

**POLSON CITY COMMISSION MEETING MINUTES
CITY HALL – CITY COMMISSION CHAMBERS
MONDAY DECEMBER 17, 2012, 7:00 PM**

The meeting started at 7:05 pm due to the Workshop prior to the meeting.

ATTENDANCE: City Commissioners: Todd Erickson, John Campbell, Mike Lies, Dan Morrison, Fred Funke and Mayor Pat DeVries presiding. City Manager Todd Crossett, City Treasurer Bonnie Manicke, City Clerk Cindy Dooley, Police Chief Wade Nash, Water and Sewer Superintendent Tony Porrazzo, and Parks Superintendent Karen Sargeant present. Commissioner Turner and City Attorney Raymond absent. Others present (that signed in): Rory Horning, Paul London, Skyla London, Elsa Duford, Gordon Zimmerman, Cheryl Wolfe, Margie Hendricks, Robin Wallace, Tami Sanderson, and Ric Smith.

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

Mayor DeVries said that Commissioner Turner was excused from the meeting.

APPROVAL OF PROPOSED AGENDA: Commissioner Funke moved to approve the proposed agenda, seconded by Commissioner Lies. Commission discussion: None. Public discussion: None. Commissioners Erickson, Campbell, Lies, Morrison and Funke voted aye. Commissioner Turner absent. Motion carried.

CONSENT AGENDA:

A. NOVEMBER 28 – DECEMBER 19 CLAIMS

Mayor DeVries commented that the claims were through December 12th and not December 19th as was printed on the Agenda. Commissioner Morrison moved to approve the consent agenda, seconded by Commissioner Campbell. Commission discussion: None. Public discussion: None. Commissioners Erickson, Campbell, Lies, Morrison and Funke voted aye. Commissioner Turner absent. Motion carried.

COMMISSION MEETING MINUTES DECEMBER 3, 2012: Commissioner Lies moved to approve the City Commission meeting minutes of December 3, 2012, seconded by Commissioner Campbell. Commission discussion: None. Public discussion: None. Commissioners Erickson, Campbell, Lies, Morrison and Funke voted aye. Commissioner Turner absent. Motion carried.

CITY MANAGER COMMENTS: City Manager Crossett expressed his sadness over the shootings in Newtown, Connecticut. He said that he found it particularly horrifying as someone who thinks and worries about communities and their public safety and said that no town should have to experience something like this. He said this reminds us to protect and value what we have.

The audit for FY11 is finishing up. The audit exit conference was held on December 13th and the audit comments are being prepared.

The Development Code re-write is also finishing up. Information that is being gathered by the Heart and Soul project will hopefully be incorporated into the finished product.

The Heart and Soul project has held several neighborhood gatherings – one at Mission Bay and one at the Rural Fire Station. City Manager Crossett said that attendance was good at the Mission Bay gathering but the Fire Station gathering was not so well attended but both had good participation by those that did attend. There are still nineteen gatherings left and he encouraged everyone to attend at least one gathering.

City Manager Crossett said he received the proposal from Bond Attorney Bob Murdo today and will review that. He and Parks Superintendent Sargeant have been working with the Polson Redevelopment Agency (PRA) on some analysis regarding questions they have.

City Manager Crossett is working on a Maintenance Agreement with the Montana Department of Transportation (MDT) to switch maintenance of the currently maintained Main Street which is regarded as a secondary highway for First Street West. City Manager Crossett said the City Street crew is more familiar with the streetscape bulb-outs so maintaining Main Street would be better for the City. He said the transportation study that was completed several years ago had indicated that State maintenance be switched to First Street East because of the Skyline project and the number of businesses on that street but City Manager Crossett feels that First Street West gets a lot of traffic because there are no stop signs. Commissioner Campbell added that it is also the most direct route to the High School and Middle School.

City Manager Crossett is working with Director of Golf Roger Wallace to present a restaurant plan for the 2013 season. They have discussed an issue with the Lake County Health Department regarding putting a hole in the wall from the kitchen side that would look out over the dining room. The health department said that the hole cannot interfere with the vent system so they are looking at the cost to move the vent. Director of Golf Wallace has provided a list of items of importance that would need to be done so hopefully the plan can get wrapped up and presented at the next council meeting.

