

CITY OF POLSON COUNCIL MEETING

Council Chambers

August 18, 2014

7:00 p.m.

ATTENDANCE: Mayor Heather Knutson, City Commissioners: John Campbell, Todd Erickson, Dan Morrison, Ken Siler, Jill Southerland, Stephen Turner, City Manager Mark Shrives, and City Clerk Cora Pritt.

Others present (that voluntarily signed in): Gino Caselli, Mary Francis Caselli, Elsa Duford, Thomas Fleming, Margie Hendricks, Rory Horning, Murat Kalinyaprak, Rick LaPiano, Bonnie Manicke, Linda McElvogue, Polson Police Chief Wade Nash, Andrew Speer, and Diane Speer.

CALL TO ORDER - Mayor Knutson called the meeting to order. The pledge of allegiance was recited. Roll call was taken.

APPROVAL OF PROPOSED AGENDA- Commissioner Campbell motion to approve the proposed agenda. Commissioner Turner second. Commission Discussion: Mayor Knutson corrected Agenda Item No. 4-it should read Special Meeting not Public Hearing. City Manager Shrives reminded the Commission that the approval is for the Amended Agenda. Public Comment-**Murat Kalinyaprak**-“I think you should take number 10 out of this agenda and go back to the original agenda which was on the City’s website on Thursday evening. I looked it up and I figured, personally, that there was nothing for me. That I wasn’t going to come until I received an email from a friend on Sunday. Then I looked it up on Sunday afternoon to see the amended agenda. I don’t think this complies with neither the later notice of the, giving adequate notice to the public to be prepared to make a decision. Not even to the Council. So, there are some things we could give information to the Council if we had time to prepare. I don’t know what is the rush to do this in less than 48 hours’ notice. I don’t even know where the 48 hour magic number comes from. The law says adequate notice. Posting something on the internet on Friday, especially after you say, “look this way. We’re not going to do anything. Don’t worry.” And you say, “Oh. Okay nothing on the agenda.” And then you say, “Ah, we’re going to sneak something in there and we’re going to pass it in a hurry.” That’s not fair. That’s just not fair. To mislead people that there’s not going to be anything other than what’s published on Thursday on the agenda, and add something to it after people may have decided that they’re not going to plan to come to the meeting. Which I wasn’t going to unless, except I got an email alerting me. Thank you.” **VOTE: Unanimous Motion carried**

APPROVAL OF CITY COMMISSION MEETING MINUTES JULY 21, 2014-Commissioner Southerland motion to approve City Commission Meeting Minutes July 21, 2014. Commissioner Morrison second. City Commission discussion: Commissioner Campbell commented that they were all great. Public Comment: none. **VOTE: Commissioner Turner & Commissioner Erickson abstain Motion carried**

APPROVAL OF CITY COMMISSION SPECIAL MEETING MINUTES JULY 28, 2014-Commissioner Southerland motion to approve City Commission Special Meeting Minutes July 28, 2014. Commissioner Siler second. City Commission discussion: none Public Comment: **Elsa Duford**-“I have a comment. On page 7 Greg Hertz is asking about if there was a complete package, and he said he could not find this red-lined version on the internet. So Mark answers that the red-line version just occurred today because we made changes. Well, I was at that meeting and I saw people

coming in, after we were already seated, and somebody noticed that there were papers on the table where Tom was sitting, and got some and shared them. That was the first I knew that this had been a change on the snow birds thing that same day. People that came in afterwards were sitting down closer to the entrance door and I don't think they saw any papers at all. So I felt that the public didn't get any advance notice that a change had been made on this. That is unfortunate because you can't comment if you aren't informed. I don't think to make a change the same day is the way to do things. That doesn't give the public any opportunity for advance notice. Thank you." **VOTE: Unanimous Motion carried**

APPROVAL OF CITY COMMISSION MEETING MINUTES AUGUST 4, 2014-Commissioner Southerland motion to approve City Commission Meeting Minutes August 4, 2014. Commissioner Campbell second. City Commission discussion: none Public comment: none
VOTE: Unanimous Motion carried.

CONSENT AGENDA-a. Additional Claims June, 2014 b. Additional Claims July, 2014, c. Claims August 1-13, 2014, d. Approve City Liquor License D. Berardinis Winery. Commissioner Turner motion to approve the Consent Agenda. Commissioner Siler second. Commission discussion: Commissioner Southerland questioned the City Liquor License if it was a new license or a renewal. Mayor Knutson answered that it was a late renewal. Public Comment: **Elsa Duford**-“I think I missed the boat on the last one. The approval of, where was it?” Mayor Knutson-“We're on the Consent Agenda. For claims June 2014.” Elsa Duford-“Oh. I'm sorry. You're on the claims. I thought you were on something else.” Mayor Knutson-“Yeah. We're on the claims and the approval of the liquor license.” Elsa Duford-“I'm ahead of myself. Thank you.” **VOTE: Unanimous Motion carried**

