changes. Commissioner Lies noted there were several strictly grammatical corrections. **The motion carried unanimously.**

INTRODUCTION OF NEW POLICE OFFICER MICHELLE SCOTT & CIVILIAN ASSISTANT HAZEEZ RAFIU:

Acting Police Chief John Stevens introduced new Police Officer Michelle Scott, noting that she had first worked as the Civilian Assistant for several months prior to an opening for an officer. She had completed FTO training with flying colors and was scheduled to attend the MLEA in June. She was an E-4 Specialist in the Montana Army National Guard, and was engaged to Jason Gray who was a private contractor specializing as an explosive detection K-9 handler out of Kabul, Afghanistan.

Acting Police Chief Stevens introduced Hazeer Rafiu, the City's new Civilian Assistant and welcome member of the police department. He had graduated from Minot State University with a criminal justice degree. He had also attended University of Bismark, ND and West Hills Community College, CA playing football and earning a liberal arts degree. He had been the 8th Grade football coach in Ronan and had assisted coaching the Ronan High School team.

Acting Police Chief Stevens informed the Commission that Officer William Cleveland had been nominated and awarded Law Enforcement Officer of the Year by the Marine Corp League Hellroaring Detachment for his commitment to the law, the citizens, the office, and continued dedication to protect and serve.

Mayor DeVries informed the Commission that at the Chamber Banquet three Commissioners were mentioned and given an award, the late Donald Smith and current Commissioners John Campbell and Judy Preston. She noted the City had received many accolades for the Clean Up Green Up activity, and all of the Commissioners awarded had worked very hard on it.

CITY MANAGER COMMENTS:

City Manager Crossett mentioned that the \$100,000 grant that had been applied for Envision Polson with the Greater Polson Community Foundation had received a follow up and had a good chance of being awarded the grant. They should be receiving notice soon.

The paving of Skyline had been completed just before the weather had turned. They were currently cleaning up Rung Lane and were talking to the residences over whether they preferred to pave or gravel the lane. The pedestrian path on Skyline would not be paved until spring. They were hoping to get the bid out by March for the Main Phase.

City Clerk Kala Parker would be leaving Polson at the end of the year and would be missed. The advertisements for the job opening would be published the following week and they would be working hard to fill the position quickly.

He noted that he had given out the restaurant report to the Commission and asked that if they had any questions to please see him. The season had started badly, due to the harsh winter and poor spring weather. They had managed to do well in June. They would not be opening as early for the upcoming season, they would be open for snacks and drinks in May and on a catering basis for tournaments. They were looking at restructuring the staffing, as they had run high on staff costs. Ordering and menu prices would also be evaluated. The main goal of the restaurant was to support the golf business, even if to break even. They had managed to do well in the main season, but not in the shoulder seasons, and they would be adjusting from lessons learned. Mayor DeVries inquired if the loss would only be reflected in the golf fund. City Manager Crossett advised that it would only affect the golf fund, which had profited as a whole in the last

year. He added that they would be open for holiday catering, however the previous year they had underestimated their overhead so the pricing would change. Commissioner Preston noted the total loss was \$26,000. Mayor DeVries inquired if that included the \$9,000 for equipment. City Manager Crossett advised that it did not.

SCHEDULE CITY MANAGER REVIEW MONDAY NOVEMBER 28TH OR WEDNESDAY NOVEMBER 30TH: Available dates were discussed. **Mayor DeVries Set the meeting for Wednesday, November 30th at 5:30 p.m. in the Commission Chambers.** Rory Horning inquired about the selection committee for Police Chief. City Manager Crossett advised that the committee would be posted when it was ready. Commissioner Preston inquired if the meeting would be open or closed. City Attorney Raymond advised that the executive session of the meeting, due to it being a personnel matter, would be closed. Mayor DeVries noted that there would be public comment prior to the executive session. Rory Horning commented that he would like to go on record as being opposed to executive sessions being used for contract negotiations under the guise of personnel matters. Mayor DeVries advised that this was a mid-term evaluation and not a contract negotiation.

