

ORDINANCE NO. 641

AN ORDINANCE PROVIDING FOR THE CONSOLIDATION OF THE OFFICE OF THE CITY MANAGER AND THE OFFICE OF THE CITY ATTORNEY.

Whereas, the City Council of the City of Polson, hereinafter Council, pursuant to the Charter of the City of Polson approved by the voters is obliged to appoint persons to the office of City Manager and also to the office of City Attorney, known also as the Chief Legal Officer; and,

Whereas, the City Council may find it in the public's interest to consolidate the duties and responsibilities of the office of the City Manager and that of the City Attorney; and,

Whereas, the City Council believes that consolidation of such offices will not of itself present a conflict of interest for the office of the City Attorney, since the same advises the municipal corporation, rather than advising the office of the City Manager, as to the rights, obligations, duties, options, and responsibilities of the municipal corporation and receives direction therefrom; and,

Whereas, recognizing that where such offices are consolidated, that circumstances may in future arise where pursuant to the rules governing the legal profession in the State of Montana as the same exist now or may later be amended, the potential exists for a conflict of interest, or for the appearance of a conflict of interest, and desiring to provide a mechanism in such cases to avoid any conflict of interest; and,

Whereas, Montana law provides that the Council may, as it sees fit, elect to consolidate the offices above-mentioned, and the Council desires to retain as an elective option the ability to consolidate the offices as the same may from time to time appear in the interest of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA:

1. The City Council may, as it deems fit in year to year, appoint and by contract consolidate into one City office the offices provided in the Charter of City Manager and of City Attorney. In such event, the office shall be known as City Executive, unless as a matter of clarity for any Court or party, City Attorney is a more appropriate appellation.
2. In case of such appointment, the City Executive shall exercise all duties and responsibilities pertaining to both offices as set forth in the Charter and as the same may be defined pursuant to existing City resolutions and ordinances, or by contract, as the same may from time to time appear.
3. Nothing in this Ordinance is intended to limit the City Executive from obtaining, and the City Executive is in such cases authorized and required to obtain, where the same seems necessary or proper, legal opinions or assistance from a duly licensed Montana attorney in the event of a potential or perceived conflict of interest as between either offices thereunto appointed or between either and the municipal corporation, or in any other circumstance where in the opinion of the City Executive outside legal counsel should be retained.
4. Pursuant to Chapter 3.04 of the Charter of the City of Polson, compensation for the office of City Executive shall be determined by the Council from year to year in accordance with the principles governing the municipal budget.

REPEALING CLAUSE: All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: February 2, 2009.

SECOND READING: February 16, 2009

NOW, THEREFORE, the foregoing Ordinance shall become effective on March March 17, 2009.

PASSED AND ADOPTED THIS 16th day of February, 2009.

CITY OF POLSON

Lou Marchello, Mayor

ATTEST: _____
Aggi Loeser, City Clerk