Mayor DeVries had inquired about adopting the Vision and Mission Statements at a previous meeting. City Manager Crossett said this was done about a year and a half ago and he would review the copy and make sure it is the correct version and then present it at a city council meeting.

City Manager Crossett said that the downtown businesses are busy with the holiday season. The fire pit has been downtown the last two weekends. He said this is the time that visitors come to town to see how vibrant the City is and he feels that the City is very active. At the last Polson Business Community (PBC) meeting the Festivals on the Flathead group gave a presentation on next summer's concert series that are planned at the Salish Point Park. They are continuing to present ideas to the Salish Point committee who have been very supportive. Commissioner Erickson asked about plans for an amphitheatre at the Salish Point Park. City Manager Crossett said that the committee has looked at plans similar to the amphitheatre in Phillipsburg, Montana which has grass terraced seating and stairs. This might possibly be done in conjunction with the Tribe.

Mayor DeVries asked if the City could be proactive about letting people know about the snow removal Ordinances (Clerk note: Ordinance #569 and #592) that are on the books. City Manager Crossett said he would work with Street Superintendent Gembala to get an article in the paper. He said that elderly people and others that have trouble shoveling their walks can call the City for help. The City maintains a list of service organizations and individuals that will shovel. Police Officer Stevens has done shoveling in prior years. Commissioner Erickson asked if there is any information on the website. City Clerk Dooley said the snow removal policy is on the website. Mayor DeVries said that one of the Ordinances may need to be reviewed for enforceability based on the way it was written. City Manager Crossett said he would

look into that. Police Chief Nash said the enforceability issue exists because the fine is a civil fine and not a criminal offense, so his department cannot issue citations for not shoveling a public sidewalk or for plowing snow into the street. Chief Nash said there is a similar issue with parking violations. Mayor DeVries said that weed maintenance does have a remedy if the fine is not paid- the amount is placed on the taxes. City Manager Crossett said that this is also the case for the snow removal on public sidewalks. If the City crew is called to clear the sidewalk, the property owner is billed and then the amount can be placed on the taxes if it is not paid. Chief Nash said this would not work for parking violations. City Manager Crossett said the City does not have an Enforcement Department which makes it difficult to find all instances of a violation and make sure everyone is treated consistently. Mayor DeVries said that making people aware of the Ordinances would help. Commissioner Lies said an additional problem is that snow is often pushed or plowed back into the street after the crew has already plowed.

NEW BUSINESS

APPROVE CAPITAL IMPROVEMENT RE-IMBURSEMENT AGREEMENT AS ORIGINALLY PRESENTED: City Manager Crossett said that when this agreement was presented to the Commission on June 4, 2012 that it was approved with the deletion of paragraph #1 which guaranteed that water pressures and flows within the Ridgewater Subdivision would meet or exceed Montana Department of Environmental Quality (DEQ) standards. Cougar Ridge Development, LLC (CRD) has not signed that agreement as they feel that paragraph #1 needs to be included. Dennis Duty took the podium to further explain CRD's position. He commented that he was sick on the day that this was discussed and passed and unable to attend the meeting. Dennis Duty has since met with City Manager Crossett, Mayor DeVries and Water and Sewer Superintendent Porrazzo to explain the need for paragraph #1. The reason they feel it should be included is because this is a unique situation – it is a pressurized system that sits at the same level as the water tanks. The DEQ standard is only to provide water flows and is not concerned with pressure. The system that was installed was modeled and paid for by Cougar Ridge Development LLC. It included enough capability for the Ridgewater Subdivision and had excess capability as requested by the City to supply water to the Clearview Heights water tank. Dennis Duty said that the City has already tapped into the infrastructure to strengthen the middle zone system. He said that activity in the subdivision has been slow but when it starts to pick up he wants to be sure those pressures and flows will be there. Commissioner Campbell said that he is not opposed to the original agreement but he is wondering why the paragraph is needed if DEQ requires it. Dennis Duty responded that it is his understanding that if the system gets overused that the City has no obligation to put in additional infrastructure to keep the flows and pressures where they are. Commissioner Campbell said he disagreed with that and added that the City would make sure the flows and pressures are maintained. Mayor DeVries said that at the most recent meeting with CRD she was surprised to learn how many times the City has already tapped into the system and how it is already improving the City's system. Dennis Duty said that when Walmart is finished with their system, then the water can be run across to the Clearview Heights tank. Commissioner Morrison asked if the paragraph would be added back in or if the document would be approved as originally presented. Commissioner Campbell said it should be approved as originally presented since it has not been signed by both parties. Dennis Duty said that would like to sign the original proposed agreement. **Commissioner Campbell moved to approve the Capital Improvement Re-imbusement Agreement as presented and written, seconded by Commissioner Morrison.** Commission discussion: Commissioner Lies asked how this is different than the agreement that was made with Carl Seifert for his development. Commissioner Campbell said that after Ordinance 661 was passed, that changes how the paybacks are handled. He said that this will be paid back with impact fees and the payback is only within their zone. Dennis Duty said it is primarily the east side of the City where new development is occurring. Commissioner Erickson asked Mr. Duty if