APPROVE 3 YEAR TIME EXTENSION – DOTSON 2 LOT MINOR SUBDIVISION: City Manager Crossett advised that there had been a number of extensions lately, largely due to the economy. He advised that the Dotson 2 lot minor subdivision was east of Polson High School off Rung Lane. Mr. Dotson was requesting a 3 year extension per the PDC and the development agreement was included in the packet. **Commissioner Lies moved to approve the 3 year time extension for the Dotson 2 lot minor subdivision, seconded by Commissioner Campbell.** City Attorney Raymond advised that the extension would be dated September 21, 2014 as it would expire on the date of the original expiration. He noted they had asked for the extension on September 13th. Commissioner Campbell inquired if the water & sewer extension easement that was required across one of the lots had been completed. City Attorney Raymond expressed that he believed it was done at the time. Superintendent Porrazzo added that the line had been brought to the Weiss's property, and the easement had been granted and both lots had water and sewer. Commissioner Duford inquired if Rung Lane was going to be paved as part of the Skyline contracted work. City Manager Crossett advised that it was, but it was up to the residents to decide if they wanted it paved, but it would be restored. **The motion carried unanimously.**

WHISTLE BLOWER POLICY TO ADD TO EMPLOYEE HANDBOOK: City Manager Crossett advised that he was surprised it was not already a part of the handbook, however all employees were already covered by State and Federal whistleblower laws. He felt that it would not hurt to have it included in the manual, so employees were clear that they could not suffer retribution if they voice their concerns in a responsible manner if something were being done illegal in City Hall. The MMIA, the City's liability insurance carrier, had suggested language and that was what he and the City were recommending they use. Commissioner Preston inquired about the 3rd paragraph which advised employees to contact his or hers immediate supervisors or the Mayor or City Manager, and wondered why the Mayor would be listed. Mayor DeVries noted that when Polson wrote theirs it would say City Manager. City Manager Crossett agreed adding that this was a template provided by the MMIA and they would customize it. Commissioner Preston inquired what an employee would do if their immediate supervisor was

the City Manager and that was who their issue involved. City Manager Crossett commented that they would probably go to the Commission or the County Attorney. Commissioner Preston asked that it be included in the draft. The ones she had seen mentioned going to the board of directors. Commissioner Campbell advised that this was for employees to know that they were protected by law and how they would move forward would be in the State law. Commissioner Preston inquired if the State law said who they would go to. Commissioner Erickson thought that it was written as having a 3rd designee beyond the higher echelon to be decided on, like the Commissioners for example. Commissioner Campbell noted that it referred to the grievance policy. City Manager Crossett noted that the grievance policy did give direction on that matter. Commissioner Duford inquired if the State law was supported by the MMIA sample and wondered what the MCA number would be. City Manager Crossett advised that the MCA code regarding the whistle blowing was within the ethics section, and was quite lengthy. Commissioner Erickson advised that the MCA had 2 areas regarding the subject, including prohibiting retaliation and prohibit prohibitions on employers on employee remedies and was fairly detailed, and that's where the reference should be made in the City's policy because the MCA would take precedents. Commissioner Preston inquired what they would approve at this time. City Attorney Raymond advised that tonight was only to see if the Commission wished to pursue the policy. If the Commission chose to, it would be done by ordinance which required 2 readings. Any changes of the personnel manual would require an ordinance. Commissioner Erickson added that any changes to a personnel manual should be reviewed by an organization's attorney; he added that this MMIA policy looked good to him but he was not lawyer. Commissioner Campbell inquired if this would be a change to the actual manual or just a reference to the State law. City Attorney Raymond advised that it was a superfluity to the existing law, but the intent was that it would give employees more knowledge. He added that he liked this policy because MMIA had provided it and they approved the employee manuals as part of their coverage. Commissioner Duford inquired if MMIA had approved the personnel policy, why didn't they include that. City Attorney Raymond advised that they had many language suggestions for different policies, but no one City had exactly the same manual. Commissioner Duford inquired if the manual had any bearing on the MMIA premiums. City Attorney Raymond responded not to his knowledge. Commissioner Lies advised that if MMIA did not approve the manual, they would not be covered. Commissioner Duford noted an article in the Missoulian in regards to wrongful discharge. **Commissioner Preston moved to approve a whistle blower policy be added to the employee handbook, seconded by Commissioner Funke.** City Attorney Raymond recommend that they withdraw that motion and instead move to instruct the City Manager to bring a whistle blower policy ordinance back before the Commission for 1st reading. **Commissioner Preston withdrew her motion. Commission Funke withdrew his second. Commissioner Preston moved to instruct City Manager Crossett to bring back an ordinance for whistle blower policy language to be added to the employee handbook, seconded by Commissioner Funke.** Murat Kalinyaprak asked isn't retaliation like any complaint filed by employees excluded from coverage by MMIA. Mayor DeVries responded that she was unsure. Murat Kalinyaprak commented that it may help them formulate their amendment because it may make managers more careful if they knew that they the City were not covered if they retaliate. Commissioner Erickson advised that they were dealing with personnel matter, not public communication so they might be referring to two different topics. Murat Kalinyaprak asked how so, he did not believe MMIA covered the City if an employee sued. Commissioner Campbell noted that even if not, they would still want this in

