

**CITY COUNCIL MEETING MINUTES
CITY HALL COUNCIL CHAMBERS
MONDAY, DECEMBER 17, 2007 7:00 P.M.**

ATTENDANCE: Council: Bruce Agrella, Tom Jones, Mike Lies, Tom Corse, Fred Funke present. Mayor Lou Marchello presiding. Mark MacDonald absent. City Attorney James Raymond and City Manager Jay Henry present.

Pledge of Allegiance and meeting brought to order at 7:00 p.m.

Lou Marchello commented that the Polson City Council encourages public participation on comments, there are certain items on the agenda that public comments are not necessary for. He added that the meetings' Chair will call for public comment.

Mike Lies motioned to approve the agenda as proposed. **Bruce Agrella** seconded the motion. **The motion passed unanimously.**

CONSENT AGENDA

A. CITY COUNCIL MEETING MINUTES OF DECEMBER 3, 2007

Fred Funke motioned to approve the consent agenda. **Bruce Agrella** seconded the motion. **The motion passed unanimously.**

BOY'S & GIRL'S CLUB - PAVING THE WAY FOR A 50 YEAR PARTNERSHIP BETWEEN THE CITY OF POLSON AND THE BOY'S AND GIRL'S CLUB - NEW DEVELOPMENTS WITH FINANCING & LAND LEASE: **Cynthia Forsche** explained that the Boys and Girls Club was grateful for the land lease on the Meridian building and for the Council's support. She told the Council that the elementary gymnasiums were the only place currently that the 225 Polson members have to meet. She expressed that it was crowded and severely limited the activities, especially for teens. She pointed out that for summer activities, all of the Polson members had to be bused to Ronan, which only allowed for 40 children per day to be transported. She informed the Council the lease which had been negotiated between the Boys and Girls Club and the City had certain stipulations, which they had been unaware would prohibit the Boys and Girls Club from receiving from receiving a \$250,000 grant from the U.S. Department of Agriculture and also hinder them from receiving a loan through USDA. She explained that it was because of the revocability terms in the lease. She advised that the Boys and Girls Club felt it was important to preserve the financing through the USDA, and that they would garner any suggestions from Council. She asked if the Council would entertain a committee or a workgroup to help solve the problem. She asked the Council when the 25-year lease began, as it was unclear in the document. **James Raymond** explained that terms of the lease would start anew. **Tom Corse** asked what the \$250,000 grant would be used for. **Cynthia Forsche** replied that it would be used to buy the Meridian building. **Tom Corse** commented that per the terms of the lease, if the lease had to be cancelled the City would buy the building back at the appraised value. He wondered if the USDA was aware they would not suffer a loss. **Cynthia Forsche** explained that they had pointed that out and the USDA had firmly answered that the lease must be irrevocable. **Lou Marchello** asked if it was possible to contact a representative of the USDA and have them meet with the City Manager and City Attorney.

Cynthia Forsche replied that she thought they would. **Bruce Agrella** advised that a committee should be set up and should meet. **Mike Lies** expressed that they did not want to tie future Council's hands. **Lou Marchello** advised the Boys and Girls Club contact the USDA and ask a representative to meet with the City Manager and City Attorney. Bruce Agrella and Mike Lies volunteered to sit in the meeting as well.

SECOND READING - ORDINANCE #631 - REPEALING ORDINANCE #610 AND REPEALING SO MUCH OF SECTION 47 OF THE EMPLOYEE PERSONNEL MANUAL ESTABLISHING AN ETHICS ADVISORY COMMITTEE: Jay Henry informed the Council that this was the second reading, and if the Ordinance was approved it would go into effect on January 18, 2008. **Tom Corse** motioned to approve the second reading of Ordinance 631. **Fred Funke** seconded the motion. The motion passed unanimously. **Elsa Duford** asked the Council what part of the personnel manual the Ordinance would be affecting. **Lou Marchello** asked that Ms. Duford make an appointment and they could go over the affected part of the manual.

SECOND READING - ORDINANCE #632 - AMENDING CHAPTER 2.06 OF THE MUNICIPAL CODES TO ADD ANOTHER SUBSECTION, 2.06.110, PROVIDING FOR THE DEFINITION OF COMMITTEES AND WORK SESSIONS OF THE POLSON CITY COUNCIL AND PROVIDING FOR PUBLIC PARTICIPATION AT MEETINGS OF POLSON CITY COUNCIL COMMITTEES AND WORK SESSIONS: Jay Henry informed the Council that this was the second reading of the Ordinance and if approved it would also go into effect on January 18, 2008. **Fred Funk** motioned to approve the second reading of Ordinance 632. **Bruce Agrella** seconded the motion. The motion passed unanimously.