CITY MANAGER COMMENTS-City Manager Mark Shrives commented on the ever changing meeting schedule. The next meeting is the 27th of August at 7:00 p.m. This meeting will be the tentative award of the Downtown Looping project which is out for bid. Also, that will be the night that the preliminary budget is presented. September 3rd at 5:30 p.m. will be a Public Hearing regarding the proposed Water/Sewer rate increases. That will lead into the City Council meeting at 7:00 p.m. On the 15th of September at 6:00 p.m. will be the Public Hearing on the Preliminary Budget and the Council meeting at 7:00 p.m. The other item that is without a date is the workshop on the Recodification. Those are the ones that we can confirm. **Andrew Speer** asked the location of the September 3rd meeting. City Manager Shrives answered the location has not yet been determined. It will probably happen at another location. **Murat Kalinyaprak**-“I have a question about our City Manager's legal status as our legitimate City Manager. Somebody brought up the question; I had not paid attention, that the City Manager needs to take an Oath of Office. Did he take an Oath of Office?” City Manager Shrives, “Yes I did actually.” Murat, “Okay. When was that please?” City Manager Shrives, “Shortly after I came to work.” Murat, “Okay. Is it recorded some place? Okay. That's what somebody asked and I was wondering.” Mayor Knutson, “It would have been October or November I'm sure.” City Manager Shrives, “November I think.”

APPROVE POP'S GRILL PUBLIC RIGHT-OF-WAY ENCROACHMENT REVOCABLE PERMIT-Co-Owner Linda McElvogue was present however, City Manager Shrives presented the agenda item. There is a City Ordinance that requires a Public Right-of-Way Encroachment Permit if you put tables out on the public sidewalk next to your business. We have identified two businesses that have not received the permits, one of them being Pop's Grill. The Building Inspector contacted them. They brought in their paperwork along with their Liability Insurance. They have four tables at their location. So they meet all of the requirements to get the permit. Linda McElvogue commented that Pop's Grill did get a permit when they first opened, but didn't realize it had to be renewed every year. **Commissioner Turner motioned to approve Pop's Grill Public Right-of-Way Encroachment Revocable Permit. Commissioner Campbell second.** City Commission discussion: none Public comment:

Rory Horning-“Not a public comment, but I do have a question process. Is this only for tables in the right-of-way? Or is this any right-of-way encroachment within the outline of the City? Mayor Knutson-“Within the City. It indicates on there that it mentions signage, bicycle racks on there. Sidewalk displays, planters and others.” Rory Horning, “Other can be anything. So anything that’s on the public right-of-way is supposed to go through this process. Isn’t that correct?” Mayor Knutson, “Yeah I think anything that is going to be out on the street that could potentially cause some.....” Rory Horning, “And this is an annual approval for this.” Mayor Knutson, “I believe so.” Rory Horning, “And they’ve all been caught up? I hope.” City Manager Shrives, “Working on it.” Mayor Knutson, “We are working on it. Yes. Thank you.” **VOTE: Unanimous Motion carried**

APPROVE MRS. WONDERFUL CAFE PUBLIC RIGHT-OF-WAY ENCROACHMENT REVOCABLE PERMIT

– City Manager Shrives presented this agenda item. The only item missing from this application is the Certificate of Liability Insurance. Owner Gino Caselli commented that he did not have the Certificate of Liability Insurance. Mayor Knutson asked Mr. Caselli about the status of the Certificate of Liability Insurance. Mr. Caselli then came to the podium to address Council on this matter. **Gino Caselli**-“When we got our packet, it required a million dollar liability. We’ve been in business since July 15th and so I contacted Pete Bishop. He came out and gave us a quote of \$1,250.00 for his best quote to allow us to have these three tables in front of our business, which is six chairs and three tables. So, after considering, with my wife, and talking it over it would take considerable business to compensate for the \$1, 250.00 insurance cost to have permission to have these three tables out in front. So, we respectfully withdraw our request to have these tables because we just can’t afford the money at this time. It is as simple as that. Thank you.” Mayor Knutson clarified that Agenda Item number 9 has been withdrawn. City Manager Mark Shrives then asked for clarification from Mr. Caselli that the tables and chairs would be removed. Mr. Caselli replied that if that is what it takes to keep the City happy, then yes. City Manager Shrives explained that there is an Ordinance. That is why the City has contacted the businesses. Again, City Manager Shrives asked if the tables would be removed. **Mary Francis Caselli**, “Also known as Mrs. Wonderful. The interesting thing about this is our front of our place has an encroachment that the City put in there. Our tables don’t go out as far as that. So there’s an encroachment that the City put in front, there’s a stairway and a bar that comes out, but yet we’re not allowed to put tables out. I guess I just don’t understand. I guess I would like to know why the City is allowed to put an encroachment but we can’t have the tables out there. I mean does the City have a million dollars, are they already paying insurance on that encroachment that they’ve put on our property? Mayor Knutson, “I guess I wasn’t aware that the City put something on your property.” Mary Francis Caselli, “Yeah.” City Manager Shrives, “The property is public right-of-way right? I mean it’s the sidewalk.” Mary Francis Caselli, “It’s a sidewalk but it comes out, you know, here’s our building and then there’s this big kind of a step that the City put there and then they had to put a bar up there because people were tripping over it. So there’s already an encroachment that comes out farther than the tables that we’re putting out. So, I’m just wondering why we have to pay the money and the City doesn’t.” City Manager Shrives, “Well, the City does have insurance.” Mary Francis Caselli, “ So that belongs to the City? That encroachment. So it’s not our building?” City Manager Shrives, “It’s a, I don’t know what the encroachment is. I’m just saying that whatever is there, if it’s on public right-of-way, it’s the City’s. The City is insured for public right-of-way.” Mary Francis Caselli, “Okay. But I’m just saying you can’t walk where our tables are anyways. That’s just kind of a conundrum for me to think of well it doesn’t really make much sense that the City has encroached on it but yet we’re not allowed to unless we shell out money that we don’t have. It’s just kind of an interesting comment. Something that you might want to think about. That’s all. That why is that there. The City put that there and I guess the owner of the building didn’t want it there.” Mayor Knutson, “And that pre-dates. We’d have to look into that situation. I think with respect to the encroachment and revocable permit on this, its standard with the other restaurants as well. So I think it’s part of that situation.” Mary Francis Caselli, “And so everybody in the City has these? I mean I’ve noticed people have things in front of their buildings all over the place. They all have permits?” Mayor Knutson, “We’re working towards that.” City Manager Shrives, “That’s

