

# CITY OF POLSON COMMISSION MEETING

Commission Chambers

March 7, 2016

7:00 p.m.

**ATTENDANCE:** Mayor Heather Knutson, Commissioners Coutts, Donovan, Erickson, Siler, and Southerland, Turner, City Manager Mark Shrives, City Clerk Cora Pritt

**OTHERS PRESENT** (who voluntarily signed in): Elsa Duford, Lita Fonda, Margie Hendricks, Bonnie Manicke, Lee Manicke, Joyce Norman, Richard Norman, Tony Porrazzo, and Russell Stone

**CALL TO ORDER: (00:00)** Mayor Knutson called the meeting to order. The Pledge of Allegiance was recited. Roll call was taken.

**APPROVAL OF PROPOSED AGENDA (00:51) - Commissioner Turner motion to approve the proposed agenda. Commissioner Southerland second.** City Commission discussion: Commissioner Siler asked about removing 5d from the Consent Agenda. Mayor Knutson replied that when the Commission gets to that part of the agenda, then the removal of 5d will be discussed. Public comment: **Elsa Duford** asked about if the Commission was going to remove Consent Agenda 5d. Mayor Knutson explained that the Commission wasn't to that agenda item yet. **VOTE: Unanimous Motion carried**

**PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC NOT ON THE AGENDA ( 04:10)-Russell Stone**-Ward II commented that his neighbor has installed a street light in her back yard. This street light shines into Mr. Stone's home illuminating the inside of the house. Mrs. Stone has purchased blinds to block out the light. The back yard is also illuminated. Mission Valley Power was called but there is no way to block the light. Mr. Stone has spoken with his neighbor about the light. She was under the impression that she had done the neighborhood a favor. Mayor Knutson commented that she would consult with the City Manager on what the options are concerning this issue. Mr. Stone also commented on the Resort Tax being proposed. Mr. Stone owns a local business. While Mr. Stone is in favor of the Resort Tax he will absorb the 3% proposed and not pass it on to his customers.

**CONSENT AGENDA (11:39)**-(a). February 12-29, 2016 claims, (b). City Commission meeting Minutes February 17, 2016, (c). City Commission Workshop Minutes February 27, 2016, (d). Norman 2-lot Minor Subdivision. City Manager Shrives comments that if the Commission want to remove 5d for a more indepth discussion, there will need to be a motion to remove this item. **Commissioner Siler motion to remove 5d. as a separate agenda item from the consent agenda. Commissioner Turner second.** Commission discussion: none Public Comment: **Richard Norman**-asked why this item was being separated. Mayor Knutson commented that there was information received late and the Commission has not had an opportunity to review previously. City Manager Shrives commented that the item will be discussed. **VOTE: Unanimous Motion carried. The Consent Agenda will now be 5a., 5b, and 5c. Commissioner Erickson motion to approve the Consent Agenda. Commissioner Coutts second.** Commission discussion: none Public comment: **Lee Manicke**-Ward II commented that the claims were not posted on the City website for the agenda. **Elsa Duford**-There were no minutes or claims on the City website for this agenda. Also Elsa clarified an incident that she spoke about during the February 17, 2016 Commission meeting. The incident with her neighbor about the dogs charging the fence occurred 6 years ago. Elsa further commented that she would like to see the City ordinances apply to everyone that lives in the City. That there be no difference between the Tribal citizens and any other citizen that lives within the City boundaries. Mayor Knutson commented that the City is working closer with the Tribe and working on building a stronger relationship with the Tribal law enforcement. **VOTE: Unanimous Motion carried**

**AGENDA ITEM 5d (25:19).**-City Planner Kyle Roberts commented that the Commission was given a copy of the Staff Report. The Preliminary approval was given by the Commission in May 2015 with 19 Conditions of Approval. All of the Conditions have been met. The Final Plat has been reviewed by the City Manager, City Attorney, and the City Planner. The shared driveway, located in Prescriptive Easement, is historically 60 years. The easement on the plat was put on by the surveyor. Commissioner Siler asked if a prescriptive could be placed on the plat. City Attorney Rich Gebhardt explained that only the surveyor can put a prescriptive easement on the plat. The City is only charged with reviewing the plat for errors/emissions, calculations and drafting. In this particular case the language on the plat is determined by the Surveyor. Mayor Knutson recalled that there was a question about one of the houses being too close and not satisfying the set-back required. Commissioner Siler commented that the Norman's were granted a variance for the set-back. Commissioner Siler questioned the wording on Condition of Approval #11-Impact Fees. Commissioner Siler asked if the applicants' need to pay Impact Fees. City Manager Shrives answered that there should not be any Impact Fees. City Attorney Gebhardt agreed with Commissioner Siler that the wording Impact Fees should be removed. Mayor Knutson clarified that from the City's perspective, the City is approving exactly what the City is able to approve. The particular easement and the contradiction in that is not up to the City to settle that particular situation. **Commissioner Southerland motion to approve the Norman 2-lot minor subdivision Final Plat. Commissioner Donovan second.** Commission discussion: Commissioner Siler commented that based on the City Attorney's comments he will have to vote yes. Public Comment: **Margie Hendricks** discussed the following letter that she submitted to the Commission:

To Mayor Knutson, City Manager Sreives, and the City Commission,

The Norman subdivision proposal is on the City Commission agenda tonight for final approval. Norman's, the owners of the subdivision, have not provided My husband and I with any legal document showing what their rights are concerning the roadway on our property. My husband and I request a piece of paper showing what the Norman's legal rights are and, it seems to me, the city should also have a legal document in hand that supports the claim Norman's have a legitimate claim to an existing road access on our property. I ask the subdivision be tabled until the easement issue and other serious issues can be addressed.

