

POLSON CITY COUNCIL MEETING

NOVEMBER 7, 1994

7:30 P.M.

Council Present: Dan Morrison, Tom Jones, Roland Pedersen, Tom Vergeront, Jack Cross, Mike Lies.

Acting Mayor: Council President, Roland Pedersen

Others Present: Clint Fischer, Rich Stripp, Lorin Jacobson, Bob Fulton, Bonnie Manicke, Tom Skillings, Dean Durand, Rich Parmeter Tom Gilmore, Will Tusick, Jan Tusick, Ron Selden, Jens Gran, John Campbell.

MINUTES OF OCTOBER 17, 1994: Motion Lies, to accept the minutes as presented. Loeser noted that Richard Mabee requested that a portion of the minutes be changed in the conflict of interest item. He clarified that he works 20 3/4 hours per week. Another change he requested was his response to Tom Jones' question whether Mabee thought he was being fair to the City. He said his response was no, he did not feel he was being unfair, and no he does not understand what the requirements of his job are and they need to be clarified and put in writing in a contractual form. Cross questioned if that is what he actually stated at the Council meeting, because he did not get that from his comments. Loeser said it was not clear from the tape or the minutes. Motion Lies to accept the minutes of October 17th with the changes. Pedersen noted that motion died for lack of second. Motion Lies, second Vergeront, that the minutes of October 17th be approved with the changes to include 20 3/4 hours, and that Mabee's comments be changed to indicate that he felt he was being fair to the City but needed his job requirements clarified in writing in a contractual form. Motion carried. Cross and Jones abstained.

1993-1994 FY AUDIT REPORT: Pedersen asked Council to approve the current 1993-1994 fiscal year audit report as presented. At the exit conference Terry Burke indicated to Glueckert, Pedersen, Manicke and Loeser that the FY 1993-1994 Audit Report is a clean report with no negative views. Motion Lies, second Cross, to adopt the FY 1993-1994 Audit Report as received. Motion carried unanimously.

1994-1995 FY AUDIT PROPOSAL BY TERRY J. BURKE: Pedersen noted that Terry Burke has a three year contract to perform the Audit for the City with 94-95 being the final year. Upon recommendation from Glueckert, Manicke, Loeser and himself, Pedersen asked that Council approve Terry Burke's contract to perform the FY 94-95 Audit. Motion Lies, second Morrison, to award the Audit Contract for FY 94-95 to Terry J. Burke. Motion carried unanimously.

WHITEFISH CREDIT UNION - PROPOSAL TO CORRECT CURB: Dean Durand asked that Council clarify the motion from the last meeting regarding the curb at Whitefish Credit Union. Vergeront said he made the motion that stated that the curb and gutter presently there be removed and a new curb and gutter be installed that meets the elevation of the present street. Durand said he is trying to avoid tearing the curb out and asked Council to reconsider. He said sooner or later the street will be overlaid and the curb averages 4" on the high side. He suggested he could bring the asphalt up to the curb to roll it at the high spot so water could roll down, in the future when there is an overlay it would be fairly level with the street. Vergeront said if Council makes this exception the intersection would be a problem forever in matching up the overlay of other streets. It is the builder's problem not the City's problem. Durand asked if that includes the sidewalk. Vergeront said in his view the sidewalk also has to be corrected or problems with opening doors while parked will occur. Durand said it is not that severe. Jones said only the radius of the corner would have to be corrected. Durand said that is still a large portion and he realizes it is a design problem by the architect