the policy. The insurance company would likely not approve a personnel policy they did not cover, and employee suing the City would have be dealt with at the time. Commissioner Preston commented that they still wanted to protect the employee. Commissioner Duford inquired if they could amend the first reading before the second reading. City Attorney Raymond advised that this was not the first reading, and they would be able to make changes from the first reading. **The motion carried unanimously.**

ANSWERS TO QUESTIONS RAISED AT OCTOBER 17, 2011 COMMISSION MEETING REGARDING A) WHAT PERMITS WOULD BE REQUIRED AND WERE THEY FILED B) WHAT IMPACT FEES WOULD PROPERLY BE ASSESSED AND WERE THEY PAID C) WHAT IS THE PROPER PROCEDURE WHEN A PROPERTY SUCH AS THE “MANSION” PROPERTY IS ANNEXED INTO THE CITY D) WAS THE PROCEDURE FOLLOWED: City Manager Crossett advised the Commissioner Preston had submitted an agenda request with four questions regarding the boundary line adjustment and Black Mountain Software Building. He had provided a response in writing. Additionally, Commissioner Preston sent additional questions not on the agenda request and he had also provided a response tonight for those. A copy of the annexation procedure and copy of minutes from April 6, 2009 were included. The zoning conformance and building permits were filed paid and issued. The impact fee assessment was \$5,700 they were researching into the payments which the applicant believed was and they have asked for the time to find the documentation. An assertion had been made in regards to the boundary line adjustment that it should have gone through subdivision, however the MCA code stated that that rule applied to platted subdivision and that property was not and still was not part of a platted subdivision that had reached final plat. Most of the questions play off of that and don't require a number of things that were not required under a boundary line adjustment. Those that were not part of platted subdivisions were done through subdivision review at a staff level the planning director was involved, however she was on vacation when the signature was required. The stormwater was required to be kept on the property, and there was additionally an MFE had been required for the pool parcel and that process was completed. The question of the traffic impact assessment report, none was required for an annexed property. As far as parking they had exceeded the amount required for zoning conformance. The question of the Commission being aware of the approach from Ridgewater and it was mentioned in the minutes when it was approved. Commissioner Preston expressed concern that it looked as though they assessed \$5,700 for impact fees and in the minutes she had read through it was referred to as a 10,000 square foot building and she asked if it was true that it was actually a 24,000 square foot building. City Manager Crossett advised that in all their applications and paper work the building was showing up as 26,000 square feet and he was not sure how it had been referred to as less except that may be that 10,000 feet was what was being used. She added that the Duncan's had informed her that there were four residences within Ridgewater and they had all paid between \$9,000-\$13,000 in impact fees and the pool had been assessed \$66,000. She thought that it seemed that the assessment was small compared to the other buildings. She expressed concern that in the August 3rd, 2009 minutes and the last part of the meeting Planning Official Weaver commented in regards to the zone change for Mr. Maddy and expressed the need for a special use permit and that it was moving forward without it or addressing other concerns and no response when correspondence was sent to the building. She had expressed concerns that they were doing things through the backdoor among others. Commissioner Preston read Mr. Kalinyaprak's concerns in the same section of the minutes. She