To provide a little history concerning this matter. I made an effort to reach an agreement with Normans during the past nine months. June 2015, following the May Preliminary Plat approval process, I wrote two letters to the city wanting to find out what city codes would require if my husband and I and the Norman's combined the 12' road access on our property with part of the road access on Norman's property to provide a 20 or 24' road access for possible future development on both of our properties. Mrs Norman was unwilling to respond to any suggestions I was entertaining. Because she wouldn't engage in discussion I assumed they were going to use the road access on their property.

I learned Friday, March 4<sup>th</sup>, that the Norman subdivision would be before the Commission for Final approval. I went to City Hall to see if the Norman's had settled on a access road through their own property. There was no way I could tell. There was a maintenance agreement for the road access on 1A in the subdivision packet, but no information regarding which road access they intended to use. My husband is 82 and has heart issues I felt at this point we should avoid the anxiety of not knowing which access road is contemplated by Norman's and just make an offer.

The 12' shared existing road access on our property is located on our west boundary line adjacent to Normans property. For the past 60 years the previous owners of our property, and we, as current owners of the property, have allowed the road that is the accesses to our residence to be used by the neighbors east of us. In turn, Norman's and the previous owners of their property allow us, and previous owners, to use a road through their property to access our back yard. There was no written agreement concerning the road. My husband contacted Joyce Norman Friday March 4, and suggested we would give them a road easement for Lot 1A and 2A if they would reciprocate and give us a road access easement to our back yard. It seemed like this suggestion was acceptable but when I talked to Joyce Norman on the March 6<sup>th</sup> about how we might construct legal easements with maintenance agreement to be recorded, Mrs Norman responded they did not intend to participate in written contracts concerning the roads.

Mrs. Norman informed me the basis of the claim to the road right of ways on both properties is documented on a 1996 plat map, COS 5234. This was a land transfer plat between the two parties. The plat states that land within Norman's boundry and our property boundry is subject to all reservations, restrictions, and easements *apparent* or of record.

I consulted with a title officer this morning. My understanding of his opinion of the subject to statement on the plat is that the statement is a 'catch all' that has vague legal significance, that lawyers in some

counties don't recognize it at all, and he gave me several reasons why a vague referance on the plat map would make it very difficult to sell our property. A person seeking a loan for our property would have to show a legally recorded easement agreement with a road maintenance clause to get a bank loan. A title company would require a legal written easement. He was much more articulate and expansive about the issues involved than I am capable of reporting but he offered to talk to the city and repeat what he told me.

I have some documentation that in the past 10 years I have made friendly overtures to the Norman's suggesting we draw up legal raod easements that can be recorded. I have never received a response.

Sincerely,



**Richard Norman** commented on the letter that the Norman's had submitted:

**It is our opinion that any discussion of an access easement between the neighbors adjacent to the east of our proposed sub-division is not related or pertinent to the project.**

**Ingress/egress to the two lots (created by the sub-division) is ensured by the east roadway easement provided in the sub-division proposal.**

**Further, there is substantial evidence that the existing ingress/egress is ensured by historical use. In addition to all the prior owners' satisfactory use, we, too, have enjoyed a satisfactory experience with our easterly neighbors over the past twelve plus years of our residency.**

Prior to the vote, City Attorney Gebhardt reiterated that the matter of easement agreement is a civil matter. **VOTE: 1 nay 6 ayes Motion Carried**

**CITY MANAGER COMMENTS (57:26)**-City Manager Shrives commented on the following: There will be a follow up presentation by the Local Government Center recapping the Strategic Planning workshop of February 27<sup>th</sup>. Brandon Parker has attended the Resource Management classes and has received 100% on his student presentation. Brandon will be giving his presentation to Commission at a later meeting. City Manager Shrives cleared up the issue of the items missing from the agenda posting. Legally the City is only required to post the agenda and that was on the website. The Mayor thanked all the department heads who attended the Strategic Planning Workshop on February 27<sup>th</sup>. The Commission will begin the City Manager annual evaluation. This year the evaluation will be done slightly different. There will be more open ended questions of the Commission and thoughts on how things are going. The time frame will be: the review portion of the evaluation in March. Then there will be a 30 day written report out. There will be several Commissioners absent from the second meeting in April, so we are working on how to best handle that portion of the evaluation. The Mayor will email some questions to each Commissioner and then the responses need to be returned individually. The Greater Polson Foundation beautification event to spruce up the City of Polson will be April 29<sup>th</sup>. The Mayor has requested that the Commission be a team and contribute 2 hours of clean up.