why Pop's is in here. Mary Francis Caselli,"Not just tables. We're talking about...." City Manager Shrives, "I understand that. That was our start trying to deal with tables. You are right. I understand the other things. We are working on that too." Mayor Knutson-"I don't think we have Public Comment if we've pulled an item." **Rory Horning**, "It's on the agenda and it's been discussed. I'd like to claim the public's right to comment." Mayor Knutson, "I'm sorry they actually pulled their own agenda item." Rory Horning, "And you have an issue regarding right-of-way impeding. A discussion was done and I would like to add a comment to it. I believe under the law if it's on the agenda and you've had discussion that public has the right to comment. Now if you'd like to deny me the right to comment, then do it on the record and I will go sit down." Mayor Knutson, "And I actually have no problem with hearing what you have to say." Rory Horning, "Okay. Then I will be real brief. I would have been done already. I would like to say that the encroachment that is being discussed was an engineering error by the City on the building that Mrs. Wonderful is in. So, because of how the design was altered and they altered the sidewalk they had to add a step to the front of the building so that the owner could use the building. What is going on here folks is a hardship for a local business that is trying to start up and employee people in a ward that you yourself have said that you have people who are below the poverty level. You guys haven't even come in and seen what the business is. I just believe that you should reconsider the fact of the hardship because the selling season is only going to be for another six or some weeks and you're asking a brand new business to come up with an exurbanite amount of money. Some people don't have a stake in it and I'd just think that you ought to think about that. This is impeding business. Thanks." City Manager Shrives, "I still need to get clarified here where we're at. So, you've pulled the agenda item, so does that mean there will be no tables out there tomorrow?" Gino Caselli, "What does the law state on this matter?" City Manager Shrives, "You need to get the permit to be allowed to have the tables out there." Gino Caselli, "There's no chance to...it's a terrible catch 22. You want me to pay money that I don't have. If I don't have the money, then I have to take away more resources to make money so I can pay you money that you guys insist that I come up with. It's kind of a catch 22 here." City Manager Shrives, "All I'm trying to equally, we have an Ordinance that has to be equally applied. So other business that have gone through this process. I'm just asking where we're at regarding." Gino Caselli, "I'm asking you what's the ramification if I don't." City Manager Shrives, "The ramifications." Gino Caselli, "You don't know?" City Manager Shrives, "I've got my Building Inspector here. I know he's been involved in it. I don't know if he's got the process that we go through. I would imagine the next thing would be, it's an Ordinance violation so it would have to go to the City Attorney for him to review. Then decide where he takes it from there." Gino Caselli, "It sounds like a nice legal thing to do." City Manager Shrives, "You asked me. That's what I know." **Bonnie Manicke**, "May I have public comment please?" Mayor Knutson, "Sure. Please." Bonnie Manicke, "I'm wondering why we started out with the restaurants with the tables. There's other encroachments. And other encroachments on the sidewalk signs, the sandwich board signs, the clothes racks. Businesses have their wares out there. It is very difficult to find restaurants to eat in the downtown area. I would like to see for the next six weeks for them to be able to use it to see what their business is going to be like during the winter and anchor some restaurants downtown. We have tourist traffic coming in. Tourists have stopped me on the street and said, "Where would there be a nice place to eat?" I suggest several of them with no particular restaurant. I worked for the City for 36 years and I believe that the City Council should probably consider doing something to accommodate Mrs. Wonderful. Thank you." Gino Caselli, "Just one comment if I may. It's just a little frustrating to look right out the front door of my building and see 15 violations of an encroachment. Garbage cans are on the sidewalk, signs that are nowhere near where the building is advertising the building. It is a little frustrating to feel like I am kind of being picked on. The other encroachments are just as dangerous but it's not going to hurt the business owner one dollar bit to say move the garbage cans off the sidewalk, but to move my tables so, if I just showed you my bank account you'd know just how close I am as it is. So, this is just kind of a slow death for me but you guys got your paperwork to push so what can I tell you." **Andrew Speer**, "One of the things I would like to see, I always thought that the for all of the businesses downtown, all of the businesses struggle downtown. Whether it be signs or chairs or tables or anything I think, anything that you guys could do in order to