CLARIFICATION OF POLICY OF CITY COMMISSION TO RESTRICT PUBLIC'S RIGHT TO ASK QUESTIONS AT PUBLIC MEETINGS UNDER AG OPINION #51 #12 DATED 12/30/05: **Rory Horning** asked the Council to show where in the law the 'no question' or 'comment only' policy came from. **Lou Marchello** noted that he had read the AG opinion as comment and asked Mr. Horning where he had read 'question and answer'. **Rory Horning** stated that the AG opinion read as 'comment' not 'comment only'. He commented that the Montana State Constitution gave citizens the right to know and to see documentation. **Lou Marchello** thanked Mr. Horning for his presentation and asked him to take a seat while the Council discussed the item. **Rory Horning** questioned why he was being asked to sit down. He commented that he'd never seen other presenters asked to take a seat. **Lou Marchello** explained that the Council was changing the meetings to run under proper rule. **Rory Horning** asked if this was decided behind closed door and against open meeting law. **Tom Corse** motioned to retain Ordinance 613 as written, as it complies with the Attorney General's opinion, with the informal understanding that Chair has the right to answer, not answer, or refer the question to someone else. He added that Resolution 632 allows for questions. **Bruce Agrella** seconded the motion. **Tom Corse** pointed out that "comment" seemed to be the major problem. He explained that he had looked up the definition of "comment" which had no interrogative words in the definition, nor any reference to ask or question-like word. He noted that the Council had followed the AG's opinion verbatim. He stipulated that if the Attorney General had wished to expand on the meaning of comment he would have done so, but apparently was satisfied his choice of the word. He mentioned in his opinion Supreme Court Justices, Judges,

Attorneys, etc. chose their words precisely to avoid misinterpretation and to minimize confusion. He opined that the Council was completely justified in implementing the AG's opinion as written. He added that if Mr. Horning wished to contact the Attorney General to question his choice of words the number was 406-444-2026. **Rory Horning** thanked Councilman Corse for a contentious attitude. He said that he was not questioning the AG's ability in English. He commented that just because the AG did place in his opinion every possibility of how the word works, it was not actually the letter given to him to make an opinion by the City Attorney of Billings. He stated that in his opinion the City Council was being non-compliant. He also noted that AG does not take calls from the public. He offered that the City could call on behalf of the public. **The motion passed unanimously.**

CLARIFICATION THAT GRAVEL AND PAVER SURFACES ARE IMPERMEABLE/IMPERVIOUS PER TD&H - SHARI HALLORAN - CITY ENGINEER - VOTE TO ACCEPT GRAVEL OR PAVER SURFACES AS IMPERVIOUS EFFECTIVE IMMEDIATELY: **Joyce Weaver** asked for clarification on gravel and paver surfaces, which determined the amount of lot coverage based on the zone. She explained that the City's TD & H engineer had pointed out to her that gravel and paved drives may become close to impermeable. **Shari Halloran** explained that when she does engineering calculations, asphalt is considered impermeable at .9 and gravel is .8. She informed the Council that after gravel and paver surfaces are packed down from being driven on, the water does run off. She added that this clarification was key to storm water management. **Tom Corse** asked the City Attorney if this clarification would mean modification to the Polson Development Code. **James Raymond** replied that it is not a modification and the DEQ has a standard. **Shari Halloran** added that the DEQ standards described impermeable as surfaces at .8 and .9. **Tom Corse motioned to use gravel and paver surfaces as impermeable. Mike Lies seconded the motion. Mark Carsten** asked if the City would be acknowledging the rate DEQ uses in impervious surface calculations. **Joyce Weave** explained that this agenda item was only asking for clarification on those two surfaces, not extending into the DEQ numbers. **The motion passed unanimously.**

CLARIFICATION OF THE MAXIMUM DENSITY ALLOWED PER ACRE IN RESORT ZONING DISTRICT - VOTE TO CLARIFY THE MAXIMUM DENSITY IN RZD - EFFECTIVE IMMEDIATELY: **Joyce Weaver** informed the Council that in the resort zoning district, as described in the Polson Development Code, allows had been interpreted as a maximum of 8 dwelling units per acre. She pointed out however; a recent applicant's attorney said the word maybe left the maximum at as many as a developer could fit. She asked the Council to change the wording to make the maximum very clear. **Tom Jones** asked if the zoning could be changed immediately. **James Raymond** informed the Council that a regular ordinance must be passed to change the PDC, and may require a public hearing. **Bruce Agrella** felt that this must be addressed quickly with 8 as a maximum. **Mike Lies moved to pass the first reading of emergency Ordinance #633 making eight the maximum amount of dwelling units per acre in resort zoning districts. Bruce Agrella seconded the motion. Lou Marchello** asked the City Attorney if this emergency ordinance was appropriate and what the next step would be. **James Raymond** informed the Council that this turn of events was unexpected and he would inform the Mayor the next day. **Lou Marchello** indicated the ordinance would be on the next agenda. **Joyce Weaver** asked what her response should be to the current development waiting for a response from Joyce. **James Raymond** noted that anyone

already in the pipeline would be under the existing rules. **Rory Horning** commented that when the Council dealt with MRZD, they had taken the decision from the developer and had not allowed for full advantage of the maximum density. He commented that the Council should not allow more than 8 units in this circumstance. **The motion passed unanimously.**