which he is trying to alleviate. He said it is past the season that he can put the asphalt on, but they will put compact gravel on until spring so it will not cause a problem. Jones asked Fulton for a solution from an engineering standpoint. Fulton said the previous solution mentioned would eliminate tearing out the curbs. Overlaying half of the street would allow the curb, sidewalk and landscaping to remain and would still get water away from the street. Jones asked if it would cause problems on the other side of the street. Fulton said no because there would still be an asymmetrical crown to the street and a slope to the Credit Union side of the street. Vergeront said this is just a short term solution. Fulton said it would cause a design problem only when the streets will be rebuilt in the next 10 to 20 years. Lies said if they can put in an overlay and still have a crown in the road he sees no reason to rip out the curb. Vergeront said that is putting burden on the City for the future when it is the responsibility of the agent for the Whitefish Credit Union. Jones asked if a contingency can be placed on the land that in the future when the street is rebuilt the curbs, gutters and sidewalks meet the street elevation. Fischer said that can be done by attaching the contingency to the property. Motion Jones, second Lies, that as long as there is a crown in the street that Durand be allowed to raise the asphalt to the height required to not tear out the curb and gutter and sidewalks, with the contingency that at the time the City rebuilds any part of the street or intersection they have to tear out the curb, gutter and sidewalk and build it according to City specifications. Vergeront said the Whitefish Credit Union Board of Directors will have to agree to the contingency. Fischer said the Council can allow the proposal providing the Whitefish Credit Union and its successors and assigns enters into this agreement which will be recorded, thereby the contingency will encumber the property. They would have to sign the agreement. Durand does not have the authority to bind them. The Council can pass the motion and put the theory in place upon Whitefish Credit Union's agreement and signature. If they do not agree then they will have to rip out the sidewalk, curb and gutter and build it according to the City's specifications. Lies said since they can not pave it until spring they will have plenty of time to get the agreement in order and said he would second Jones' motion. Cross said he would like to make it extremely tough, binding and expensive if it creates any challenge for the City whatsoever. He does not see how anyone can ask this of the City since it was not the City's mistake. Fischer said the Whitefish Credit Union's Board of Directors will be assuming a liability that was created by another party if they agree. It is his opinion that they may demand that the architect or Durand correct the error now so they don't assume a problem five or ten years from now. The motion is in order and would be enforceable if Whitefish Credit Union chooses to accept it. Pedersen said he will ask the Mayor to write a letter to the Whitefish Credit Union that the Council is unhappy with the way the architect Frank John DiStefano of the Architect Design Group from Kalispell has handled this situation. Pedersen stated that the motion before Council allows for overlay with asphalt leaving a crown in the center of the street with the contingency attached to the property which leaves the liability with the Whitefish Credit Union or any successor or owner of the property to rip out the curb and gutter when the streets are reconstructed. Jones agreed that was his motion. Vergeront said if the overlay is allowed, the water will sit on asphalt which is porous which will buckle instead of a concrete curb which is not porous. The City will have to patch the street until the curbs are corrected. Jones said it will be evident where the water will sit during this winter. Vergeront said the porous surface of the gravel will not be a true indicator. He said it was unanimous at the last council meeting that the curbs be torn out. It was designed wrong, laid wrong, the sub contractor knew it was wrong before he did the job, there is no reason to burden the City residents. Jones said he does not see it as a big burden on the City residents. Vergeront said it increases the City's street maintenance. Jones suggested increasing the City budget next year

to rebuild the street then they will have to tear out the curb. Pedersen suggested the motion include amendments in case the design does not work. Fischer said it can be stated that if it doesn't work then it can be required to be corrected at that time. Jones amended his motion to include the conditions 1) that this be binding upon the Whitefish Credit Union and its successors and interests, that if and when a new street is designed for the area that requires an alteration of the sidewalk, curb and gutter as it exists that it be redone at the property owners' expense, 2) the Council enters into this agreement based on the condition that the design does not create a drainage problem, and if time shows that it does the City will require Whitefish Credit Union to tear out the curb, gutter and sidewalk to bring it to the existing street level. Motion denied. Morrison, Vergeront, Cross against. Pedersen noted that the original motion of October 17th will stand which was to remove the faulty installation of the curb.