**APPROVE SECOND READING OF ORDINANCE 2016-002 PUBLIC SAFETY CHAPTER 7, ARTICLES 1-5.(01:05:18)**-City Manager Shrives presented this agenda item. There has been a correction to section 7.03.060. The wording has been changed to include the City Manager and not just the Building Official. Also the word “club” has been added to the word “billy” in the weapon section. Commissioner Southerland asked for clarification of an Attractive Nuisance. City Attorney Gebhardt replied that the legal definition is something that a child would see and want to go to it; i.e-a swimming pool. **Commissioner Turner motion to approve the 2<sup>nd</sup> reading of the Ordinance Number 2016-002 to adopt Chapter 7, Public Safety Article 1, Garbage, Article 2, Weeds, Article 3, Community Decay-Nuisance, Article 4, Abandoned or Junked Vehicles, Article 5, Firearms and Bows on Public Property, to the City of Polson Book of Ordinances. Commissioner Southerland second.** Commission discussion: none Public Comment: **Elsa Duford**- commented that some of the penalties appeared to be too harsh. There needs to be some flexibility. **VOTE: Unanimous Motion carried**

**PRESENTATION OF PLAQUE TO KAREN SARGEANT (01:14:49)**-Mayor Knutson presented this agenda item. Mayor Knutson thanked Karen for her time and how she is always open to anyone who would like to say anything. City Manager Shrives commented that he appreciated all that Karen has done since he became City Manager. Karen was very helpful in bringing City Manager Shrives up to speed on what was happening in the City when he arrived. Karen will be facing a lot of challenges in her new position but she is definitely up to the challenge. Commissioner Siler asked is Karen thought the skate park kids would miss her. Commissioner Southerland commented that working with Karen these last couple of years, and the time that she took over as acting City Manager, Karen did a great job. Commissioner Southerland liked the way Karen conducted the Commission meetings and thanked Karen for doing that. Commissioner Erickson commented that he appreciated Karen’s ability to be on hand and someone wanted to talk to her about something. Karen was willing to take a time on a personal level to work with Commissioner Erickson’s sons. Commissioner Erickson commented that he appreciated working with Karen and her ability to tell it like it is. Commissioner Turner commented that he wished Karen the best. Enjoyed knowing her and wished her all the best. Karen Sargeant commented that she appreciated working with all of the Commission. Lita Fonda commented that Lita worked for the City when Karen first started working for the City. There was a lot of room for improvement from the previous Parks Director. Lita commented how impressed she was with Karen and enjoyed Karen’s energy, diversity of her knowledge, her willingness to work with other departments, connecting people together. She had such a great ability to work with a variety of people. Lee Manicke commented Karen came on to the Polson Development Code Re-write after some of the committee had been there a while.

There were some intense debates, but as soon as the debate was over it was back to normal. Karen would just let it run off. City Attorney Rich Gebhardt commented that when he and Karen began working on re-writing the Parks Ordinances, Karen brought a lot of things to Rich's attention that needed correction. Karen is always willing to come to you and ask questions, get answers and does it in such a nice diplomatic way. Mayor Knutson commented that there has been several people comment to her about Karen and how she will be missed here. Mayor Knutson commented how she appreciated Karen's transparency in the Commission meetings while serving as acting City Manager.

**(01:24:28)** Mayor Knutson commented that a meeting may be closed to discuss the strategy of pending, threatened or actual litigation; Mayor Knutson asked if the litigation was between two governmental agencies. City manager Shrives replied no. Mayor Knutson asked if the discussion of this legal matter in open meeting have the potential to adversely affect the City if the strategy to defend the matter is disclosed. City Manager Shrives replied yes. Mayor Knutson commented that based upon the representations of the City Manager, I find that the Commission should close its meeting into executive session so that we may discuss the litigation strategy of pending, threatened or actual litigation." "I believe that we will be discussing this matter for 30 to 60 minutes. Thereafter, we will reconvene the meeting only to determine full or action minutes and to adjourn the meeting.

**RECESS: (01:25:27) EXECUTIVE SESSION**

**RECONVENE: (01:25:35)** Mayor Knutson commented for the record that Commissioner Turner had to leave during the Executive Session to pick up his daughter.

**(01:25:48)** Mayor Knutson asked the Commission if there were any items that needed full minutes or will action minutes suffice. The Commission commented that action minutes would suffice.

**Adjourn. (01:26:10) Commissioner Coutts motion to adjourn. Commissioner Donovan second.**  
Commission discussion: none Public Comment: none **VOTE: Unanimous Motion carried.**

**ADJOURN: 10:31 p.m.**

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**Heather Knutson, Mayor**

**ATTEST:** \_\_\_\_\_  
**Cora E. Pritt, City Clerk**