

**POLSON CITY COMMISSION MEETING MINUTES  
CITY HALL – CITY COMMISSION CHAMBERS  
DECEMBER 20, 2010, 7:00 P.M.**

**ATTENDANCE:** City Commissioners: Don Smith, 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: Parks Superintendent Karen Sargeant, Planning Official Joyce Weaver, Treasurer Bonnie Manicke, Building Inspector Ron Melvin, Jules Clavadetscher, Rory Horning, Sharon Procopio, Suzanne Luepke, Richard Procopio, Ali Bronsdon, Hu Beaver, Tana Seeley, Christi Buffington, Peter Daniels, Murat Kalinyaprak, and Lita Fonda.

**CALL TO ORDER:** Mayor DeVries called the meeting to order and The Pledge of Allegiance was recited.

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

**CONSENT AGENDA:**

- A. CITY COMMISSION WORK SESSION MINUTES NOVEMBER 30, 2010**
- B. CITY COMMISSION MEETING MINUTES DECEMBER 6, 2010**
- C. CITY COMMISSION WORK SESSION MINUTES DECEMBER 7, 2010**
- D. DECEMBER 1-15 CLAIMS**

Commissioner Lies moved to approve the Consent Agenda, items A-D, with two grammatical corrections, seconded by Commissioner Preston. The motion carried unanimously.

**CITY MANAGER COMMENTS:** City Manager Crossett advised that he had attended a meeting of the Highway 93 technical oversight committee, which had shown them the first possible routes calculated by their program. He added that it was exciting to see the possibilities, noting that the committee had included development codes, business communities, and undeveloped properties possible development. The cost would be narrowed down by the time they began holding public meetings.

The TIGER grant funds had officially been committed by the Federal Government, and construction would be commencing in the upcoming year.

He expressed gratitude to the volunteer fire fighters and Fire Chief Fairchild for the painting renovations in the fire hall with materials donated by Ace Hardware. The Fire Department had received a grant to purchase a Jaws of Life apparatus which would be able to cut through the tougher alloys in newer model vehicles. He expressed thanks to Wal-Mart, State Farm Insurance, and other private donors. He commended the fire department for their volunteer work to put together and deliver Christmas dinners for 20 underprivileged families in the area. He encouraged Commissioners and the public to acknowledge their hard work, noting that the Fire Chief's leadership made these things happen.

He advised that the street department was doing a good job, beginning most days at about 3 a.m. The majority of the calls the City received in reference to the plowing was complimentary, however there were occasional complaints of snow being pushed onto sidewalks or in front of drives. He stressed that they were trying very hard to minimize the impact, however with only three employees in the whole department they would not be able to get out and shovel sidewalks and driveways without a much larger work force. Commissioner Smith expressed that the streets looked better

than they had in previous years. City Manager Crossett advised that they were doing their best to accommodate people that work with them. Mayor DeVries inquired about enforcement of the sidewalk shoveling. City Manager Crossett replied that he had not heard much for complaints in regards to the shoveling. Commissioner Smith suggested using community service kids for shoveling. City Manager Crossett agreed that would be beneficial. However, with no program in place currently, they needed to engage the County in that discussion. He noted that program had worked well in other places.