he understood that the reason for keeping paragraph #1 is that CRD has an agreement to guarantee water flows and pressures to their homeowners. Dennis Duty responded that that is correct and that it insures that the City then guarantees the flows and pressures. Water and Sewer Superintendent Porrazzo said that the payback is coming mainly from CRD's properties so they are essentially paying themselves back and it is a good deal for the City.

Public discussion: Margie Hendricks said that this agreement is giving priority to CRD over other citizens if there is a problem with the water supply. She said that over half of the City's water does not have a water right. She said that the new water rights compact being developed forgives the State permits granted before 1994 and forgives wells under 35 gpm so those people will have water. Ms. Hendricks said that most of the City's wells have water rights that were permitted after 1996 and those rights have not been addressed in the new compact and may not be until after the compact is accepted by the Legislature or the Tribe. She commented that for six years the public has been under the assumption that water from the two wells on the old mill site which is in Cougar Ridge could be used by the City. She said information that has gone to engineers that have done studies for the City has shown these wells as being used by the City. She said that it would cost about two million dollars to purify the water in those wells and it is her understanding that those wells can only be used on the mill site, which is the point of distribution. She asked whether CRD would have a priority if the water in town were to diminish. She said that they would ask to have the water treated in the two wells so that it could be used to guarantee their flows and pressures. Her conclusion is that it is a priority. She said that the reimbursement should not have been approved. The Impact Fee Advisory committee which is supposed to be a standing committee consisting of citizens should have reviewed this. She said that standing committees cannot be appointed by the City Manager and that the committee that reviewed the agreement consisted of elected officials and city employees. She asked the commission to table the agenda item to look at the legal problems associated with it. Cheryl Wolfe said it was mentioned that an Impact Fee Advisory Committee did approve this reimbursement. She said there is a Montana statute that says that there needs to be a certain number of people on the impact fee advisory committee which must include a Certified Public Accountant (CPA) and she is wondering if either Mayor DeVries or City Clerk Dooley, who are both CPAs, was serving as the independent CPA on that committee. She said that Dennis Duty said that excess capability was built into the system for extra fire protection at the top of the hill. She said that as a taxpayer who is not at the top of the hill, she is subject to whatever water restrictions exist. If her property is on fire, she asked what guarantee she has that the water and the pressure will be there to fight the fire. She asked what guarantee there is for water pressure over and above what state law mandates. She asked why the City is giving special privileges to special people. She said that is why we need independent accountants and attorneys that represent us. She said there have already been many problems with the Impact Fee Ordinance because of conflicts of interest with the City Attorney and that these are not the only conflicts of interest. She asked that the Commission do something about this. She said that if there are no conflicts that it should not appear that there is such a tangled, woven mess.

Commissioners Erickson, Campbell, Lies, Morrison and Funke voted aye. Commissioner Turner absent. Motion carried.