help a business succeed, I mean, it's a tax base. It just makes sense that we would all, you know, chip in and help businesses succeed. One of the other things is there's a certain ambience restaurants having tables on the sidewalk and allowing people to sit outside and eat, especially with struggling businesses. I don't see, I think that it's something that maybe you guys need to look into. Maybe modify in order to help all of the businesses. Thank you." City Manager Shrives commented that when he looks at the Ordinance, it does need changes. It is confusing. If it is an Ordinance it should be enforced or repealed. If the Council directs that we don't enforce this Ordinance that is fine. City Manager Shrives cautions the Council that they have put the same requirements on other businesses tonight who have come in with the appropriate paperwork. Mayor Knutson agreed that the Ordinance does feel a little dated and doesn't represent where we are at right now. There is also the issue of fairness across the board with regards to other businesses that have fulfilled this obligation. We can't vote on a change to the Ordinance tonight. That will need to go through the process. Commissioner Campbell commented that he finds it hard to believe that any of the businesses are paying \$1,200.00 a year for this type of insurance. Commissioner Campbell asked Mr. Caselli if he had shopped around. Mr. Caselli answered that yes he had and the \$1,250.00 was the best price. Mayor Knutson asked if that covered more than just the right-of-way. Mr. Caselli answered that it was for a million dollar policy. However, he doesn't need that coverage amount except for the City requiring it. Commissioner Campbell agreed that the Ordinance does need worked but at the same time, the City needs to be able to control this issue. The sidewalks need to be clear so that people can walk down them. **Linda McElvogue**, "We're not going to complain if they don't have to do this the first year. We've been in business for 35 years ourselves so I understand the start up. We're not going to complain or say anything so don't think that we're going to drop our insurance because it protects us." Commissioner Campbell, "Did you find the same deal?" Linda McElvogue, "We have Farmers Insurance with Tracey Dooley. We pay I don't remember what it was just for the liability for the tables. My husband had said to me, "why do we have to pay it for the whole year if the tables aren't out all year?" and I said, "Probably falls, and people standing outside, whatever, I didn't talk to Tracey about it yet but I was going to and then see if you guys require it all year. But, we pay over \$200.00 per month just for our commercial not workmans comp. So that's more than \$2,400.00 per year. Probably a big part of it might be that and we've carried it all year just for our sake. Somebody falls out in front, if we have something there, the landlord has flower pots which are lovely but people can get upset over anything. We just have, I left it and never questioned it. My husband just recently questioned it. We're not going to complain so don't consider us if you are thinking of giving them an out the first year until they can afford to make it. Totally fine with me. I don't have a complaint." City Manager Shrives, "I'll double check, this may be an option, the next meeting on the 27th which is a Special Meeting, we could probably, the best way, may be to potentially suspend this Ordinance until it is re-written as part of our recodification. So, that would be the soonest that we could actually deal with this Ordinance is to put it on the Special Meeting on the 27th." Commissioner Campbell, "Let's do that." City Manager Shrives, "So in that short time between the 18th-27th, in essence that we allow the violation to occurs if the tables aren't removed. The risk is if someone gets hurt there's potential lawsuit. The liability insurance is the first line that would then protect the City. That's potentially the risk." Commissioner Erickson, "So then is the City's liability to have a business?" City Manager Shrives, "The City allows it, it becomes the City's liability that's the reason for the insurance, it's the first line of defense in essence of insurance before it goes to the City. I mean, if anybody gets hurt, they're going to sue the City anyway, but we would then defer back to the owner that has the tables out there, then their insurance would weigh in before ours would. That's essentially, that's essentially what the liability insurance is. It's protecting the City for a allowing that encroachment to be on the City right-of-way." Commissioner Erickson, "We'd have to foot the bill for that correct? If the business does not have insurance then we have to foot the bill." City Manager Shrives, "Well, if we've allowed the encroachment, correct. If we've allowed the encroachment then we have a liability with that encroachment but that's why all the events are required to have insurance. That's the reason behind it." Mayor Knutson, "There's good reason behind it. If we suspend this, we would have the exposure for that amount of time until we got it straightened out. So what your suggestion is Mark, is to suspend this until the 27th." City Manager Shrives, "No, I don't think we can do

that. I'm just saying that the 27th is when you could actually vote to suspend the Ordinance. So between the 18th and 27th, we've gone through a process already with the businesses and so, if the tables remain there, either I need to enforce the Ordinance or I don't enforce the Ordinance for nine days."

Commissioner Turner, "Have all of the businesses downtown been contacted?" City Manager Shrives, "We started with tables and that's what caused me to start looking at the Ordinance and saying it needs work but in the meantime that's what we've got is this Ordinance on the books. Just like we've got a lot of Ordinances on the books that you all are aware of that a lot of them need work and we're trying to get through them." There was a brief comment about the season for tables and the length of the season.

Commissioner Southerland, "I'm very sympathetic with this issue with new businesses. This is one of the things that was a big concern for me when I was running for this seat here, was finding ways that we could work with businesses to keep them here. I'm not sure liability insurance is the way to go but I'm concerned and I'd sure like us to look at these Ordinance situations that we have that we need to review and update." Commissioner Campbell, "We could get through this season easily I think. We are so far into this season, and then look at this Ordinance. Get it on the next agenda. Get rid of it until we can make it right."

Murat Kalinyaprak, "I also sympathize. I wasn't going to say anything but there's not much left in this season. This is on the agenda, although they retracted it. The agenda reads Approve Mrs. Wonderful Café Public Right-of-Way Encroachment Revocable Permit. I wonder if this Council doesn't have the discretion to waive part of the requirement of Ordinance. I mean compared to all of the other things that this Council has done, I think this would be just, if it is going to help you I can call you corrupt and you can say Murat made us do it." City Manager Shrives, "I don't think you have the ability to just randomly waive the Ordinance. That's why I recommend me bringing it back on the 27th. So I guess at this point it's been withdrawn from the agenda, I'll bring it back on the 27th and we'll go from there."