expressed concern that she was not being allowed to talk to Planning Official Weaver even though they had been told they were welcome to speak to employees. She noted that City Manager Crossett had only began working at the City in June of 2009. City Manager Crossett advised that he had responded to this before, and that a decision had been made by the City Manager prior to himself that a special use permit was not required. By the time he had reviewed the details, it was done and he could identify no way to put it back. Having the applicant do it on a voluntary basis did not go forward. Commissioner Duford asked if the property was annexed wouldn't they have to comply with the codes required. Commissioner Lies commented that they were supposed to. Commissioner Preston guessed not if they don't make them do it at the time. Commissioner Duford commented that the strip of asphalt going down to Ridgewater could not conform to a City street standard, and it irritated her thinking that someone can just come in and attach to a dead end street not to City standards. The packet they'd been provided before showed two accesses, but now there only one is to Southlake Crest. She didn't feel that the procedure that took place was in conformance with the City code. The thing she had thought they were relying on was the map that showed them a 60' easement that had an access to the east and west without going to Southlake Crest. She didn't feel that road should be there if Southlake Crest was a cul-de-sac and she thought they were mislead at some point and did not see why they couldn't go back and correct it. City Manager Crossett commented that the assertion that the road did not conform to City standards, he had no evidence to prove that it was not unless she had evidence that proved otherwise. He commented that this was for the purpose of sharing information at a Commissioner's request and was not a court of law. He cautioned them not to treat it as such. Commissioner Duford commented that this was in their packet, not picked up off the street. She offered to show it to anyone who wished to see it. Mayor DeVries noted that on the April 6, 2009 meeting minutes it was clearly stated that the View Point Drive access would be closed off except for emergency access and their main access would be through Ridgewater, and that was what the Commission had approved. Commissioner Campbell expressed agreement. Mayor DeVries noted that it was not a City road, it was a private drive, and that was the way it was approved in 2009, and they could not force different requirements now. She was unsure where they could go from there. Commissioner Preston noted on page 4 of those minutes that read present access would be through Ridgewater and currently there were no roads maintained by the City including snow removal, additional access would be proposed as development of the property went forward. She commented that was the only evidence she could find that the road had been intended for temporary use. The minutes also mentioned that the property did not predict high traffic, the Duncans would disagree, but she was unsure what constituted high traffic. Commissioner Duford commented that it came back to the Lowe's test of congestion in the streets. Commissioner Lies commented that they could have saved themselves a lot of problems if they would have followed the procedures lined out in the code, rather than sidetracking it, showing favoritism, or whatever you want to call it and letting them develop without letting the City Planner in. He commented that he thought it was a big farce. Commissioner Duford commented it being referred to as a situation between a developer and resident, too many things had come up like different figures in the building size, and inconsistencies. She supposed they could nitpick it with the idea of not following the rules as they were laid out, and any newcomers coming in may get a little lost with the contradictions in the minutes. She commented that with the different materials it could be very misleading. She commented that annexed property needed ingress and egress. Mayor DeVries noted that they had the emergency egress on View Point Drive. She felt that reading the minutes had shown her