RESOLUTION 650 AUTHORIZING MAYOR TO SIGN MAIN STREET CONSTRUCTION AGREEMENT WITH DEPARTMENT OF TRANSPORTATION: Fulton said he reviewed the construction agreement and it appears to be standard for the project. The overlay would include Main Street from Highway 93 to 7th Avenue West and match up to the new road by Rancho Deluxe. The project schedule includes all handicapped accessible curbs that are required to be constructed will be done by Montana Department of Transportation with no expense to the City. The requirement for the City to do away with angle parking was deleted from the original contract as it is only a requirement east of the mountains. Vergeront said it would be best if the work was not scheduled to be done during the tourist season. Fulton clarified that it will be a 2" overlay and in some areas they will scrape the old asphalt and offer it to the City or whoever is interested in the material. Vergeront suggested that the business owners on Main Street should be informed about the timing of this project and that funds are available so they can plan to put in new curbs and gutters before the project is underway. Jones said the Community Development has been given that role. Pedersen said they should be encouraged to schedule to schedule the work before the overlay is done next year. Fulton said that is a good idea but in the past he attempted to promote construction of new curbs and gutters downtown unsuccessfully. In his opinion the probability of all the merchants in one block to agree to new curbs and gutters would be slim. Motion Lies, second Jones, to approve Resolution 650, authorizing the Mayor to sign the Construction Agreement with Montana Department of Transportation for the overlay of Main Street and Seventh Avenue as specified. Motion carried unanimously. Pedersen asked that the Mayor inform Community Development of this project and contact the Main Street businesses to encourage them to construct new curbs and gutters well in advance of the overlay project. Cross suggested going through the Chamber and the Retail Trades Association and felt they would be agreeable to do it. Cross agreed to contact Dick Kintz head of the Retail Trades Association. Pedersen noted that Fulton has sprayed a lot of orange paint on sidewalks which are hazardous throughout town.

WATER APPLICATION FOR HANS AND ELLAMAE BRANDAU LOT 3 FUNKE ADDITION: Pedersen said Campbell has approved this water application which is a standard request. Motion Vergeront, second Cross, to approve the Water Application for Hans and Ellamae Brandau Lot 3 Funke Addition. Motion carried unanimously.

HIRE ENGINEER TO DO AN ACCURATE COST ESTIMATE FOR IMPROVEMENT OF THE WEST SHORE WATER SERVICE: Pedersen said he and Campbell discussed the need to have an accurate cost estimate since certain property owners are ready to arrange an SID for the City to put a larger service line across the river which would provide more water to the West Shore. It is a specialized area and the City Engineer felt it would be appropriate to hire an outside engineering firm. Campbell recommended that Druyvestein, Johnson and Anderson Engineering firm out of Missoula be hired to do the cost estimate. Campbell was pleased with the work they did on the 1991 CDBG Water

Project. Pedersen said the fee would be well below the State law requirement for bidding process. Campbell would contact the firm to provide the cost estimates to improve the water service to the West Shore. **Motion Vergeront, second Jones, to approve hiring Druyvestein, Johnson and Anderson Engineering firm to do the cost estimate for the West Shore Water Improvement Project. Motion carried unanimously.**

COMMUNITY TRANSPORTATION ENHANCEMENT PROGRAM: Fulton informed Council that last spring Gayle Siemers had applied for CTEP funds on the City's behalf. Polson has been allocated \$23,000 a year for the three year funding cycle of the program. The second phase requires that the City determine projects that meet the criteria of the program to use the funds already set aside for Polson. It is a transportation enhancement program which cannot be used for motorized vehicles. The first project is a pedestrian, bicycle path to the high school. There will be \$37,000 available for projects, and if other acceptable projects are identified another \$60,000 would be available in the next two years. Fulton said he has additional information if anyone is interested. One criteria is that the public be involved in identifying projects. It is a benefit that since Polson is on an Indian Reservation the City does not have to match the funds received from the State. A public hearing has been advertised for November 28th to solicit suggestions on how to spend the funds. It has been suggested that sidewalks be put near the Golf Course, although it is a good idea golf carts would not be allowed to be driven on the sidewalks. It is strictly enforced that the Highway Department will ask for a refund if they find the paths are used by any motorized vehicles. Vergeront suggested the funding be used for the bike path on the West Shore previously proposed by Gayle Siemers. Fulton said that would be an acceptable project. Cross questioned if the bike path is put in for \$70,000 and the Highway is widened would the Department of Highways replace the bike path. Lies said 17th Avenue should be the first priority because it is a safety hazard. Fulton said it will be a six foot wide gravel sidewalk separated from the gravel surface with curbs. DeVore has already received three proposals to do that project. Vergeront said the sidewalks located around Cherry Valley are spotty. Fulton said that is the purpose of the public hearing on November 28th to identify the community needs. Pedersen noted the public hearing has been duly advertised.