Mayor Knutson, "Did you have something else to say on that? I'll allow it. We've had some good conversation." **Elsa Duford**, "I just wondered if this applies to anything that is put on the sidewalk? Sandwich boards or..." Mayor Knutson, "We're going to look at the entire Ordinance." Elsa Duford, "There's a lot of things put on the sidewalk. I didn't know if everybody has a permit." Mayor Knutson, "We're going to look at the entire Ordinance. We're going to take a look at that as a whole."

Commissioner Erickson, "So Elsa was there anything in particular you have a concern about on the sidewalk that's not being addressed?" Elsa Duford, "Well I just noticed the different things on the sidewalk. People trying to make the downtown attractive with flowerpots and some have sandwich boards advertising their business. Just trying to make it look nice. If they have to get insurance to cover making their flowerpots or whatever's out there attractive that would probably be a discouragement to have to carry that kind of liability insurance to do it. So I'm not promoting one thing or another. I just think that with so many buildings that have been empty downtown we would welcome businesses filling empty buildings for one thing and to help the Main Street economy, and traffic. So that was the reason why I was asking if there were other things that would require a permit. Thank you." Mayor Knutson, "I would say to the City Staff, I apologize for the disconnect on that we understand that you are just doing your jobs and we support you in that. We've just found that there's a bit of a disconnect in this and so we just want to make sure that we get this correct for our community. So, we do support you in what you are doing. We appreciate that you are working on."

APPROVE RESOLUTION EXTENDING THE CORPORATE LIMITS OF THE CITY OF POSON, MONTANA TO ANNEX WITHIN THE BOUNDARIES OF THE CITY WITH CONDITIONS CERTAIN TRACTS AND PARCELS OF LAND DESCRIBED HEREINAFTER-

City Manager Shrives presented this agenda item. City Manager Shrives begins the presentation by stating that the Council received a corrected version of the Resolution. There were three errors in the first copy received. On page two; it should read, on the third WHEREAS, Ward No. 3, on the fifth WHEREAS, it should read boundaries of the City of Polson, at the bottom where it reads further, ward assigned should read 3. This was presented on June 17, 2013 for annexation, 7 parcels totaling 157 acres. There were two zone changes approved. There was a motion, seconded and approved with conditions. The zone changes were also approved. There were six conditions met with the exception of condition

number three which has now been met. Exhibit "A" is the map of the properties and Exhibit "B" is the Waivers of the Special Improvement District (SID). This Resolution will officially notify the County that this property has been annexed to the City and the County will make the appropriate adjustments on the records. Mayor Knutson asked if the City Attorney had reviewed the Resolution. City Manager Shrives answered yes, the City Attorney has reviewed the Resolution. **Commissioner Turner motion to approve a Resolution extending the corporate limits of the City of Polson, Montana, to annex within the boundaries of the City, with conditions, certain tracts and parcels of land described hereinafter. Commissioner Siler second.** City Commission discussion: Commissioner Erickson asked if there were any concerns about the police or fire having access. City Manager Shrives answered that we are not at that point. That will occur when development is started. There was only annexation of property and two zone changes. There has been no development talked about, looked at, or proposed. The only change to the properties has been removal from Polson Rural Fire District to Polson City Fire District. Police services have been transferred from the County to the City. Public Comment: **Lee Manicke**—"Thanks for catching some of those errors. This is an important document. It's not a deed transferring property but like a deed it is transferring government oversight from the County to the government oversight of the City. It needs to be accurate. The legal description on here really needs some help. You can't read this and tell what is going on. The third and fourth line are the same thing. I think there needs to be some additions to that. The total acres described here, 108.47 rather than 157. Punctuation in a legal description is very, very important and having a space between numbers just does not get the job done. You can't really read this and tell whether you are looking at a lot plus acres or it's all the lot is a description. Lots 1 and 2 really needs to be overdone again. You might take a look at Resolution #1005 as a possible format for how this could be done. It describes assessment number, geo code, and gives a legal description, lot 1, lot 2, block and so on. That's the way it ought to be done. It may not be practical here because geo codes and assessment numbers may not be charged if there was some land divisions on here. This really needs to get done again so that a person looking at this sometime down the road will come back and say the guys in Polson in 2014 really did a good job. This doesn't get that done. I want you to take a look at second page, the fourth WHEREAS down, the petitioner have executed waivers of protest for themselves and their heirs and assigns, to the imposition of special improvement districts for water, sewer, and streets for a term not to exceed 25 years. Now that some inference is given there that some intention to use SID's for initial development for water, sewer and streets. Now the City of Polson got burned on that in the Woodbine Addition many years ago where the developer went bankrupt and the City of Polson had to take back some lots. They took a loss, the taxpayers took a loss. Columbia Falls really got burned and did the same thing. They really got burned. There ought to be something in this wording that says that they won't use SID's for initial development. I don't think that was ever the intent. My understanding of an SID, they were intended to repair later on down, improvements of some infrastructure that is going out and in disrepair. Rather than to use this as initial financing for initial development. If you do that the City of Polson is the underwriter for those SID's. You are obligating the taxpayer for those SID's if it goes defunct and back into default. That needs to be reworded so that the taxpayers don't get burned like they did before. The WHEREAS above that says, the parcel, I think is should be parcels. The zoning here is for the one tract is now RRZD. When this started out that transfer was supposed to go from public lands to CIZD and then later on they were supposed to go to the Highway Commercial Zoning, so I'm not really sure what the intent of the owners is at this point. It's different here than what it started out to be. That needs to be considered. Now past couple of these things that were critiqued this type of thing that was critiqued, the City Manager said go ahead and prove it. We'll make these corrections if they need to be, if they need to be made we'll just go ahead and make them. That isn't the way it ought to work. You ought to table this, get the corrections, bring it all back so that everybody can look at it, including Exhibit A and Exhibit B, so that everybody has a chance to look at this. Rather than go ahead with your motion tonight. There's, I can't see the rush, this thing has been running on for year and a half, or well over a year and a half so let's do it right. Thank you." Commissioner Campbell, "Lee's memory of that SID is very good. It was a very serious thing in Woodbine. We almost got stuck with that. If it wouldn't have been for our Mayor at the time, and our

City Treasurer selling lots, the taxpayers would have been stuck with hundreds of thousands of dollars' worth of improvements done under a SID. The developer was in town. It was a difficult situation. Columbia Falls, at the same time went to a place, went through a similar situation by allowing them to develop it under SID's and they didn't come out like we did. They couldn't get bonds, it hurt their credit. Lee has a very serious concern there." **Margie Hendricks**, "In Exhibit B, number four, it says Petitioners make no demand upon the capacity of the current water and sewer systems and acknowledge that all development plans are contingent upon sufficient capacity of the water and sewer systems at the time development is proposed; after the subdivision was approved, I wrote a letter to the City Council June 21, 2013 and I noted that under MCA 7-2-4731 consultation with County under 1C requires a statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Now it seems to me that at the time of annexation the Council needs to be sure they're capable of the services that the development will need at the time of annexation. I am very concerned about water supply. I left with each member information about the permit for the wells west of the river. I don't know if you recall that between 1996 and 2004 the City didn't have enough water to meet demand in the summer. If you recall we brought water from west of the river in a fire hose into 2003. So we are very low on water over here. The DNRC permit for the west shore wells say that phase number one is to supply water for the west shore for development. Number two is to supply water to existing residences in the City limits on the West shore. And phase number three allows water to be brought over to the east side of the water to supplement the lower level, the lower zones of the municipal water system. Well, no matter how, I gave you the introduction and the criteria for the permits. There are seven pages a lot of those pages are about development that is expected to take place west of the river. That development has been discouraged. In terms of bringing water over east of the river there's nothing about using that water to subdivide. So where would we get the water to, I'm sorry not subdivide, but to annex more land. There's nothing in the permit that says we can use the water west of the river to annex. We can use it to supplement the lower level. I think it is really important that the new members of the Council and the older members of the Council, if they haven't looked at the permits, the DNRC Permits that they closely read all of those. I think it is most important that we understand. I got a letter from James Raymond describing to me the situation involving the permits. He said that the legal status of the City's existing and potential future wells depends on the resolution of several direct and resulting questions now pending in connection with negotiations between the Tribes and the State of Montana. This is the Compact. Even if the Compact succeeds we don't know how many years that's gonna take. We do not have legal water permits until that contract is, the Compact is negotiated. In the Compact it said that, we have to go through the Board and that may take some time more. We don't know what the final conclusion of the Board will be in terms of our water supply. So I think we need to be very careful annexing more land because of that. I hope you will all read those documents I gave you. I hope you would table it so you would get a chance to read those documents. Thank you." **Elsa Duford**, "I just wanted to say something. I found that the information that has been used in this Cougar Ridge platting has been very inconsistent on some things. Parts have been taken out. You decided to take out Exhibit B out of this Resolution. You just talked about changing the voting to Ward 3 instead of 4. So this is changing without the public being notified as to how it's being changed. There are some discrepancies in it referring to the City of Missoula rather than the City of Polson. So, some typos and things but it does make a difference because if this is what you are going to rely on for information you need the information be accurate. I've been trying to figure out and I'd like somebody to tell me, where is phase 4 on this plat because I cannot figure out from what has been presented and talking about phase 4 that it is, sounds like it has to be down in the area of the mansion and the Black Mountain area. What it said in this description here about these two parcels 115.8 acres, it says that they are west of Highway 93 that is west and south of Walmart. Where on the City map does this phase 4 actually fit? That is something that I don't think has been heard. I think we need to know just where this is located. Do you have a map that show outlines where this phase 4 actually fits into Cougar Ridge's plan? Mayor Knutson, "It's separate." City Manager Shrives, "We're not talking about Cougar Ridge. We're talking about the annexation of the Knife River property. There aren't any phases because this isn't a