FINANCIAL UPDATE ON REAL ESTATE TAX COLLECTIONS AND MAIN STREET STREETScape PROJECT: City Treasurer Bonnie Manicke said that last year at this time there was a delinquency of \$93,000 in tax collections for the City. She said that Lake County Treasurer Patti Kugler sent out letters to all delinquent property owners telling them that a tax sale certificate would be issued in July if the taxes were not paid. As a result of the letter she was able to collect \$72,000 for the City's share

of the delinquent taxes. City Treasurer Manicke said she was very happy that Treasurer Patti Kugler took on the project; it was a lot of work as it required sending a certified letter to each taxpayer. There is currently \$21,000 in delinquent taxes which is more normal for the City. Collections continue to come in each month and City Treasurer Manicke will keep the commission informed on the collection process. There is about \$30,000 in protested taxes for 2010 and 2011. She said those properties are probably the telecommunication towers. She said those companies want to have a different class of property to reduce their tax rates. She commented that real estate tax collection for the 2012 year is down slightly. She said collection is at 51.79% compared to 56.12% last year. She said that the difference of 4.33% may be collections that came in by mail at the end of the November and that will be reflected in the December collections which the City will be paid for in January. City Treasurer Manicke also reported on the close-out of the Main Street Streetscape project fund. The City withdrew its remaining CTEP (Community Transportation Enhancement Program) funds of \$47,457.72 from the State of Montana account to help close out the fund. She said the CTEP funds will no longer be allocated to each county and city each year, but will be awarded instead by a competitive grant process. She said that her conversation with the County Commissioners indicated that counties may lose out under this process but the cities would probably be okay. There is also a \$30,000 transfer from the Sidewalk loan fund that needs to be transferred to the Streetscape project fund. Originally the Commission approved \$50,000 for project costs to be paid from the Sidewalk Loan Fund and then approved another \$50,000 with no payback necessary. So far, \$70,000 has been spent. She said that a budget amendment needs to be passed in order to utilize that \$30,000 in the project fund. She said the bulb-out design was a cooperative agreement between the Streetscape Fundraising committee and the City of Polson. She said that all the funds that were obligated to be collected from the Streetscape Fundraising committee have been collected and total \$7,110. She is a member of that committee and made sure that the agreement was carried through. City Treasurer Manicke said that the City did not borrow the \$100,000 of County CTEP funds that the County had agreed to loan to the City. The Streetscape project fund needed \$11,110.00 to close out the project. City Treasurer Manicke wrote a letter to the Lake County Commissioners asking if they would allocate that amount to the City from their CTEP funds as a donation and they agreed to do that. City Treasurer Manicke said that when those funds are received plus the \$30,000 transfer from the Sidewalk Loan Fund is made, the project fund will be closed out. Mayor DeVries asked if all the remaining money in the Sidewalk Loan Fund is being transferred. City Treasurer Manicke said that only \$30,000 is being transferred and that there is still money left in the Sidewalk Loan Fund for individuals to borrow if they want to fix up their sidewalk. City Manager Crossett said that the \$100,000 CTEP loan from the County was not needed to finish the project and there would have been an issue in paying it back. City Treasurer Manicke said the payback of the \$100,000 was going to come from future CTEP allocations that the City would receive, but now that the program has changed there would be no allocation to payback the funds. City Manager Crossett said it would have been about the next 5 years allocations that would have been needed to pay back the loan and thanks to City Treasurer Manicke's letter we will not have to worry about that now. City Treasurer Manicke thanked the County for their previous commitment and the \$11,110. City Treasurer Manicke said that originally there was a contingency amount built into the project, but that contingency money was used when the two hundred block had to be dug down to make it a secure base and a street. City Treasurer Manicke said that she felt fortunate that we were short such a small amount. Mayor DeVries thanked City Treasurer Manicke for talking the County into helping us out. City Treasurer Manicke then reported on the transactions for SID #42 which was used to help fund the Streetscape project. There have been payments of \$100,000 so far on the loan which now has a balance of \$646,000. The final payment will be due on July 1, 2025. City Treasurer Manicke said that the loan was modified to coincide with the dates that taxes are collected and to save on interest. The payment dates are now December 15th and June 15th each fiscal year. Over the last three years of payments the City has been able to save \$2,182.00 from the loan modification. City Treasurer Manicke is

also pleased with where the delinquencies are on the SID payments – for 2010 there is one delinquency of \$606.25 that will be paid through a closing later this month; there is \$2,033.00 outstanding for 2011 and \$4,034.00 for 2012. This is a delinquency rate of 9.66%. Last year at this time there was \$16,000 in delinquent SID payments. The SID loan is not a bond issue – it is a promissory note so when the payments are due you must make the payment. She said that with a bond issue, you can call or not call the bonds, but with a note, if you don't make the payment it is delinquent. Mayor DeVries thanked City Treasurer Manicke for the information.

