

Return to:

City Clerk
City of Polson
106 First Street East
Polson, MT 59860

CITY OF POLSON
RESOLUTION NUMBER 2023-020
A RESOLUTION TO TRANSFER REAL PROPERTY BETWEEN THE CITY OF
POLSON AND LAKE COUNTY.

WHEREAS, the Montana Code Annotated (MCA) section 7-8-101 authorizes governmental entities to transfer property between each other by following certain procedural steps: (1) passing a resolution of intent that occurred on **October 16, 2023**; (2) noticing the resolution of intent by publication as provided in MCA 7-1-2121 that occurred on **October 19 and 26, 2023**; and, (3) passing a resolution of transfer;

WHEREAS, the City of Polson holds a possibility of reverter interest (where ownership would return to the grantor upon certain conditions) in the parcel on which the Lake County Courthouse exists; FURTHER, the City of Polson deeded the Courthouse property to Lake County in 1934 with the possibility of reverter; FURTHER that condition for reverter being if the Courthouse on the parcel was ever abandoned or ceased to use and occupy for such purpose then ownership would vest back to the City of Polson, the parcel is legally described as:

Block 18, Original Townsite of Polson, according to the map and plat thereof on file and of record in the office of the Clerk and Recorder of Lake County (Deed #39586);

WHEREAS, the City of Polson owns a water tower storage tank on property owned by Lake County, the property is legally described as:

SKYLINE ADD, S10, T22 N, R20 W, Lot 0B1, PARK B-1 (commonly known as the City of Polson Hillside Water Tower, Polson, Montana 59860, Geocode: 15-3228-10-3-15-06-0000; Deed No. 216363);

WHEREAS, the City of Polson and Lake County desire to transfer their respective interests in the above properties by executing mutual quitclaim deeds; FURTHER, Lake County has passed on October 2, 2023, their Resolution of Intent to Transfer Real Property with respect to the above properties (a copy attached hereto as Exhibit A); and

WHEREAS, the City Commission of the City of Polson has considered this request for transfer of property pursuant to the statutory requirements as set forth in MCA 7-8-101.

NOW THEREFORE BE IT RESOLVED that the City Commission of the City of Polson to transfer the City of Polson's possibility of reverter interest in the Courthouse parcel to Lake County in exchange for Lake County's interest in the Water Tower property; FURTHER that shall be completed by exchanging quitclaim deeds between the City of Polson and Lake County; and

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to file this resolution and quitclaim deed transferring the City's interest in the Courthouse property to Lake County with the Clerk and Recorder of Lake County;

BE IT FURTHER RESOLVED that the minutes of the City Commission of the City of Polson, Montana, incorporate this Resolution.

APPROVED AND ADOPTED this 6th day of November, 2023.

THE CITY OF POLSON

BY:

Eric Huffine, Mayor

Attest:

Ed Meece, City Manager

Cora E. Pritt, City Clerk

STATE OF MONTANA)
 :SS
County of Lake)

On this ___ day of _____, 2023, before me the undersigned Notary Public for the State of Montana, personally appeared **Eric Huffine**, known to me to be the Mayor of the City of Polson and known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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

Printed Name of Notary
Residing at Polson, Montana
My commission expires: ___/___/___

From: Dave Michie

Re: City-County Appraisal

To: Ed Meece, City Manager

Date: October 30, 2023

Memo

Question: (1) What monetary value does the City of Polson hold on the two properties County Courthouse and Water Tower that are involved in the City-County transfer? **(2)** Is there a comparable monetary value that can be placed on the two properties.

Opinion: (1) None at this time. Lake County currently owns both properties in fee. The City only owns a possibility of future ownership on the Courthouse property **IF** Lake County totally removes the “court” function from the Courthouse. Furthermore, the City’s interest only applies to the “land” portion of the property. The County would still own the structures (i.e., jail, administrative offices, etc.) on the land. Even if the land portion of the property was transferred to the City, to realize any value in the land, the City would have to force Lake County out of the Courthouse structure (if this even legally possible): by purchasing the building outright; or, by a municipal “taking” to remove the Courthouse structure from Lake County ownership – in which case the City would have to compensate Lake County for the value of the building. Ultimately the value of the Courthouse structure would outweigh the value of the land (as is the case with most properties). If the City was ever to have any monetary value in the Courthouse, it would have to be after it has either paid significant compensation to Lake County for the building (“taking” or sale) or via legal fees to utilize a controversial legal procedure to evict the County from the property. The City’s monetary interest in the Courthouse property would arise after spending a substantial amount for the full rights to the property.

The City does own the water tower on the Water Tower property, but the County owns the land. There are no agreements as to responsibilities. The same legal principles above may apply to the water tower ultimately ending in potential liability on the City’s behalf for fair market rental value over the current life of the water tower. All these issues can be resolved by transferring their respective interests in each property.

(2) Most likely not. There are an assortment of methods that can be used to appraise property. Most of the methods do not work due to the uniqueness of the properties involved. Using the most common “Sale Comparison” appraisal technique that uses data from similar properties having been sold fails to yield any comparison. The problem with this method is that there are no other county courthouses for sale in Lake County.

Another appraisal method that is used is called “Land Valuation,” which compares the value of the land. Montana’s Department of Revenue has a system that is capable of estimating land value for tax purposes. However, a comparison of land value appraisals between the Water Tower property and the Courthouse property (roughly \$100k vs. \$300k) isn’t really an accurate scenario because it assumes that either property is currently accessible for sale, private redevelopment, or reuse in a modified capacity by the current “owner.” There isn’t a true Fair Market Value for the land because it is not available to the public. Nor do the numbers from this land

MEMO re: City-County Appraisal

valuation method consider the value of the improvements on the land, such as the water tower and the courthouse. Any estimated appraisal values would be based on apples to oranges comparison or faulty possible uses that do not readily convert to true dollars due to the unique nature of each property.

Proposed action: An important point is that Lake County currently owns both properties. Under the current proposal, ***the City is leveraging the possibility of future ownership to receive actual ownership of property currently owned by Lake County.*** In effect, turning a non-ownership proposition into an ownership proposition without the investment of any additional funds or land. The City Commission should vote to transfer the possibility of future ownership of the Courthouse to the County in return for the ownership of the Water Tower property.

Conclusion: The current ownership interest in the above courthouse and water tower properties only leaves the City open to liabilities. These liabilities can be removed by using the land transfer as provided for in MCA 7-8-101.

Note: The Supreme Court of the United States has rejected the “possible use” valuation. This is generally pointed out with “taking” and “just compensation” when a state or local government takes property owned by another. Just compensation is measured “by reference to the uses for which the property is suitable, having regard to the existing business and wants of the community, or such as may be reasonably expected in the immediate future, . . . [but] ‘mere possible or imaginary uses or the speculative schemes of its proprietor, are to be excluded.’” That the speculative or possible use for “condos” or other non-government structures would not be taken into account for determining the fair market value. Hence, the City most likely could not justify the expense required to turn/buy the Courthouse property into city property, only to demo the property for the possible use of residential/commercial buildings.