**TO GRANT ANY OR ANY COMBINATION OF REQUESTS BY MISSION VALLEY AQUATICS FOR CONSIDERATION RELATIVE TO THE TAMSCO PROPERTY – I.E. FORGIVENESS OF LEASE PAYMENTS, EXTENSION O LEASE, OR GRANTING OF PROEPRTY:** City Manager Crossett advised that the request had been initiated by MVA, who were admirably trying to fast track a location for grant application purposes. The City owned the property the Tamsco building rested on, and currently received a lease payment of \$1,500/month from B & I Holdings. The MVA was requesting forgiveness of that lease payment in addition to a long term commitment or gift the property in the event that they purchase the building from B & I Holdings. He noted that it was not the Commission’s decision whether or not the building was sold to MVA; it was up to the business owner. The City’s control rested with the lease. The other side of the issues was the utility services possible use of the building. He noted other locations in the area which might be sufficient for an aquatic center. He advised there was not a right or wrong answer, and asked what the Commissioners wanted to see in that location. He felt it was best to respond to MVA quickly so they could move forward or pursue other options. Hu Beaver expressed that he didn’t want to muddy the waters discussing a new site; he would only like to know if the City would give a zero lease to MVA if they were to purchase the building. He expressed that they did not wish to battle for the site, and opined the Commissioners should vote first on the City’s utilities use of the building. **Commissioner Lies moved to approve the lease to Mission Valley Aquatics for the new aquatic center for \$100/year if they purchase the Tamsco building for that facility, seconded by Commissioner Funke.** Commissioner Duford expressed that they weren’t looking at all of the information, including the value of the taxes from the property and the \$18,000/year in revenue from the lease. She felt apprehensive about giving more away when they had already given the library district \$75,000. Commissioner Lies noted that if the City were to purchase the building both the taxes and lease payments would be zero. Hu Beaver asked that they don’t think of gifting the lease to MVA as a giving the money away, he asked that they see it as a huge asset for the Community built by private donations. Commissioner Campbell inquired about including a waiver of a right to protest improvements on the stormwater and sewer systems that were in the planned to be in that area. Commissioner Duford inquired about the Boys & Girls Club decision not to use the facility and recent groundwater tests. Hu Beaver advised that they needed to do more tests before the building would be purchased; the lease was their first step in the list of things to look at. **Commissioner Campbell moved to amend the motion to include that MVA would waive the right to protest facility development of City utilities, seconded by Commissioner Lies.** Commissioner Smith expressed that he was in favor of the pool facility and community center, listing various activities that could be included in the facility. Commissioner Duford inquired if the Commissioners were all familiar with the current lease on the building. She added that if they were going to vote on an important matter concerning the lease they should read the lease. She commented that the lease stated that more buildings could not be built on the leased land. Mayor DeVries noted that the current lease was \$1,500/month, but if a certain amount of jobs were employed there the lease payment could sink to nothing. She added that they were not addressing any of the body of the lease, only the payments should MVA purchase the building.

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City Manager Crossett noted that the only way the City could deny a sublease was with a substantial reason, such as a public health hazard. Mike Maddy commented that he held the lease for all 5 acres and there was nothing in the lease that prevents the building of additional buildings. Suzanne Luepke wondered if the original lease would stay with the current owner if the motion were approved but MVA did not purchase the building after additional tests were done. Mayor DeVries replied that it would, the lease would only be lowered to \$100/year if MVA could proceed and purchased the building. Mike Maddy requested that the City give B & I Holdings the same lease price as MVA once MVA signs the contract to purchase and until they take over the lease. Commissioner Lies commented that they would reduce the lease payment once the sale is complete. Christi Buffington advised that to protect the City against future litigation as a result of the utilities expansion affecting the pool facility, they should amend the motion to include MVA waiving their right to pursue litigation against the City. City Manager Crossett expressed agreement and recommended the Commission make such an amendment. **The motion to amend the motion to include that MVA would waive the right to protest facility development of City utilities carried unanimously. Commissioner Smith moved to amend the motion to include that MVA would waive the right to pursue litigation against the City should the City's utility improvements affect the pool facility in any way, seconded by Commissioner Campbell.** Water & Sewer Superintendent Porrazzo encouraged the Commissioners to look to the future, noting that the EPA was sending out messages about water treatment, and would be giving increasing restrictions in the next 5-10 years. He noted that the area all around the facility would be dedicated to stormwater and treatment. He expressed that he was trying to protect the land where all the water in the area flowed to, and to protect what they would need that area for. **The motion to amend the motion to include that MVA would waive the right to pursue litigation against the City should the City's utility improvements affect the pool facility in any way carried unanimously.** Commissioner Funke inquired about the length of the lease. Peter Daniels commented that there should be a number of years attached to the lease, like 10 years with the option to renew. He also felt that if the facility was operating in the black they should consider negotiating a payback to the City. Hu Beaver commented that they were not asking for any changes to the lease. Murat Kalinyaprak commented the issue had a lot of aspects, but at the core was writing off of the lease. He claimed that if the Commissioners approved of the lease forgiveness in a certain way it would result in an outright scam that the people involved would not be able to get away with. He referenced the bankers, real estate agents and attorneys in the room. He commented that if they forgave the lease, the money owed did not just dissipate, it would go into someone's pocket. He felt the Commissioners should know whose pocket that money would go into when the City stopped receiving it. He reviewed a formula for finding the value of the lease including rates and the appraised value of the building. He felt that was why no one had purchased the building, adding that they have tried. He felt they could not talk about forgiving the lease without knowing how much MVA would pay for the building. If they paid \$700,000 without subtracting the value of the present lease payment and the appraised value it would go right into the pocket of the seller. It was a trick, and he hoped the City would not fall for it. He commented that the only way to ensure that the future cost of the lease payments were included in the sale would be if the City were to purchase the building with that agreement, and then sell it to MVA. He felt that writing off the lease did not make a difference; it was double entry accounting erasing the lease. He didn't think they would get away with it if they approved it. Commissioner Preston advised that she understood his argument, but she pointed out that the City had planned to forgive the lease if B & I Holdings had been able to get a certain amount of employees in the building. She added that the City would prefer to see jobs there over the monthly lease payment, and she did not think they should look at it in the way he described. City Manager Crossett advised that some of that was beyond the control of

the Commission. The City owns the land, but has no interest in the building. They have no authority to either prevent or assist the owner of the building in making or losing money. It is a private interest, and it would depend on their negotiations. There was nothing the City could do about the private business unless it was something egregious, like a public health hazard. There was no legal authority for the City to be involved. Murat Kalinyaprak commented that was the scam and what the City Manager said was false. Once that check was written it would go into the seller's pocket. Rory Horning commented that the City owned the lease and the revenue from the lease; you don't separate the lease from the land. They had every right under the law to be involved in the negotiation for the building because that lease in trust for the people of Polson and it's what makes the value of the property. Peter Daniels surmised that Mr. Kalinyaprak was implying that if they were forgiving the lease they were gifting the \$400,000 or so in future lease payments to the seller. Murat Kalinyaprak commented that the lease has a value, they can sell it and he was interested in purchasing it. He asked them to open it up for a bid, and he would bid because it has a much larger value than they were trying to make it look like. **The amended motion carried with Commissioners Funke, Preston, Lies, Smith and Mayor DeVries in favor and Commissioners Campbell and Duford opposed.**

**AUTHORIZE CITY MANAGER TO PURSUE TAMSCO BUILDING PURCHASE OPTIONS:** Commissioner Funke moved to authorize the City Manager to pursue Tamsco building purchase options, seconded by Commissioner Funke. The motion failed unanimously.

**AUTHORIZE PRA RECOMENDATION TO SPEND \$50,000 OF TIF FUNDS FOR FY 2010-2011 FOR MAIN STREET:** Commissioner Lies asked for clarification on the request compared to their previous recommendation not to commit additional funds to Main Street. City Manager Crossett advised that the previous recommendation was not to use additional TIF funds to lower the SID payments. This recommendation would be for additional parts of the project that were not included in the original project, including the complete street lights at about \$22,000 and other items such as garbage cans, benches, signage. **Commissioner Campbell moved to authorize the PRA recommendation to spend \$50,000 of TIF Funds for FY 2010-2011 for Main Street, seconded by Commissioner Preston.** Commissioner Duford inquired about what other uses those funds could be used for. City Manager Crossett advised that they could be used for public projects within the district; they were developing a process for future years. At this time, they were looking to complete projects. They would also be coming back to the Commission with additional projects. Rory Horning commented that TIF funds were mandated to have some money set aside for low interest loans for blighted areas to increase their tax value, not just for public projects, they were for residents as well. He felt that some of the funds should be available to residents, and not in the control of a couple guys that want to throw the money around like it's theirs. Commissioner Duford inquired if it could be used to renovate the moldy building on Main Street they'd received complaints about. Mayor DeVries advised that the owner of the property must request a loan; the City could not do anything to the private party. **The motion carried unanimously.**

**REAPPOINTMENT OF BRODIE MOLL, RON NORMANDEAU AND MIKE LIES TO BOARD OF ADJUSTMENT:** Planning Official Weaver advised that the 7 member board only had 2 sitting member along with the 3 up for reappointment. They would be continuing to advertise for the additional vacancies; however they had not yet received any other letters of interest. She expressed the planning department's recommendation for approving the reappointments. **Commissioner Preston moved to reappoint Brodie Moll, Ron Normandeau and Mike Lies to Polson City Commission Meeting Minutes December 20, 2010**

**the Board of adjustment, seconded by Commissioner Funke.** Rory Horning commented that they mandated that they would not have Commissioners on Citizen advisory boards, and appointing someone from that body to this board would give one person two votes and was silly. Mayor DeVries noted that Board of Adjustment did not advise the City Commission, their decisions were final and could only be appealed in court. **The motion carried unanimously.**