PUBLIC HEARINGS RESCHEDULED: City Manager Crossett said that there were two public hearings advertised for this evening for budget amendments for FY12 and the current year. He said that due to wrapping up on the audit he did not have a chance to get all the questions answered on the budget amendments. He would like to continue the hearings until the next Commission meeting. He said there were questions that he had that have since been answered but he did not have time to get it on this agenda. Mayor DeVries asked if we need to re-advertise. City Manager Crossett said the Commission could vote to continue the hearings to the next meeting. Mayor DeVries said that since the hearing is not being held at this meeting that it is more of a motion to table rather than continue the hearing. **Commissioner Morrison moved to table the budget amendment hearings to the January 7, 2013 Commission meeting, seconded by Commissioner Funke.** Commission discussion: Mayor DeVries asked if the budget amendment hearings could be held during the regular meeting. City Clerk Dooley said that yes, they would have been held during the regular meeting this evening so they will be done the same way at the January 7th meeting. City Clerk Dooley said she needs to find out if the budget hearings have to be re-noticed again through the paper. City Manager Crossett said that he did not think that was necessary but it would not hurt to do so. Mayor DeVries said that it should be posted on the website so everyone will be aware of the change. Public discussion: None. **Commissioners Erickson, Campbell, Lies, Morrison and Funke voted aye. Commissioner Turner absent. Motion carried.**

PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC NOT ON THE AGENDA:

Mayor DeVries said that the Mission Statement that City Manager Crossett mentioned in his comments earlier this evening was worked on by the staff but was never formally approved. She said that she would like to get back to the approval of it but realized it was probably too early to put it on this agenda. She wanted to make sure everyone was on the same page and that it did not “fall through the cracks”.

Andrew Speer commented that Mayor DeVries had said in the Valley Journal that she had a concern that the taxes remain low and be used effectively and efficiently and he agrees with that. He feels there are difficult times coming to Polson. The new roof and repairs at the high school will add taxes and when Kerr Dam is sold to the Tribe there will be a shortfall in taxes of \$1.2 million and School District #23 will lose \$900,000 per year. He said the Lake County Commissioners have said it will be bad. He said that nationally the economists have said there will be an increase in taxes such as the death tax rates which may expire and the increase will affect family farms and ranches. Andrew Speer said that many people are facing increased costs for healthcare. He said that he sees many vacant storefronts and that taxpayers are already feeling the economic pressure. He asked if the City is preparing for the possibility of hard times ahead. He suggested that the City halt all non-essential new projects. If the tax liability is increased, he feels that many taxes will go delinquent and as a result the City would have to cut staff, wages and services. He hoped that the Commission would keep that in mind when voting on financial issues as he wants to see Polson succeed and not cut services.