MDOT PRESENTATION - CITY OF POLSON SPEED STUDY REQUEST ON HIGHWAY 93 NORTH - SPEED LIMIT REDUCTION REQUESTED BY AL SUNESON: **Doug Bailey** informed the Council that prior to recommending a speed change they conduct an engineering traffic investigation. He explained that after the information is gathered they submit the request to the district office, which is then presented, to the local authority. **Lou Marchello** asked what would be the time frame for the study. **Doug Bailey** replied that they would likely conduct it in the spring over a 24-hour period, sampling day and nighttime traffic. **Tom Jones** asked if speed changes between March and August are typical. **Doug Bailey** replied that they had seen all kinds of speed changes, but they are minor. **Lou Marchello** asked if the speed change made a difference being within City limits. **Doug Bailey** replied that it did not, that the speed limits were separated by district. **Lou Marchello** asked if the City needed to request the study. **Doug Bailey** replied that the City had already requested the study. He added that they would not make any speed changes without approval from local officials. **Lou Marchello** asked the MDOT keep City Manager Jay Henry informed on the schedule and thanked Mr. Bailey for his time.

FINAL PLAT APPROVAL FOR HIDEAWAY SUBDIVISION - 4 LOT MINOR SUBDIVISION - DAWN & JAMES RAYMOND: **James Raymond excused himself and Matt O'Neil acted as City Attorney for this item.** **Joyce Weaver** informed the Council that Hideaway subdivision was a 4 lot minor subdivision at the end of Claffey Drive owned by Dawn Raymond in LRZD. She explained that the 35 conditions of the preliminary approval had been completed. She pointed out that lot 4 will access off of JB drive through a private easement. She noted that emergency access was through Ridgewater subdivision. She added that the applicant had agreed to participate in SID #38, and the applicants had paid for the fire fees and capitol improvement plan for sewer. **Fred Funke motioned to approve final plat for Hideaway subdivision, a 4 lot minor subdivision, with conditions.** **Tom Corse seconded the motion.** **Tom Jones** asked if there had been a discussion previously about the non-exclusive agreement on the easement. **James Raymond** explained that for preliminary approval the Council had specified that the subdivision needed an emergency access in accordance with existing City standards. **Sharon Fulton** commented that all of Claffey Drive needed to be brought up to City standards. **Elsa Duford** asked if the emergency access was through Ridgewater or if it came through 15th Avenue. **Joyce Weaver** replied that the easement referred to was through Ridgewater subdivision. **Gayle Siemers** commented that Claffey was becoming a safety issue. He explained there was a blind corner and weather conditions led to many near accidents, which would only worsen as traffic increased. He asked the Council to help the residents of Claffey to make the street safer. **James Raymond** agreed with both Mrs. Fulton and Mr. Siemers, and he explained that part of the conditions for approval was a waiver by all 4 lots to protest any future SID's on Claffey Drive. **Mike Lies** commented that he was confused because the letter from McCurdy Law Firm which stated that the easement will not provide emergency access to the proposed subdivision. **Matt O'Neil** replied that had been addressed in the July 7 Council meeting, which the Council had decided that only actual access was required,

not deeded. He noted that there are many such emergency accesses in the City, and that this subdivision has two approved by Council. **Sharon Fulton** commented that the City had the opportunity to bring the street up to standard due to their waiver of a right to contest SIDs after the sewer line was extended. **The motion passed unanimously.** **City Attorney James Raymond returned to his seat.**

THREE (3) MONTH EXTENSION OF PRELIMINARY PLAT APPROVAL FOR VICWOOD CONDOMINIUM: **Mark Carsten** explained to the Council that there had been confusion between his office and the realtor's office, they had both assumed the other was taking care of the final acts to complete the necessary documents. He explained he had included a certificate of substantial completion of the infrastructure necessary for final approval. He informed the Council he was requesting the three-month extension because they are waiting for consent from the financier and for the developer's payment for capital improvement. **Bruce Agrella motion to extend the preliminary plat approval for Vicwood condominiums for three months.** **Tom Corse seconded the motion.** **Tom Jones** commented that it was not the City's responsibility to take care of their misunderstandings. **Mike Lies** expressed his agreement with Tom Jones. **Fred Funke** also expressed agreement. **Joyce Weaver** mentioned that the Planning Department supports the request to extend. **The motion died for lack of majority, 3-3, with Bruce Agrella, Lou Marchello, and Tom Corse in favor and Fred Funke, Mike Lies, and Tom Jones opposed.**