development plan it's the annexation that was approved back in June 2013. This is memorializing that because they have met all of the conditions. The annexation was approved already. This isn't doing anything more than saying we've met the conditions and we're notifying the County that we're annexing this property. There isn't any phases because we're not talking about any development." Elsa Duford, I know. I understand what you're saying but to me the information that has been presented surrounding this has, it just hasn't been clear. I think, I agree with what Lee said. This should be tabled. This goes back to what we were talking about a year ago in June. There's a lot of history already revolving around what happened back then to bring it up to date now. I would just recommend that unless there is some reason you have to hurry up and do this, because it involves also the roadways, getting to this area and where they're going to go. That hasn't been clearly discussed. Please take your time. It's not a matter of have to make a quick decision and not have accurate information for the public to understand in. Thank you." City Manager Shrives informed the Council that a representative of the group that put this project together is in the audience. City Manager Shrives invites the gentleman to address the Council if he so wishes to. **Ken Jenkins, Montana Northwest Company**, "I have played a supportive role in this. The lead Planner was unable to be here tonight. Just a few things, I understand the concerns of some folks that have testified tonight. Those same concerns we've heard from day one for two years. We're not proposing development of any kind. Polson has water issues and once this property is annexed, IF a developer wants to do a development, they're going to have to figure that out. That's part of the program. That's part of why people pay bazillions of dollars to engineers. That's why developments cost so much. I would just say the concerns are very valid but those are bridges that need to be crossed later on. If they can't be successfully crossed there isn't a development. The SID Waiver language, I understand the concern with that but I would like to talk just a little bit, real quickly about how an SID Waiver, I mean what does that mean? It means, me as the property owner, I have waived my right to protest if you impose an SID on me. That's what this is getting done. It doesn't mean if I propose doing my development with an SID that you have to say yes. All I've done is agreed to waive my right to protest if local government chooses to put an SID in place on the properties that I might control. It is two very different things. If a developer comes in and wants to use an SID to do initial development it sounds like you would have every reason possibly to telling them no. If you as a local government choose to impose one I have waived the right to protest. Just so there's no confusion about what that is trying to accomplish. The legal description, I agree that is very important that we get that right. That being said, this has gone on, and on, and on and this is good progress to actually have this in front of you tonight. This is just a suggestion, I'm not sure, I would swear that at a point in this process, a while back, a lot of these bugs were worked out. It makes me wonder if we've got a couple of drafts that have gotten mixed up in what you're looking at tonight. The typo that has City of Missoula was discussed a year ago, more than a year ago. I'm not sure what has happened there. If there's bugs in the legal description I'm a professional land surveyor, I would like to look at that. That being said I don't want to sort of derail the moment tonight that we've been working so hard to get to. This is just a suggestion, you can do with it as you wish, what I would like to see happen is to perhaps have your vote tonight with an effective date that's out there a couple of weeks. Let me work with Mark and make sure that if we got an older version of the legal description matched in there somehow that we fix that. There are no substantive changes. These are fixing typos, making sure we've got the right City. This piece of paper doesn't have to be the one. I would suggest, I think it's a good idea, to at least allow us to take a look at that. I would like to see you take the vote tonight. I think it's important that we get beyond this thing that's been going on for so long. That put an effective date of your vote, put it out there a couple of weeks and give me a chance to read through and make sure this legal description is covering what it was intended to cover. That we've testified to that you guys have considered. We just want to make sure that everything is working right. I'm not prepared to address the question is this legal description good or not. I don't have all of the maps and all that stuff. Thank you." Mayor Knutson, "I appreciate that and I definitely agree that we want to make sure that we have the right information on there." City Manager Shrives comments that if Council wants to do down that road, then Mr. Shrives and Mr. Jenkins could get together and get an update. If there would be any change in the legal description, then that could be provided at the meeting on the 27th.

Mayor Knutson asks if this could get updated and placed on the agenda for the 27th. City Manager Shrives comments that yes that could be done. Mr. Jenkins comments that yes that would work.

Bonnie Manicke, “I would like to thank Mr. Jenkins for looking through the legal description. As long as we’re going to critique it, I have a couple of things that I would like to draw to your attention so that we don’t have to go through it once more. We need to be consistent with the acres in the tracts. There’s two tracts there that does not have an acreage amount on it. That information is very accessible through the State of Montana Cadastral system. That is open to any user on the computer. Also, we need to get the owner of record proper names on it. One of those line items has Mike Maddy on it I know that there is more owners in that community. You need to look that up on the Cadastral system. If you would like, I can give you the tax I.D. numbers or the geo codes. Since you are a surveyor you probably know how to do that. If you would like to contact me I will help you with those four plex. Thank you for the consideration.” **Margie Hendricks**, “I was just going to say that since we have an expert he might speak to this issue of MCA 7-2-4731 consulting the County and having to be able to supply the water, sewer, and all other services at the time of annexation.” Mayor Knutson, “I think he’s here on behalf of another subject. I think if we’re going to do that we’ll look into that and provide that information.”