NAMING OF 12TH AVENUE PARK: Jones said in February 1993 the Park Board passed a motion to recommend to Council to name the 12th Avenue Park after Matt Pomajevich, but was not brought before Council for approval. Pedersen asked if Council wished to move in that direction or defer until later. Loeser said she remembered the discussion by the Park Board. She noted that there was also a request from a relative of the person who originally donated the land to name it after him. Jones asked if Lorin Jacobson would have a problem if it was a dual name. Jacobson said he would because Matt has spent two months of his time working on the Park, and it would still be a cattail field if it was not for him. Jones said when the Park Board's motion in February of 93 is confirmed the City will notify him. Jacobson said the Veteran's Dinner is this Saturday, Matt Pomajevich will be a special guest and he was hoping to announce the Park being named after him at that time. He said the Veteran's organization will pay for the sign and have it installed. Jones said he proposed to name the Park after Matt Pomajevich at the last Park Board Meeting and they told him they had already voted to do that and it was up to the Council to make it final. Jones said Chris Johnson confirmed that the motion was passed and recorded in the Park Board Minutes of February 1993, the Park Board was still in favor of the motion. **Motion Lies, second Jones to accept the Park Board's recommendation to name the 12th Avenue Park after Matt Pomajevich. Motion carried. Jones abstained.**

TONY PORRAZZO PERMANENT STATUS: Lies said Porrazzo has

satisfactorily completed his six month probation and he received a very good Evaluation from John Campbell. Lies said he has received one minor complaint that Porrazzo's dress is not appropriate when he reads meters. Campbell said reading meters is a dirty job. Lies asked that when he works for the City reading meters he not wear a sleeveless T shirt. Motion Lies, second Jones, to approve Tony Porrazzo's permanent status in the Water/Sewer Department, increasing his wage seventy five cents per hour. Motion carried unanimously.