what they had was what was approved. Some things that may or may not have been done they could argue about endlessly. They should move forward and do their homework and do things right. Moving forward with this particular issue they would have to be very careful because it looked as though what was done was what was approved. Commissioner Lies commented that what was approved was 10,000 square feet, that was what Dennis Duty said would be developed. Mayor DeVries noted that there was a reference in the minutes to 10,000 square feet, but all the permits listed the proper square footage. Commissioner Campbell commented that a BMS employee commented they were moving into the 10,000 foot building but they would not use more than 7,000 of it. He added that he had been serving on the Zoning Commission at the time and they had known that it was a bigger building, but they had been talking about the usable space and what it would be used for. He commented that what no one is bringing up is all of the jobs that had been created, they had also had the blessing of the Homeowner's Association. Mayor DeVries noted that the closest neighbor had endorsed it. Commissioner Campbell noted that the Zoning Commission had recommended it, they had started with 21 employees and he heard that it may be double that. Commissioner Preston commented that S & K Technologies had an office there. Commissioner Campbell expressed that the road that was being used was the road he understood was going to be used at the time. Commissioner Duford commented that there were only two residences on the street and the homeowners association and if they had opposed it they would not have outvoted the property owners. Commissioner Campbell advised that he recalled no objections. Mayor DeVries commented that Lita Fonda had commented about the zoning. Commissioner Erickson commented that if Joe Hovencotter would have expressed opposition to road changes, and he had not. Sharon Fulton asked them not to confuse the HOA that Mr. Hovencotter lived within with the one on Southlake Crest, who she did not think were ever consulted. Commissioner Campbell advised that Dennis Duty represented the HOA for Ridgewater that night to the Zoning Commission. Commissioner Preston commented they probably had most of the votes because there aren't many residents. Commissioner Campbell advised that they made those kind of decisions with the idea that they were doing a good thing, and when it was approved there was no opposition, and none of those issues were brought up. Now they were going back to question a decision made 2 ½ years ago by a whole different group of people when the thing was already done, the employees were working, and the building was built. Commissioner Preston commented that the impact fees weren't paid. Commissioner Campbell stated that if that was the case they could get that taken care of. Mayor DeVries advised they could make sure that the calculation was done correctly. Commissioner Preston asked if that was true. Commissioner Lies commented that he didn't think it was done correctly because there was an 8" line up there and was not put in with DEQ approval. Commissioner Campbell advised that he had the letter from DEQ that said differently. Mayor DeVries commented that they can't go back and undo what was done 2 ½ years ago. Superintendent Porrazzo commented that it was an 1½" service, and that's what it was assessed on and what became a fire service did not get paid on. Mayor DeVries advised they are having an auditor come in to look at these sorts of things, and these were some of the things they could have them look at. Murat Kalinyaprak commented that when some of these mistakes were being made they were pointing out to them that they were doing them and doing them knowingly. He commented that as a citizen it was not enough for the City to say if the fees hadn't been paid they would take care of it. He believed anyone who broke the rules knowingly should be punished and not just say they'll go forward and do things right. He commented that he was tired of the City Manager reminding everyone that this was not a court of law. He commented that these

things should go to a court of law where the City Manager, Attorney, and department heads would lift their right hands and have to testify under oath about what has been done and what the remedy should be. He commented that any Commissioner should have the standing to ask for an investigation, he felt one should be done and those who had done wrong should be punished, not just retroactively made to comply. Commissioner Duford commented that it concerned her if they were stuck with bad decisions if they were made incorrectly. She felt they should do the best they can to correct what was done wrong. She felt that way about other things as well, and she could not agree that they stuck with it. Commissioner Preston felt that at least the impact fees need to be looked at and reviewed. Superintendent Porrazzo advised that the impact fee calculation were set by the impact fee plan, but it went through the building inspector. Lita Fonda expressed that she did feel sympathetic towards the homeowner on Southlake Crest, but she remembered that meeting when it was approved and the whole room was packed and overwhelmingly in favor. She added that she appreciated Commissioner Preston's quote she had read from the August 2009 meeting. Murat Kalinyaprak questioned why the additional questions were not part of the agenda packet and privately answered and swept under the rug. Commissioner Preston expressed that she'd submitted the questions the previous Monday and it was the first she had seen them. City Manager Crossett advised that he had gotten an agenda request with four questions, as the agenda item read from Commissioner Preston, then he'd received an email concerning additional questions asked at the November 5th Council meeting stating that she'd appreciate him being prepared to answer those. He provided written response to the Commission, they were not asked to be part of the agenda. Mayor DeVries noted that it was a public document if someone requested to see it. Murat Kalinyaprak asked if it could be on the next agenda. Mayor DeVries advised that she was of the opinion that unless there was something specific they could do that they were just beating their heads against the wall and she would like to move forward with some positive things they could change. Murat Kalinyaprak asked if it was the Mayor's decision what they could or could not do, what if the Commission was given incomplete or wrong information, what could they do. Mayor DeVries replied that she did not know. Murat Kalinyaprak asked why don't they investigate and find out. Rory Horning commented that normally he wasn't going to say anything, but this time he will. He commented that when you talk about mistakes being made, if they were made, and they were a community, then they should want to rectify them. He commented that if they weren't mistakes he could see why they wouldn't want to rectify them, but the City Manager refers to him not doing it he wasn't here, who was the manager at the time and why can't these answers come out. He commented that he had been an elected official before and if he was asked why he made a decision he would have the evidence. He commented that he may have made a decision based on bad information but he could change it, but they were saying that we made a mistake but let's not beat our head against the wall. He commented that he couldn't understand it, but that was okay, just getting information on who's who and who's responsible for decisions was like some kind of secret information but it should be public, they should just be able to ask and whoever was there should be able to answer why they made that decision.