Murat Kalinyaprak-“Thanks for suggesting to table this and take time. The errors have been corrected but it just looks bad. It looks like a hack job to have City of Missoula in there and things wrong. Actually there are probably a few more things wrong with the notarized waiver, whatever it’s called, affidavits. I noticed one of them had the wrong name and signature. The person signed is not the person who appeared in front of the notary. One notary failed to put down the name of the person who appeared in front of him or her. But there was only a person who signed. I don’t know if it was a scanning error but you know, I think you should take time to look into all those which may become a legal liability also for the City. Especially when this, there’s no concern for public safety or health or anything. You should not really rush things in this matter. One thing, I don’t know about the Development Code but maybe somebody who knows can help and answer. But I know, in the past, that Council refused to annex property without knowing what they were going to do with that property. They asked why do you want to annex. They keep saying we want to annex, we’re not going to develop, we’re not going to ask for water, we’re not going to do……. Why do you want to annex? They did routinely reject annexation requests without a proposal of what they were going to do with that property once it was annexed. It’s in the minutes it’s in the history of this City. It has become, for the past some years, anything goes kind of government, but you may want to look in the Development Code or whatever other City codes to see if you should really actually want to know what they are going to do with this property. To the water issue, Margie expressed, I want to add the sewer. I didn’t get to say much about it last time. I’m going to send you these documents but the City was fined for not only putting too much content, effluent, into the river but also the sheer amount of effluent. So many gallons per day only you can put into the river. That has been violated since 2006. They kept this secret from the public probably under the previous City Attorney because this was an administrative case so they probably said it’s a litigation. It was like personnel/litigation closed meeting. This has gone on until April 2013 when it became public information on EPA website, which you can also access. The City has been already violating not only the contents of the effluent but also the sheer amount of effluent. That’s what I tried to say last time. Say, this is a capacity problem given if you had the, even if there were no restriction on how much stuff, the effluent can contain, you just can’t put that much more than so many gallons per day. So, when you approve an annexation, why? When they say we’re not going to ask water, that doesn’t relieve the City from the responsibility of supplying them with water if they change their mind, you know, six months from now. They say well, we want water now. We have seen this happen. People came here, said oh no, no, no, we’re not going to ask for water until there’s an extra well. Well they got it before there was a new well. You never had a new well that they’ve been talking about since I don’t know, Margie’s dates, but they have approved a lot of annex now and in two months later, ask for water. We know this. We have gone through this inching their way, and I don’t think we should do it anymore. Thank you.”

Commissioner Turner, “So at this point I am going to withdraw my motion and make a motion to table this until everything is done properly, correctly but hopefully that gets back on the agenda for

the 27th. Commissioner Siler, “And I second that.” Commissioner Siler, “I will withdraw my second and second the new motion.” Mayor Knutson, “We have a motion to table this until we get the details correct in the Resolution and I’ve got a second. I appreciate Mr. Jenkins your information and flexibility of that. I too think that we should have that correct in there. If we can get this turned around that would be probably best.” **VOTE: 6 ayes, 1 opposed Motion Carried**

PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC NOT ON THE

AGENDA- Mayor Knutson, “These are for items that we have not discussed today. I’ve been very flexible with timing today but I would like to hold this to Public comment to three minutes please. Do I have any public comment to share today?”

Rory Horning, “I need a little clarification for matters not discussed today. You were talking about a review of the Right-of-Way Encroachment Ordinance. I wanted to get some additional information on that. Is that a problem?” Mayor Knutson, “It was not on the agenda as far as a general thing, sure.” Rory Horning, “I just wanted to say that oddly enough, several years ago, and to the dismay of many, I have done public service in this municipality. One time for three separate years I chaired the Christmas parade. This City required, at that time, a million dollar liability insurance for a public display like a parade. You’re asking that same fee. The Christmas parade brought, I’ll be conservative, a thousand people on the street and you have that same requirement for establishments doing things like putting out signs or tables. I think that is something you should think about. In all of this I have been directed by some that they believe that I am against government regulations. I think in my service for the community, my running for office, my participation I am not. But I am, and I will tell you, that I will continue to be, as is my right against orneriest regulations. So I would like to tell you that I find myself oddly enough thanking you again as I did at Linderman High School for your service so that you know I’m not a bad guy and I don’t think you are either. I would also like to tell you that for non-profits you have found a way to waive liability insurance for things on that street when the public arises. So you have taken liability for things happening on your City streets before. It is not the fact that you are asking for a permit, it’s asking for the amount of the permit and if you are indemnified by people’s insurance you’re not as liable as everybody wants you to believe. You are, as the gentleman said, placed in second place. They’ll go after the business first. You also have, as we all know, recently you have an MMIA policy that will help you stay out of liability range for an issue like a restaurant trying to business and a small accident occurs. I just like to give that to you so that you are able to legislate on the side of helping our community economics. Again I commend you for your actions this evening. Thank you.” **Murat Kalinyaprak, “Wade Nash said let’s make this a quick meeting tonight Murat. I feel bad about getting up again but I need to say something about this million dollar liability thing. If it’s really such a strain on them, the City can find a way to deal with that. It really, I mean, look at the golf course. Nobody said anything about it. Apparently the Golf Pro Shop was robbed a few weeks ago. Somebody took a thousand dollars cash from safe, which was unopened and it was on video cam, slow motion. The guy just walked. He knew where the safe was and it was on TV station’s site and facebook all over the place. Anyway, they have insurance. The Golf Pro has insurance for a million dollars and I heard that the City is going to end up paying for whatever the City’s money which was about eight hundred bucks out of that thousand. Two hundred was his. Both of them go against the deductible of each insurance. If I was the City I wouldn’t let it go that easily. How stupid it is to have a safe and not lock it. Who’s managing? Who’s getting paid one hundred and twenty thousand dollars to manage that site and enforce the policies, keeping the safe locked? You know what I mean. It’s unfair for not make Roger’s insurance pay eight hundred dollars and then put these guys through all this discussion on, and on, and on about a couple tables when the store around the corner has merchandise antiques, tables, and chairs and milk cans on the sidewalk. I don’t know. I kind of feel for them. I hope also with the golf course you can recover somebodies insurance other than publics pockets. Thank you.”**

Mayor Knutson asked for a motion to adjourn. Commissioner Southerland motioned to adjourn. Commissioner Turner second. Vote: Unanimous Motion carried

ADJOURN 8:30 p.m.

Mayor Knutson

Mayor Knutson

ATTEST:

Cora E. Pritt, City Clerk