ICE SKATING RINK UPDATE: Ron Selden said he is the acting Chairman for the Volunteer Ice Skating Association and asked Council to consider the proposed lease prepared by Clint Fischer. Fischer said there is no legal description attached to the Lease and a survey should be done to get the exact property description. Jens Gran presented a sketch of a map which indicates accurate fixed points and gives an idea of the location. Fischer said a legal description will have to be provided for the lease. He noted that there is a provision in the lease for the City to extend free of charge, water service lines to the rink and also to provide water free of charge for the ice skating rink. Vergeront asked about sewer requirements. Fischer said he included in the lease that all construction has to meet State codes and no sewer charges were asked to be provided free of charge. Selden said they were considering using portable toilets. Fischer said he understood they can be used for one day events but not on an extended basis. Campbell said no one has asked him about the water or sewer services. Because of bonding restrictions he knows of no instance where the City gave free water service except on a temporary basis. Fischer said this lease is a draft meant for the purpose of review by both parties. Selden said Chris Temple told him that the water line would be installed free of charge. Pedersen confirmed and Campbell agreed that last fall it was agreed that the City would provide water to set up the rink free of charge. Pedersen asked what the length of extension for water service would be. Vergeront said it is approximately 200 feet from the water main on 7th Avenue. Campbell said the line extended into Tamsco on the field would be the cheapest and best way to hook up. Pedersen noted that is where the legion field will also be located. He suggested that the City could help with the water service and coordinate it with the Legion field who is also planning to have a lease with the City. Fischer noted the Lease contains a nominal \$10.00 a year consideration assuming that the facility is not turned into a profit organization or private enterprise. Selden said that is not their intention. Vergeront asked how the charges for the services will be handled since that would having a bearing on what the City charges for the lease. Selden said that is being developed by the YMCA who recently received a \$15,600 HUD Grant, of which \$9,000 will be used to purchase skates and hockey gear for children. The rest will be used to operate the facility to pay a skating instructor, and they will charge a nominal fee. Vergeront said if it is run as cheaply as possible with the intention to encourage children's participation then it is feasible for the City to charge \$10.00. Gilmore said they are trying to create an activity for the participants as close to free as they can, with no intention to produce revenue above the cost to run the facility. It will be run by volunteers with the exception of one or two employees paid through the grant money and revenue. Selden said the grant is spread out over two years and is a one shot deal. Cross asked what it would cost the City to install a 200' line. Campbell said it would be depend on the size of the water line, approximately \$500. Vergeront said in the past the arrangement was that the requesting party buy the materials and the City provides the labor. Campbell agreed it could be done that way or the arrangement could be reversed. Fischer asked what the sewer requirements would be. Campbell said that should be addressed, he does not recommend portable toilets for several reasons and noted that the sewer lines are close by to facilitate the service. Jones asked if there are any plans for the restrooms. Gran said this proposal is for a temporary ice skating rink, with future plans to build a permanent

cement rink with pipes under it. Sewer and toilet lines at this time would be temporary since they are in discussions with the Legion to combine the facilities and not duplicate them. When the Legion plans are finalized there will be a large concession building with restrooms and coaches office, etc. Pedersen agreed with the plan to coordinate the concession facility. Gran said the first meeting last week was with all the organizations that will use the Kerr Dam Complex to discuss their future plans. In his opinion the water lines would be permanent and accessible to the Legion field who wants to use them to water down their stops for the games. Jones said only a hose bib would be required for that. Gilmore said most of the ice rink's water needs would be the use of a water hose which includes building up the ice with thin layers. Selden said the grooming machine would require some water to operate. Campbell suggested the use of a frost free hydrant. Selden said a lot of the materials have been donated by local businesses, Plum Creek, Woody's, Coast to Coast, Mission Valley Power, and a private donor gave \$6,000 toward the Zamboni which is the ice cleaning machine. Gran said the County is providing gravel and the Job Corps is hauling and leveling it. Cross said he agrees with giving free water and service line as long as it is in the budget. This will help with the apparent juvenile problem the City has. He suggested the water and sewer line should be installed with good planning so it does not have to be removed with more development there. Selden said with more contributions they hope to build a permanent facility in the next couple years. Pedersen suggested that since the lease agreement requires further review by both parties he would defer the lease approval until the next Council meeting. He felt the City should participate but further details about the water and sewer service should be worked out in discussion with Campbell, so he can make a recommendation to Council at the next meeting. He asked Manicke to check the bonding requirements for the next meeting about providing free water for the facility. Fischer said all State and City regulations should be followed for the bathroom facility. Gilmore asked if bathroom facilities have to be provided for the few months of use. Campbell said all the ballfields have facilities but they are winterized and not used in the winter. Selden asked what the City requires for Liability coverage. Fischer said in this case the City is allowing a non profit organization to utilize some City property but the City will not assume any liability, and want to be held harmless from any and all liability, costs or exposure to be backed by an appropriate liability policy. Greg Hertz of the YMCA told Fischer that they would probably purchase a separate rider on their present policy for the ice skating rink facility at an estimated cost of approximately \$600. Fischer said the lease includes a \$500,000 per individual and occurrence which is an acceptable minimum. Vergeront said \$1,000,000 has been the City's requirement. Cross asked if there is a budgetary problem with giving free services. Pedersen said the City can find ways to help with the cost of the services. Gran asked if there is a Council person they can contact to discuss issues. Pedersen said Fischer as City Attorney and Jones as the Parks Department Council representative. Selden asked if the Council would allow them to set up a liner, put gravel in place, also boards for framing the rink. Jones said the City had an agreement with them last year although they never finished setting up the rink. **Motion Cross, that if VISA presents a plan in two weeks that is acceptable to the City Water/Sewer Department the Council will agree to the lease.** Selden said the placement of the power poles are held up because the lease is not agreed upon. Fischer said the City can grant immediate access to start the project, provided everything they do there is at their own risk if no agreement is reached regarding the lease. Gilmore clarified that this request is to place the gravel, boards and liner. Selden said there are two temporary storage sheds to be placed. Gilmore said Mabee told him he would recommend that Council allow the placement of these temporary mobile sheds. **Motion Cross, second Morrison, to give VISA immediate access to construct the ice skating rink and the placement of the buildings at their own risk, with the understanding that agreement is reached by both parties**