RESOLUTION #1022 – ANNUAL SID ASSESMENTS: City Treasurer Manicke noted that the SID assessments were not old business, it should appear in new business. She advised that it was a housekeeping resolution on the SID's on the 2011 tax assessments. The assessments on the SID's were split in two between the first and second tax assessments. The assessment rolls included 1,048 assessments, the largest district was the residential light district #19. The new

lighting that Parks Superintendent Sargeant had helped with would probably save some wattage, and this would be the year to analyze that. District #19 was bore solely by the property owners. The only special improvement district Main Street renovation district with 58 parcels. The other light district was the downtown light maintenance district with 99 parcels, it was funded with 60% from the general fund and 40% by the business owners within the district. There were new cobra head lighting, which should also save wattage. The resolution included the weed control assessed at \$6,307, they ranged from \$75 to \$957 fines. They sent out 31 certified letters, the Fire Chief and herself had diligently sent them out. All those sent letters received some kind of fine starting at \$75. Eleven parcels had been mowed by two different contractors. Mayor DeVries inquired if this was higher than normal. City Treasurer Manicked confirmed that it was much higher than normal, the previous year they sent out a handful of letters and the assessment was \$1,045 which was mostly done by complaints. This past year they had gone out and enforced the weed ordinance. Commissioner Campbell asked if any payments had already been made. Treasurer Manicke advised that the contractors were paid by the City, and this was the total that had been assessed. Commissioner Campbell inquired if lighting districts were hit with the same rate increase as regular users. Treasurer Manicke advised that they were on a contract and the new decorative poles were metered. **Commissioner Lies moved to approve Resolution #1022 for the annual SID assessments, seconded by Commissioner Campbell. The motion carried unanimously.**

PUBLIC COMMENT ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC NOT ON THE AGENDA: Rick Breckenridge commented that he had no dog in this fight, but there were serious problems with their land review especially certificate of survey 6884. He commented that for the record there is no statute of limitation on land use violations, they did not have to sweep them under the rug, they could fix them. He commented that he had not commented during the City Manager's explanation, the problems with 6884 were three fold. The first was that their development code listed evasion criteria, which in 1994 the Supreme Ruled that 14 parcels was in fact a subdivision and had to go through subdivision review and had since been whittled down to 6. He commented that their development code had accepted that, the existing code gave them the ability to ask what was evasion criteria, but if they asked the County or any other municipality in the state, they would say that 6 is the threshold and that is evasion. He commented that the second problem he had confirmed with the County and title company, Kyle Carsten, that they had 8 tracts of land that were boundary line adjusted, but he could only find 5 tracts of record. He commented that if the Planning Director was not researching and reviewing what they have of record they had big problem and the Commission needed to know and tighten up on it. He commented that the third problem was that a municipal facilities exemption was given by the City and filed with the certificate of survey, but with their own admission that the stormwater is not being treated by the City and that needed to go through DEQ review. He commented that there was a fourth problem which was that the City Planner was on vacation so they had the Building Inspector sign off of it, which was signed by him in May but not recorded until July. He commented that there was plenty of time to have the Planner sign it, and have someone fix it, because when they ask the Planner if it complies with the growth policy or zoning they would not know. He commented that they were in a pickle, there was no statute of limitations on land use decision, but now the City knew and was complacent and acquiesced because now they own a piece of that property. He commented that when he ran that passed his land use attorney his first impression was that it was bribery, and

that's what it looks like. He commented that there was a lot of problems and that survey just scratched the surface. He commented that if you have no evasion criteria, how would the Building Inspector know, the City Planner has to sign off on it. The procedure had to be tighten up and followed. He commented that he was leaving them with 4 or 5 problems to sort through, but just saying that they made a mistake wouldn't cut it, they needed to take a course of action that would protect the citizens in the future and in the past.