Cheryl Wolfe said she was glad to be sitting up front for this meeting. She reminded the Commission that at the previous meeting where the Impact Fee reimbursement agreement was passed that she was not allowed to speak. She said that she was unable to make comments as there was only one second between when the gavel went down and the last speaker spoke according to the tape of the meeting that she listened to. She said that when someone stands to speak that should give them the right to speak – they don't actually have to get to the podium. She would still like to have an answer on who was the CPA on the impact fee advisory committee that reviewed the re-imbusement agreement passed this evening. She explained that she is referring to MCA 7-6-1604 which states that a member of the committee must be a CPA. She said that the public has been told that the agreement was approved by the impact fee advisory committee and there is supposed to be a CPA on that committee. Cheryl Wolfe said the reason she is making a point of it is because Margie Hendricks has come to the City three times asking for information about the costs that are being reimbursed. She asked that if the citizens cannot get the information and they don't know who is on the committee, who is looking out for their interests. She said that the public is supposed to have the right to participate in their government, and when the public can't be heard and can't get answers to their questions what are they supposed to do. She said the impact fee advisory committee is mandated by law and the Commission just ruled on something that that committee is supposed to be overseeing so she would like to know who the CPA was on the committee. Mayor DeVries questioned City Manager Crossett that this was not the same committee that Cheryl Wolfe was speaking about. She said that she was not serving as a CPA on the committee that reviewed the re-imbusement agreement and that if they were required to have a CPA that it was not her. Commissioner Campbell said that the committee that is referred to in Ordinance 661 is not a standing committee, it is created as needed. Mayor DeVries said that the advisory committee that Cheryl Wolfe is referring to was used to decide what the impact fees would be when the original ordinance was being developed. City Manager Crossett said he would have to look at the MCA. He said that the City followed Ordinance 661 for the committee that reviewed the re-imbusement agreement. He said that this is not a standing committee and the main reason it was set up this way is so that people with particular expertise could be included and/or it would make use of people who are available so that the process would not be held up. Cheryl Wolfe asked again if there was a CPA on that committee. Mayor DeVries said that she is a CPA and she was on the committee but she was not serving as a CPA on the committee, she was serving as the Mayor. Cheryl Wolfe, as a CPA, asked if the independence requirement required by the CPA code of conduct allowed her to be independent at that meeting. Mayor DeVries reiterated that she was not serving as a CPA on the committee and clarified that she is currently active in the State of Montana as a CPA but has not served as a CPA on any committee for the City and does not use that designation in connection with the City.

Margie Hendricks said that whether the City uses a twenty year old ordinance, or the 2007 ordinance or the newly revised ordinance – state law says that you have to have a CPA and a member of the development community on the advisory committee. She said that it is sad that the meeting tonight will last a little more than an hour and that the three minute rule gives so little time for citizens to speak. She said that in this instance this is a \$200,000 agreement and the Commission is only allowing six minutes for opposition. She said that this country says that proponents and opponents have equal rights and that it is important to the democratic process. She said this council treats opponents as if they are unwanted. Margie Hendricks said she has come to the City three times to ask what the \$911,000.00 that Wal-mart gave to the City was used for. She wants to know how much pipeline was used, what size of pipeline was used, and where the pipeline was placed. She said it is not documented in the City assets as to what that represents and was not reviewed by a CPA as statute calls for. She said that you cannot tell what Wal-Mart paid for and what Ridgewater paid for. She said that one document estimated the cost at \$420,000. This estimate was by an engineer in January, 2007 two months before the Wal-Mart booster

station and pipeline were approved. She said she called the engineer and he said that was for the Wal-Mart portion with 16" pipe for approximately 3,000 feet and then 12" pipe for the rest. She said an accountant would have needed to review this and answer those kinds of questions.

Gil Mangels said that his comments this evening should not be viewed as political or personal but instead practical as future decisions are made regarding the City Manager. He said that he does not feel there is a man alive worth the money that the City Manager or the City Attorney have been paid – maybe a woman but many volunteer their time. He said his wife volunteered almost thirty years to the Miracle of America museum which he said has been a big draw to the Polson economy. Sadly, she is no longer with us, but he said her spirit lives on. He said the money spent on the last two City Managers could have been better spent on rebuilding 4th Avenue with money left over to put billboards on I-90 at the Highway 93 exit and in other areas such as Highway 2 advertising the attractions of Polson. The museum's budget does not allow for advertising anymore. Last year the museum spent \$4,000 on print ads and their surveys indicated that the ads did not pay off. Gil Mangels said that volunteerism needs to be promoted and courted. Many people that volunteer can do the same work that the City Manager has done. He said that many volunteer organizations such as Art in the Park, the Aquatics Center, the Valley Cruisers car show, Polson History Days and the Greater Polson Community Foundation have tried to help the economy. He said that the downtown business association did make a mistake when it chose to only include the downtown businesses and not reach out to the sprawl businesses along the highway. He is not sure how you can exclude the sprawl businesses and expect Polson to prosper. Mr. Mangels said there are probably many in the room that have never been to the Miracle of America museum. He concluded by paraphrasing John F. Kennedy's words: "Ask not what the City can do for you and how much wages you can continue to suck on by raising taxes, but what you can do for your City". He said this speaks about the importance of volunteerism.

The meeting adjourned at 8:10 p.m.

Mayor Pat DeVries

Attest: Cindy Dooley, City Clerk