RESOLUTION #956 - ANNEXATION TRACT B-1 COS 5261 2.13 ACRES AND TRACT A-1 COS 5261 7.92 ACRES LOCATED NORTH OF ORCHARD PARK ESTATES WEST OF HILLCREST DRIVE; MOUNTAIN LAKE ESTATES UNDER PRELIMINARY PLAT REVIEW: **Marc Carsten** explained that he would like to go forward with annexation so that all of Mountain Lake Estates would be under the same governing body since it currently has property in the City and in the County. **Tom Corse motioned to approve Resolution #956 the annexation of tract B-1 COS 5261 2.13 acres and tract A-1 COS 5261 7.92 acres located north of Orchard Park Estates west of Hillcrest Drive.** **Mike Lies** asked if the sewer blocking easement was still enforced. **Tony Porrizzo** explained that the property had since been sold and the current owners would allow for it, and he noted there was also an alternate route for sewer access. **Mike Lies** asked if anything would prevent annexation. **Tony Porrizzo** replied no, and the worst-case scenario would involve putting in a lift station. **The motion passed unanimously.**

CITY COUNTY PLANNING BOARD REAPPOINTMENT - BOB FULTON - BOARD MEMBER AND CURRENT CHAIRMAN - TERM FROM JANUARY 1, 2008 TO DECEMBER 31, 2009 & BOARD OF ADJUSTMENT REAPPOINTMENT - MIKE LIES - BOARD MEMBER- TERM FROM JANUARY 1, 2008 TO DECEMBER 31, 2010: **Tom Jones** motioned to reappoint Bob Fulton to the City County Planning Board from January 1, 2008 to December 31, 2009 and to reappoint Mike Lies to the Board of Adjustments from January 1, 2008 to December 31, 2010. **Bruce Agrella seconded the motion.** **The motion passed with 5 in favor and the abstention of Mike Lies.**

BOARD OF ADJUSTMENT APPOINTMENT - RON NORMANDEAU - BOARD MEMBER - TERM FROM JANUARY 1, 2008 TO DECEMBER 31, 2010: Mike Lies motioned to appoint Ron Normandeau to the Board of Adjustment from January 1, 2008 to December 31, 2010. Fred Funke seconded the motion. Ron Normandeau introduced himself to the Council and asked if the Council had any questions for him. Tom Corse commented that Mr. Normandeau had a good resume. **The motion passed unanimously.**

NOVEMBER 2007 CASH REPORT: Bonnie Manicke informed the Council that the City was ready for the new tax collection with money left. She noted that there was one negative balance in the gas tax of \$6520.89. She explained that the real property tax collection through November 30, 2007 had brought in \$408,000. She communicated that the residential light of Island View Drive had been completed and was well lit. She added that an additional street light had been installed at the intersection of 1st Street East and 16th Avenue East to facilitate students walking to school at the request of the Polson School District and Police Chief Doug Chase. She explained that Mission Valley Power was going to help the City with an easement to light Regatta Road and Hwy 93 before the coming summer. She informed the Council that the certificate of deposit with the local banks was at 92.26% and the Government issues were at 7.74%. She informed the Council that many local agencies had invested in the STIP (short term investment pool) and were suffering from huge losses because of 247 million dollars being withdrawn in a matter of weeks. She explained that she had never invested the City of Polson in STIP and that her foremost objective was the safety of the City's principles. **Mike Lies motioned to approve the November 2007 cash report. Fred Funke seconded the motion. Jay Henry commended Bonnie on her investments and pointed out that STIP had crippled many local municipalities in Montana and Florida. Lou Marchello expressed appreciation for Mrs. Manicke's work on the City's investments. The motion passed unanimously.**

CITY MANAGER COMMENTS: There were no City Manager comments.

PUBLIC COMMENTS: Elsa Duford asked why the TD & H study of 15th Avenue had been extended and wondered if the cost was more than proposed. Lou Marchello replied that he would find out the answers and either him or the appropriate department head would contact her. Doug Chase recognized outgoing Councilman Tom Corse for his work on the Council on behalf of the Police Department. He mentioned that he would have liked to have recognized outgoing Mayor Clavadetscher and Councilman MacDonald, but they had been absent. He presented a certificate of appreciation for Councilman Corse's services rendered and his community spirit.

Meeting adjourned at 8:35 p.m.

Lou Marchello, Mayor

ATTEST: _____
Kala Parker, Assistant City Clerk