Commissioner Duford read from April 6, 2009 minutes where the TD & H traffic study regarding 15th Avenue listing the price at \$275,000. In the November 5, 2007 minutes from the TD & H report listed the price of 15th Avenue repairs between \$700,000 - \$800,000. She commented that this was an example of where there was a big difference in figures that are quoted, and maybe they were given the wrong information. She commented that the actual study was November 5, 2007 and it was on the website. The second was April 6, 2009. She commented that they needed to be real careful when figures were thrown around because it makes a whole lot of difference and pricey if they were planning on doing something. She commented that the 15th Avenue study had been very costly and they needed to be careful how they were spending the public's money.

Andrew Spear inquired if and when they would publicly address the concern brought up tonight. Mayor DeVries advised the they were advised by their City Attorney that their subdivision regulations were followed correctly and she did not know where to go with it. Commissioner Preston commented that it kept coming back a building that was purchased by a developer and the original road used by the original owners was a private drive that they didn't have permission to use, and when the developer bought it, certainly they needed jobs, it's difficult to make a decision against jobs when they were needed. She commented that the developer then connected to another road that was paved for their renter for convenience. She commented that she got involved that she had been contacted by the homeowners on that road because they did know that road would be used for traffic to a commercial building. She commented on the size difference, and every time she turned around that developer was getting a sweet deal, it was nice that he was creating jobs, but who was left holding the bag – the people living on the private road and then the people living in Ridgewater subdivision. She commented that maybe that wasn't up to them, maybe it was between the homeowner and developer, but the issues that Mr. Breckenridge brought up in regards to survey 6884, those things do seem to be under the Commission's control that they could fix the mistakes made by the previous commission based on wrong information. Mayor DeVries noted that the Commission had no part of the survey. She added that she was not an attorney and not a land use person, but their City Attorney told them it was done according to law and Mr. Breckenridge is saying they broke every law in the world, but they pay their City Attorney and were required to take his opinion. Commissioner Preston commented that the City Attorney was the person acting as City Manager that waived the special use permit, but it didn't smell right and she did not know where they go from there. Rory Horning commented that he'd like to wish everyone a happy Thanksgiving, and he would like to thank the two lady Commissioners, the Mayor excluded because she was not leaving her seat, because these proceedings in the future would greatly shorten because the inquiries they make would not be there. He commented that he was fascinated that they get the same exact treatment that the people have, when they ask a question there was no response, it was like talking across three miles of open prairie. He added congratulations to them. Mayor DeVries noted that Mr.

Kalinyaprak had had the floor three times. Murat Kalinyaprak asked if there was a count. Mayor DeVries advised there was not. Murat Kalinyaprak commented that it bothered him that if citizens get up and name names like Kyle Carsten and the plat room, cite MCA, read from minutes and some members of the public, board members and engineers get up and speak and all of that is thrown out the door in favor of one City Attorney who tells you what to do all the time and they were saying they had no option but to believe them and they were treating everyone else as worthless or even as liars. He asked if that's what they were doing. Stephen Turner commented that he agreed that question did not dignify a response. Commissioner Preston commented that she was probably going out in a blaze of glory as her term was up January 1st, but she did not appreciate City Attorney Raymond doing a crossword puzzle during the meeting.

Sharon Fulton commented that it was hard to hear the Commission, and she did not know why they did not have a loudspeaker system. She commented that 35 years ago in California they had gone before a Commission and if it was not spoken into the loudspeaker and recorded, you didn't say it. She recommended that they find a way to ensure what they say gets recorded. She inquired if the City Clerk had a recorder, she added that it was good that they did after seeing it. She commented that when they turned in their paper work they were assessed and then issued a building permit and a fee was paid. She inquired about the fees in question, if they were still paid, how they were paid and how do you know if they were paid. She commented that she did not understand how they had the treasurer sitting there and they couldn't figure out if something was paid. She added that she did not understand why a Commissioner could not go to the City Planner and get an answer, why she couldn't speak to her.

The meeting adjourned at 8:57 p.m.

Mayor Pat DeVries

Attest: Kala Parker, City Clerk