regarding the Lease Contract, if not, that the land be brought back to its original state. Motion carried unanimously.

REROOF AND SIDING BUILDING PERMIT FEES: Pedersen said Kyle Karstens among others have complained against the City's reroof and siding building permit fees which are based on the value of the project. He asked Council to consider a flat fee as is charged for fences. Vergeront said the requirement of a building permit for reroofs has been a policy for 25 years, and the building inspector determines what the load of the roof will carry. Some houses have three sets of shingles and he questioned how they stay up. Pedersen clarified the issue is to justify the fee, and Vergeront has explained the reason for building permits being required for reroofing projects. Cross asked if there is any reason the building inspector needs to inspect a siding job. Vergeront said an inspection is needed if there is a change in the structure with a siding project. Jones agreed that reroofing should require a full permit fee but the siding could be only a nominal fee if the building inspector verifies there is no structural changes. Vergeront said the building permit fee was 10% of the cost several years ago. Loeser noted the fence permits are a flat fee of \$25.00. Cross suggested that the Council should wait for the results of the CI 66 and 67 ballots before doing away with any fees. Pedersen tabled the issue for further discussion.

POLICE CAR BIDS: Pedersen said Buzzard asked Council approval to advertise for bids to purchase a new police car which is in the budget. The State bids have been let and should net a savings of approximately \$2,500 to \$3,00 by going with the agency that has the winning bid. Currently the police cars have been in need of repair frequently and the new car should arrive by February 1. Motion Vergeront, second Cross, to approve advertising for bids to purchase a new police car. Motion carried unanimously.

Gran asked if Council is aware that 100 yards of gravel has been taken from the City's stockpile at Kerr Dam Road without permission and the construction trucks have trashed the site where Job Corps was to level which set them back considerably. Campbell replied that Ready Mix will replace the gravel and had permission to take it. He is not aware of any problems. Pedersen asked that the complaints be taken to the Street Superintendent and the Mayor.

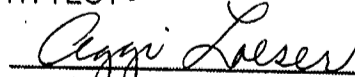
OCTOBER CLAIMS: Vergeront said he understood that one of the Street personnel was hired to be a half time mechanic and he would like to discuss with DeVore the reason for several claims submitted for car repair in the street department. Motion Lies, second Morrison to approve claims #60294 to #60472 for a total of \$56,317.17. Motion carried unanimously.

Tom Skillings, a consultant said he was asked to submit a proposal for the 4th Avenue and Highway 93 Intersection. He said he is in town to look around and will submit a proposal tomorrow. He is looking for input from the Council as he understood they are part of the selection process of the successful bidder.

Meeting adjourned at 9:00 p.m.


Roland Pedersen, Acting Mayor

ATTEST:


Aggi Loeser, City Clerk