**REAPPOINTMENT OF TODD ERICKSON & APPOINTMENT OF KEN SILER TO CITY/COUNTY PLANNING BOARD:** Planning Official Weaver advised that the 9 member board currently had 3 vacancies in the County seats and 2 vacancies in the City seats. She noted that for the City vacancies they had received no other letters of interest, and she recommended that they reappoint Todd Erickson and appoint Ken Siler. **Commissioner Lies moved to reappoint Todd Erickson and appoint Ken Siler to the City/County Planning Board. The motion carried unanimously.**

**FIRST READING ORDINANCE #661 – REVISE CHAPTER 14.10 REGULATION OF PUBLIC TREES:** Parks Superintendent Sargeant advised that the current tree city code was antiquated and included a permitting process that was approved through department heads that no longer exist. She wished to update the code as part of the recertification as a Tree City USA. In 2010 The City of Polson had been a Tree City USA for 20 years, which was a good accomplishment for such a small town. She wished to clean up and update to the code, which was mostly semantics and update the Tree Board. The Board members had slowly moved away or no longer wished to participate, and after receiving no response from advertising, she had approached the Park Board about absorbing the duties of the Tree Board. Many of the Park Board members were knowledgeable landscapers. She also wished to simplify the process for citizens. She was hoping to attain a Tree City USA growth award, part of which included being true to the tree ordinance, and that would open them up to apply for grants for community and urban forestry. She encouraged engaging and educating the public on the forestry of the community. She pointed out that many of the City's trees were approaching their mortality, and they would need to begin looking at replacing them with viable species. Commissioner Campbell agreed that many of the trees were approaching the end of their lifespan and this tree ordinance would become more important as that happened. Commissioner Duford expressed that the forestry intern that worked in the City was pleasant to work with, and inquired about the right-away and ownership of trees that were planted before the establishment of the original tree ordinance. Parks Superintendent Sargeant advised that Katie Wittow, the intern, had gone through the City and measured each, establishing their location on the easements and right-aways. She stressed that the Parks department did not want to take trees from any citizens; they wanted to foster education for residents to be able to maintain them. She advised that they wanted to manage a healthy urban forest and there were many programs available to them that she would like to tap into. **Commissioner Preston moved to approve the first reading of Ordinance #661, revising chapter 14.10 the regulation of public trees, seconded by Commissioner Smith. The motion carried unanimously.**

**PRELIMINARY NOVEMBER 2010 CASH REPORT:** City Treasurer Manicke advised that the County's preliminary collections indicated the real property tax collections to be about \$300,000. The November claims were at about \$1,000,000; however those claims included the Streetscape Project which was about \$663,000, the water project which was \$249,000, and the stormwater project at about \$147,000. She added that she was waiting for the correct figures from the County before giving out the final cash report.

**FY 2009 AUDIT:** City Manager Crossett reviewed highlights from the FY 09 audit report. He advised that it was available for viewing at City Hall. Commissioner Preston expressed that it was a good report for new Commissioners and suggested that it be included on the orientation list. Mayor DeVries noted that they had done quite well on the 2009 audit.

**PUBLIC COMMENT ON MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC NOT ON THE AGENDA:** Lita Fonda commented that the house adjacent to hers was out of conformance with the building code and she had been trying to get that fact on record. She wanted to make sure that the issue was clarified for the future. She had wanted to bring the issue before the Commission, but had been advised by the City Manager that the PDC update would be a good place to start. However, she was frustrated and dismayed after talking to Dave DeGrandpre and found out he knew nothing about the issue. City Manager Crossett advised that the issue Ms. Fonda was referring to was the way the City calculates impervious surfaces. The way to address that issue was through the PDC update, and they would be moving forward on revisions of the first draft. He advised that there would be meetings every other Thursday at 1:00 p.m. at City Hall starting January 20<sup>th</sup> that the public was welcome to attend where they would make adjustments and changes to the first draft. Lita Fonda commented that there was some miscommunication and she had thought her issue would be included in the first draft.

Murat Kalinyaprak commented that he was very disappointed in the Commission's decision on a matter that they don't have control over, which was the purchase price of the Tamsco building. He added that it was lucky MVA was a non-profit organization and their books open to the public. He commented that depending on how much they pay for that building, they would be the subject of complaints and investigations, and the City possibly as well for having allowed the situation.

**The meeting adjourned at 8:35 p.m.**

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**Mayor Pat DeVries**

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**Attest: Kala Parker, City Clerk**