

## **RESOLUTION NO. 978**

### **A RESOLUTION TO DEFINE PROCEDURE FOR FILLING OPEN CITY MANAGER POSITION.**

WHEREAS, the City Council of the City of Polson, under the Charter approved by the voters, is required to hire a city manager; and,

WHEREAS, the Council recognizes that there will be occasions when a vacancy in the office of City Manager will occur, upon a death, resignation, separation, or illness of a permanent City Manager appointed and contracted pursuant to Chapter 2.02.020 of the Polson Municipal Code; and,

WHEREAS, the Council desires hereby to set and establish a policy and procedure to implement in the case of such vacancy in order to appoint and contract a City Manager pursuant to Chapter 2.02.020 of the Polson Municipal Code; and,

WHEREAS the Council desires hereby also to set and establish a policy regarding the means and manner by which the said office of City Manager may be filled on an interim, acting basis in conformance with the will of the voters, until such time as the office may be filled pursuant to Chapter 2.02.020 of the Municipal Codes; and,

WHEREAS, the Council has previously adopted Resolution 974, and desires by this Resolution to supercede and amend the terms thereof to provide greater flexibility in this and future Councils.

### **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA, LAKE COUNTY:**

#### SECTION 1. Definitions:

City Manager. The City Manager is the person appointed and contracted pursuant to the Charter and Chapter 2.02.020 of the Polson Municipal Codes.

Acting City Manager. The Acting City Manager is the person appointed by the Council pursuant to this Resolution to fill the office until such time as a City Manager is appointed and contracted; possessed, however, of all powers and obligations usually pertaining to the office of the City Manager pursuant to the Charter and as the Council may have from time to time prescribed in a lawful manner.

Vacancy in Office of City Manager. A vacancy in the office of City Manager is created upon that person's death, resignation, dismissal, or in the event of an illness incapacitating the City Manager such that he or she is unable to perform the duties appointed and contracted.

SECTION 2. The Council shall, upon discovery of an existing or anticipated vacancy in the office of the City Manager, undertake to solicit letters of interest from any resident electors residing within the corporate limits of the City of Polson for the position of Acting City Manager. No person currently holding elected office of any kind shall be eligible, nor shall any person for whom accepting the position will result in an incompatibility of office.

SECTION 3. The Council, upon discovery of an existing or anticipated vacancy in the office of the City Manager, shall also undertake to solicit persons for the City Manager position, and of persons interested in serving on a City Manager search committee. The solicitations shall be in the form of publication in a local paper of general circulation, on the City of Polson web site, and in any other publication or manner which the Search Committee shall deem necessary or appropriate.

SECTION 4. The Search Committee shall be a non-permanent, advisory body to the Council, and shall consist of between five and seven City of Polson resident electors, excluding therefrom any members of the Council. A regular, full time employee of the City of Polson may be appointed to the number necessary. The Council shall so manage the solicitation of letters of interest as to make an appointment of the Search Committee as soon as practicable when the vacancy is known to exist. The appointment to the Search Committee by the Council shall be by nomination by slate, and the appointment members thereof to serve on such terms as the Council deems fit in the circumstances.

- SECTION 5. The Search Committee shall adopt such officers, rules and procedures as it deems necessary to carry out its function, however with due attention to the laws of public participation.
- SECTION 6. The Search Committee is to be instructed in the following guidance: that the process it determines fit is subject to the review and approval of the Council, as it may from time to time require; that the process ought to result in a range of candidates; that the process ought to include in-person interviews by the Council; and that the entirety of the process, and including the assumption that any successful candidate will need to give thirty days' notice, ought require no more than ninety days to complete the appointment and contracting pursuant to Chapter 2.02.020 of the Polson Municipal Codes.
- SECTION 7. Bearing in mind that the Charter specifies as the sole and single qualification of City Manager that of "merit," the Search Committee is at liberty to define the same to the extent necessary to carry out its function in advising the Council.
- SECTION 8. At the time and place stated in the solicitation therefore Council shall take up the question of appointment of an Acting City Manager by nomination from among those who have expressed an interest. However the Council is not bound to accept an Acting City Manager only from among those who have expressed an interest and may petition particular individuals, as it sees fit.
- SECTION 9. A simple majority of the quorum of members present and voting shall be sufficient for decision and appointment, on such terms and conditions as the Council and the appointed person shall then determine, excepting, that the Acting City Manager shall be considered to be on service in a fee for service, not employment, contract. The Council shall use as its guide that the Charter specifies merit as the single qualification for office.
- SECTION 10. The appointment by the Council of an Acting City Manager must take place within 30 days of the vacancy in office of the City Manager, and such appointment may remain in effect only until the appointment and qualification of the City Manager, but in no case in excess of ninety days unless specifically extended or renewed by the Council.
- SECTION 11. The Council may, in circumstances it deems proper, upon motion made and passed, elect to forego the procedures set forth in Sections 3 through 7 hereof, in favor of a process more calculated to fill the position.
- SECTION 12. Upon appointment and contracting with a City Manager, the functions of the Acting City Manager and of the Search Committee shall be at an end, and of no further force, effect, or authority.
- SECTION 13. All Resolutions or parts of resolutions in conflict herewith are hereby amended to the extent of any such conflict.

PASSED AND APPROVED this 2<sup>nd</sup> day of February, 2009.

Lou Marchello, Mayor

ATTEST:

Aggi Loeser, City Clerk

STATE OF MONTANA     )  
   :ss.  
 County of Lake             )

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me, the undersigned, a Notary Public for the State of Montana, personally appeared **Lou Marchello** and **Aggi Loeser**, personally known to me to be the Mayor and the City Clerk of the City of Polson, Montana, the Municipal Corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for the State of Montana  
 Residing at \_\_\_\_\_ Montana  
 My Commission expires: